

Follow-up Information on the CERD recommendations to the State party Japan

Submitted by Japan NGO Network for the Elimination of Racial Discrimination (ERD Net)
September 10, 2015

Suggested grades by the civil society organization

A: The recommended measure has been taken satisfactorily.

B: The recommended measure has been taken partially and not satisfactorily.

C: The government has not taken any actions to implement the recommendation.

D: The government has taken actions that are contrary to the recommendation.

17. Violence against foreign and minority women

■ *In the light of its general recommendation No. 25 (2000) on the gender-related dimensions of racial discrimination and No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party take adequate measures to effectively address the issue of violence against migrant, minority and indigenous women by prosecuting and sanctioning all forms of violence against them, and to ensure that victims have access to immediate means of redress and protection.*

Suggested grade by the civil society organization: D

1. Any measures taken in accordance with the recommendation, and its effects:

Since August 2014, the government has not taken any specific and positive measures. Currently, the government invites public opinions on the draft “Basic Concept for the Development of the Fourth Basic Plan for Gender Equality,” in which we do not find any indication that suggests a possible implementation of specific measures in this regard.

2. Any measures taken that contradict the purposes of the recommendation:

For the 2015 Ordinary Diet Session, the government has submitted the bill concerning the revision of the Immigration Control Law with the addition of conditions for the revocation of the resident status. It is concerned that the addition may cause further deterioration of the rights of migrants and reinforcement of the control.

3. Current status of the problem (especially changes after August 2014)

In the Third Basic Plan for Gender Equality, the government states that “In improving the environment to ensure safe living, it is important to note that in addition to factors such as disabilities, working as foreigners, the Ainu and Dowa-problem, their status as women may multiply difficulties that they face.” Under this basic policy, the government indicates, “In case

that women are in more difficult conditions caused by their status as women, the government makes efforts to investigate the situation if available, promotes human rights education and gives remedy to victims while taking any necessary measures from the gender-equal perspective.” However, it has not yet conducted a survey necessary for developing policies focusing on minority women. Meanwhile, it is strongly suggested that the government should name each minority group in the Basic Plan, rather than collectively classifying it.

In regard to “violence against women,” the revised law on the prevention of domestic violence stipulates the importance of “respect of human rights of victims regardless of nationality or disabilities.” However, the implementation of measures under the law is mainly left to local governments, and concrete actions regarding persecution, redress and protection have not been taken at the national level.

■ *The State party should also review its legislation on residence status to ensure that foreign women married to Japanese citizens or to non-citizens with permanent residence status will not be expelled upon divorce or repudiation, and that the application of the law does not have the effect, in practice, of forcing women to remain in abusive relationships.*

Suggested grade by the civil society organization: D

1. Any measures taken in accordance with the recommendation, and its effects:

Regarding the revocation of the residence status as spouse under the para 1 of Article 22-4 of the Immigration Control Law, the government has clarified its views in the following two statements: 1) *However, where such a foreign national requires temporary evacuation or protection for the reason of spousal violence, her status of residence is not revoked, deeming that there is a “justifiable reason.”* (from the Seventh and Eighth Periodic Reports of Japan submitted to CEDAW in September 2014); and 2) *“Keeping in mind the purpose of the CERD recommendation 17 of its Concluding Observations, we take circumstances of each case and adequately process administrative procedures of immigration control from the humanitarian view.”* (excerpts from the government’s reply during the ordinary Diet session to the question regarding the bill for revision of the Immigration Control Act and the revocation system of residence status asked by Kamimoto Mieko, a member of the Upper House, July 28, 2015). The government has not taken any specific actions to review the provisions of the revocation after the CERD recommendation was made in August 2014.

2. Any measures taken that contradict the purposes of the recommendation:

The government has submitted the bill regarding the revision of the Immigration Control Law to the 2015 ordinary Diet session. It has added new conditions for the revocation such as “engagement or planned engagement in other activities than those stipulated in the Law.” With the revision, the government intends to expand the scope of the revocation system and reinforce its control over foreigners. It indeed gives negative impact to human rights of foreigners. The proposed revision reflects the fact that the government has not reviewed the legislation on residential status recommended by CERD.

3. Current status of the problem (especially changes after August 2014)

Despite the concerns and recommendation indicated by the CERD in August 2014, the revocation system of residence status as spouse has basically remained the same, and regardless of its actual exercises, the system itself has given a cause of anxiety to many migrant women and discouraged battered women from escaping from violence in the fear of a possible loss of their legal status. Meanwhile, the government has not made any efforts to let concerned foreigners know about the exception of victims of domestic violence from the application of the revocation. It is also difficult for battered women to give a full account of their circumstances to Immigration officers. Following is a case involving a victim of spousal violence who was abandoned by her husband and lost her residence status under the revocation clause.

