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COVENANT
ON CIVIL AND
POLITICAL RIGHTS



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HUMAN RIGHTS COMMITTEE

Fourteenth session

SUMMARY RECORD OF THE 324th MEETING

Held at the Wissenschaftszentrum, Bonn-Bad Godesberg,
on Thursday, 22 October 1981, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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under article 40 of the Covenant (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40
OF THE COVENANT (agenda item 4) (continued)

Japan (continued) (CCPR/C/10/Add.1)

1. Mr. TOMIKAWA (Japan), answering points raised during the Committee's discussion of his country's report (CCPR/C/10/Add.1), thanked members for their observations regarding the general layout of the report. He intended to recommend to his Government that Japan's next report should be prepared in the light of the comments made. His delegation was, however, somewhat concerned about certain suggestions to the effect that its report should have contained extensive references to points of Japanese history, tradition and culture of relevance to human rights problems. That would have required a very large, encyclopaedic volume which it was not feasible to produce and which it had not been the intention of the authors of the Covenant to request.

2. He had been a little ruffled by some of the remarks made by members of the Committee, which had sounded to him, perhaps mistakenly, as being meant to oblige his delegation to confess that Japan had a poor record as far as the protection of human rights was concerned. Members could rest assured that in Japan no citizen need fear being detained or being forcibly deported to a camp for shouting anti-régime slogans at the street corner. He sincerely hoped that a similar situation obtained, as a minimum condition, in all other States parties to the Covenant.

3. Commenting on the status of the Covenant in relation to the Constitution and other domestic laws of Japan, he said that the Constitution of Japan, in article 98, paragraph 2, provided that "the treaties concluded by Japan and established laws of nations shall be faithfully observed". Some members had suggested that the status of the Covenant in Japan's legal framework might not be sufficiently clear from that provision. The situation was that the power to conclude treaties was vested in the Cabinet, which had to obtain the approval of the Diet, in principle prior to the conclusion of the treaty. The Cabinet then proceeded, as quickly as the circumstances allowed, with the ratification or accession procedures. After the ratification or accession, the treaty was promulgated by the Emperor, the promulgation being immediately announced in the Official Gazette.

4. As had been pointed out by Sir Vincent Evans, in Japan treaties were not transmuted into ordinary Japanese law. In practice, however, treaties had long been regarded as forming part of Japan's legal framework and had been given the appropriate force; in other words, the administrative and judicial authorities were obliged to comply and ensure compliance with treaty provisions. Treaties were deemed to have a higher status than domestic laws. That meant that such laws as were held by the court to be in conflict with a treaty must be either

nullified or amended. In view of the great inconvenience that would be caused by such a situation, the Government and the Diet scrutinized proposed treaties most carefully to ascertain whether there was any discrepancy between them and existing domestic law.

5. If an individual brought an action against the Government on the ground that the latter had violated a treaty, the court would usually find some domestic legislation relevant to the individual's claim and hand down a verdict on the basis of that legislation. In the rare cases where there was no relevant domestic legislation, the court would directly invoke the treaty and render its verdict on the basis of the treaty's provisions. If the court found a conflict between domestic legislation and the treaty, the latter prevailed.

6. The statement in part 1, paragraph 1 of the report that "Almost all rights provided for in the Covenant are guaranteed by the Constitution of Japan" should be read in conjunction with the last sentence of that same paragraph, reading "The rights referred to in the Covenant, including rights not specifically mentioned in the Constitution, are guaranteed under domestic legislation". In that context, "domestic legislation" excluded the Constitution. In articles 12, 13 and 22 the Constitution provided that the exercise of human rights could be restricted in order to safeguard the public welfare. However, the concept of the public welfare was given a strict interpretation and was not abused to justify unreasonable limitations of human rights. In the Japanese view the term "the public welfare" meant the same as public safety, order, health or morals. For instance, in Japan there was an obligation to notify the authorities before mass demonstrations were staged. That obligation certainly imposed some limitation on the freedoms of assembly and of expression. However, such restrictions could reasonably be deemed to constitute a minimum requirement for the purpose of assuring public welfare, and particularly public order in road traffic, and did not violate the Constitution.

7. A question had been raised as to Japan's implementation of the Covenant with regard to the status of aliens. Under article 2, paragraph 1, of the Covenant, States parties undertook to respect and to ensure to all individuals within their territory the rights recognized in the Covenant, without distinction of national origin. His Government took the view that "national origin" included "nationality" and that therefore a State party was prohibited from making any distinction between individuals on the basis of their nationality; Japan thus had an obligation under the Covenant to give equal rights to its nationals and to aliens, except for the rights mentioned in article 25 of the Covenant.

