

## THE INTERNATIONAL MOVEMENT AGAINST ALL FORMS OF DISCRIMINATION AND RACISM

### **UPR-info 28th pre-session Racial discrimination in Japan**

**12 October, 2017**

#### **1. Organisation**

This statement is delivered on behalf of the International Movement Against All Forms of Discrimination and Racism (IMADR). The organisation has its headquarters in Tokyo and a representative office in Geneva. The Tokyo office works as a Secretariat of the NGO Network for the Elimination of Racial Discrimination Japan (ERD Net), which is comprised of civil society organisations, indigenous groups and minority groups.

#### **2. National consultations for the drafting of the national report**

There was one public dialogue organised by the Ministry of Foreign Affairs on 28th March this year in Tokyo. While IMADR participated in the dialogue, it is unclear how inputs from the civil society were taken into account for drafting of the national report.

#### **3. Plan of the Statement**

This statement addresses the following issues: 1) The lack of human rights infrastructure against racial discrimination; 2) Racist hate speech; 3) Discrimination against minority communities including Buraku and ethnic Koreans; 4) Multiple forms of discrimination; and 5) Human rights violations in the foreign "Technical Intern Training Program".

#### **4. Issues**

##### **1) Lack of human rights infrastructure against racial discrimination/ 2) Racist hate speech**

##### **Follow-up to the second review**

In Japan, there is a lack of legal structure against racial discrimination. In addition to the absence of a national human rights institution, the current legal framework is not sufficient to address incidents of racial discrimination.

At the second Universal Periodic Review in 2012, the Government accepted the recommendations by Benin, Cambodia, the Republic of Korea and others regarding the individual communications procedure of UN treaty bodies. Japan also accepted the recommendations from Canada, Cuba, the Czech Republic, South Africa and Switzerland related to measures against racial discrimination, some explicitly referring the ICERD. Also, the specific recommendation from Uzbekistan on measures against racist hate speech was accepted by the Government.

##### **New developments since the second review**

Since the last review, the Government has passed the "Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan" and the "Act on the

Promotion of the Elimination of Buraku Discrimination” in 2016. While those measures are welcome, the gap between the national legal framework and international human rights law continues to exist.

The new Act on hate speech excludes discriminated communities with Japanese nationality such as indigenous Ainu, the people of Ryukyu/ Okinawa and Buraku as well as irregular migrants. Moreover, the Government has not withdrawn its reservation under Article 4 of the ICERD which concerns racist hate speech and crimes. The Acts on hate speech and Buraku discrimination focus on human rights education, consultation and research, and do not prohibit discrimination nor provide any protection measures. Regrettably, the Government has not accepted any treaty body’s individual communications procedure. This issue has been under the Government’s consideration for over 20 years.

### **Recommendations**

This lack of legislative protection from racial discrimination is one of the key issues to be raised at the upcoming UPR. We propose that the following recommendations be made. The Government of Japan is recommended to:

- Adopt comprehensive anti-discrimination legislation in line with international human rights law;
- Withdraw its reservation under Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and take necessary legislative measures; and
- Accept the individual communications procedures.

### **3) Discrimination against minority communities including Buraku and ethnic Koreans/ 4) Multiple forms of discrimination**

#### **Follow-up to the second review**

Indigenous and minority communities such as Buraku and ethnic Koreans continue to suffer discrimination. At the second review, the Government accepted the recommendation from Libya to implement programs to improve the situation of minorities. It also accepted the recommendations from Belarus, Cuba, Germany, Libya, Moldova, Spain and Turkey concerning gender equality and violence against women.

#### **New developments since the second review**

Apart from the new Acts on hate speech and Buraku discrimination, the Government has not taken any targeted human rights measures for minorities.

**Ethnic Koreans (*Zainichi Koreans*)**, descendants of the former colony whose Japanese nationality was stripped in 1952, continue to be excluded from decision-making and policy measures. Due to the deprivation of Japanese nationality, ethnic Koreans still do not have voting rights even in the local elections, unless they have naturalised. In 2010, the Government introduced the “Tuition Waiver and Tuition Support Program for High School Education” in order to expand compulsory education which covers Japanese and foreign high schools. However, in 2013 the Program excluded students from 10 Korean schools. As a result of the exclusion, over 10,000 Korean high school students cannot enjoy their right to education in their own language. Moreover, hate groups and individuals interpret this State’s discriminatory decision as justification for discrimination against ethnic Koreans.

