

**Comments by the Government of Japan regarding the Concluding Observations of  
the Committee on the Elimination of Racial Discrimination  
(CERD/C/JPN/CO/3-6)**

March, 2011

The Government of Japan submits this document as an additional report in response to the request by the Committee on the Elimination of Racial Discrimination (CERD), as stated in its concluding observations (CERD/JPN/CO/3-6) adopted on March 9, 2010 during the committee's 76<sup>th</sup> session following the consideration of the combined third to sixth reports of the Government of Japan, that the information on its follow-up to the recommendations contained in paragraphs 12, 20, and 21 of the concluding observations be provided within one year of the adoption of the concluding observations.

The present situation regarding the recommendations to which follow-up was requested is as follows.

1. The recommendations in paragraph 12 of the concluding observations read as follows:

**The Committee encourages the State party to draft and adopt a human rights protection bill and promptly establish a legal complaints mechanism. It also urges the establishment of a well-financed and adequately staffed independent human rights institution, in compliance with the Paris Principles, with a broad human rights mandate and a specific mandate to address contemporary forms of discrimination.**

**Government of Japan's response regarding paragraph 12:**

With regard to the establishment of a new human rights institution, there has been debate concerning various issues such as the scope of human rights infringements that are eligible for remedy, measures to guarantee the independence of the institution, and details concerning the authority to investigate. At present, therefore, the bill for a new human rights remedy system has not yet been resubmitted to the Diet.

The Government of Japan considers the establishment of a national human rights institution that is independent of the Government an important issue and intends to continue making necessary preparations for the establishment of the institution.

Currently, human rights remedy activities (including the handling of complaints filed by the victims of human rights infringements) and human rights promotion activities are carried out through the Legal Affairs Bureaus, the District Legal Affairs Bureaus, and their branches (a total of 321 locations across the nation). These activities are handled by Government officials of the Legal Affairs Bureaus and the District Legal Affairs Bureaus, as well as Human Rights Volunteers who are private citizens appointed by the Minister of Justice (about 14,000 people across Japan), on fair and impartial grounds under the Human Rights Bureau of the Ministry of Justice. However, there are still some issues to be addressed, including the insufficiency of legal measures to ensure the reliability of the independence of their duties.

Based on the current situation described above, the Government of Japan intends to provide effective relief to the victims of human rights infringements and continue to prepare for the establishment of a new human rights institution.

2. The recommendations in paragraph 20 of the concluding observations read as follows:

**The Committee recommends that further steps be taken in conjunction with Ainu targeted action plans that address Ainu rights and that the participation of Ainu representatives in consultations be increased. It also recommends that the State party, in consultation with Ainu representatives, consider the establishment of a third working group with the purpose of examining and implementing international commitments such as the United Nations Declaration on the Rights of Indigenous Peoples. It urges the State party to carry out a national survey of living conditions of Ainu in Hokkaido and recommends that the State party take into account the Committee's general recommendation No. 23 (1997). The Committee further recommends that the State party consider ratifying the International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.**

**Government of Japan's response regarding paragraph 20:**

Based on the report submitted by the Advisory Panel of Eminent Persons in July 2009, the Government of Japan decided to set up a Meeting for the Promotion of Ainu Policies chaired by the Chief Cabinet Secretary in December of the same year for the purpose of promoting a comprehensive and effective Ainu policy, while taking into consideration the opinions of the Ainu people. The second session of the meeting was held in August 2010 following the first session in January 2010. During the second session, the implementation status of the policies suggested in the report of the Advisory Panel was reported. For the full-fledged future implementation of the policies, various opinions were actively exchanged, such as that the Government should take more active initiative in planning and implementing policies and that the participation, cooperation, and understanding of various entities, including local governments and private organizations, are essential. Moreover, those issues that were requested by the meeting for detailed deliberations are currently being discussed from a specialist's point of view at the working groups established under the meeting and participated in by representatives of the Ainu people. The working groups have been set up to work on studying two issues that are the creation of a "symbolic space for ethnic harmony", which would reflect a vigorous society with a diverse and rich culture free of discrimination, and a "survey of the living conditions of the Ainu people outside Hokkaido" to study the necessary policies for the Ainu people from a national viewpoint. The working group on symbolic space and the working group on survey of the living conditions were held eight and six times respectively (as of December 3). In order to promote policies by sincerely listening to the opinions of the Ainu people, five of fourteen members of the Meeting for the Promotion of Ainu Policies were appointed from among the Ainu people. Each working group is also making efforts to reflect the Ainu people's opinions in the policies through their participation. In addition, two prominent scholars of international human rights law participate in the Meeting as well.

The policies suggested in the report are extensive ones designed based on the situation of Japan and the Ainu people, while referring to the Declaration on the Rights of Indigenous Peoples adopted at the United Nations General Assembly in 2007. The Government of Japan believes it is important to steadily carry out these policies and to seek the achievement of results as early as possible.

Regarding the Indigenous and Tribal Peoples Convention (the International Labour Organization Convention No. 169), there are many issues that need to be considered before studying the possibility of ratification, as it contains many provisions that concern matters other than the protection of workers, which the ILO should primarily address, and as some provisions therein are not consistent with the legal system of Japan. For example, the convention respects the customs of indigenous peoples in regard to penal matters (Article 9) and gives the preference to methods of punishment other than confinement in prison for indigenous peoples (Article 10). These provisions need to be examined from the viewpoint of consistency with the penal system of Japan, which is based on the principles of legality and equality under the law enshrined in the Constitution of Japan.

3. The recommendations in paragraph 21 of the concluding observations read as follows:

**The Committee encourages the State party to engage in wide consultations with Okinawan representatives with a view to monitoring discrimination suffered by Okinawans, in order to promote their rights and establish appropriate protection measures and policies.**

#### **Government of Japan's response regarding paragraph 21:**

As stipulated in the Constitution of Japan, people who are born and live in Okinawa prefecture are equal under the law and are also equally guaranteed all of their rights as Japanese nationals.

Since the reversion of Okinawa to Japanese administration in May 1972, various measures have been taken for the promotion and development of Okinawa under the Okinawa Promotion and Development Special Measures Act and the first to third Okinawa Promotion and Development Plans in consideration of various circumstances in Okinawa. As a result, the disparity between Okinawa and the rest of Japan has been gradually narrowed mainly in terms of the improvement of infrastructure.

In 2002, the 30<sup>th</sup> anniversary of Okinawa's reversion to Japan, the Okinawa Promotion Special Measures Act (valid for 10 years until 2011) was enacted with a

view to building a vital private-sector-driven self-reliant economy, in addition to improving social capital.

Based on the Okinawa Promotion Special Measures Act and the Okinawa Promotion Plan drawn up under this act, various measures have been taken to promote Okinawa with the aim of achieving the prefecture's self-reliant and sustainable development. The plan was developed based on the draft prepared by the Okinawa Prefectural Government, taking into full account the needs of Okinawa Prefecture.

The Government of Japan has been carrying out measures focusing on Okinawa promotion based on requests from Okinawa prefecture, and also on the reviews and discussion about important matters concerning the promotion of Okinawa at the Okinawa Promotion Council. This council is composed of up to 14 eminent members, including the Governor of Okinawa Prefecture and another five regional representatives, along with representatives of local educational institutions and other organizations in various fields, so that the voices of the people of Okinawa are widely reflected in such measures.