8. Before the Government had sent the Covenant to the Diet for approval, it had made a thorough study in order to ascertain whether there was any discrepancy between the Covenant and domestic law, including the Constitution. In the process it had been confirmed that although the Constitution, in the chapter entitled "Rights and duties of

the people", used a broad variety of terms such as "the people", "all of the people" "every person", "all persons", all those terms should be construed as having the same effect, and the administrative and judicial authorities had abided by that interpretation. It could therefore be said that aliens in Japan were on an equal footing with Japanese nationals in respect of the rights enumerated in the Covenant, except for the rights specifically intended therein for nationals. Any violation of the human rights of aliens in Japan would be redressed through the existing legal arrangements.

9. He was not in a position to state whether there were any aliens who were disliked by their neighbours and treated accordingly from a social point of view or whether there were any aliens whose offers of marriage to Japanese citizens had been turned down on account of their nationality.

10. Mr. YAGI (Japan) explained that the Civil Liberties Bureau consisted of a central legal affairs office and regional legal affairs offices. It was concerned with the investigation of cases of violations of human rights and the collection of information on them, with the promotion of non-governmental human rights protection activities, with matters relating to the Civil Liberties Commissioners, and with matters relating to habeas corpus, legal aid to the poor and the protection of human rights in general. There were 11,000 Civil Liberties Commissioners working to protect the human rights of local residents. Their duties were to prevent infringements of human rights and, in cases of violation, to take appropriate remedial action; to publicize human rights; to promote non-governmental activities for human rights protection; to investigate cases of violation and collect information on such cases by hearing the persons concerned and submitting a report to the Minister of Justice; and to take appropriate measures such as giving advice to the persons concerned, advice which had proved to be effective in the past.

11. The Commissioners were appointed by the Minister of Justice on the recommendation of the mayors. They had to be of good character and intellect and well versed in social conditions. Their position was non-remunerative. They served for three years and could be re-appointed. In each city there was a Council of Civil Liberties Commissioners, where the Commissioners exchanged information on their work.

12. To commemorate Human Rights Week in Japan, lectures or discussion meetings were held, films were shown, pamphlets were distributed, and the Civil Liberties Commissioners engaged in counselling on the streets.

13. Mr. TOMIKAWA (Japan) said he agreed with those members of the Committee who had stressed the importance of publicizing the Covenant. In Japan the full text of the Covenant had first been published in the Official Gazette. Further publicity had been given by the pre-ratification campaign carried out by the Ministry of Foreign Affairs and the press reports of the parliamentary debate on ratification.

After ratification that Ministry had issued a pamphlet explaining the Covenant and the Government's position on it. Knowledge of the Covenant, and of human rights in general, was also fostered by Human Rights Week, which was held in December every year and in which the Ministry of Justice took a very active part. Various ministries and agencies were engaged in publicizing the importance of strengthening human rights protection for women, children, the disabled, young people, and the elderly. He was not in a position to report on the human rights activities of private organizations.

14. While it was very important for the Covenant to be widely publicized, situations varied from one country to another and the Covenant itself remained silent on the matter of publicity, thereby implying that it was left to the discretion of the States parties. In some quarters it might be felt that there should have been a provision in the Covenant requiring States parties to spend a given percentage of their gross national product or national budget on publicizing the Covenant. However, if such a provision had actually been included, it would have been almost impossible for Japan to accept the Covenant and many other States would be discouraged from doing so.

15. Japan's position on the right to self-determination in relation to the Middle East was that a just and lasting peace in the area should be achieved through the early and complete implementation of Security Council resolutions 242 and 338. However, since Security Council resolution 242 dealt with the question of Palestine solely as a refugee problem, it was necessary, in addition to implementing the two resolutions concerned, to recognize and respect the legitimate rights of the Palestinian people under the Charter of the United Nations, which extended to the right of self-determination as well as that of equality. Japan took the view that the right to establish an independent State was included in the concept of the right of self-determination. Japan's view on that point had been specifically expressed in the debate on the Middle East problem which had taken place in the United Nations Security Council in January 1976.

16. Japan greatly appreciated UNWRA's work for the relief, health and education of Palestinian refugees. The first Japanese contribution to UNWRA had been made in 1953, even before the country had become a Member of the United Nations. Recently Japan had steadily increased its contributions to UNWRA from \$US 6 million in 1977 to \$US 7 million in 1979, making it the fifth largest contributor.

