

In accordance with Human Rights resolution 15/21, entitled “The rights to freedom of peaceful assembly and of association”, the Government of Japan is pleased to submit its response to the OHCHR’s questions.

Right to freedom of peaceful assembly

Answers to No 1, 3 and 4 in the questionnaire

In Japan, freedom of assembly and association are guaranteed under Article 21, Paragraph 1, of the Constitution. Restrictions on this right under domestic law are limited to the necessary minimum and in conformity with the provisions of international human rights law.

➤ The Constitution of Japan

Article 21. Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.

(1) Provisions for marches and gatherings outlined in the Road Traffic Act

A) Laws and regulations

Article 77 of the Road Traffic Act

Prefectural Public Safety Commissions’ Rules on Road Traffic

B) Outline

a) Marches and gatherings on roads

Each prefectural public safety commission specifies the types of marches and gatherings required to obtain road use permission.

➤ Tokyo Public Safety Commission’s Rules on Road Traffic

Article 18 Actions, based on Article 77(1)(iv) of the Road Traffic Act, required to obtain permission from a chief of a police station are those listed below:

- (i) holding an event such as a festival, a commemorative function, a ceremony, a competition, a fancy-dress parade, a march, a demonstration or a similar act
- (ii)~(ix)omitted

b) Criteria for Permission

Article 77(2) of the Road Traffic Act shows the criteria for permission by providing as follows:

The competent police station chief shall permit the act if the act pertaining to the application falls under any of the following items:

- (i) cases in which the act pertaining to the application is deemed to be unlikely to obstruct traffic;
- (ii) cases in which the act pertaining to the application is deemed to be unlikely to obstruct traffic if it is committed in accordance with conditions attached to the permission;
- (iii) cases in which the act pertaining to the application is likely to obstruct traffic, but deemed to be essential by reason of the public interest or social customs.

c) Conditions for Permission

Article 77(3) of the Road Traffic Act provides that any competent police station chief granting permission may attach conditions to the permission as are necessary to prevent danger on the roads or to ensure safe and smooth road traffic.

(2) Public Safety Ordinance

In Japan, the right to freedom of peaceful assembly is guaranteed under the Constitution. Therefore, in principle, people are able to assemble at will. While, pursuant to the provision of the Public Safety Ordinance which is provided for public safety and maintenance of social order, when assembling and demonstrating at public places in certain numbers, groups are to apply to their prefectural public safety commission for approval.

The prefectural public safety commission shall grant their approval except when there are any obvious dangers to public safety and maintenance of social order. Article 10(4) of the Ordinance for Enforcement of the Road Traffic Act provides that where both the Road Traffic Act and the Public Safety Ordinance are applicable in a certain circumstance, an application made under the Public Safety Ordinance shall double as one under the Road Traffic Act.

Answers to No2.

Interruptions of assemblies and demonstrations for which permission has been legally obtained can be subject to punishment in accordance with penal provisions of violence, bodily injury, etc., under the Penal Code. In cases where such acts are subject to said penal regulations, investigations are

conducted appropriately and penalties are imposed, based on the facts of the case.

Answers to No 5.

N/A

Answers to No 6.

N/A

Right to freedom of association

Answers to No 7.

Freedom of association is guaranteed under Article 21, Paragraph 1, of the Constitution, while specific provisions for labour organizations are contained in Article 28 thereof. In compliance with these constitutional provisions, domestic legislation, including the Trade Union Law and the Law of Labour Relations for Public Corporations and Others, is laid down.

(1) Religious Juridical Persons Act

The “Religious Juridical Persons Act” is aimed at conferring juridical personality to religious organizations, thus allowing them to secure a material basis to conduct free and autonomous activities, based on the principles of the guarantee of freedom of religion and the separation of church and state as provided in the Constitution.

Needless to say, every individual and group can conduct religious activities freely without establishing juridical persons under the freedom of religion as guaranteed in the Constitution.

(2) Labor Union Act

Aiming in particular to “elevate the status of workers by promoting their being at equal standing with their employer in their bargaining with the employer”, the Labor Union Act is intended “to defend the exercise by workers of voluntary organization and association in labor unions so that they may carry out collective action including the designation of representatives of their own choosing to negotiate working conditions”, and “to promote the practice of collective bargaining, and procedures therefore, for the purpose of concluding collective agreements regulating relations between employers and workers.”

Answers to No 8.

(1) Registration Process of Juridical Persons

Registration offices deal with all registration applications without any discrimination in compliance with laws and regulations applicable for all applications. Registration application can be easily filed either by mail or online, and the registration process is computer-based in order to ensure promptness.

An applicant who wants to file a registration application does not need to visit a registration office, as explained above. The registration office usually completes the registration process within a few days after receiving the application as long as the application meets the requirements for registration provided by the laws and regulations. A person who is dissatisfied with a decision rejecting his/her registration application or an undue delay in the registration process can file a request for examination under the Administrative Appeals Act.

(2) Religious Juridical Persons Act

Those who seek to establish a religious institution must prepare an ordinance which includes items as prescribed, and submit it to the government agency for certification. He/she must present the ordinance to his/her believers and stakeholders, and give public notice of his/her intention to establish the religious institution, at least one month before the application for certification. The religious institution comes into existence by registering its establishment at the location of its principal office.

