

Joint NGO submission
by Japan International Human Rights NGO Network
and 51 signatory organizations
Related to Japan for the Universal Periodic Review,
2nd session, scheduled in May 2008

Organizations in consultative status with the Economic and Social Council:

- The International Movement Against All Forms of Discrimination and Racism (IMADR)
- Shimin Gaikou Centre (Citizens' Diplomatic Centre for the Rights of Indigenous Peoples)
- Asia-Japan Women's Resource Center
- Peace Boat

Other signatory organizations:

- Action for the Rights of Children (ARC)
- Ainu Association of RERA
- Aomori Residents Concerned about the Sayama Case
- Asian Women's Empowerment Project
- Association for Elimination of Pension Discrimination against Korean Residents
- Association for Returnees from China
- Association for the Support of Children out of Wedlock
- Buraku Liberation and Human Rights Research Institute
- Buraku Liberation League Central Headquarters
- Center for Prisoners' Rights
- Citizens' Council for Human Rights Japan
- Ebina Liberation Educators Association
- Educators Association for Foreign Residents in Japan
- Forum for Peace, Human Rights and Environment
- Human Rights Now (HRN)
- International Network against Discrimination on the Internet (INDI)
- Japan Forum for Survivor or Consumer of Psychiatry
- Japan International Human Rights NGO Network
- Japan National Assembly of Disabled Peoples` International
- Japan National Group of Mentally Disabled People
- Japan Women's Council I Central Headquarters
- Kalakasan - Migrant Women Empowerment Center
- Kanagawa Human Rights Center
- Korea NGO Center
- Korean Women Residents in Japan, MIRINE
- Kyojukon
- Multi-Ethnic 'Human Rights' Education Center for the Pro-existence
- National Christian Council of Japan Human Rights Committee of Foreigners Living in Japan
- Network Addressing the Problem of Non-Inclusion in the National Pension Plan
- Network against Discrimination and for Research on Human Rights
- OCIC (Okinawa Citizens Information Centre)
- Organization of United Korean Youth in Japan
- Peace & Rights, Hamamatsu
- Release Education Laboratory
- Research-Action Institute for the Koreans in Japan (RAIK)
- Rights of Immigrants Network in Kansai
- Shin Human Resource Consulting ()
- Solidarity Network with Migrants Japan
- Support Network for State Redress Lawsuits
- The Ainu Association of Hokkaido
- The association of supporting the trial for just pension system for people from former colonies in Japan
- The association of working for the abolishment of nationality clause from the pension system in Japan
- The International Movement Against All Forms of Discrimination and Racism Japan Committee (IMADR-JC)
- The Japan Citizens' Coalition for the UN International Decade of the World's Indigenous Peoples (INDEC)
- The pension lawsuit and plaintiff group for foreign resident with disabilities in Japan
- Women's Active Museum on War and Peace (WAM)
- Yuimaaru Ryukyu no Jichi

()Endorsed after submission

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The General Situation of Human Rights in Japan

Introduction

1. This document is issued jointly by the Japan International Human Rights NGO Network and 51 signatory organizations. The Japan International Human Rights Network was officially established in 1993 to promote cooperation between the Government of Japan (“the government”) and NGOs. This document aims to share information about both general and multi-faceted problems in government efforts to deal with human rights issues in Japan.
- a) The government’s domestic consultation process in preparation for Universal Periodic Review (UPR)
2. As of February 8, the government has not shown the will to consult with civil society regarding documentation preparation for the UPR. All it has done is disseminate a notice on the Ministry of Foreign Affairs website that calls for the submission of opinions “to serve as reference material in the creation of the government report.”
 3. The consultation process between government and civil society on the domestic implementation of the international human rights system is proving to be a failure. At information exchange sessions held as part of the process in creating reports due under Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and International Covenant on Economic, Social and Cultural Rights (CESCR), the government has been unable to respond to groups opposing or calling for Japan to withdraw from the conventions, thus preventing fair participation in the consultation process. At the August 2007 information exchange session, for example, which was held in preparation for the government report due under CERD, slanderous and discriminatory statements were made to several speakers who related their experiences as victims of discrimination, but the government failed to respond in the necessary manner. This is a serious problem. (See Annex 1 for details.)
- b) The existing framework for the protection and advancement of human rights
4. In 2006, Japan was elected as one of the first member states of the Human Rights Council (HRC). Despite submitting a pledge to the UN Secretary General that it would implement the highest international human rights standards, the status quo is as follows.
 5. There is no national human rights institution in Japan that is independent from the government. All that exists is the Human Rights Bureau of the Ministry of Justice, which deals with administrative matters. It employs about 250 people, who, except for 15-20 full-time staff, hold other posts at the same time. Managerial positions are held by public prosecutors. There are, therefore, limitations to the remedies available for human rights violations made by the state and bureaucracy, which are not uncommon.

