



# Economic and Social Council

Distr.: General  
3 May 2013

Original: English

---

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

### Summary record of the 3rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 30 April 2013, at 10 a.m.

*Chairperson:* Mr. Kedzia

## Contents

### Consideration of reports

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

*Third periodic report of Japan*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 10 a.m.*

### **Consideration of reports**

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

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

1. *At the invitation of the Chairperson, the delegation of Japan took places at the Committee table.*
2. **Mr. Ueda** (Japan), introducing his country's third periodic report (E/C.12/JPN/3), said that since the report's submission in December 2009 his Government had made vigorous efforts to protect and promote the rights enshrined in the Covenant. Turning first to discrimination-related issues, he said that, whereas the Second Basic Plan for Gender Equality of 2005 had set a target for increasing the proportion of women in leadership positions in all areas of society to at least 30 per cent by 2020, the Third Basic Plan for Gender Equality, adopted in 2010, had established detailed targets and timetables.
3. Institutional arrangements for persons with disabilities had been overhauled in recent years. As of 2011, the Basic Act for Persons with Disabilities included a clause reflecting the principle of providing reasonable accommodation as specified in the Convention on the Rights of Persons with Disabilities. On 26 April 2013 the Government had submitted to the Parliament a bill promoting the elimination of discrimination based on disability.
4. The Action Plan to Combat Trafficking in Persons had been adopted in 2009, and Government institutions involved in prevention, protection and law enforcement worked together to combat trafficking. In 2011 guidelines had been compiled for administrative entities engaged in protecting victims of trafficking.
5. Turning to work-related issues, he said that measures to help people obtain and keep jobs amid the global economic crisis, which had also affected Japan, included strengthening the safety net for non-regular workers, improving employment support for job seekers and the unemployed, and creating new jobs, particularly in the fields of energy and the environment. Japan was working to reform its social security and taxation systems in response to social and economic changes such as an ageing society, an increase in the proportion of non-regular workers, and changes in family and community structures.
6. Japan's public and private sectors were continuing efforts to support people affected by the earthquake of 2011, including through assistance for rebuilding housing, towns and lives. His Government was providing Fukushima Prefecture with financial and technical assistance for the medium- and long-term management of residents' health, and international bodies such as the World Health Organization (WHO) and the United Nations Scientific Committee on the Effects of Atomic Radiation were conducting relevant analyses and assessments.
7. In 2012 Japan had withdrawn its reservation to article 13, (2) (b) and (c) of the Covenant, regarding equal access to secondary and higher education. Financial support was available to ensure that all students had equal access to education.
8. The Government was striving to improve the living standards of the Ainu people. In 2008 it had recognized them as an indigenous people of Japan, and in 2010 it had established the Council for Ainu Policy Promotion, which included Ainu members. His country was leading international efforts to eliminate discrimination against lepers, another marginalized group, and had sponsored General Assembly resolution 65/215 on the elimination of discrimination against persons affected by leprosy and their family members.

The Government had also decided to extend the term of the WHO Goodwill Ambassador for the Human Rights of People Affected by Leprosy.

*Articles 1 to 9*

9. **Mr. Abdel-Moneim** (Country Rapporteur) said that, while the State party's report did not appear to contain overt errors, it omitted material that should have been included. Citing various paragraphs of the report dealing with articles 6, 7 and 9 of the Covenant, he said that there were many examples of insufficiently detailed information and also statements that could not be logically inferred from other information on which they were based. For example, what flexible employment measures were meant in paragraph 152 of the report? How was "the normal employer's capacity to pay" (mentioned in the discussion of the minimum wage in paragraph 172) determined? He asked the delegation to provide clarifications and, where appropriate, disaggregated statistics to respond to the various issues he had raised.

10. Turning to the earthquake that had damaged the Fukushima nuclear reactors in 2011, he said that, while the accident fell outside the period covered in the report, it had affected the enjoyment of a wide range of human rights by its victims and it would therefore be crucial for the State party to provide adequate information, in its next periodic report, on steps taken to restore the enjoyment of those rights. He recalled that the Committee, in paragraph 22 of its concluding observations of 24 September 2001 (E/C.12/1/Add.67), had expressed concern regarding reported incidents in nuclear power stations and the lack of transparency regarding the safety of such installations.

