

Comments by the Government of Japan regarding the Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD/C/JPN/CO/10-11)

1. In the concluding observations of the Committee on the Elimination of Racial Discrimination (hereinafter referred to as "the Committee") (CERD/C/JPN/CO/10-11) that were adopted on August 28, 2018, following the consideration of the combined tenth and eleventh periodic reports of Japan during the Committee's 96th session, the Committee requested the Government of Japan (GoJ) to provide information on its follow-up to the recommendations contained in paragraphs 10 and 32 within one year. The GoJ hereby submits an additional report in response to that request.

2. In the same report, the GoJ also provides additional comments regarding paragraphs 15, 16, 25, 26, 35 and 36, for which information on its follow-up was not requested, to explain related domestic initiatives.

3. The additional report is as follows.

Paragraph 10

Noting the State party's acceptance to follow up on a recommendation from the universal periodic review in 2017 that it accelerate efforts towards the establishment of a national human rights institution, the Committee recommends that the State party establish a national human rights institution with a broad mandate to promote and protect human rights, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

4. The GoJ continues to review appropriately the framework for a human rights remedy system, bearing in mind also the discussions conducted thus far.

5. At the same time, the Human Rights Bureau has been established in the Ministry of Justice (MoJ) as an administrative body engaging in the protection of human rights. The Bureau's subordinate organs, the Human Rights Departments of the Legal Affairs Bureaus (8 locations nationwide), the Human Rights Divisions of the District Legal Affairs Bureaus (42 locations nationwide) and their branches (261 locations nationwide) have been established heretofore.

6. Moreover, the MoJ is engaged in human rights promotion and protection activities such as human rights awareness-raising activities, human rights counseling, investigation and resolution of human rights violation cases in cooperation with about 14,000 Human Rights

Volunteers, who are private citizens appointed by the Minister of Justice.

7. The human rights bodies of the MoJ provide a wide range of human rights counseling at the 311 offices of the Legal Affairs Bureaus, District Legal Affairs Bureaus and their branches across the country covering human rights violations, and the number of counseling cases was 216,239 in 2018. These bodies also engage in investigation and resolution of human rights violation cases from a fair and neutral standpoint, and remedy procedures commenced with 19,063 cases in 2018.

Paragraph 32

The Committee recommends that the State party ensure that the technical intern training programme is properly regulated to ensure compliance with the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees, and that it is monitored by the Government. The Committee requests information on the implementation and impact of the Act in the State party's next periodic report.

8. Based on the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees, which came into effect in November 2017, the Organization for Technical Intern Training (OTIT) is conducting on-site inspections of supervising organizations and implementing organizations in an effort to ensure an appropriate system to protect technical intern trainees.

9. By the end of December 2018, OTIT conducted on-site inspections of approximately 2,000 supervising organizations, and over 5,000 implementing organizations (over 7,000 organizations in total). Of the over 3,700 organizations (over 1,100 supervising organizations and over 2,600 implementing organizations) at which on-site inspections were completed by the end of September 2018, violations were identified at, and recommendations for improvement were given to, approximately 1,400 (over 500 supervising organizations and approximately 900 implementing organizations) (all figures are preliminary). One supervising organization's license and eight implementing organizations' technical intern training plan accreditations were revoked in 2018. One implementing organization also received an order for improvement.

10. The MoJ and the Ministry of Health, Labour and Welfare (MHLW) have prepared bilateral agreements with countries that intend to send technical intern trainees (13 countries as of the end of April 2019) and are working to ensure appropriate operations of sending organizations.

11. A project team was set up within the MoJ in November 2018 to study ways of further

improving the technical intern training program. The team conducted surveys on cases of disappearance and death of technical intern trainees and reviewed the operation status of the current system. A report on the results of the surveys and review was released in March 2019. The report recommended implementing more robust responses in cases of disappearance and death, enhancing the system to prevent disappearance of technical intern trainees, and reinforcing the Immigration Services Agency and OTIT's structures. Efforts are now being made to enhance the technical intern training system based on the recommendations mentioned in the report.

