



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 1988th meeting

Held at the Palais Wilson, Geneva, on Thursday, 25 February 2010, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Third to sixth periodic reports of Japan (continued) (CERD/C/JPN/3-6, CERD/C/JPN/Q/6)

1. *At the invitation of the Chairperson, the members of the delegation of Japan took places at the Committee table.*

2. **Mr. Akiyama** (Japan), responding to questions from Ms. Dah and Mr. Diaconu on the situation of the Ainu people (CERD/C/JPN/3-6, para. 10), said that the Japanese Parliament had passed a resolution unanimously on 6 June 2008 that officially recognized the existence of the Ainu indigenous people. In the wake of that resolution, the Government had set up an advisory group of eminent persons on Ainu policy. In August 2009, various measures had been taken to implement that policy, in coordination with other ministries. In December 2009, an Ainu policy advisory council had been established. That council, made up of seven members, one of them a representative of the Ainu community, had visited Hokkaido, where the majority of the Ainu people lived, three times since it had been set up in order to assess their needs and claims and to ensure that they participated in the formulation of policy aimed at improving their living conditions. A nationwide survey would soon be carried out on their living conditions on the island of Hokkaido and in other areas.

3. The Ainu people had long been subjected to various kinds of discrimination, especially in public policy. The Association for the Defence of Ainu Rights had decided some years ago, because of the systematic discrimination to which members of that community were exposed, to call themselves Utari (“patriot”), instead of Ainu. In 2009 it had been decided to use the name Ainu/Utaris.

4. Responding to Mr. Diaconu, who had asked why the Ainu people had limited access to land and whether special measures had been taken to ensure respect for their rights, he conceded that the Ainu people’s access to natural resources, particularly with regards to fishing rights and, more specifically, salmon fishing in inland waters, had been restricted, but the restriction applied to all Japanese citizens. The Government had, however, authorized the Ainu people to fish in some waterways. Steps had also been taken to establish two protected sites on Hokkaido that would eventually be converted into parks and nature reserves.

5. Public policy on the Ainu people would be reviewed in the light of the findings of the aforementioned national survey and that the Committee’s recommendations would also be considered.

6. **Ms. Shino** (Japan) said that the Government fully recognized the richness of Ainu culture and that it was committed to its protection, not only as a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, but also as a signatory to the United Nations Declaration on the Rights of Indigenous Peoples. The Ainu were the only people recognized as indigenous. They enjoyed the same rights as other Japanese citizens and had the right to live according to their customs and use their ancestral language.

7. **Ms. Konishi** (Japan) said that public schools at the compulsory education level guaranteed foreigners the same option of free access to tuition as Japanese children. Foreign children could even be taught in their own language and learn about their culture of origin. Moreover, when foreign children began school, everything possible was done to help them follow, with as little trouble as possible, standard classes in Japanese attended by

Japanese children. To that end, they received help with Japanese language learning and were helped by their teachers and other staff who spoke their language.

8. In reply to a question from Mr. Thornberry, who wished to know how Japanese of Brazilian descent fared in the State party's compulsory education system, pupils of Brazilian origin attended 84 schools around the country. The State provided support for schools with foreign pupils in terms of fees and relief on school taxes. Schools exclusively for foreigners needed to be authorized by the central governor and, under certain conditions, could benefit from tax relief.

9. **Mr. Hoshida** (Japan) said that Koreans resident in Japan who did not wish to attend Japanese schools generally went to North or South Korean schools, but they could, if they so wished, enrol for compulsory school free of charge. Various awareness campaigns directed at employers had been launched to counter discrimination against Koreans in the workplace. Koreans, along with other foreigners legally resident in Japan, were entitled to receive social security benefits.

10. **Mr. Ehara** (Japan) said that in order to combat the harassment of pupils attending North and South Korean schools the Ministry of Justice had run an awareness campaign on respect for the rights of foreigners. As a general rule, where it was suspected that such acts had occurred, inquiries were promptly opened and corrective measures taken. In the wake of the nuclear test carried out by North Korea in October 2006, the State party had taken important measures to combat harassment and other forms of violence against Korean pupils. Regional and district legal affairs bureaux had taken similar steps to address such problems after North Korea's underground nuclear test in April 2009.