11. He concluded by highlighting two pieces of good news in the report: the State party's economic and other contributions to international cooperation efforts, which were exemplary, and the State party's withdrawal of its reservation to article 13, (2) (b) and (c) of the Covenant.

12. **Mr. Sadi** said that the State party's replies regarding the status of the Covenant's implementation were neither straightforward nor sufficiently detailed. The State party could dispel doubts concerning its stance towards the Covenant by becoming a party to the Optional Protocol.

13. He asked whether recently introduced fiscal stimulus measures hampered the State party's ability to implement the Covenant, and how they affected the rights of marginalized groups.

14. Turning to the Fukushima accident, he marvelled at Japan's continuing commitment to nuclear energy despite the backlash against it there and elsewhere, and despite the country's vulnerability to earthquakes and tsunamis. Had the State party considered relying more on other sources of energy? He also wondered if, in its response to the disaster, the State party had taken due account of the rights conferred in the Covenant. For example, according to information available to the Committee, comparatively high radiation levels were tolerated in housing located near the affected area. To what extent did the State party consider its response to be commensurate with its obligations under the Covenant?

15. **Ms. Bras Gomes**, citing the statement in paragraph 1 of the replies to the list of issues (E/C.12/JPN/Q/3/Add.1) that, according to the Japanese Constitution, the Government enacted laws and implemented policies "on the premise of compliance" with its obligations under the Covenant, asked what was meant by that phrase.

16. While the Committee welcomed the State party's efforts to combat discrimination, there were groups, such as the Ainu and Burakumin communities, that needed further support in order to enjoy the same rights as the general population. Would the State party consider enacting a framework anti-discrimination law? Might a nationwide survey be

conducted to identify the impact of the economic and social policies of the past two decades on discrimination against those two groups? Had the State party considered reforming the family registration system for Burakumin?

17. Turning to labour-related issues, she requested additional information about non-regular and short-term workers. She noted that the statistics on disparities between men's and women's wages cited in the report did not include part-time workers, many of whom were women. She wished to know the current status of equal employment opportunity legislation.

18. She asked for further details on the support provided to non-regular workers and people who had lost their jobs and whether a law on equal opportunities in employment was envisaged which included a definition of indirect discrimination and sexual harassment in the workplace.

19. She suggested that the Government might try to extend social coverage for temporary workers, as improvements to their social security and tax conditions were not scheduled until 2016 and then only for a limited number. Young people were entitled to unemployment benefit for 90 days on average, whereas such benefits should be provided for a longer period, with parallel investment in policies to stimulate youth employment. Lastly, she recommended that the pension system should be less stigmatizing, seamlessly interwoven with the public assistance system and fairer for women.

20. **Mr. Ribeiro Leão** enquired whether asylum seekers had access to public services such as health care; whether the Medium-term Programme for Establishing a Sustainable Social Security System and Securing its Stable Revenue Sources included measures specifically targeting single mothers and the elderly; and whether the pension system reform in 2000 had reduced the pensions of Japanese citizens, particularly elderly women and single mothers.

21. **Mr. Abashidze** asked what criteria Japanese courts used when applying the provisions of the Covenant; what the Covenant's status was in Japan's legal system; and whether the judiciary had ready access to the general comments formulated by the treaty bodies, so that judicial bodies could take them into consideration when interpreting the law.

22. **Ms. Shin** asked whether Japan had plans to sign and ratify the Optional Protocol; how current opinion stood on the establishment of a national human rights institution; whether further efforts might be made to counter discrimination against women, especially since many outdated laws, such as those prohibiting married women from using their maiden name, were still in force; and whether there were systematic reviews of laws and programmes to ensure that outdated provisions were amended to reflect modern reality.

23. She asked how data were collected; whether statistics in the report could be disaggregated by sex; how much of the budget was allocated to gender equality; why the wage gap between men and women had scarcely improved since 2005; and whether the Government had introduced legislation or conducted campaigns to prevent sexual harassment. Lastly, noting the long working hours in Japan, she asked whether the statistics provided on industrial accidents included *karoshi* (death from overwork) and whether Japan had made efforts to reduce average working hours without cutting wages.