17. Mr. YAGI (Japan) said that his country was strenuously opposed to the apartheid policy of South Africa and had consistently stated that position in various forums. At the same time it had been consistently calling on South Africa to abolish apartheid as soon as possible and to respect human rights and freedoms. Japan limited its relations with South Africa to the consular level; it did not allow direct investments by Japanese companies; it restricted cultural, educational and sports exchanges; it strictly observed the United Nations resolution on the export of weapons to South Africa; and it had been contributing regularly to United Nations funds for

southern Africa. Japan did not share the view that it was necessary to resort to arms in order to compel South Africa to abolish apartheid, nor did it support taking radical measures such as mandatory economic sanctions pursuant to Chapter VII of the Charter of the United Nations. Japan considered that the best way of bringing apartheid to an end was for the international community to encourage anti-apartheid sentiment within South Africa by the patient application of moral pressure. Japan had therefore been abstaining on, or voting against, proposals advocating the use of arms or requiring the suspension of economic relations with South Africa; it had, however, been voting in favour of other proposals designed to eliminate apartheid.

18. Mr. TOMIKAWA (Japan) said that the Election Law, as revised in December 1945, had given equal political rights to men and women for the first time. The right to vote in all national and local elections had been granted to all women over 20 years of age. In the general election of April 1946, 70 per cent of all eligible women voters had cast their ballots and as many as 39 women legislators had been returned to the House of Representatives. Since that time the number of women elected had fluctuated widely, but women legislators had always held at least 20 seats. Furthermore, the percentage of women participating in elections had steadily increased and was higher than that of men.

19. In pre-War days, women had not occupied high public office. At present, however, the Women's and Young Workers' Bureau of the Ministry of Labour had a woman director-general, and more than 10 heads of divisions in various government departments were women. In December 1975, women had constituted 12 per cent of the total membership of Boards of Education, 39 per cent of all Mediation Commissioners of the Family Courts, and 35 per cent of all Public and Child Welfare Commissioners. In 1960, a woman had been appointed Minister of Health and Welfare - the first female Cabinet member - and another woman Director-General of the Science and Technology Agency. In local government as well, there were a number of women administrators and assistants and many women had been elected members of prefectural and city assemblies. More recently, women had been taking an increasingly active role in society as officers in fire departments and the Self-Defence Force.

20. With regard to education and employment, he said that the co-educational system had been introduced following the War and that, with very few exceptions, national, prefectural and private universities and colleges had opened their doors to women. The number of women attending institutions of higher learning had been increasing steadily. The total enrolment of women in 1978 had been over three times as high as in 1966. At present, one third of all female high-school graduates proceeded to junior colleges or universities, and female students accounted for some 33 per cent of the total number of college and university students.

21. Formerly, many girls had remained at home after graduating from secondary school. It had now become accepted practice for young girls to work for at least a few years before marriage. Among university graduates, an increasing number of women were taking up careers after completing their studies.

22. In 1979 women workers had represented 38.6 per cent of Japan's total labour force. Although most women workers left employment after marriage, an increasing number of young wives were continuing to work for at least the first few years of their married life. That fact, together with the growing numbers of more highly educated women workers, was helping to raise both the prestige and the wage levels of women employees. The principle of equal pay for equal work had been established in 1947 through the Labour Standard Law, and in 1967, the Government had ratified ILO Convention No. 100 concerning Equal Remuneration.

23. With regard to the professions, an increasing number of women were to be found in such fields as architecture, design and accountancy, which had been virtually monopolized by men before the War. Teaching was one of the oldest professional occupations practised by women, along with medicine and pharmacology.

24. Referring to the possibility of amending the Law of Nationality in the context of the principle of the equality of men and women, he said that in 1980, Japan had signed the Convention concerning the Elimination of All Forms of Discrimination Against Women. Measures were being taken with a view to ratifying the Convention by 1985, the last year of the United Nations Decade for Women. As part of that preparatory work, the administrative authorities concerned were considering amendments to the Law of Nationality. Under the existing text of the Law, in case of acquisition of nationality by birth, priority was clearly given to the nationality of the father over that of the mother. One of the proposed amendments would provide equal status to the father and the mother in that regard. It was also intended to amend the provisions of the Law which related to naturalization procedures. Under the existing provisions, for instance, it was easier for the wife of a Japanese national to become naturalized than it was for the husband of a Japanese national. Consideration was being given to the possibility of ensuring equality in such cases.