(3) Labor Union Act

The Labor Union Act provides for the following procedures:

Article 5 Unless a labor union has submitted evidence to the Labor Relations Commission and proved that it is in compliance with Article 2 and Paragraph 2 of this Article, the labor union shall not be qualified to participate in the procedures provided in this Act and shall not be granted the remedies provided in this Act.

(2) The constitution of a labor union shall include the provisions listed in the following items:

- (i) Name;
- (ii) Location of its principal office;
- (iii) That members of a labor union other than a labor union that is a federation (such other labor union hereinafter referred to as a "local union") shall have the

right to participate in all issues or disputes of said labor union and shall have the right to receive equal treatment;

(iv) That no one shall be disqualified from union membership in any case on the basis of race, religion, gender, family origin or status;

(v) That, in the case of a local union, the officers shall be elected by the direct, secret ballot of the union members, and, in the case of a federation or a labor union having national scope, that the officers shall be elected by direct, secret ballot either by the members of the local unions or by delegates elected by the direct, secret ballot of the members of the local unions;

(vi) That a general meeting shall be held at least once every year;

(vii) That a financial report showing all sources of revenue and expenditures, the names of main contributors and the current financial status, together with a certificate of accuracy by a professionally qualified accounting auditor commissioned by the union members, shall be released to the union members at least once every year;

(viii) That no strike shall be started without a majority decision made by direct, secret ballot either by the union members or by delegates elected by the direct, secret ballot of the union members;

(ix) That, in the case of a local union, the constitution shall not be revised unless the revision has received majority support by the direct, secret ballot of the union members, and, in the case of a labor union which is a federation or a labor union which has national scope, the constitution shall not be revised unless such revision has received majority support by direct, secret ballot either by the members of the local unions or by the delegates elected by the direct, secret ballot of the members of the local unions.

Answers to No 9.

(1) Subversive Activities Prevention Act

Based on the Subversive Activities Prevention Act, the Public Security Examination Commission may designate that any organization which has engaged in any terroristic subversive activity in its organizational activity be dissolved, if there are sufficient grounds to believe that there is a clear danger that such organization may engage in any terroristic subversive activity in the future, continuously or repeatedly, in its organizational activity, and if, in the opinion of the Public Security Examination Commission, a disposition restricting an organization's activities would not effectively eliminate such danger.

a) Procedure

Where the Director-General of the Public Security Intelligence Agency requests a disposition for dissolution, the Public Security Examination Commission examines the written request for disposition and the evidence submitted by the Director-General of the Public Security Intelligence Agency and the written opinion submitted by the organization concerned. The Public Security Examination Commission, based on the results of the examination, issues the disposition for dissolution if the request is found to be reasonable.

b) Effective Remedies

The organization concerned may file a suit seeking withdrawal of the disposition for dissolution, where the Public Security Examination Commission issues the disposition. Based on the Subversive Activities Prevention Act, the court shall attempt to pass judgment within one hundred days from the date of acceptance of such suit.

c) Number of people who have pursued the remedies and the result

Since there are no organizations for which the disposition for dissolution has been issued, there are no organizations which have pursued the remedies.

(2) Religious Juridical Persons Act

A religious institution may dissolve at will. The court also may order the dissolution of a religious institution when it acknowledges reasons stipulated in the law. An immediate appeal against the ruling for dissolution is allowed by the institution concerned.

Answers to No 10.

Japan concluded related ILO Conventions (C87 and C98) and has properly implemented them.

Answers to No 11**(1) Political Funds Control Act**

The Political Funds Control Act provides that when political parties or other political organizations are established, the parties concerned must report the name of the organization and that of its representative, etc., to the Minister of Internal Affairs and Communications or the prefectural Election Administration

Committee, and that any political organization which has not reported this information may not receive or contribute donations for political activities.

The limits of donations to political organizations are as follows:

- Donations by business associations are allowed only to political parties and political fund-management organizations.
- Donations by individuals:
 - Donations to political parties and political fund-management organizations are allowed up to 20 million yen a year.
 - Donations to any other political organizations are allowed up to 10 million yen a year.
 - Donations to the same political organization are allowed up to 1.5 million yen.
- Donations by business associations to political parties and political fund-management organizations:
 - Between 7.5 million to 100 million yen is allowed a year for donations, depending on the business association's stated capital and its number of union members.
- The limits of donations for political organizations other than those mentioned above:
 - Donations by business associations which receive subsidies are prohibited.
 - Donations by business associations with negative earnings are prohibited.
 - Donations by foreigners are prohibited.
 - Anonymous donations are prohibited.

Answers to No 12.

The Religious Juridical Persons Act states that a Religious Juridical Persons Council shall be established. The Council administer matters under its authority conferred by the Act, and may deliver an opinion relevant to the exercise of its power. The members of the Religious Juridical Persons Council are appointed from among religious individuals and those who have an academic background in religion.

Answers to No 13.

N/A

Answers to No 14.

N/A

Cooperation with UN and regional human rights mechanisms

Answers to No 15.

The Government of Japan cosponsored the resolution on “the rights to freedom of peaceful assembly and association” (A/HRC/15/21) at the fifteenth session of the Human Rights Council. Moreover, we are voluntarily following up on the recommendations received under the Japan’s Universal Periodical Review.

(End)