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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD (PARTIAL)* OF THE 2576th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 October 2008, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Fifth periodic report of Japan (continued) (CCPR/C/JPN/5; CCPR/C/JPN/Q/5 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Japan resumed their places at the Committee table.
2. Ms. WEDGWOOD said that the issue of the comfort women enlisted by the Japanese in the Second World War was important to the human rights community. While welcoming the acknowledgement by the head of delegation that the practice had injured the dignity and honour of many women, she pointed to other statements that had been made by Government figures, including the Minister of Education, the Minister for Foreign Affairs and the head of the policy committee of the Liberal Democratic Party, who had all reportedly made remarks that denied the existence or the extent of the phenomenon. Seven out of eight recently published history textbooks omitted any mention of it. Leaving aside the purely legal aspects of the question, and given the importance attached by Japan to combating modern forms of human trafficking, it was important that the Government should reconsider its formal refusal to acknowledge any responsibility for the plight of the women coerced into taking part in that system, all the more so as the victims were now approaching the end of their lives.
3. According to some non-governmental organizations (NGOs), Koreans who had come to Japan when Korea had been a colony and who had remained in Japan after 1945 had lost their nationality under the peace treaty concluded in 1952. In 1982, eligibility to participate in the pension system had been partially restored for such persons, but those who had been over 35 years of age at the time still did not qualify for proper pensions, as they had lost many years of qualifying contributions. Some disabled persons had been excluded from the pension scheme for similar reasons. The Government should take steps to accommodate the needs of those individuals.
4. The subsidy provided by the Government to Korean-language schools was reportedly lower than that provided to comparable Japanese-language schools and the same as that given to vocational schools. Noting that graduates of Korean-language schools were not readily admitted to Japanese universities, she called on the Government to do more to accommodate multiculturalism. The discrimination faced by Ainu and Okinawan people and the buraku social caste was cause for concern, especially as there had been reports that private data had been used illicitly to discriminate against such groups. She also expressed concern at the plight of Japanese persons who had remained in China after 1945 and who were currently unable to return to Japan without providing proof of financial solvency.
5. Ms. MAJODINA said that after the Human Rights Council had considered the human rights situation in Japan under its universal periodic review mechanism, it had recommended that Japan should establish an independent body to review the procedure whereby refugee applications for asylum were considered. The Government contended that a mechanism was already in place, but the procedure relied on the work of refugee examination counsellors who had no decision-making powers and were not appointed in a transparent manner, and thus did not

amount to an independent review process. Despite the fact that the law established that deportation procedures should be suspended until objection or appeal procedures were completed, there were numerous reports of deportations carried out before asylum-seekers could even file an appeal or assert their rights. Under a legislative amendment adopted in 2005, the Government could allow applicants for refugee status to stay provisionally in Japan on humanitarian grounds. She asked what criteria were used to establish eligibility, and whether those who were allowed to stay had the right to work in Japan and to receive social welfare benefits pending the resolution of their cases. According to some reports, the risk of torture was not systematically taken into account when decisions to deport asylum-seekers were taken.

6. Following Japan's universal periodic review, the Human Rights Council had also recommended that Japan should provide legal aid to asylum-seekers who required it, but so far no concrete steps had been taken to provide such services. Owing to a lack of access to interpreters, some asylum-seekers had allegedly been deported after being forced to give testimony in broken Japanese. The failure to ensure access to lawyers and interpreters, coupled with the lack of an independent body to review asylum applications, meant that deportations were often carried out without regard for due process.

7. Mr. BHAGWATI asked whether the Central Labour Relations Commission was a statutory or an executive body, and sought clarification as to its powers and functions. The Committee would like to know whether the Commission was able to overturn the rulings of other labour relations bodies and how many cases it had considered.

8. In the State party's written reply to question 26 of the list of issues (CCPR/C/JPN/Q/5/Add.1) a reference was made to "unreasonable" discrimination. The delegation should explain the criteria used to ascertain whether discrimination was reasonable under national law, and should inform the Committee whether any court decisions had addressed that question.

