



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights Fiftieth session

### Summary record of the 4th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 30 April 2013, at 3 p.m.

*Chairperson:* Mr. Kedzia

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*The meeting was called to order at 3 p.m.*

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Third periodic report of Japan (continued) (E/C.12/JPN/3; E/C.12/JPN/Q/3 and Add.1, and HRI/CORE/JPN/2012)*

1. *At the invitation of the Chairperson, the delegation of Japan took places at the Committee table.*

*Replies of the State party to the issues raised in relation to articles 3 to 6 of the Covenant*

2. **Mr. Oita** (Japan) said that most Ainu spoke Japanese. The Ainu language was not widely spoken and, since it comprised a dozen dialects, it was difficult even for the Ainu sometimes to understand one another. Moreover the language had not been enriched with contemporary terms, which made communication difficult between members of the Ainu community and public authorities. It was important to promote the Ainu language and to develop its vocabulary so that in due course the speakers of Ainu could use their own language in their exchanges with the administration.

3. Unlike indigenous communities in other countries, the Ainu did not live on land that was their own and therefore did not have land titles. They had integrated with persons of Japanese stock and adopted their way of life. Projects to reconstitute their traditional territory were nevertheless under way. A consultative council of 14 persons (comprising 5 Ainu, representatives of local and central government and experts in Ainu affairs) had been set up to defend the human rights and interests of the Ainu.

4. **Mr. Sadi**, noting that Japan and the Committee seemed to have systematically opposing views on the status of the Covenant in the domestic legislation of Japan, invited the State party to refer to the Committee's general comments No. 3 (1990) and No. 9 (1998) on the nature of States parties' obligations and the domestic application of the Covenant, respectively. It was regrettable that 20 years after the adoption of the Vienna Declaration and Programme of Action, Japan, which was undoubtedly an advanced country, was still at the stage of "planning" to set up a national human rights institution. It was also regrettable that there was discrimination against children born outside of marriage, particularly in relation to inheritance rights. Finally, he wished to know whether the social security system covered all types of health care, including dental care.

5. **Mr. Abe** (Japan) said that, under article 2 of the Covenant, the States parties undertook to take steps "with a view to achieving progressively the full realization of the rights recognized in the [...] Covenant" but how they were to meet that obligation fell within the remit of their discretionary powers. For the time being the courts could not apply the provisions of the Covenant directly.

6. **Ms. Samejima** (Japan) said that two bills to establish a national human rights institution had been submitted to the Diet, in 2003 and 2012, but the Diet had twice rejected them. That did not mean, however, that the Japanese Government would not pursue the matter further.

7. **Mr. Takemi** (Japan) said that, with regard to the acquisition of Japanese nationality, the amendment of the Nationality Act in 2008 had ended the unequal treatment of children born in and outside of wedlock. As far as inheritance rights were concerned, the Legislative Council had issued an opinion in 1996 declaring that all children born outside of wedlock should inherit in the same way as children born in wedlock and on an equal basis, but the

two bills drawn up to amend the Civil Code in line with that opinion, submitted to the Diet in 1996 and 2010, had been rejected. The Japanese Government had not, however, given up on the idea of having such a bill passed into law.

8. **Mr. Kobayashi** (Japan) said that dental care was covered by the universal health-care system in the same way as other health services.

*Replies of the State party to the issues raised in relation to articles 6 to 9 of the Covenant*

9. **Mr. Yoshida** (Japan) said that the employment policies of the Japanese Government had three goals: guaranteeing job security; diversifying working arrangements to enable employees to strike a good work-life balance; and ensuring that conditions of employment were fair for all workers. The Government had introduced job creation programmes to help young people, women, older adults and persons with disabilities enter the job market, including through special placement bureaux where jobseekers were put in touch with employers and through projects to support jobseekers in the advancement of their careers through continuous vocational training activities.

10. To enable workers to achieve a good work-life balance, the Government encouraged employers to reduce working hours, which were particularly long. It also encouraged them to offer better social protection to part-time workers by covering their contributions to pension and unemployment benefit schemes and by allowing them to progress in their careers on the same basis as full-time employees.

11. The Japanese delegation did not have statistics broken down by gender and age group on the persons with disabilities who had jobs but assured the Committee that the advisers in the job centres around the country helped persons with disabilities find suitable employment. A bill currently before the Diet prohibited discrimination in employment on the grounds of disability.

