



JULY 1988

*We Long for a Society with Human Rights Fulfilled
without Any Discrimination*

A Counterargument to the Second Periodic Report Submitted by Japan under Article 40 of the International Covenant on Civil and Political Rights (1)

(1)

We pay every respect to the untiring efforts of the United Nations and the Human Rights Committee towards the elimination of discrimination and the entrenchment of human rights.

It has nearly been 20 years since we established Buraku Liberation Research Institute in Japan in August, 1968 and started our activities to eliminate all discriminations, especially discrimination against Buraku, and to ensure human rights.

In these years, the Institute paid extraordinary efforts in not only domestic scenes, but in international fields also, that we firmly believe that the role we played at the time when Japan became a state party to the International Covenants on Human Rights in June 1979, was quite significant.

After the ratification by Japan of the Covenants, we have been holding study group meetings on the Covenants more than 8 times a year, counting to 75 meetings in this July of 1988.

The Institute also kept holding gatherings on the Human Rights Weeks in very December with quite large audiences, with many experts from UN Centre for Human Rights as the guest speakers.

In 1981, we produced and started distributing an educational slide set on the Human Rights Covenants, aimed to propagate, implement and embody the ideas enshrined in the Covenants.

Moreover, we have translated the initial report submitted by Japan with our commentary and the content of discussion of the Committee on the initial report into Japanese, and distributed them among many people concerned.

(2)

The Government of Japan, after 7 years since the initial report, submitted its second report. The second report, compared with the initial report, the second one shows a certain advance. For example, issues never mentioned in the initial report such as issues of mentally-ill persons, women, Burakumin and Ainu are taken up.

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However, it is quite regrettable that the mentions made merely remain to be in general, references to the legal provisions and on the on-going systems, without any comments on the problems to be solved or for their future improvements at all.

The Report, we consider, must be the one consistent with the following idea duly stated in the submitted Report itself; "But any country, including Japan, cannot be completely free from any problem in ensuring the full enjoyment of human rights. The Japanese People, having resolved that they would make 'constant endeavour' to protect the fundamental human rights which 'have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolable' (articles 12 and 97 of the Constitution of Japan) will continue to strive for attainment of the cause of protection of human rights in the years ahead".

(3)

In the followings, we, as an NGO concerned about human rights issues, shall see how actually the Report is reflecting the provisions in the Covenant. However, we have to tell you with great regret that the Japanese Government only gave us the full text of the Report in the last of May, 1988, and opened it to the public after the repeated request by a member of the National Diets although they had submitted the Report to the Committee in December, 1987.

This fact resulted in leaving us very short period of time to counterargue the government report in detail. Nevertheless, we shall try and clarify the points at issue as much as possible.

We wish that members of the Committee, the Japanese Government officials concerned and any people concerned go through these our arguments in considering human rights issues in Japan.

(4)

Our counterarguments for those sections of the Report on the articles 6 to 27 of the Covenant-except the sections 11 and 16, for these sections, we do not find any notable problem in Japan and two Appendices will appear in the later part of our papers. Here we would like to take up the matters concerned on articles 1 to 3.

(5)

In relation to Article 1 of the Covenant providing for the right of self-determination, we wish to point out the way ODA is implemented by Japan. Although the sum of ODA is in substantial increase in recent years, they are ; more in loans than in freeaids; more in bilateral than multilateral; more conditional than unconditional (for instance, aids must be spent on Japanese products as much as possible) and the ratio of the sum aimed at direct improvements of the standards of living of the people in developing countries are lower, compared with ODAs of the other industrialized nations. We feel that ODA by Japan should be increased and directed with the view that they work to improve more directly the standards of living and to promote and ensure the human rights of the people in the developing countries.

(6)

Concerning Article 2 providing non-discrimination and equality to every person, the Constitution of Japan provides for them in general in its Article 14.

However, in reality there still exist in Japan many instances of discrimination against such groups of people as Burakumin, Korean residents, women and the disabled. The implementation of legislative and other measures to actively eliminate these discriminations are rather unsatisfactory to meet fully the provision of the Covenant. In the cases of violations, measures for effective remedy, again, are not fully provided or implemented. More in detail will be discussed later in sections for Articles 6 and others.