Paragraph 15

While noting recent efforts by the State party to protect and promote the rights of the Ainu people, the Committee is concerned that:

- (a) Cases of discrimination against Ainu in employment, education and access to public services continue to be reported and that, despite some improvements, there remains a gap between the living standards of Ainu and those of other residents in Hokkaido;
- (b) While some efforts are being made to preserve Ainu language and culture, the land and natural resource rights and the linguistic and cultural heritage of the Ainu people are not sufficiently protected;
- (c) The proportion of Ainu on consultative bodies remains low, and only about a third of the members of the Council for Ainu Policy Promotion are Ainu (art. 5).

Paragraph 16

Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:

- (a) Step up efforts to eliminate discrimination against Ainu in employment, education and access to services;
- (b) Ensure monitoring of the implementation and impact of current efforts, such as the "Third Promotion Policy for the Improvement of Ainu People's Life", and provide information on this and other measures taken to improve the living standard of Ainu in its next periodic report;
- (c) Adopt measures to protect the land and natural resource rights of the Ainu people, and continue to step up efforts for the realization of their rights to their culture and language;
- (d) Increase the proportion of Ainu representatives on the Council for Ainu Policy Promotion and other consultative bodies.

12. The GoJ recognizes that it is important for the Ainu people to retain their honor and dignity as indigenous people and pass these down to the next generation in realizing a vibrant and cohesive society where a diversity of values co-exist. Under such recognition, the GoJ conducted discussions for formulating a legislation for the Ainu people, based on deliberations

in the Council for Ainu Policy Promotion.

13. As a result, the Act on Promotion of Measures for the Realization of a Society in which the Pride of the Ainu People is Respected (Ainu Measures Promotion Act) was enacted in April 2019 and came into effect in May 2019.

14. This act recognizes the Ainu people as indigenous people, and aims at comprehensively advancing a wide range of measures, including regional revitalization and the promotion of industry and tourism, in addition to the previous welfare measures and promotion of culture.

15. Specifically, taking into account the needs of the Ainu people, the act incorporates: new subsidies as a supporting measure for projects implemented by the municipalities; and measures concerning the harvesting of forest products from state-owned forests and salmon fishing.

16. Furthermore, the Ainu Policy Promotion Headquarters was established under the Chief Cabinet Secretary to comprehensively and effectively promote Ainu policies.

Paragraph 25

The Committee remains concerned at reports of intersecting forms of discrimination against foreign, indigenous and minority women based on their national origin, ethnicity and gender and that they face various specific obstacles in overcoming poverty and in access to education, health care and employment. They often suffer from anxiety and psychological distress because of the stigma and hate speech against them and their families. The Committee is also concerned at the continued reports of violence against foreign, indigenous and minority women and at the lack of information on measures taken to address violence against them, including under the Fourth Basic Plan for Gender Equality (2015), and by the lack of data on investigations, prosecutions and convictions of perpetrators of such violence. Furthermore, the Committee reiterates its previous concern (ibid., para. 17) that article 22-4 of the Immigration Control Act may prevent foreign women who are victims of domestic violence by their husbands from leaving abusive relationships and from seeking assistance, for fear of having their residency revoked.

Paragraph 26

Recalling its general recommendations No. 25 (2000) on gender-related dimensions of racial discrimination and No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:

- (a) Ensure dedicated attention to women suffering from intersecting forms of discrimination, and collect relevant statistics to better understand and address the specific challenges facing such women;**
- (b) Ensure that foreign, indigenous and minority women have the right and opportunity to participate in**

decision-making processes, especially when it affects their own situation;

(c) Take immediate measures to prevent violence against foreign, minority and indigenous women, including through the proper registration of violent crimes against them and the investigation, prosecution and conviction of the perpetrators of such violence. The Committee requests information in the State party's next periodic report on specific measures under the Fourth Basic Plan for Gender Equality (2015) to prevent violence against foreign, minority and indigenous women, and data on reported crimes of violence against women, disaggregated by the ethnicity of the victims, including the number of such reports and the number of investigations, prosecutions and convictions. The State party should also amend its legislation to ensure that it does not have the effect of forcing foreign women to remain in abusive relationships for fear that they will lose their residency status or be deported.