6. Japan acceded to CERD in 1995, which charged it with the responsibility of prohibiting and ending racial discrimination by private individuals and organizations, yet nothing has been done to equip domestic law to make this possible. There is still no comprehensive law that prohibits discrimination between private individuals, and this has resulted in it being very easy to discriminate on the basis of race, ethnicity, descent and so on, in spheres such as employment, housing, customer service and marriage. There are precedents where the court has judged an individual's discriminatory actions as wrongful conduct and ordered the payment of damages, but this is ultimately relief after the fact. Further, because there is no law specifically prohibiting discrimination, such court precedent is a weak measure in preventing potential discrimination. Even if the victim approaches the courts seeking remedy, many give up because of the time and money it takes. There is also no quick and simple remedial body, such as a national human rights institution, to deal with this type of discrimination.
7. Japan has not allowed the individual complaint procedure under any of the treaties it has concluded, so international avenues for victims of human rights violations are not available.
8. Japan's domestic law does not recognize torture, genocide and various forms of discrimination as individual crimes punishable under the provisions of the relevant international conventions. We applaud Japan for joining the International Criminal Court (ICC), but the crimes as defined under the ICC have not been reflected in Japan's criminal law provisions.
9. There is no framework to provide remedies for the human rights violations of children born out of wedlock, who are still discriminated against under civil law, and minority groups, such as returnees from China, Ainu, Okinawans, Zainichi Koreans (Koreans living in Japan), Buraku people, migrants and foreigners.

c) The implementation and effect of existing mechanisms

10. The government has carried out publicity and educational activities to promote human rights and prevent human rights violations through poster campaigns and such, but there is no practical program for the protection and promotion of human rights. There is serious doubt as to the effectiveness of their efforts. For details, refer to reports from individual human rights NGOs.
11. Although Japan has repeatedly received expressions of concern and recommendations from the treaty bodies of the conventions it is signatory to, it has mostly not done anything about them. For example, it has still not recognized the rights of the Ainu as an indigenous people,¹ and does not even recognize the

¹ Concluding Observations of the ICCPR Committee (1998); Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2005). Although the government continues to say that the matter is "under consideration," no measures have been put in place.

ethnicity of the Okinawan people at all. Discriminatory provisions against children born out of wedlock continue to exist in civil law.² The right of minorities to ethnic education is not guaranteed. There have been no improvements in the human rights of the Buraku people, nor in the *daiyo kangoku* (substitute prison) system and in making the interrogation process more transparent.

12. The National Plan of Action for the United Nations Decade for Human Rights Education has been promoted, but no systematic human rights education program has been carried out for those working in government.

d) Cooperation with human rights bodies and related domestic actors

13. Because there is no opportunity for NGOs and minority groups to participate in policy evaluation by the Ministry of Foreign Affairs,³ including human rights policies, there is doubt as to how evaluations about the protection and promotion of human rights can be based on reality.

14. The government has refused to cooperate with the international human rights system, domestic NGOs and victims of human rights violations, and has been extremely negative about carrying out treaty body recommendations. In July 2007, the government hosted the official visit of the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, but in a statement issued later,⁴ it showed a very negative and hostile attitude to recommendations made by the Special Rapporteur in his post-visit report.⁵

e) Best practice

15. It is clear from treaty body reviews that Japan has not, in many cases, reflected the provisions of conventions in its court decisions. There are, however, a few cases when they have been invoked as the basis for judgment. In 1999, for example, in an incident when a man was refused entry into a shop on the grounds that he was a foreigner, CERD was invoked as a standard for legal interpretation in holding the shop owner guilty of the wrongful act of racial discrimination. Also, in 2005 and 2006, judgments were handed down for the first time that acknowledged the possibility of directly applying Article 2 (2) of the CDESCR on non-discrimination and equality in regards to discrimination based on nationality. It is essential to increase the awareness of judges so that international conventions are used more in the courts of law in the future.

2 ICCPR Committee (1993, 1998), CEDAW Committee (2003), CRC Committee (2004). Despite expressing a will to make improvements in this regard, no measures have been taken by the government to do so.