9. Mr. SHEARER observed that parents filling in a birth notification form reportedly had to indicate whether or not their child was legitimate, and that many single mothers were therefore discouraged from registering their children. He wondered whether the Government was considering revising the form, and whether it might be possible for a child to be registered as a resident without being registered under the family registration procedure. Illegitimate children suffered discrimination in respect of inheritance rights, where they had just half the entitlements of their legitimate siblings. In its written replies, the Government contended that such discrimination was not irrational and was supported by public opinion. In the light of Japan's international commitments, further efforts were required to guide public opinion away from such a stance.

10. The industrial training and technical internship programme had initially been set up to enable trainees from developing countries to come to Japan for up to three years. However, over the years, the conditions and remuneration of such trainees had become particularly harsh. Participants had limited mobility within the country, were not allowed to own cell phones, were prohibited from visiting Internet cafes and were not allowed to keep their passports. In addition,

their wages were reportedly very low. The programme, while originally well intentioned, had reportedly developed into a scheme for the import of low-cost labour. He wished to know whether the Government planned to revise the scheme or to replace it with a more straightforward system for guest workers.

11. There were some 175,000 undocumented persons in Japan, many of whom had stayed in the country beyond the limits of their visas. They included children and others who would find it difficult to reintegrate into life in their countries of origin. The criteria for deportation gave the Ministry of Justice a great deal of discretion in deciding whether to deport such people. Was the Government considering the adoption of more coherent and humane criteria?

12. Sir Nigel RODLEY said that his previous questions about the isolation of prisoners referred to any means of holding people in a single cell without contact with other prisoners, regardless of whether the measure was a result of segregation or a protective or disciplinary measure. According to the Center for Prisoners' Rights, the practice of isolating prisoners was becoming more frequent. It was his understanding that neither the prison visiting procedure nor the official complaint procedure for submission of complaints to the Minister of Justice afforded a channel for appealing against decisions by prison authorities to designate inmates as security classification grade 4, a classification that resulted in isolation. The delegation should explain to the Committee the role and powers of the Penal Institutions Inspection Committee, many of whose members had cited serious problems in prison medical services and had called for reform. He wondered whether the Government had followed up on their recommendation.

The meeting was suspended at 3.40 p.m. and resumed at 4.55 p.m.

13. Ms. SHINO (Japan) said that in 2004 the Cabinet secretariat had formed an inter-ministerial task force to combat trafficking in persons. The task force consisted of the Cabinet Office, the National Police Agency, the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Health, Labour and Welfare. In addition, the Government had drawn up an Action Plan of Measures to Combat Trafficking in Persons, under which victims of trafficking were acknowledged as requiring protection. The Action Plan included activities for the eradication and prevention of trafficking and the protection of victims, and was implemented in coordination with the relevant ministries and agencies.

14. Ms. MASUDA (Japan) said that the National Police Agency cooperated with other ministries and agencies, including the Immigration Bureau and the border authorities, to combat trafficking in persons and protect victims of trafficking. In 2007, there had been 40 cases of trafficked persons, in connection with which 41 individuals had been arrested and 43 victims protected.

15. Ms. HORII (Japan) described the temporary protection programmes for victims of trafficking in persons. Between 2001 and 2008, temporary protection had been provided at Women's Consulting Offices and other locations to 228 victims. In 2007, a total of 36 victims had received temporary protection with 24 of them also receiving medical care. Psychological treatment had been provided to approximately 40 per cent of all victims. In order to ensure that the programmes of private-sector shelters were run in accordance with the provisions of human rights conventions, records of the services they provided were examined and the appropriateness

of their locations was verified. Only those shelters that met Government requirements were used. The Government encouraged staff of private-sector shelters to receive appropriate training in human rights.

16. Mr. KAWABATA (Japan) said that the Immigration Bureau had issued a special residence permit to 87 trafficking victims. Other victims of trafficking had not needed special permits, as their current status enabled them to reside in Japan. The Ministry of Justice had also issued special residence permits to victims of domestic violence. Long-term residence permits had been issued to foreign victims of domestic violence, to ensure their protection.

17. Ms. SHINO (Japan) said that Japan benefited from the programmes operated by the International Organization for Migration (IOM) for victims of trafficking, particularly in the area of repatriation. Services provided under those programmes included the interviewing of victims, risk assessment, assistance with return and repatriation arrangements, support at airports and the escorting of high-risk victims, such as minors. IOM also supported victims of trafficking when they arrived in their country of origin, providing accommodation in places of safety, medical and psychosocial support, skills development and vocational training, reintegration assistance and legal advice. From May 2005 to March 2008, a total of 129 trafficked persons had received support under IOM programmes.