I Persons subject to revocation of status of residence

17. Article 22-4, paragraph (1), item (vii) of the Immigration Control and Refugee Recognition Act (hereinafter referred to as "item (vii)") provides that a person with a status of "Spouse or Child of Japanese National" or "Spouse or Child of Permanent Resident" is subject to revocation of the status of residence in cases where the person has been residing for six months or more without continuously engaging in activities as a person with the status of a spouse. The Act further provides that the status of residence will not be revoked where there is a justifiable reason for residing without engaging in such activities.

18. Item (viii) of the same paragraph (hereinafter referred to as "item (viii)") provides that if a person who newly becomes a mid to long-term resident by receiving permission for landing does not notify the Commissioner of the Immigration Services Agency of his/her place of residence within 90 days of the date of receiving the permission, the status of residence may be revoked. Item (ix) of the same paragraph (hereinafter referred to as "item (ix)") provides that when a mid to long-term resident does not notify the Commissioner of the Immigration Services Agency of a new place of residence within 90 days of leaving the previous place of residence, which had previously been notified to the Commissioner, the status of residence may be revoked. However, both provisions provide that the status of residence will not be revoked where there is a justifiable reason for not giving notification.

II Justifiable reason

19. Whether a status of residence is revoked or not is to be determined by comprehensively taking into account the specific circumstances of the respective persons. The following are concrete examples of justifiable reason as referred to in items (vii) to (ix).

(1) Justifiable reason under item (vii)

Those who need to seek temporary shelter or protection from spousal violence (so-called domestic violence (DV))

(2) Justifiable reason under items (viii) and (ix)

Those who need to seek shelter or protection from spousal violence (DV)

III Dissemination of information on justifiable reason

20. The Immigration Services Agency makes information on the abovementioned concrete examples available on its website in nine languages (including Japanese). It is also included in the Q&A section concerning immigration procedures.

Paragraph 35

The Committee is concerned by the reportedly very low acceptance rate of asylum applications by the State party (19 out of 11,000 applications). It is also concerned by the detention of asylum seekers for indeterminate periods, without establishing fixed time limits for their detention. The Committee is further concerned that applicants for refugee status normally may not work or receive social welfare, leaving them dependent on overcrowded government shelters or vulnerable to mistreatment and labour exploitation.

Paragraph 36

Recalling its general recommendation No. 22 (1996) on article 5 of the Convention on refugees and displaced persons, the Committee recommends that the State party ensure that all applications for asylum status receive due consideration. The Committee also recommends that the State party introduce a maximum period for immigration detention, and reiterates its previous recommendation (CERD/C/JPN/CO/7-9, para. 23) that detention of asylum seekers should only be used as a measure of last resort and for the shortest possible period of time, and that efforts should be made to prioritize alternative measures to detention. The Committee recommends that the State party allow applicants for refugee status to work, six months after they have submitted their applications.

I Asylum application acceptance rate

21. Situations surrounding Japan on refugees differ from those of European countries, where inflow of refugees and displaced persons is considered as a significant international problem. While Japan has not received many applications for recognition of refugee status from countries such as Afghanistan, Iraq and Syria, where a large number of refugees and displaced persons are generated, it has received a considerable number of applications attempting to abuse or misuse the refugee recognition system for the purpose of acquiring job opportunities in Japan, not for seeking asylum through the application for recognition of refugee status.