<Case>

A woman in her 20's with a Philippine nationality. Seven years of marriage with a Japanese husband, and three years of holding the spouse visa. She is a mother of six years' child with a Japanese nationality. One day, her violent husband forced her out of house telling her not to return, and she went back to the Philippines with her child for eight months. She returned to Japan with her child who was going to enter a Japanese primary school. When she went to the Immigration office to extend her residence status, she found that her status had been revoked for the reason of not living with her husband. The Immigration officer gave her a permission to stay for a month for preparation for returning to the Philippines.

According to the statistics of the Ministry of Justice, cases of revocation of residence status amounted to 19 for 2013 and 30 for 2014. Among all, only two cases were eventually proved to have "due reasons." NGOs are concerned about revocation of residence status of a victim of spousal violent for the reason of a separate living, but there are no statistics available that show a number of revocation cases applied to spouse visa holders. In the revocation process, interviews with holders of the residence status as spouse should be made. Yet, no information is available indicating how many interviews were made, what were reasons for the revocation and so on. (from the same source of the above reply of the government during the Diet session)

Prepared by Solidarity Network with Migrants Japan (SMJ)

18. Comfort Women

(a) Conclude investigations on violations of the rights of comfort women by the Japanese military, and bring to justice those responsible for human rights violations;

Suggested grade by the civil society organization: C

1. Any measures taken in accordance with the recommendation, and its effects:

The State party has not taken any actions to implement the CERD's recommendations.

2. Any measures taken that contradict the purposes of the recommendation:

3. The current status of the issue:

1) Investigations in violations of rights of comfort women by the Japanese military:
Since 1993, the State party has not conducted any investigation to find the truth of the Japanese military sexual slavery. Meanwhile, individual researchers and civil society groups have started their own investigations in the same year, and discovered a large amount of information that demonstrates the Japanese military authorities and the Japanese government responsible to planning, creation, maintenance and management of the military sexual slavery. Japanese government is urged to immediately disclose all documents it has kept, conduct investigations to find further documents and information relevant to the issue and have hearings with victims and concerned parties inside and outside the country.

2) Bringing to justice those responsible to violations of human rights:

Remembering the time when he was stationed as a navy officer (accounting and general affairs bureau) in Indonesia during the war time, Yasuhiro NAKASONE, the former Prime Minister (PM) of Japan, described, “We were the troop of 3,000 soldiers. As time went, some assaulted native women while others indulged in gambling. For these guys, I took the trouble of setting up comfort stations.” (cited from: “Never-Ending Navy” by Takanori MATSUURA, Publishing Div. of Nippon Cultural Broadcasting Development Center, 1978). Records of the second construction group of the Navy Air Station (collection of the Library of Defense Institution of the Ministry of Defense) contain the following descriptions; “At the discretion of the chief officer, we opened comfort stations recruiting native women. It works very well in easing soldiers’ frustration,” with the name of writer as “Sub-lieutenant Yasuhiro NAKASONE, Chief Officer.” This description matches the fore-mentioned remembrance of NAKASONE. The State party is urged to question the former PM NAKASONE who was one of the officers responsible to the setting-up of comfort stations, and take legal steps as appropriate.

(b) Pursue a comprehensive, impartial and lasting resolution of the issue of comfort women, including expressions of sincere apology and the provision of adequate reparation to all surviving comfort women or to their families;

Suggested grade by the civil society organization: D

1. Any measures taken in accordance with the recommendation, and its effects:

The State party has not taken actions to implement the CERD’s recommendations.

2. Any measures taken that contradict the purposes of the recommendation:

1) Denial of the State responsibility of Japan regarding the Japanese military sexual slavery:
* Prime Minister Abe gave his answer during the Diet session on October 3, 2014, stating, “Unjust slander saying ‘Japan as a nation forced women into sexual slavery’ is being circulated throughout the world.” (at the meeting of the Lower House Budget Committee). One can argue that his statement apparently shows his reaction against the recommendations made by

different UN human rights bodies accurately describing Japanese military's acts against women victims as sexual slavery and urging it to solve the problem.

* In October 2014, the Ministry of Foreign Affairs removed the statement from the website of the Asian Women's Funds that contained the description, "Many women were forced to follow the military as its 'comfort women'."

* The delegation of the Japanese Government requested the Korean Government not to use the term "sex slaves" during the Japan-Korea director-general level talk of June 2015 on the issue of the Japanese military sexual slavery.