11. **Ms. Konishi** (Japan) said that Koreans resident in Japan could attend classes relating to their own language and culture. Under article 1 of the Education Act, Korean pupils could follow tailor-made curricula. North and South Korean schools were generally subsidized by local public entities. On the subject of allegations of discrimination in university entry, enrolment criteria varied from one university to another. Before the modification of the university entrance examination adopted in September 2003, students of Korean origin had encountered problems in having their school diplomas recognized. Diplomas awarded by Korean schools were now, however, fully recognized by all higher education institutions, and Koreans could enrol in the university of their choice, provided they passed the entrance examination.

12. As for human rights education, specific courses started from the first cycle of primary school. Since 2002, the national education programme had provided for the teaching of human rights at all levels of schooling.

13. **Mr. Ogawa** (Japan) said that human rights bodies in the Ministry of Justice closely monitored discrimination against foreigners and advised all human rights institutions on how best to combat racial discrimination. Prompt inquiries were made into cases of alleged violations and, where necessary, penalties were imposed. In 2008, there had been 121 such cases, including 16 assaults.

14. The Human Rights Bureau had taken steps to clamp down on all incitement to racial hatred and discrimination on the Internet. The Government spared no effort in attempting to identify the authors of racist messages and, when that proved impossible, in contacting the hosts of the websites concerned, including those based abroad.

15. The Government shared the view held by several Committee members that a fully independent national human rights institution should be established in accordance with the Paris Principles. A bill was being prepared but, as yet, no date had been set for the institution's establishment.

16. **Ms. Shino** (Japan) said that the Government did not consider racism and discrimination to be serious enough problems to warrant the withdrawal of its reservations to paragraphs (a) and (b) of article 4 of the Convention and the subsequent application of repressive legislation that might unduly threaten freedom of expression. On the subject of foreigners' voting rights, some 15 bills aimed at granting foreigners the right to vote in local elections had been brought before Parliament, which had yet to take a decision on the subject.

17. In reply to a question by Mr. de Gouttes, the Supreme Court had refused to name a foreigner to the position of family ombudsman as it was a public office and, under the law, foreigners were not permitted to work in the public service.

18. **Ms. Aono** (Japan) said that "special permanent residents" had a different status from other foreign residents and that they enjoyed more relaxed naturalization conditions. Naturalized persons were in no way obliged to change their names, but could do so if they so chose. However, foreigners were occasionally advised to take on a more Japanese name in order to facilitate social integration. There were no quotas or limits on refugees from Indochina, Viet Nam or Myanmar. Refugee status application forms were translated into several languages and were easily available on the Internet and at immigration offices around the country. In addition, refugees could request the services of an interpreter, and the Government covered the costs of applying for refugee status.

19. It would be pointless to adopt a general Act on racial discrimination because the State party already had a vast legislative arsenal to deal with acts of racial discrimination. Discrimination and incitement to racial hatred were banned and that ban was more or less generally observed. Racial motivation for an offence was not covered by legislation but judges often referred, in racism cases, to the notion of "malicious intent", which constituted an aggravating circumstance in criminal law.

20. The international conventions ratified by the State party had the same weight as domestic legislation. An individual could lodge a complaint under the international human rights instruments, as was attested to by the various cases mentioned in paragraph 66 of the report.

21. The State party would not ratify the amendment to article 8, paragraph 6, of the Convention, as it considered that only States parties should be responsible for Committee members' expenses while they were performing Committee duties.

22. The State party had not ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, but had never tolerated apartheid, which it considered a flagrant violation of human rights. Nor had it ratified the Convention on the Prevention and Punishment of the Crime of Genocide, but it had a sufficiently vast legislative arsenal to deal with such crimes. However, Japan should introduce certain amendments in order to incorporate the provisions of that convention into domestic legislation.