Although Japan has ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985, and adopted and amended legislations and other measures to certain extent to meet the provisions of the Convention, actual discrimination in occupation and education is still deeply rooted. This is clearly and typically shown in statements made by major government officials. In May, 1987, then Minister of Education Seijuro Shiokawa openly declared that "women should be back in their homes", and back in autumn of 1986, then Prime Minister Nakasone said: "Women, watching me in the TV feature 'Listen to What PM has to Say', are more intent to argue on the colour of the tie I'm wearing than on what I'm saying on my policies".



(7)

Reviewing the human rights situation of Japan in general after the Initial Report, we fear that more dangerous tendencies are strengthened in this area.

These tendencies are clearly shown in the big increase of military budgets year after year and in more restraints in welfare budgets. Moreover, in policies of the ruling Liberal Democratic Party, suggestions for the amendments of the Constitution with its principles based on denunciation of war, sovereignty of the people, respect of fundamental human rights and international cooperation, are openly being debated. This goes in the same line of argument which negate the responsibilities for the invasions made by the Japanese Imperialism at the time of the Second World War. The path in this direction surely leads us to the denial of our Constitution and the Covenants on Human Rights as well, and further to the destruction again of Japan and World Peace.

We must not walk on this path again. We shall strive, with the support of powers of all peoples' opinion, in Japan and abroad, not to let Japan walk on this path again.

(8)

The only path Japan can and must walk on is the path for the protection of World Peace based on the establishment of human rights, the path that the Constitution of Japan and the Covenants on Human Rights solemnly guide us. To achieve this end, it is imperative to attain the earliest and full ratification by Japan of such human rights related International Conventions for the Elimination of All Forms of Racial Discrimination and for the Prohibition of Tortures.

This year of 1988 is the commemorable year for the 40th Anniversary of the Universal Declaration on Human Rights, we consider it has never been more urgent to materialize the spirits enshrined in the Declaration.

Article 6(Right to Life)

Life of human beings is based on human dignity, and fundamental and absolute, and is the basis of fundamental human rights.

Freedom of human body is stipulated in the Constitution of Japan in Article 13, 31 and 36.

In spite of the constitutional guarantee, however, capital punishment still exists in Japan. 40 years ago, the Supreme Court Grand Bench ruled that capital punishment was constitutional, which has been a prejudication up to the present time.

But since then, there has been much controversy over various questions involving capital punishment, and the number of death sentences has drastically decreased accordingly, with only a few executed since 1971. Furthermore in 1979, retrial was opened one after another for three cases where death sentences had been finalized, and the defendants were later decided "not guilty" and it appeared restrictive application of death penalty would likely to continue. In 1983, however, the Supreme Court set a general standard of application of death penalty in a burglary and murder case by a 19 year-old boy, and quashed the judgement of life imprisonment of Tokyo High Court. From that time on, death sentences rapidly increased in number at lower courts.

Last year, there were two cases in which the Supreme Court supported the death sentence of lower court even if the number of persons murdered was only one.

This year, in particular, the number of death sentences has been rapidly increasing, amounting to as many as 14 up to the end of May. According to one reference material, those who have been given death sentences is currently 87.

In spite of these facts, the report of the Japanese government submits data of only up to 1985, and the number is limited only those who have been finalized death penalty. Although the report says that application of death penalty is conducted very rigorously and carefully in Japan, the reality is as is mentioned above.

In addition, serious questions have been raised as to death sentence in such a case where the defendant denied the charge and neither material evidence was found nor a confederate could be specified.

Indeed, practical application of the Criminal Procedure Act in Japan is not in favor of the suspect / defendant ; for example, a written statement prepared by an investigator immediately after the arrest of a suspect, behind the closed doors without the presence of a defender, is likely to become the most convincing evidence at the trial. Defense is not fully guaranteed.

Therefore, it is clear that provision in Article 6 is not fully complied in Japan.



Donald Woods, the white South African newspaper editor behind "Cry Freedom," makes appeals in Tokyo and Osaka

Gradual Withdrawal of Japanese Enterprises Investing in South Africa

On May 30, 1988, IMADR (International Movement Against All Forms of Discrimination and Racism), which was established with the cooperation of the United Nations for the purpose of elimination of all forms of discrimination in the world and the protection of human rights, staged an anti-apartheid gathering in Tokyo.