22. Under these circumstances, the GoJ examines the details of each application and recognizes refugee status to those who should be recognized as refugees. Even if a person cannot be categorized as a refugee under the Refugee Convention, when humanitarian considerations are found to predominate in light of the circumstance in the person's home country, the GoJ permits residence to the person. The GoJ is of the view that Japan has recognized refugee status or permitted continued residence, in a manner similar to that of European countries, where applications for recognition of refugee status are filed by applicants from countries such as Afghanistan, Iraq and Syria.^(Note)

23. The GoJ has taken various measures to reduce the number of abused or misused applications and ensure prompt protection for persons in genuine need. Accordingly, while 2018 saw the number of applicants for recognition of refugee status halved to 10,000 from approximately 20,000 in the previous year, the number of persons recognized as refugees almost doubled, from 20 to 42, from the previous year. Japan will continue to promote proper operation of the refugee recognition system.

(Note) In the eight years from 2011 (the first year of the Syrian crisis) to 2018, Japan has accepted a total of 90 applications for refugee status filed by Syrian nationals. Japan recognized refugee status or permitted continued residence in light of the circumstances in a person's home country even for individuals not recognized as refugees after examining all of the applications handled by the end of 2018.

II Work permission for applicants for recognition of refugee status

24. Since March 2010, Japan had operated a system that uniformly permitted legal residents who filed applications for recognition of refugee status to work for six months, if they wished, after submitting their applications. However, in recent years, due to the sharp increase in applications from legal residents, which apparently try to abuse or misuse the refugee recognition system for the purpose of acquiring job opportunities in Japan, swift protection of persons in genuine need has been prevented. Therefore, in order to prevent abuse and misuse of the system and promote swift protection for persons in genuine need, Japan has carried out revisions of the operation of the system in September 2015 and January 2018, and, since then, the revised system has been in operation.

25. Specifically, in the case that an applicant residing legally in Japan has applied for refugee recognition, a work permit is to be granted as soon as it can be confirmed that either of the following situation apply: 1) if the applicant is highly probable to be a refugee under the

Refugee Convention; or 2) if the applicant requires consideration from a humanitarian perspective due to the circumstances in his/her home country. This would contribute to more rapid stabilization of applicants' livelihoods.

26. On the other hand, the GoJ is taking the measure of not granting status of residence for applicants attempting to abuse or misuse the system; for example, applicants who claim circumstances that would not be regarded clearly as persecution under the Refugee Convention. Furthermore, the GoJ is taking the measure of granting the status of residence, but not granting work permits for applicants who file applications after having ceased to engage in the activities permitted under their status of residence, for example foreign students that have left school.

27. It is thought that these efforts have been effective to a certain extent so far in reducing abuse and misuse of the refugee recognition system and providing swift protection for persons in genuine need, but a considerable number of applications which attempt to abuse and misuse the refugee recognition system are still being filed. It is necessary to continue taking a multi-faceted approach to promote the proper operation of the refugee recognition system to ensure swift protection for persons in genuine need.

III Detention of applicants for recognition of refugee status

28. Applicants for refugee recognition staying legally in Japan at the time of application are not detained. Applicants for refugee recognition without status of residence are granted permission for provisional stay and not detained unless they are recognized to fall under certain grounds, such as a case where they are likely to flee.

29. On the other hand, in the case of a person who has applied for refugee recognition after the proper deportation procedures were followed and deportation was decided on, the refugee recognition procedures are to be processed while the applicant is detained. However, deportation is suspended during the refugee recognition procedures, and provisional release is flexibly permitted to give the maximum consideration to people for whom particular humanitarian considerations are needed.

30. Detainees in immigration detention facilities are treated in a manner respecting their life style along with the customs of their respective countries to the extent that doing so does not pose a security risk. The GoJ is implementing education and awareness raising measures for the immigration control officers pertaining to respect for human rights.

31. Immigration control officers are making strenuous efforts to check the state of health and behavior of the detainees in immigration detention facilities to prevent accidents and ensure security.

IV Protective measures for applicants for recognition of refugee status

32. With regard to applicants for recognition of refugee status facing difficulties in making their living, the GoJ offers support for their living expenses, housing expenses and medical expenses via a foundation charged with providing support for the resettlement of refugees. The GoJ offers appropriate support to applicants for recognition of refugee status who cannot immediately secure residences themselves, including in the form of the Emergency Shelter for Refugee Applicants.