

Standing up against Hate Speech in Japan - Statement and Recommendations

The issue of hate speech is growing around the world, causing serious human rights violations. The issue is not sufficiently understood in Japan, but incidents of violent hate speech and discriminatory remarks occur with alarming frequency. Appropriate response and action are required.

In view of this circumstance, we decided to organize meetings titled “Standing up against Hate Speech in Japan” in Tokyo on November 20, 2012 and in Osaka on November 24, 2012. In both of the meetings, we heard reports of incidents of discrimination involving hate speech against minorities.

The attack on the Kyoto Chosen Dai-ichi Elementary School by the Zaitoku-kai (the civil group that does not allow privileges granted to Korean residents in Japan) on December 4, 2009 was given as an example of hate speech against resident Koreans. Although the perpetrators were convicted in court, the judgment failed to recognize the racist ideas behind their motivation. The group had filmed the incident and uploaded the video on the web, spreading the damage created by the discrimination. The incident caused enormous impact and damage on the victims, and the school filed for civil damages. The case is still ongoing. Despite the need for comprehensive remedies including psychological care, the victims are currently left abandoned.

The incident of the Zaitoku-kai shouting discriminatory propaganda on the street in front of the Suiheisha Museum in Nara Prefecture on January 22, 2011 was an example of hate speech against the discriminated Buraku people. The Museum filed suit seeking civil damages against the members of the Zaitoku-kai, and on June 25, 2012, the court ordered the respondents to pay damages. As in the above case, the perpetrators filmed the incident and published the video on the web. The discriminatory remarks and agitation related to Buraku were made public on the web, causing further mental agony and anxiety among many people, including the neighborhood residents and people involved in education. Here also, the discrimination is essentially left unchecked because there are no laws that prohibit discriminatory remarks or acts.

Examples of remarks by public figures were also reported. In December 2010, the then Governor of Tokyo made a seriously derogatory remark in a public place about homosexual people. Many people including members of the sexual minority were hurt and offended, and they engaged in various protest actions. But there were no “apologies” or “retractions” from the former Governor, nor broad social recognition that such remarks indicate a serious problem. The former Governor has repeatedly made discriminatory and incendiary remarks, such as referring to “sangoku-jin”, using a derogatory term to describe people from Korea, China or Taiwan, or the “babaa” remark, deriding elderly women. The former Governor is not the only public figure who makes such remarks. But the state has never taken any measure against these and numerous remarks made by other public figures, and there is also little social awareness in the need to refuse to allow such remarks to be made.

Based on these reports, we recognize the following regarding the issue of hate speech.

1. In essence, hate speech is a form of violence through speech and gesture, which hurts, degrades or excludes minority groups. It is an act of discrimination based on race, ethnic origin, nationality, descent, gender, sexual orientation, sexual identity, disability and other grounds, and combined with other acts of structural discrimination, causes daily suffering to the members of minority groups.
2. Hate speech denies the existence itself and the identity in particular, of the victim. It therefore hurts the victim's dignity and personality. It adversely affects the victim's physical and mental state as well as his/her daily activities, and ultimately his/her whole life, in some cases leading to suicide.
3. Hate speech, and racist hate speech in particular, spreads feelings of hatred, malice and contempt against racial and ethnic minorities, destroys peaceful and friendly relations among different races and ethnicities, and leads to physical violence against minorities, in some cases, even to genocide.
4. There are some existing legal provisions such as the crime of insulting someone that can be applied to hate speech targeting a specific person, but they are not fully functional. There are no provisions regarding speech that does not target a specific person, except for Article 4 (c) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) which requires State Parties not to "permit public authorities or public institutions, national or local, to promote or incite racial discrimination." In Japan, this clause fails to function effectively.

Based on the above reports and recognition, we request the state (legislature, judiciary and administration), local governments and the UN to do the following.

The state (legislature, judiciary and administration) and local governments should:

1. Promptly conduct a survey on cases involving hate speech, including those in which the victims were awarded civil damages, and include the findings in the periodic Report to the Committee on the Elimination of Racial Discrimination (CERD) on the implementation of ICERD due January 14, 2013.
2. Based on Article 4 (c) of ICERD, include reports of cases of serious discriminatory remarks by public figures as well as the government's views regarding them in the next periodic Report to CERD.
3. Conduct a nation-wide government and Diet (parliamentary) research into the composition and situation of discrimination of racial and ethnic minorities, on the basis of voluntary self-identification, with full respect for the privacy and anonymity of the individuals concerned, and with prior consultation with organizations of affected minorities and NGOs fighting against discrimination, according to paragraph 11 of the CERD Concluding Observations issued in 2010.
4. Conduct human rights education including education for the elimination of racial discrimination, in accordance with the international standards to all national and local government officials, law enforcement officials in particular.
5. Adopt national or local legislation prohibiting acts of racial discrimination including hate speech.

6. Ensure that existing laws such as international human rights law including Article 4 of ICERD, the Constitution, the Civil Code and the Penal Code, function effectively against hate speech.

The UN

CERD should:

1. Formulate a General Recommendation as a follow-up to the Thematic Discussion on racist hate speech held on August 28, 2012, in which it should
 - * gather information on various forms of racist hate speech, and identify forms and elements of hate speech that should be prohibited under Article 4 of ICERD, while ensuring the freedom of expression, as well as forms of regulations, and
 - * clarify specific actions that government should take under ICERD to protect particularly vulnerable groups from hate speech.

The Human Rights Council should:

2. Examine legal and administrative measures to regulate and prevent racial discrimination, as well as the situation of hate speech (or incitement) and its countermeasures in the State Parties; organize a panel discussion on hate speech in general, based on CERD's Thematic Discussion on racist hate speech as well as the Expert workshop on the prohibition of incitement to hatred under the Office of the High Commissioner for Human Rights; and take action including examining the possibility of establishing an Independent Expert or a Special Rapporteur on the subject to be effectively involved in this issue.

Finally, we decide as follows:

1. To continue to monitor the issue, to call on national and local governments to act.
2. To participate and cooperate with the ongoing discussions and efforts being made at different levels such as at "legal," "social science," "individual case-based" and "civil organization" levels.
3. To provide a report including the substance of these meetings to UN human rights bodies, the CERD in particular; to continue to gather records of incidents including the cases reported at these meetings, and have the NGO reports for the examination of the Report of Japan at CERD as well as at HRC (expected to be in March 2014) reflect those records.
4. To continue to appeal broadly to the public on the issue including by publishing the above requests on the websites of related organizations.

November 24, 2012

Tokyo and Osaka Meetings "Rising against Hate Speech in Japan"
NGO Network for the Elimination of Racial Discrimination (ERD Net)

contact: The International Movement Against All Forms of Discrimination and Racism (IMADR)