The guest speaker, 54-year-old Donald Woods, whose book about black leader Steve Biko formed the basis of the movie "Cry Freedom" and who is now special advisor to the office of the British Commonwealth of Nations handling South Africa problem gave a memorial address titled "Biko and The Present State of South Africa."

"Although I was born and grew up in South Africa," declared Woods, "it has taken 41 years for me to understand the reality of discrimination in South Africa. By chance I met Steve Biko, a black leader, and thanks to him I deepend my understanding of apartheid."

"Japan is a major trading partner of South Africa," he warned, "occupying the first and largest position. It is, namely, an important connection with the apartheid system. The relationship between South Africa and Japan is drawing attention from America, the EC countries and the Third World." Woods appealed for the widest possible support for the anti-apartheid movement.

The other guest speaker was Jerry Matsui, representative of the first ANC (African National Congress) office in Tokyo. "Many countries in the world have not really begun their activities toward anti-apartheid," he said. "I believe that black and white will be able to talk to each other in a democratic way some day in the future. Until that day I need your cooperation."

The following proposals were adopted in the



concluding declaration: (1) the South African government should abolish the apartheid system immediately; (2) sporting, cultural, economic, military and other exchanges with South Africa by the Japanese government and private agencies should be prohibited.

On June 3, 1988, Donald Woods went on to address a meeting of over 1000 people in Osaka.

"In the days when I worked as an editor in South Africa 10 years ago," he said, "the South African government started to censor newspapers, TV, and so on, and therefore I could only write articles for publication with the permission the armed forces or the police. This censorship still continues."

"If Japan does not use economic sanctions against apartheid," he warned, "Japanese enterprises should be boycotted in the U.S. and other countries."

Two days before the gathering, on June 1, 1988, Woods took part in an anti-apartheid demonstration starting from the Central Public Hall and proceeding through the main street.



The Present Situation of Women in Japan

Our Critique of the Japanese Government Report on CEDAW

Osaka Prefectural Citizens Conference For Embodying in Life the Convention on the Elimination of All Forms of Discrimination against Women

(Continuation of no.43)

(e) Problems of Civil Code

Several amendments to the Civil Code are deemed necessary given the following problems;

- * Illegitimate children do not have the same right of inheritance as legitimate children. (Article 900)
- * Only women are not allowed to remarry within 6 months after divorce. (Article 733)
- * Article 750 requires the selection of either the husband's family name or the wife's family name as the family name for the married couple. In actuality, as the Health and Welfare Ministry's survey revealed, 98.6% of wives have been led to choose their husband's family name due to the unequal social status between the sexes and traditional codes governing family matters in Japan. Both family names should be made maintainable by amending the Civil Code.

(f) Others

Welfare for the elderly has now become a social problem in Japan. It costs more than 100 thousand yen a month to ask for care services, because public welfare is not adequately provided. In many cases, wives quit their jobs and take care of the elderly at home. Women discuss the issue of the care of the elderly as a 'women's problem'.

Another problem is the distorted image of sexuality in Japan for both men and women. Unfortunately, a large number of women in Japan work in what is called a 'sex industry'. Illegal entry of Asian women into Japan has been increasing recently, too. Current law is not sufficient because it punishes women for prostitution but not men.

III. Conclusion

Improvement of appearance is meaningless without accompanying improvement in substance. The Prime Minister's Office has been campaigning for the improvement of women's status. But there is a lack of effort to inform people of what each article of this extremely important Convention stipulates and implies. Literally, 'unknown law is not observed'.

We, as a consortium of grass-roots women's organizations, have produced a 30 -minutes slide show titled 'The Convention on the Elimination of All Forms of Discrimination against Women and Our Life' to publicize its content, and have shown it widely for the past six years. In 1984 we invited Ms. Rosalio G. Manalo, chairperson of the UN Committee on the Status of Women, and organized public assemblies in Tokyo and Osaka to gather and raise our voices for the ratification of the Convention by the Japanese government.

In concluding our report, we would like to emphasize again our firm determination to continue our campaigns in Japan for full implementation of the Convention which, we believe, is the precious product of many nations' efforts and the women's global struggle.