12. **Mr. Murano** (Japan) said that the Ministry of Health, Labour and Welfare was promoting paid leave and reduced working hours. It had set itself the target of lowering the proportion of employees working over 60 hours a week to 5 per cent by 2020, compared with 9 per cent at present. To combat *karōshi* (death from overwork), labour inspectors were obliged to report any violations of the Labour Code and workers were obliged to have annual medical examinations to check their stress levels and their general health. The labour laws were gradually changing: several suicides had been classified as work-related accidents, with compensation being paid out as a result.

13. The minimum wage was set by a tripartite committee comprising representatives of employers, workers and government authorities and had to be revalued in line with rises in the cost of living. Under no circumstances could the minimum wage fall below the level of social security payments.

14. **Mr. Kobayashi** (Japan) said that the funds allocated to social security benefits, including pensions and health care, represented 30 per cent of the State budget. Under the pension legislation reform, persons employed for at least 20 hours a week or who had worked for at least one year for a given company would automatically qualify for the health insurance and pension scheme. Also, since Japan had become a State party to the Convention relating to the Status of Refugees, foreigners legally residing in Japan could contribute to the State health insurance and pension scheme regardless of their nationality.

15. Since the review of the National Pension Act, in 2012, the national council tasked with reforming the social security system had been responsible for submitting proposals to the Government on future reforms to the system, including the establishment of a minimum pension for retirees.

16. **Ms. Bras Gomes**, drawing the delegation's attention to the fact that, according to certain sources, older persons did not dare ask for State aid for fear of the associated stigma, asked whether it would be possible to alleviate that stigma.

17. **Mr. Ribeiro Leão** asked whether the State party had a comprehensive plan for alleviating poverty.

18. **Ms. Morizane** (Japan) said that article 7 of the Act on Equal Opportunity and Treatment between Men and Women in Employment listed the criteria for identifying indirect discrimination. Article 11 of the Act obliged employers to take the necessary measures to prevent a worker from being the victim of inappropriate words or gestures.

19. **Mr. Kobayashi** (Japan) explained that steps had been taken to increase the age limit for applying for State aid and to foster a climate at the local level that encouraged people to file State benefit claims.

20. **Mr. Sadi** requested specific information on the number of migrant workers in the State party and the protection they were afforded.

21. **Mr. Yoshida** (Japan) said that migrant workers enjoyed the same protection as Japanese workers. The Government had issued guidelines to employers on the management of migrant workers, including their registration in the social security system.

22. **Mr. Abe** (Japan) said that policies had been put in place to ensure that the poorest members of society benefited in equal measure from economic growth and that 2 million persons benefited from State aid each year. Even though sexual harassment was not, per se, prohibited by law, the policy of naming and shaming those guilty of such harassment was common, and certain State bodies, such as the Ministry of Foreign Affairs, held awareness-raising activities on a regular basis for their staff.

*Replies of the State party to the issues raised in relation to articles 10 to 12 of the Covenant*

23. **Mr. Abe** (Japan) said that since 1995 the highest State authorities had made many statements recognizing the huge suffering of the "comfort women" and the affront caused to various populations in Asia. The numerous agreements signed at the end of the Second World War with the countries involved addressed the issue of compensation and reparation. To complement its public health and social protection efforts, Japan had established a special fund to help older women.

24. Although State development assistance funds had been halved since 1997 and it was very difficult to use them to assist victims of trafficking, they could be allocated to victim support programmes and technical skills-building activities. Also, in addition to cooperating with other countries in the region, Japan had set up support centres in the areas where the persons most vulnerable to trafficking were found.

25. All political parties were engaged in the fight against child pornography and child prostitution, particularly within the framework of the comprehensive programme on the subject approved in 2010. Both child pornography and child prostitution had been criminalized since 1999.

26. The Act on accessibility was one of the measures taken to improve the living conditions of an ageing population.

27. **Mr. Kodaka** (Japan) said that the nuclear regulatory authority established in September 2011 had been made responsible for issuing permits to operate nuclear power stations and nuclear facilities and for enforcing all the associated safety regulations. The authority had to consult the International Atomic Energy Agency (IAEA) and the International Commission on Radiological Protection (ICRP) in the event of any change in those regulations. The authority was also responsible for informing the populations

concerned and for ensuring the total transparency of its activities, including by publishing the minutes of its board meetings and holding regular press conferences.

28. **Mr. Shigetomo** (Japan) explained that, although sexual harassment as such was not a criminal offence, several related acts, such as coercion, were.

29. **Ms. Morizane** (Japan) said that families received a monthly allowance of between 10,000 to 15,000 yen per child until the child finished its primary schooling. There were also specific benefits for both the parents and the school-age children of single-parent families. In 2008, Japan adopted a strategy to ensure that all children would have a place in a childcare centre.