3 Efforts to gather opinion regarding policy evaluations are made after they are issued, but it is not clear how these will be made use of for the next policy evaluation.

4 A/HRC/1/G/3. Japan NGO Network for the Elimination of Racial Discrimination (ERD-Net), an NGO network formed to combat racial discrimination and racism in Japan, has created and issued comments in response (See Annex 3; Outline: A/HRC/4/NGO/82).

5 E/CN.4/2006/16/Add.2

16. Since the organizational reform of the UN began in 2005, the “Public Forum on UN Reform” has been held twice a year, co-sponsored by NGOs and the Ministry of Foreign Affairs. Active exchanges have taken place at its human rights subcommittee regarding Japan’s human rights policies at the United Nations.

f) Government measures demanded

17. To allow victims of human rights violations to bring their case to the treaty bodies, Japan must immediately ratify the optional protocol to the International Covenant on Civil and Political Rights (ICCPR) on individual complaint procedures, as well as other optional protocols, including the Second Optional Protocol to the ICCPR and the Optional Protocol to the Convention Against Torture (CAT).

18. Changes to the legal system must be made in accordance with international human rights law. This includes the revision or repeal of laws that include the *Koseki* (Family Registration) Law, Nationality Law, Alien Registration Law, Criminal Procedure Code, Immigration Control Act and Civil Code. This will require the sincere implementation of recommendations made by treaty bodies and special rapporteurs. In particular, the revised immigration law, which has been in force since November 2007, is an unfair immigration system that no other country except the United States has anything similar to. It has been widely criticized for its forced and unilateral collection and control of the private information of the majority of foreigners. (See Annex 2)

19. Seeking a remedy for human rights violations in the justice system takes time and money, and places a big burden on the victims. To provide quick, simple and effective remedy, a national human rights institution, created in line with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) must be established.

20. Japan must learn from the example of many other countries and urgently create and enforce a comprehensive law that prohibits discrimination between individuals on the basis of race, ethnicity, descent, etc.

21. Japan is signatory to the Convention on the Rights of Persons with Disabilities, but according to NGOs calling for the human rights of people with disabilities, the provisional translation created by the government for domestic dissemination does not fully reflect the content agreed upon by the Ad Hoc Committee, and such a situation should be rectified. Further, Japan must actively undertake changes to the legal system in line with the convention.

22. Japan must also immediately ratify the International Convention on the Protection of the Rights of All Migrant Workers.

23. Although the Japan International Cooperation Agency (JICA) and Japan Bank for International

Cooperation (JBIC) are providing technical or financial support to development projects in various developing countries, there are no human rights guidelines regarding how they are managed. There is some mention of human rights in the Guidelines for Environmental and Social Considerations, but this is extremely limited in application and the inspection mechanism is inadequate. In fact, there are reports from domestic and overseas NGOs of human rights violations arising in development projects, but they are not being dealt with appropriately for the reasons elaborated above.

g) Capacity building and technical support

24. Because the Japanese government continues to say that there is no international definition for the term “indigenous people” and that the matter is “under consideration,” it is ignoring recommendations from treaty bodies that call for the recognition of the rights on indigenous peoples. There is a need for international technical support to promote an understanding of the rights of indigenous peoples.
25. The government has denied the concluding observations of the CERD Committee regarding “descent-based discrimination,” which state that the committee “considers that the term descent has its own meaning and is not to be confused with race or ethnic or national origin.” The government maintains that discrimination against Buraku people does not fall under the definition of “racial discrimination” in the convention. There is a need for international technical support to promote an understanding of the concepts of “descent-based discrimination” and “discrimination based on work and descent.”
26. The government does not fully comprehend the significance of a national human rights institution as a simple, quick and effective body for remedying human rights violations. Further, the usefulness of a systematic national human rights institution, one that provided human rights advice and relief, human rights education, and human rights advocacy work in one place, is an idea that has not caught on in Japan. To rectify this situation, there is a need to explain the situation of national human rights institutions in other countries and undertake activities to promote a deeper understanding about their importance and features. This must be done with the cooperation and support of international society, particularly related institutions in the Asia Pacific.
27. There is a need to rouse international public opinion to persuade the government to put in place a comprehensive law prohibiting individuals from discriminating on the basis of race, ethnicity, descent and so on.
28. Not many court judgments reflect the content of the conventions that Japan is party to (for example, CAT prescribes that statements obtained under torture as evidence are null and void, but this is not followed in the courts), and international human rights norms are ignored by law-enforcing bodies. Human rights education for judges and law-enforcers is needed.