* PM Abe made remarks about the Japanese military sexual slavery on the Washington Post dated March 27, 2015, phrasing "victims of trafficking in persons." While he recognizes the fact of trafficking in persons, he has to accept the State responsibility associated with it. However, PM Abe has not clarified his view.

2) Further deterioration of textbook descriptions about the Japanese military sexual slavery:

* To the standards of textbook screening of the State party, the following new condition has been added since January 2014; "For the description of modern or contemporary historical events, if there exists any relevant unified view of the government or a relevant precedent of the Supreme Court, it has to be followed." In January 2015, a Tokyo based textbook company has deleted the description of "comfort women" contained in three different history textbooks for high schools. Also, from the textbooks for junior high schools, testimonies of victims and the map of "comfort stations" were deleted in the process of screening, and instead, supplemented the government view that states, "No information has been found that directly demonstrates the carting off by the military personnel or authorities of Japan."

* December 2014, the Ministry of Foreign Affairs met executive officers of an American textbook company to request modification of some descriptions including the one stating "women were forcibly recruited to work at comfort stations by the Japanese military." (The Hangyoreh electronic version of Jan. 12, 2015). The American company rejected the request for modification explaining, "Descriptions are based on historical facts." (The Yomiuri Shimbun, electronic version of Jan. 17, 2015).

3. The current status of the issue:

All complaints brought by victims to Japanese national courts have been dismissed. In July 2015, two Korean victims have filed a suit against PM Abe, the late Emperor Hirohito and Japanese corporations claiming compensations. After the release of CERD concluding observations to the government in August 2014, one Filipino victim in the Philippines, and eight victims in Korea have passed away.

(c) Condemn any attempts at defamation or denial of such events

Suggested grade by the civil society organization: D

1. Any measures taken in accordance with the recommendation, and its effects:

The State party has not taken any actions to implement the CERD's recommendations.

2. Any measures taken that contradict the purposes of the recommendation:

The State party has taken actions contrary to the CERD's recommendations.

* In July 2015, the Extraordinary Committee for the Restoration of Japan's Honour and Trust of the Liberal Democratic Party (ruling party of PM Abe) presented its proposal regarding the issue of the military sexual slavery to PM Abe. In the proposal, it stated that the recognition## made by Mr. Kono as the former Chief Cabinet Secretary has been the major cause that has helped the misunderstanding contrary to the fact. Then, the Extraordinary Committee asked the PM "to make a counterargument against the factual error around the comfort women issue. PM Abe responded it by saying, "the factual error has to be corrected." (The Asahi Shimbun electronic version dated July 28, 2015).

He recognized that recruitment, transportation and control of "comfort women" were generally done against their will and it constituted forcible deportation (The Asahi Shimbun electronic version dated July 30, 2015).

*On the Internet, hate speech defaming the victims of the Japanese military sexual slavery has been rampant. Yet, the State party has not taken any measures against it.

3. The current status of the issue:

The State party has confined the scope of criminality of the military slavery system to carting-off of women, and maintained its argument that only the act of "military or police officers breaking into one's house and taking a woman away like a kidnapping" has to be questioned. However, the real problem rests with not only the way of taking women away from their houses, but also forcibly making women to be sexual slaves in the sexually violent setting, i.e. "comfort station." The State party should immediately correct its view, admit its legal responsibilities, and condemn any attempt to deny the Japan's military sexual slavery system in accordance with the recommendation of the CERD.

Prepared by Association of Human Rights Association for Korean Residents in Japan (HURAK)

22. BURAKU

■ *Bearing in mind its general recommendation No. 29 (2002) on descent, the Committee recalls that discrimination on grounds of descent is fully covered by the Convention. The Committee recommends that the State revise its position and adopt a clear definition of Burakumin in consultation with the Buraku people.*

Suggested grade by the civil society organization: C

1. Any measures taken in accordance with the recommendation, and its effects:

The State party has taken no actions to implement the recommendation.

2. Any measures taken that contradict the purposes of the recommendation:

The State party has also taken no actions that contradict the recommendation.

3. Current status of the problem (especially changes after August 2014)

The 1965 Report of Dowa Measures Council defined Dowa problem stating, “It is a form of discrimination based on the social stratification that has developed in the history,” and “Buraku is a minority group subject to discrimination based on the social stratification.” This definition has the same meaning of that of “descent” made in the CERD GR 29. While the Japanese Government has consistently maintained its argument that Burakumin are a group of social origin, and not of descent, it cannot be supported by the definition made in the 1965 Report.

To date, we have had no occasion to discuss about a unified term with the government. The term “Dowa” comes from the 1965 Report. Burakumin have used “Buraku” as its own term. After the termination of the Dowa Special Measures Law in 2002, there has been no legal ground that supports the use of the term “Dowa.” We urge that “Buraku” should be used as a unified term.