30. **Mr. Kobayashi** (Japan) said that public health-care facilities ensured a dignified and calm existence and that, under the State medical insurance scheme, persons over the age of 75 had to pay only 10 per cent of medical costs, compared with the 30 per cent payable by younger persons. The sum paid to families upon the death of the head of the household, whether a man or a woman, had been raised to 5 million yen, compared with 2.5 million in the case of the death of a spouse.

31. If consumer taxes rose, persons living on small pensions would receive 5,000 yen per month to preserve a decent standard of living. Atomic bomb victims received financial support for the medical treatment they needed and were also entitled to public assistance to ensure they enjoyed a decent standard of living.

32. **Mr. Sadi** told the State party that domestic violence and marital rape should be explicitly classified as criminal offences.

33. **Ms. Shin** said that she thought the State party had evaded the issue of the violence done to the persons forced to work as sex slaves for the Japanese army, which since 1996 had been referred to in the recommendations of the Special Rapporteur on violence against women. Despite the explanations provided by the delegation regarding disbursements made under the disaster condolence allowance scheme, the allocation criteria applied rested on indirect discrimination.

34. **Mr. Shigetomo** (Japan) said that those who perpetrated marital rape or sexual harassment were liable to criminal prosecution.

*Replies of the State party to the issues raised in relation to articles 13 to 15 of the Covenant*

35. **Mr. Shigetomo** (Japan) explained that schools operating in Korean had very close ties, including financial ones, with North Korea and followed curricula that were different from the official Japanese ones, which was why they did not receive State funding. The issue of comfort women was covered in school history textbooks. At the end of 2011, 64,000 foreign children aged between 6 and 11 were attending Japanese State schools regardless of their parents' residence status. Language support classes were given to those with inadequate Japanese language skills, and there was a special language programme for Brazilian children. The Government had recently enacted a law on the promotion of science and technology and drawn up a five-year plan focusing on green innovation, which included providing funding to researchers. Private universities and research institutes were subject to State control and received State funding. The researchers and teachers employed there were treated as civil servants and subject to civil service regulations, including those governing appointments.

36. **Ms. Shin** said that the abductions carried out by agents of the Democratic People's Republic of Korea were one matter and the right of children to education another. On the issue of comfort women, she said the State party should draw inspiration from the determined efforts made by Germany to clean up its past, since such initiatives furthered human rights education.

37. **Mr. Marchán Romero** asked the State party to provide, in its next periodic report, more specific and detailed information on how it applied article 15, paragraph 1 (b), of the Covenant.

38. **Mr. Martynov**, welcoming the State party's decision to withdraw its reservation to article 13, paragraphs 2 (b) and (c), of the Covenant, asked what proportion of students benefited from the scheme set up to cover the fees for secondary school education.

39. **Mr. Ueda** (Japan) said that there was no discrimination on grounds of ethnicity in Japan and that children who were nationals of the Republic of Korea could attend Japanese public schools free of charge.

40. **Mr. Sadi** asked whether the 700,000 migrant workers in Japan were protected by the Labour Code and covered by the minimum wage regulations, and how often the minimum wage was adjusted.

41. **Ms. Shin** urged Japan to eliminate school fees. She also called upon the Government to oppose the far-right movements that were tarnishing the image of comfort women.

42. **Mr. Murano** (Japan) said that migrant workers were protected by the Labour Code and were covered by the minimum wage regulations. They also received benefits if they suffered a work-related accident.

43. **Mr. Abdel-Moneim** (Country Rapporteur) said that the dialogue had highlighted two issues. Firstly, during the period covered by the third periodic report, the State party had been the second largest economy in the world, and as such could have implemented all the provisions of article 2 of the Covenant. Following the change in the economic climate, the temptation was strong to cut public spending. Experience had shown, however, that cutting public spending was not a good solution; even the International Monetary Fund agreed on that. Secondly, there was the question of obligations under international law. Japan considered that the reservations mechanism made it exempt from some of those obligations. But according to other schools of thought, all international rules were binding, which meant that all the provisions of the rules of international economic and social cooperation mentioned in the Charter of the United Nations were binding as well.

44. **Mr. Ueda** (Japan) thanked the Committee members for their attention and reaffirmed the willingness of Japan to work more closely with the international community.

45. **The Chairperson** thanked the delegation for the fruitful and friendly exchange it had conducted with the Committee. He informed the delegation that the Committee had completed its consideration of the third periodic report of Japan and that its concluding observations would be adopted at the end of the fiftieth session, on Friday, 17 May 2013.

*The meeting rose at 5.40 p.m.*