23. **Mr. Hoshida** (Japan) said that the State party had ratified the International Labour Organization (ILO) Convention concerning Discrimination in Respect of Employment and Occupation (No. 111) and that it spared no effort to ensure its implementation. It had thus taken all the necessary steps to combat discrimination at work and to ensure the equality of all before the law, including in the workplace. It had not yet made the required amendments to adopt the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169).

24. **Mr. Diaconu** said that, although the situation of the Ainu people had improved considerably, the fate of other indigenous peoples continued to be a source of concern. He wished to know why the State party had not tried to establish dialogue with other

indigenous peoples, especially by consulting their representatives in order to better understand their problems.

25. Regarding discrimination against the Burakumin community, discrimination based on descent, which was what was involved in that case, was covered by the Convention. He wished to know the delegation's views on the subject. He found it unfortunate that racial motives did not constitute an aggravating circumstance under criminal law and advised the State party to remedy the situation.

26. **Mr. Lahiri**, welcoming the State party's recognition of the need to establish an independent national human rights institution based on the Paris Principles and the fact that it was working to that end, noted, however, that there were still numerous areas of disagreement between it and the Committee. Since 2001, little progress had been made regarding legal enforcement of the Convention, particularly with regard to minority groups. Persons of Korean and, to a lesser extent, Chinese origin were still disadvantaged in Japanese society, and the State party had not really implemented the Committee's recommendations following its consideration of Japan's preceding report.

27. The Committee could therefore suggest amendments to the legal system to bring it more closely into line with international law. He said he hoped that there would be closer agreement between the Committee and the State party on the mechanisms needed to implement the Convention by the time of the next meeting with the delegation.

28. **Mr. de Gouttes** asked whether the State party, having so categorically recognized the rights of the Ainu people, intended to begin talks with other ethnic groups that were demanding recognition of their rights, in particular the Buraku people and the inhabitants of Okinawa. According to a report prepared in 2005 by the United Nations Special Rapporteur on contemporary forms of racism, the Buraku people numbered approximately 3 million in the State party and were descended from communities considered to be pariahs during feudal times because their members had been engaged in professions deemed impure. That legacy weighed heavily on their community, even though the caste system had long ago been abolished, and could be seen as a form of descent-based discrimination. Article 1 of the Convention covered that type of discrimination, as confirmed by the Committee's general recommendation No. 29 (2002) on descent-based discrimination. He would be grateful for more information on the subject.

29. **Mr. Prosper** said he was surprised that the State party had acceded to the Rome Statute of the International Criminal Court (ICC) but had not ratified the Convention on the Prevention and Punishment of the Crime of Genocide, and wondered whether those actions were consistent, given that the ICC was founded on the principle of supplementarity and that it dealt with war crimes, especially genocide. He would like to have more information on that subject.

30. **Mr. Martínez Murillo** underscored the State party's role in the field of international cooperation to promote human rights and, in particular, the fact that it had backed the General Assembly's call, in December 2009, to make 2011 the International Year for People of African Descent. He was optimistic about the State party's commitment to that process and was sure that its contribution would help to realize its aims, particularly the establishment of a voluntary contributions fund.

31. **Mr. Cali Tzay** asked whether the State party could envisage the Ainu people having equal representation on the Advisory Panel of Eminent Persons on Policies for the Ainu People. On the subject of the people of Okinawa, according to one expert, one means of recognizing that a people was indigenous was its own self-definition as such and the fact that it had occupied a territory prior to the arrival of the State that had established itself there. That was the case of the people of Okinawa, which also had its own culture and

language. The State party should, therefore, recognize the inhabitants of Okinawa as an indigenous people.

32. Pensions legislation set limits on the granting of pensions to persons of Korean origin and to persons with disabilities. It was unacceptable that such large ethnic groups were denied entitlements to which they had a right, and the State party ought to remedy that situation.