■ *The Committee also recommends that the State party provide information and indicators on the concrete measures taken upon the termination of the Dowa Special Measures in 2002, in particular on the living conditions of the Burakumin.*

Suggested grade by the civil society organization: C

1. Any measures taken in accordance with the recommendation, and its effects:

The State party has taken no actions to implement the recommendation.

2. Any measures taken that contradict the purposes of the recommendation:

The State party has also taken no action that contradicts the recommendation.

3. Current status of the problem (especially changes after August 2014)

In the latest White Paper on Human Rights Education and Awareness-Raising jointly edited by the Ministry of Justice and Ministry of Education in June 2015, it is stated, “For human rights violation cases relating Dowa problem, the government has tried to provide remedy and prevention.” However, there is no specific information about a number of such cases that the government has worked on. Also, social, economic and cultural data of Burakumin is not included.

The White Paper is the report of the implementation of “Basic Plan for Human Rights Education and Awareness-Raising” adopted by the Cabinet under the “Law Concerning the Promotion of Human Rights Education and Awareness-Raising” of 2002. The government is obliged to submit the implementation report every year to the Diet.

The Cabinet Office conducts “the public survey regarding human rights protection” every five years. To the question “What human rights problems are occurring in regard to Dowa problem?”, the answer of “opposition to a marriage with Buraku person” accounts for 47.5% (2003) and 37.3% (2012); the answer of “personal investigation” accounts for 30.1% and 27.8%, 2003 and 2012 respectively; the answer of “disadvantageous treatment at employment or in workplace” accounts for 28.2% and 23.2%; the answer of “discriminatory behavior” accounts for 23.3% and 24.9%; the answer of “discriminatory information on the Internet” accounts for 8.7% and 15.0%; and the answer of “discriminatory scabbling” accounts for 8.5% and 7.6%. These figures show that efforts of human rights awareness-raising have achieved positive results to a certain extent.

The paragraph 2- (5) of the above Basic Plan of 2002 stipulates actions to be taken by the government for Dowa problem. Item 2 of 2-(5) indicates the need to improve educational and academic performance of Buraku children. Item 9 of 2-(5) indicates the need to make efforts to eradicate discriminatory acts including marriage/employment discrimination, scabbling, or hate speech on the Internet. Item 10 of 2-(5) indicates the need to improve the consultation service to victims of Buraku discrimination. However, there has been no information that shows outcomes of the 13 years’ implementation of each planned action. Also for the item 10, no specific consultation service has been in place specializing in the problem of Buraku discrimination. Without identifying the reality of Buraku people, how does the government conclude that the reality of discrimination has still existed, without showing any ground.

■ *The Committee further recommends that the State party effectively apply its legislation to protect the Burakumin from the illegal access to their family data which may expose them to discriminatory acts, investigate all incidents relating to illegal abuses of family registration and punish those responsible.*

Suggested grade by the civil society organization: B

1. Any measures taken in accordance with the recommendation, and its effects:

On March 30, 2015, the Tokyo Legal Affairs Bureau took disciplinary sanction of business suspension against a judicial scrivener who had illegally acquired others’ family register. In cooperation with a private company, he got copies of family register of 526 different individuals and earned a lot of money.

2. Any measures taken that contradict the purposes of the recommendation:

The State party has also taken no action that contradicts the recommendation.

3. Current status of the problem (especially changes after August 2014)

The sanctioned judicial scrivener applied and attained copies of family register of a large number of individuals. Afterwards, the authorities decided to investigate into his case. If the number is small, normally it is not revealed. It is most probable that an illegal acquisition of

copies in a small number would be prevalent. As far as the family register is publicly open, those who want to know one's personal backgrounds would get it by any means including by using the illegal acquisition through professionals such as legal scrivener. When an illegal acquisition is found, it is only such a professional who is sanctioned, and not his/her client, i.e. a person/firm who wants to know one's family background on the occasion of employment or marriage.

In 2011, judicial scriveners working for a legal office was arrested for illegal acquisition of family register of others using the forged application forms for official use only. In 2012, the Nagoya District Court found it guilty for the charges of infringement of the Family Registration Law and of use of forged sealed personal documents. The convicted admitted that most of the illegal acquisition had involved the personal background investigation on the occasion of marriage. The court indicated in the sentence that the acts were malicious as the firm had done it habitually using its professional privilege. It amounted to 30 people who were found guilty in this case including the president who was given a six-year sentence.

Prepared by Buraku Liberation League (BLL)