25. Mr. YAGI (Japan) said that article 3 of the Labour Standard Law did not refer to the question of sex because it was considered that female workers had to be given special protection with regard to working hours, involving prohibition of night work or provision of rest periods before and after childbirth. To that extent, male workers had to be treated differently.

26. With regard to the question of capital punishment, the Legislative Council, one of the advisory bodies to the Minister of Justice, had recently studied the need for the death penalty and the extent to which it should be maintained in the context of the review of the Penal Code. Although some members had been of the opinion that capital punishment should be abolished, the Council had concluded by an overwhelming majority that its abolition would be unwarranted in view of the continued commission of brutal crimes and the fact that a large majority of Japanese people favoured the retention of the death penalty. However, the Council had also concluded that the categories of crimes for which that penalty could be imposed should be reduced from 17 to nine. The Code was expected to be revised along the lines recommended by the Council.

27. It should be noted that, as a result of strict regulations, the number of executions had decreased in recent years and that during the period 1975-1980, only 15 persons had been executed.

28. Mr. TOMIKAWA (Japan), noting that the information provided in the report in connection with article 8 of the Covenant gave the erroneous impression that slavish bondage could be imposed if it was intended as punishment for a crime, drew attention to the fact that article 18 of the Japanese Constitution stated that "No person shall be held in bondage of any kind".

29. Mr. YAGI (Japan) said that the question of conscription and conscientious objection should be viewed in the light of the provisions of article 9 of the Japanese Constitution, which provided for the renunciation of war. Since the Japanese Self-Defence Force consisted only of volunteers, the issue of conscientious objection could not arise.

30. With regard to the information given under article 9 of the Covenant, he said that immigration centres were under the supervision and control of the Minister of Justice. An alien in respect of whom a deportation order had been issued in accordance with the procedures provided for by law because he had harmed the interests or security of Japan or the peace and well-being of the community ceased immediately, by virtue of that order, to have the right to reside in Japan. However, in cases in which such an alien could not be deported immediately, for example when no country was willing to accept him, the immigration control authorities might detain him at an immigration centre until such time as deportation became possible. One reason for detaining a deportee in an immigration centre was to ensure that he would be available for deportation. The other was to prevent aliens not entitled to reside in Japan from engaging in economic or other activities permitted only to those legally resident. An immigration centre was, therefore, fundamentally different from a correctional institution, such as a prison.

31. The Immigration Control Order and the regulations regarding the treatment of detainees provided that a person detained in an immigration centre should be permitted the maximum liberty consistent with the good order of the immigration centre and that, where possible, the detainee should be permitted to follow the customs of his native country. At present, most of the detainees in the Omura Immigration Centre were illegal entrants. Detainees possessing permanent resident status were very few in number. In deciding whether to deport persons possessing such status, the Japanese authorities considered the circumstances most carefully, taking account of all the factors involved. It was their policy to order deportation only when that was absolutely unavoidable - for example, in certain cases of criminals convicted of serious crimes of violence. During the period 1970-1979, the total number of aliens deported from Japan had been 12,509, of whom only 11 had possessed permanent resident status.

32. With regard to article 10 of the Covenant, he said that the Prison Law and its enforcement regulations provided for the treatment of prisoners with humanity and respect for the inherent dignity of the human person.

33. With regard to abuse of authority and acts of cruelty or violence committed by prison officials against detainees, the Penal Code provided for the imposition of severe punishment. Furthermore, if an inmate was dissatisfied with particular conditions existing in prison, he could petition the competent Minister or an official visiting the prison for the purpose of inspection. When an official inspecting the prison had examined the petition, he could either take a decision himself or request the Minister of Justice to do so. Where the official took the decision himself, he had to note the purport of the decision in the petition record. The warden had to notify the petitioner promptly whether the decision had been in favour of or against the petition. Moreover, the Prison Law provided for the competent Minister to send officials to inspect the prisons at least once every two years. It should be noted that the Prison Law had been enacted in 1908 and that it was being revised to ensure better treatment of prisoners and to meet the needs of prison administration.