**Buraku people**, descendants of outcaste populations in the feudal period, suffer discrimination due to their inherited status. Many Buraku people experience discrimination in employment and marriage. In order to

identify someone's Buraku origin, perpetrators use the "Buraku List", a directory containing the information about Buraku neighborhoods which was recently posted online by a group of private actors. While the law on the protection of personal information was revised in 2015 to include "social status, descent and domicile address" within the scope of definition of "sensitive personal information", the Personal Information Protection Commission held the opinion that any case involving Buraku discrimination is not within this scope. Therefore, a third-party can access information of one's Buraku background without a prior-consent. Despite Japan's acceptance of the recommendation from Bangladesh, the Government has not taken effective measures to protect the Buraku people's right to privacy.

The issue of **multiple forms of discrimination** remains unaddressed in Japan. In the absence of official disaggregated data, surveys conducted by indigenous and minority women revealed that compared to the dominant Japanese women, women from their communities have a lower educational level, less access to employment and less income, and are more reluctant to use the public consultation services for domestic violence due to the fear for revealing their identity and/ or re-victimisation. Despite the repeated recommendations from the Committee on the Elimination of Discrimination against Women (CEDAW),<sup>1</sup> the Government has not collected disaggregated data nor adopted specific measures for indigenous and minority women.

### **Recommendations**

Questions should be raised regarding the need for effective measures to address racial discrimination suffered by different indigenous and minority groups. We propose the following recommendations to be made. The Government of Japan is recommended to:

- Ensure that minority children enjoy the right to education without discrimination;
- Guarantee to ethnic minorities the full enjoyment of civil and political rights, including the right to vote;
- Strengthen the protection of the right to privacy without discrimination and take measures against human rights violations on the internet;
- Collect disaggregated data to comprehend the situation of indigenous and minority women including in education, employment and violence against women; and
- Adopt positive measures for indigenous and minority women to ensure their full enjoyment, especially in education, employment and violence against women.

### **5) Human rights violations in the foreign "Technical Intern Training Program".**

#### **Follow-up to the second review**

The Government accepted the recommendations from Iran, Nepal and Portugal specific to the human rights of migrants. The recommendations from Argentina, Chile, India, the Philippines and Rwanda regarding the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) and the ILO Convention 189 were also accepted.

#### **New developments since the second review**

The Government started the Technical Intern Training Program in 1993 in the name of transferring skills to

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<sup>1</sup> CEDAW/C/JPN/CO/6 and CEDAW/C/JPN/CO/7-8

developing countries as part of Japan's international cooperation. In response to wide criticism of the program for being a source of labour exploitation and the lack of legislative protection, the "Act on the Proper Implementation of the Technical Intern Training Program and the Protection of Technical Intern Trainees (Act on Technical Internship)" was adopted in 2016 to enter into force in November 2017, which is aimed to prevent human rights violations.

Yet, the Technical Intern Training Program continues to be used as a source of cheap labour by small and medium sized companies that are usually sub-contractors or suppliers of large enterprises. Many interns cannot develop their skills, since the work assigned to them is mostly simple labour. Accommodation and utilities costs are deducted from their low salaries. Restrictions in their private lives such as the imposition of curfew and the prohibition of possessing a mobile phone are not uncommon. In principle, technical interns cannot change their place of work, and many of them are discouraged from reporting human rights violations for fear of "forced repatriations". They are often indebted to the deposit paid to the sending organisation in the country of origin, and their contract includes provisions for penalty fees in case of early return.

The Government has not ratified the International Convention on Migrant Workers (ICRMW) nor the ILO Convention 189.

### **Recommendations**

Since the Government does not recognise technical interns as workers, Member States are encouraged to raise relevant questions in broader terms. We propose that the following recommendations are made. The Government of Japan is recommended to:

- Abolish the Technical Intern Training Program and replace it with a programme to host foreign workers with full labour rights protection; or
- Develop further the legal and institutional protection mechanisms for the human rights of technical interns.