24. **Ms. Cong** requested statistics on the unemployment rates of high school and college graduates disaggregated by gender, and information on their job security. She wondered what measures the Government had taken to ensure non-permanent workers the same rights as permanent ones and whether the revised National Pension Act covered all non-permanent workers. With regard to suicide, she wished to know whether the figures supplied in the report included foreign companies; what efforts had been made to prevent

mental health problems at school, in the workplace and in communities; and whether civil society had been involved in elaborating such measures.

25. **Mr. Martynov** asked whether Japan intended to withdraw its remaining reservations to the Covenant and whether the country had followed up on the Committee's 2001 concluding observations to ratify various International Labour Organization (ILO) conventions.

26. He asked for further data on persons with disabilities disaggregated by age and sex for both the public and private sectors. He also inquired whether the new bill on non-discrimination against persons with disabilities would cover all possible grounds for discrimination in the workplace and whether the Government planned to provide disabled employees in sheltered employment with further labour protection. It might also consider changing the employment quota system for the benefit of persons with disabilities. Lastly, he wished to know what percentage of pensioners would be covered by the National Pension Act and whether the Government was firmly committed to applying a minimum guaranteed pension.

*The meeting was suspended at 11.30 p.m. and resumed at 11.45 p.m.*

27. **Mr. Ueda** (Japan) said that Japan had acceded to the Covenant as a commitment to the international community, and that conventions and covenants usually took precedence over the Constitution and legislation. In practice, not all provisions under international treaties were self-executing and could be directly applied in the courts. The Covenant itself explicitly stated that each State party had the discretion to determine the rate at which it implemented its provisions.

28. Given that Japan had various provisions prohibiting discrimination in the Criminal Code and several bodies under the Ministry of Justice responsible for identifying such violations and taking measures, there was currently no need for a comprehensive anti-discrimination law. The Government was still considering how to harmonize the Optional Protocol and various ILO conventions with current Japanese law and would decide whether or not to ratify them once deliberations had been concluded. Japan retained its reservations to article 7 (d), as there was no consensus in Japan between workers and employers to provide remuneration for public holidays; and to article 8, since Japanese law remained at variance with the Covenant in its definition of civil servants.

29. In the wake of the Fukushima accident, Japan was trying to achieve the best possible energy mix and reduce radiation levels in the evacuation area of Fukushima to the values recommended by experts in Japan. The Government was considering various approaches to providing psychological care to workers in the public and private sectors as well as to victims of the Fukushima earthquake. As for asylum seekers, until it was determined whether applicants had suffered political persecution in their country of origin, the Immigration Bureau offered financial assistance to those in need.

30. **Ms. Morizane** (Japan) said that the Act on Equal Opportunity and Treatment between Men and Women in Employment as revised in 2006 required employers to take measures to prevent sexual harassment and indirect discrimination against women in the workplace, though it did not directly prohibit sexual harassment. The Ministry of Health, Labour and Welfare administered a web portal where companies could share best practices to eliminate discrimination against women. A 2005 law requiring companies with more than 300 employees to establish a programme promoting a work-life balance had been revised to cover all companies with more than 100 employees. The gender pay gap was shrinking but remained a cause for concern. The Government was examining ways to promote balanced and fair treatment for part-time workers, many of whom were women.

31. **Mr. Takemi** (Japan) said that, in response to the Buraku people's concerns about protection of their personal information, the Family Registration Act had been amended in 2008 to stipulate that third parties must provide legitimate reasons for requesting a copy of an individual's family registration records and the requester's identity must be verified. Thus far, no problems with enforcement of that law had been reported.

32. **Ms. Samejima** (Japan) said that the Ministry of Justice advised Buraku individuals on human rights issues when requested and took immediate measures to deal with human rights violations, in addition to its continuous awareness-raising measures. A bill establishing the Human Rights Commission had been submitted to parliament but had been shelved due to the dissolution of parliament. Discussions were still under way on how best to go about establishing the Commission.