34. Mr. TOMIKAWA (Japan) said that several members of the Committee has asked questions concerning article 14 of the Covenant. Speaking of the system for appointing judges, he said that since the courts had been vested with greater authority than in pre-War days, a more extensive knowledge of law was now required of judges. Under the new Court Organization Law, qualifications for judicial appointment were stricter than those for appointment of administrative officials. Judges of lower courts were divided into two groups, full-fledged judges and assistant judges. An assistant judge had to pass the National Legal Examination, complete two years of training at the Legal Training and Research Institute and pass a final qualifying examination, after which he could exercise limited judicial powers. After not less than 10 years' experience as an assistant judge, public prosecutor, practising lawyer or professor or assistant professor of law at particular universities, a candidate could be appointed a full-fledged judge. General administrative officials were required to pass a less exacting examination, the Public Service Personnel Examination.

35. With regard to the Supreme Court, 10 of its 15 justices must be selected from among those candidates who had distinguished themselves in law-related positions, but the remaining five need only be learned and have knowledge of law. The judgeships of the Summary Court were open to persons of ability other than qualified professionals. All judges were appointed by the Cabinet, except the Chief Justice of the Supreme Court, who was appointed by the Emperor as designated by the Cabinet. It was necessary for the appointment of the justices of the Supreme Court and the Chief Judges of the High Courts to be confirmed by the Emperor. There were a number of measures to prevent unsuitable or incompetent judges from disgracing the position, including removal by an impeachment court, periodic review by the members of the House of Representatives and the voters, the limiting of the term of office of lower court judges to 10 years, compulsory retirement for very old judges, and disciplinary action by the High Court or the Supreme Court.

36. With regard to the right of an accused person to the assistance of defence counsel and the bearing of legal costs, he said that the assistance of a court-appointed defence counsel where an accused was unable, because of poverty or for other reasons, to select his own defence counsel, was guaranteed by article 37 of the Japanese Constitution and articles 30, 36 and 289 of the Criminal Procedures Law.

37. Mr. YAGI (Japan), continuing his delegation's reply to questions raised under article 14 of the Covenant, stated that articles 175, 176 and 177 of the Criminal Procedures Law provided that an accused person would have the assistance of an interpreter or translator where necessary.

38. Mr. TOMIKAWA (Japan), replying to a question concerning the privacy of the home, said that the word "home", as used in article 35 of the Japanese Constitution, meant "a human habitation or the premises, structure or vessel guarded by a person". That definition would apply to a camping caravan or large boat with sleeping and eating facilities. Regarding protection of privacy, he said that the description on page 10 of the report applied to computers and that means of regulating computer use for the purpose of protecting privacy were currently being examined in Japan.

39. In connection with article 20 of the Covenant, he said that the legislation relevant to that article was to be seen in the light of article 19, paragraph 3, of the Covenant, and should be considered on the basis of whether it was necessary for the respect of other person's rights, national security, and public order; he hoped the report was sufficiently clear on that matter.

40. Turning to the question of why defamation and insult were crimes that could be prosecuted only upon complaint, he read out articles 230, 231 and 232 of the Penal Code. Since those crimes concerned an individual's honour, protection of the individual's privacy and feelings required prosecution to be dependent upon the individual's will.

41. Questions had been raised about the relationship between freedom of assembly and association as provided by articles 21 and 22, on the one hand, and the Subversive Activities Prevention Law on the other. While that Law held out the possibility of restricting freedom of assembly and association, the Law itself, in article 2, provided that it should not be interpreted broadly, and in article 3, that it should not be imposed so as to limit unjustifiably such rights as freedom of assembly and association. Article 4 severely limited the kinds of activity restricted, and article 5 limited the manner in which they were punished. In the case of dissolution of an organization, the conditions were even more severe, as provided in article 7. The Subversive Activities Prevention Law, therefore, was so drafted as to be applied only in exceptional cases, and in fact no activity of any organization had been prohibited and no declaration made to dissolve an organization under the Law.

42. In reply to some members' statements to the effect that there should be a law in Japan prohibiting Fascist, revanchist and neo-Nazi organizations, he said that it was impossible under the Japanese legal system to prohibit crimes under such general headings; only specific crimes could be prohibited.

43. Mr. YAGI (Japan), turning to questions concerning article 24 of the Covenant, explained that under article 798 of the Civil Code, the permission of the Family Court must be obtained in order to adopt a minor child. Without such permission the adoption could be annulled, as provided in article 807 of the Code. As to the difference in legal status between legitimate and illegitimate children, he quoted from article 790 of the Code concerning the surname of the legitimate child and pointed out that article 900 provided that the share in the succession of an illegitimate child should be one half of that of a legitimate child. In reply to the question of whether there was any financial aid for children in Japan, he mentioned the children's allowance, granted to persons who took care of three or more children under 18 years old, and the child rearing allowance, granted to households having a child whose father or mother had dissolved the marriage or whose father had been lost, and gave figures for the amount of aid provided under both schemes.

