

United Nations High Commissioner for Refugees

Japan

We would like to bring your attention to the following excerpts of Treaty Body Concluding Observations and Special Procedure reports relating to issues of interest and concern to UNHCR with regards to Japan.

Treaty Body Concluding Observations

CAT/C/JPN/CO/1 38th Session
3 August 2007

Non-refoulement

14. The Committee is concerned that certain provisions in domestic law and practices of the State party do not conform to article 3 of the Convention, and in particular:

- (a) The 2006 Immigration Control and Refugee Recognition Act which does not expressly prohibit deportation to countries where there is a risk of torture; in addition, reviewing authorities do not systematically investigate the applicability of article 3;*
- (b) The lack of an independent body to review refugee recognition applications;*
- (c) The conditions of detention in landing prevention facilities and immigration detention centres, with numerous allegations of violence, unlawful use of restraining devices during deportation, abuse, sexual harassment, lack of access to proper health care. In particular, the Committee is concerned that, so far, only one case in such a detention centre has been recognized as ill-treatment.*
- (d) The lack of an independent monitoring mechanism for immigration detention centres and landing prevention facilities, and in particular the lack of an independent agency to which detainees can complain about alleged violations by Immigration Bureau staff members. The Committee is also concerned that the criteria for the appointment of third-party refugee adjudication counsellors are not made public;*
- (e) The lack of an independent body to review decisions by immigration officials, in light of the fact that the Ministry of Justice does not allow refugee recognition applicants to select legal representatives at the first stage of application, and governmental legal assistance is de facto restricted for non-residents;*
- (f) Insufficient guarantees of access to judicial review for all asylum-seekers, and allegations of deportations carried out immediately after the administrative procedure has ended;*
- (g) The undue length of time asylum-seekers spend in custody between rejection of an asylum application and deportation, and in particular reports of cases of indefinite and longterm detention;*

(h) The strict character and limited effect of the provisional stay system adopted in the revised 2006 Immigration Law.

The State party should ensure that all measures and practices relating to the detention and deportation of immigrants are in full conformity with article 3 of the Convention. In particular, the State party should expressly prohibit deportation to countries where there are substantial grounds for believing that the individuals to be deported would be in danger of being subjected to torture, and should establish an independent body to review asylum applications. The State party should ensure due process in asylum applications and deportation proceedings and should establish without delay an independent authority to review complaints about treatment in immigration detention facilities. The State party should establish limits to the length of the detention period for persons awaiting deportation, in particular for vulnerable groups, and make public information concerning the requirement for detention after the issuance of a written deportation order.

Gender-based violence and trafficking

25. The Committee is concerned at continued allegations of gender-based violence and abuse against women and children in custody, including acts of sexual violence by law enforcement personnel. The Committee is also concerned at the restrictive scope of the State party's legislation covering rape, referring only to sexual intercourse involving male and female genital organs, excluding other forms of sexual abuse and rape of male victims. In addition, the Committee is concerned that cross-border trafficking in persons continues to be a serious problem in the State party, facilitated by the extensive use of entertainment visas issued by the Government, and that support measures for identified victims remain inadequate, leading to victims of trafficking being treated as illegal immigrants and deported without redress or remedy. The Committee is also concerned over the lack of effective measures to prevent and prosecute violence perpetrated against women and girls by military personnel, including foreign military personnel stationed on military bases.

The State party should adopt preventive measures to combat sexual violence and violence against women, including domestic violence and gender-based violence, and promptly and impartially investigate all allegations of torture or ill-treatment with a view to prosecuting those responsible. The Committee calls on the State party to strengthen its measures to combat trafficking in persons, including restricting the use of entertainment visas to ensure they are not used to facilitate trafficking, allocate sufficient resources for this purpose, and vigorously pursue enforcement of criminal laws in this regard. The State party is also encouraged to undertake training programmes for law enforcement officials and the judiciary to ensure that they are sensitized to the rights and needs of victims, to establish dedicated police units, and to provide better protection and appropriate care for such victims, including, inter alia, access to safe houses, shelters and psychosocial assistance. The State party should ensure all victims can claim redress before courts of law, including victims of foreign military personnel stationed on military bases.

CERD/C/304/Add.114

27 April 2001

19. *The Committee, while noting the recent increase in the number of refugees accepted by the State party, is concerned that different standards of treatment are applicable to Indo-Chinese refugees, on one hand, and the limited number of refugees of other national origins, on the other. Whereas Indo-Chinese refugees have access to accommodation, financial aid and State-funded Japanese language courses, such assistance is as a rule not available to other refugees. The Committee recommends that the State party take the necessary measures to ensure equal entitlement to such services by all refugees. In this context, it is also recommended that the State party ensure that all asylum-seekers have the right, inter alia, to an adequate standard of living and medical care.*

Special Procedure Reports

Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène

E/CN.4/2006/16/Add.2

24 January 2006

Summary

The Special Rapporteur concluded that there is racial discrimination and xenophobia in Japan, and that it affects three circles of discriminated groups: the national minorities – the Buraku people, the Ainu and the people of Okinawa; people and descendants of former Japanese colonies - Koreans and Chinese; foreigners and migrants from other Asian countries and from the rest of the world. The manifestations of such discrimination are first of all of a social and economic nature. All surveys show that minorities live in a situation of marginalization in their access to education, employment, health, housing, etc. Secondly, the discrimination is of a political nature: the national minorities are invisible in State institutions. Finally, there is profound discrimination of a cultural and historical nature, which affects principally the national minorities and the descendants of former Japanese colonies. This is mainly reflected in the poor recognition and transmission of the history of those communities and in the perpetuation of the existing discriminatory image of those groups.

V. RECOMMENDATIONS

74. *The Government, at the highest levels, should officially and publicly recognize the existence of racial discrimination and xenophobia in Japanese society. It should be done by conducting a survey to find out the present conditions of each discriminated group in Japan. The Government, at the highest levels, should also officially and publicly recognize historical and cultural roots of racial discrimination and xenophobia in the Japanese society, and express in clear and strong terms its political will to combat it.*

77. Appropriate legal provisions should be adopted that prohibit any lists and enquiries as to the origins of a person which could be used to discriminate against a person in relation to recruitment, renting or selling of an accommodation or the exercise of any other right of that person. The Osaka Prefecture Ordinance to Restrict Buraku Discriminatory Investigation of 1985 could be taken as a basis, but its scope should be expanded. It is also recommended that Japan ratify ILO Convention No. 111 (1958); which prohibits discrimination regarding employment and occupation.

- End of excerpts -

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