18. Ms. IKEDA (Japan) said that information about the penalties for trafficking in persons would be provided in writing. With regard to points that had been raised in connection with question 25 of the list of issues, she said that draft legislation to criminalize the possession of child pornography had been submitted to Parliament. With regard to the concern expressed by the Committee in paragraph 29 of its previous concluding observations (CCPR/C/79/Add.102) regarding the age of sexual consent, she clarified that the Law Banning Child Prostitution and Child Pornography, enacted in 1995, did not limit the definition of “child prostitution” to children under the age of 13. Similarly, not only children under the age of 13 were considered to be victims of offences under the Child Welfare Law.

19. She would reply in writing to the questions raised in connection with the birth registration of children born out of wedlock. The differentiation between the inheritance rights of children born to a married couple and those of children born out of wedlock was, as explained in the written reply to question 27, a matter of giving respect to legal marriages; however, further consideration was being given to the matter.

20. The concept of “rational discrimination” was complex and in some cases had been found to be unconstitutional. Further information concerning the Supreme Court’s rulings in that regard was provided in the written reply to question 27 of the list of issues.

21. Ms. SHINO (Japan) said that a letter had been sent from the Japanese Prime Minister to all former comfort women, in which he had acknowledged the grave affront they had suffered at the hands of the Japanese military and offered his sincere apologies for the extensive physical and psychological wounds inflicted. The Government had established the Asian Women’s Fund, through which 2 million yen had been given to each former comfort woman, along with medical and welfare support. A total of 600 million yen had been provided to the Fund from the private sector. She acknowledged the importance of transmitting the lessons of history to young people.

22. Mr. AIHARA (Japan) said that school textbooks did provide information on the subject of comfort women. With regard to education for minorities, he said that the “miscellaneous schools” category included foreign schools. The content and quality of the education provided at such schools was not covered by legislation. Conditions had been established to ensure that the quality of education in such schools was equivalent to that provided at Japanese high schools.

23. Ms. HORII (Japan) said that comprehensive strategies and action plans were in place to prevent child abuse. She drew attention in that connection to the information contained in paragraph 96 of the report (CCPR/C/JPN/5). At the community level, coordination existed between welfare services, medical services and the police within the framework of efforts to prevent child abuse. Local government authorities were encouraged to form networks to coordinate the provision of all those services; as at April 2007, 84 per cent of all local municipalities had done so.

24. Mr. HOSHIDA (Japan) said that all Japanese and foreign nationals in Japan were entitled to receive a pension. However, when the current pension scheme had been launched in 1961 foreigners had not been covered; the scheme had been expanded in 1982 to include foreigners, but not with retroactive effect. The pension scheme was based on the principle that pension eligibility was contingent upon payment of a certain level of premium.

25. Chinese nationals who had been stranded in Japan following the Second World War had been provided with a range of support, which had included financial assistance with transport back to China or, for those choosing to remain in Japan, help with Japanese language studies and social security services for the elderly, including the granting of a pension.

26. The Central Labour Relations Commission was, legally speaking, an independent administrative institution; in terms of organization, however, it was established under the Ministry of Labour and functioned as a quasi-judicial organization. The Commission examined cases of unfair trade practice; if discrimination was found, it had the authority to issue redress orders. The Commission examined cases independently and did not receive orders from the Ministry of Labour. He would provide the Committee with the requested statistics on the number of complaints rejected and redress orders issued. The Ministry of Labour was conducting a study on organizations in Japan that received industrial trainees from abroad. If any cases of human rights violations were found, the receiving organization was prohibited from receiving such trainees for a period of three years.

27. Mr. KAWABATA (Japan) said that every penal institution in his country had a visiting committee composed mainly of lawyers, physicians, local government employees and local community representatives nominated by local bar and medical associations and local government offices. Visiting committees were often chaired by members of the Japan Federation of Bar Associations; they were mandated to perform inspections and interview detainees to ascertain whether or not the institutions were operating properly, and they submitted their views to the head of the institution. Heads of institutions reviewed those opinions and used them to improve operations. The confidentiality of complaints or appeals filed with the visiting committees by detainees was guaranteed.