33. **Mr. Takemi** (Japan) said that in February 1996 the Legislative Council of the Ministry of Justice had discussed the possibility of allowing married couples to keep separate surnames and of shortening the period during which remarriage was prohibited after divorce. It had been decided that further consideration was needed, taking into account public opinion. In 2010 there had been another attempt to revise the Civil Code provisions on those issues, but it had again been decided that more consideration was necessary.

34. **Mr. Kaneko** (Japan) said that the Third Basic Plan for Gender Equality adopted in 2010 included 15 priority areas intended to respond to social changes. One of those areas was positive action to increase the percentage of positions held by women in the legal and political fields, including by introducing numerical targets. A new growth strategy to be introduced in 2013 would focus on revitalizing the economy and society through women's active participation. As an incentive measure, public contracts were awarded to companies that promoted a work-life balance.

35. The Council for Gender Equality had recommended in August 2012 that the Government should make further efforts to promote gender equality using gender-disaggregated data. The Government hoped to publish and further promote the use of data disaggregated by income level and education background as well as by gender. A recent survey on social and living conditions had indicated that progress had been made towards creating a work-life balance.

#### *Articles 10 to 15*

36. **Mr. Martynov** asked whether the Government had achieved its commendable aim of creating places in childcare for all children on waiting lists.

37. **Mr. Sadi** asked whether the Government had considered using its official development assistance programme to encourage other countries in the region to step up the fight against trafficking in persons. He wished to know whether there were any programmes to provide support for elderly persons, who constituted a vulnerable group in the country.

38. **Ms. Shin** asked what obstacles were preventing the enactment of legislation to prohibit and punish domestic violence and sexual harassment. She encouraged the Government to take more proactive measures to deal with child pornography and child prostitution promoted through the Internet.

39. In relation to the Fukushima nuclear disaster, the fact that the sum of money provided to families through the Disaster Condolence Allowance for the death of the head of household was twice the amount provided for the death of the mother of the household constituted indirect discrimination against women, and that policy should be corrected. Also, the allowance was provided as a lump sum to the head of household rather than to the individual family members, and reports indicated that as a result some heads of household

were squandering the money. Because of the patriarchal society in Japan, women were not adequately represented among the families of victims that the Government consulted on appropriate remedies. The Government should either ensure women's full and equal participation in those meetings or hold separate meetings with women only.

40. She asked why Korean high schools were excluded from the free tuition system. The lack of diplomatic relations between Japan and the Democratic People's Republic of Korea was not a valid ground on which to base that exclusion, because the vast majority of students in those high schools were nationals of either Japan or the Republic of Korea. She wished to know if education on human rights and fundamental freedoms was provided in schools. History textbooks should accurately portray the situation of comfort women under the Empire of Japan. Those historical events could not be called a thing of the past as long as the victims were still suffering from the scars left by abuse.

41. **Ms. Bras Gomes** said that the situation of former comfort women did fall within the Committee's mandate in accordance with the Committee's interpretation of article 10 of the Covenant to include the protection of women. She therefore asked about the circumstances of former comfort women and any measures taken to protect them. It seemed that foreign children experienced difficulties in access to education, and it would be interesting to hear the delegation's views on that issue.

42. **Mr. Marchán Romero** commended the State of Japan for recognizing the Ainu as an indigenous people and asked if members of that group were able to use their own language when communicating with the Government. He wished to know the legal status of their ancestral lands and requested further information on the composition of the Council for Ainu Policy Promotion.

43. Given that many universities and research institutions in Japan were privately run, he wished to know how the Government ensured that the general public enjoyed the benefits of scientific research conducted in those establishments.

44. **Mr. Abdel-Moneim** (Country Rapporteur) asked if the statistical data provided in the State party's report should be interpreted to mean that the cost of living had more than doubled during the reporting period, while the minimum wage had remained the same or even decreased. According to a report by the Special Rapporteur on the human right to safe drinking water and sanitation, Japan had the fourth highest poverty rate among member States of the Organization for Economic Cooperation and Development, while other reports indicated that the State's taxation policy offered many exemptions for persons with high incomes while imposing high taxes on consumers. He therefore wondered if the Government was using its taxation policy as a means of adjusting income among different groups of society. Lastly, he asked about the level of scientific research conducted in Japan on the effects of nuclear radiation.

*The meeting rose at 1 p.m.*