33. **Mr. Avtonomov** said that family registration legislation had been changed in order to ensure the confidentiality of personal information and prevent access to data such as a person's ethnic origin. He would like more information on the amendments to that legislation, in particular on whether they had had a positive effect on the situation of the Buraku people and diminished the discrimination of which they were victims.

34. **The Chairperson** said that he believed the Japanese people had been present in Japan as long as the Ainu, the only people in the country officially recognized as indigenous. Could the Japanese therefore also be considered an indigenous people?

35. **Mr. Ueda** (Japan) said that, as long as there was no international consensus on the definition of indigenous people, the State party would be hard pressed to arrive at one. The case of Japan was unusual in that the ancestors of today's Japanese were among the first people to inhabit the archipelago. The Ainu were an indigenous people because they had their own culture and history, but their language belonged to the Japanese language group and they were Japanese citizens. At the same time, numerous studies on the people of Okinawa had generally concluded that they were a Japanese people and, for that reason, they had not been granted indigenous status. The Government, however, recognized that they had a distinct history and that they needed economic aid. Indeed, they received special assistance aimed at improving their living conditions.

36. **Ms. Shino** (Japan) said that the State party was involved in talks with peoples other than the Ainu and that in February 2006 the human rights and humanitarian affairs organ had, through its website, called on the representatives of indigenous peoples to submit written observations. In March 2006, the Division had met various NGOs working in that area and, in July 2006 and August 2007, had invited members of those communities to meetings and had engaged in a thorough exchange of views in connection with the preparation of the periodic report.

37. **Mr. Akiyama** (Japan) said that the council on Ainu policy was made up of 12 persons, five of them members of the Ainu community. Representation on the body was therefore unequal, but the Ainu people participated in the council's work with specialists in Ainu policy and representatives of local and district governments in places where Ainu people lived.

38. **Mr. Hoshida** said that pension legislation no longer contained conditions related to nationality and that citizens from foreign countries enjoyed the same pension rights as Japanese citizens. A nationality clause had been in place until 1991 but had been removed in 1992, which was why Koreans, until then, had not had pension rights and had lived in considerable hardship. The Government, nevertheless, provided them with social services and would continue to monitor their situation closely.

39. **Ms. Shino** (Japan) said that discrimination in all its forms had to be confronted, including acts committed against persons originally from *Dowa* districts.

40. **Ms. Aono** (Japan) conceded that, until the 2007 review of civil registration legislation, personal data had not been protected and had been, therefore, misused on occasion. The amended legislation, which ensured complete confidentiality, now provided for penalties against offenders.

41. **Mr. Ogawa** (Japan) said that the Ministry of Justice had launched projects to raise human rights awareness among judicial personnel.
42. Companies that obtained personal information on potential job candidates were obliged to ignore certain private details. Otherwise, the job application process could be deemed discriminatory.
43. Offences with a proven racial motivation were liable to attract harsher penalties.
44. **Mr. Lindgren Alves** asked what distinguished the Burakumin community from the rest of the population.
45. **Mr. Ueda** (Japan) said that no physical features distinguished the Burakumin from the rest of the population and that they were of Japanese ethnicity.
46. **Mr. Thornberry**, Country Rapporteur, welcomed the fruitful dialogue with the State party's delegation. In its concluding observations, the Committee would note several positive points, such as the importance the State party attached to human rights education, especially among those persons who, for professional reasons, had frequent contact with non-Japanese sections of the population. It would welcome the progress made in the area of foreigners' voting rights and the recognition of the Ainu as an indigenous people. The Committee would invite the State party to consult that people more on future measures for its benefit.
47. It would also request the State party to look more closely at the plight of the people of Okinawa, to implement policies on refugees and education for minority groups, and, above all, to prepare legislation banning racial discrimination. It would also invite the State party to penalize incitement to hatred, to establish remedies for victims of hate speech, to make the declaration provided for in article 14 of the Convention and to withdraw the reservations it had made at the time of its accession to the Convention.
48. **The Chairperson** announced that the Committee had completed consideration of the third to sixth periodic reports of Japan.

The meeting rose at 1 p.m.