28. He provided figures on the number of visiting committee activities, including meetings, inspections, interviews and opinions submitted, at the national level in 2007. While more than

half of all opinions submitted had led to follow-up action, a number had required further study before action could be taken, while others had been referred to the Ministry of Justice for appropriate action. His delegation would respond in writing to the question concerning the number of recommendations made relating to health and medical concerns.

29. Mr. KOIDE (Japan) confirmed that the Ministry of Justice appointed refugee examination counsellors. Appointments were made by a decision of the national Parliament and were based on discussions with the Japan Federation of Bar Associations, the Office of the United Nations High Commissioner for Refugees (UNHCR), NGOs concerned with refugee issues and international law experts. Japan was confident that its third party review mechanism for the recognition of refugee status was effective. Applicants for refugee status were given a seven-day grace period if their applications were rejected, making it impossible to forcibly deport a rejected applicant immediately. The requirements for deportation were set out in article 24 of the Immigration Control Act. In order to enhance transparency, the Japanese Government published acceptance and rejection figures for applications. Moreover, the Ministry of Labour was currently preparing draft legislation on proper working conditions for foreign industrial workers that would be submitted to Parliament in 2009.

30. Ms. WEDGWOOD, addressing the issue of comfort women, suggested that the Government might propose a law on the provision of official compensation to those women, as the value of their lost virtue far exceeded the compensation offered to date. Moreover, it was important to retain information on the administrative decision in question in the textbooks and to persuade certain members of the Government not to cast doubt on historical events. In addition, the written apology offered to former comfort women was insufficient in view of their experiences, and should be reconsidered.

31. With regard to the Korean pension issue, she said that the decision to penalize those who had not had the option of contributing during the period from 1962 to 1981 by declaring them ineligible appeared to be the unhappy consequence of an earlier erroneous decision.

32. The CHAIRMAN said that the delegation would have the opportunity to submit additional written information that would be taken into account by the Committee when it drafted its concluding observations. He wished to emphasize that the Committee's observations on the extent to which the legislation, measures and social practices in the State party reflected its commitments under the Covenant, which it had signed and ratified, were made with a view to promoting dialogue that would lead to improved respect for human rights. Although the persistence of some problems that had been addressed in previous concluding observations had frustrated some Committee members, the Committee understood the difficulties involved in human rights protection and the obstacles faced by States parties in taking the necessary corrective measures. Some persistent sources of concern included trial guarantees and many aspects of the penitentiary system, such as Daiyo Kangoku, the substitute prison system. Interrogations, the importance of confessions, the duration of custody and preventive detention in a system where the police had considerable powers also remained a source of concern, for even though some mitigating measures had been introduced, the root causes had not been addressed, and some practices clearly violated the State party's international commitments under the Covenant.

33. The concluding observations would include references to discriminatory legislation, including legislation governing women's marriage rights and the inheritance rights of children born out of wedlock, which in the Committee's view violated the right to equality. Although positive measures had been introduced to remedy some aspects of discrimination against the Korean population and the Ainu, there was still cause for concern.

34. The Committee would retain some particularly important recommendations, such as the need to establish an independent national human rights institution to monitor and investigate abuses by the police and penitentiary authorities. It would also recommend that the State party should reduce the number of offences warranting the death penalty and limit them to the most serious crimes.

35. He asked the State party to give serious consideration to ratifying the Optional Protocol, which was an important complement to the Covenant and worthy of due attention. He observed that the dialogue between the State party and the Committee had been productive and expressed the hope that its continuation would help the State party improve its compliance with the Covenant.

36. Mr. UEDA said that he had found the exchange of information constructive and welcomed the critical and significant comments of the Committee. The human rights situation in Japan was improving slowly but steadily. As the only developed economy with democratic institutions in the Asian region, his country maintained a human rights dialogue with its neighbours and extended assistance to them on related matters, including preparations for the establishment of civil courts and improvements to their judicial systems. In view of its leading role in the region, Japan sought to improve its human rights situation.

37. The considerable presence of representatives of NGOs at the meeting demonstrated the level of interaction between those organizations and the administrative and judicial authorities in Japan, which helped to deepen the understanding of human rights in the country. His Government would follow up on the comments and opinions of the Committee.

38. The delegation of Japan withdrew.

The public part of the meeting rose at 5 p.m.