44. On the matter of universal suffrage and secrecy of balloting, he stated that universal and equal suffrage was guaranteed by article 15, paragraph 3, article 14, paragraph 1, and article 44 of the Constitution and by the related articles of the Law concerning Elections of Public Offices, article 36 of which laid down the principle of one vote for one person. Article 15 of the Constitution and article 52 of the Law concerning Elections of Public Offices guaranteed the secrecy of balloting.

45. Mr. TOMIKAWA (Japan), turning to article 27 of the Covenant, said that nobody in Japan was denied the right to enjoy his own culture, to profess and practise his own religion, or to use his own language. The report stated that minorities of the kind mentioned in the Covenant did not exist in Japan because, according to his delegation's interpretation, "minority" meant a group of nationals who ethnically, religiously or culturally differed from most other nationals and could be clearly differentiated from them from a historical, social or cultural point of view. The so-called "Burakumin", who were more properly called "Dowa people" according to Japanese practice, were Japanese nationals and not different from other nationals ethnically, religiously or culturally. Any unequal treatment of those persons derived from unreasonable social prejudices on the part of certain Japanese individuals. The social sphere was a delicate area in which it was difficult for a Government to intervene. Nevertheless, the Japanese Government attached great importance to the Dowa problem and was doing its utmost to remedy the situation. As for the Ainu, who were more properly called "Utari people", he stated that since the Meiji restoration in the nineteenth century, establishment of a rapid communication system had made the difference in their way of life indiscernible. The Utari were Japanese nationals and treated equally with other Japanese.

46. Concerning the status of Koreans who had been living in Japan for a long period of time, he stated that they, too, were not considered as coming under the category of minorities as mentioned in article 27. Nevertheless, to shed more light on the question, he quoted at length from the views of the Japanese Government on the treatment of Koreans residing in Japan, submitted to the Commission on Human Rights in January 1981.

47. Koreans in Japan were aliens and did not possess Japanese nationality. They fell into two categories, those possessing Republic of Korea nationality and those who had opted not to acquire it. Korean nationals residing in Japan enjoyed privileged treatment with regard to residence status, as provided by the Agreement on the Legal Status and the Treatment of the Nationals of the Republic of Korea Residing in Japan between Japan and the Republic of Korea. Under that Agreement, Republic of Korea citizens could be deported only for a few strictly defined reasons. Koreans in Japan who did not possess Republic of Korea nationality and who came under the provision of article 2, paragraph 6 of the Law for Disposition of Orders under the Jurisdiction of the Ministry of Foreign Affairs based on the Imperial Ordinance concerning Orders to be Issued in Consequence of Acceptance of the Potsdam Declaration (Law No. 126), were permitted to reside in Japan without acquiring residence status under the Immigration Control Order.

48. Koreans, as aliens, did not have the right to vote or stand for election to public office. Similar limitations were to be found in many other countries. However, there were no other restrictions on the participation of Koreans in the political process. Similarly, public service posts were open to them except where the functions involved included the exercise of public power and participation in the formulation of public policy. However, there was no legal restriction on the employment of Korean residents by private companies, and employment insurance was guaranteed to them on the same terms as to Japanese nationals. Discriminatory treatment on the grounds of nationality was prohibited by the Labour Standard Law.

49. Most of the various social welfare schemes were available to all aliens in Japan, and the Government had begun a study with a view to granting them access to the few schemes, such as the social security scheme, not yet available to them. Such coverage was also extended to refugees in Japan.

50. Mr. YAGI (Japan) said that one member of the Committee had asked why Japan had not made a declaration under article 41 of the Covenant and had not become a party to the Optional Protocol thereto and had inquired whether Japan intended to take such action. He could only say that his Government had no intention at the present stage of either making the declaration under article 41 or acceding to the Optional Protocol. It was surely not within the Committee's mandate to ask the Government of a State party why it did not propose to do so; it was quite clear that either action lay entirely at the discretion of the State party concerned. If the Committee nevertheless wished to put the question to his Government, it should do so by means of a formal note, but he doubted whether such a note would do much to induce his Government to take either of the steps concerned.

51. The CHAIRMAN said that it was, of course, the sovereign right of the Government of Japan to decide whether or not to make the declaration under article 41 or accede to the Optional Protocol. There

was no question of the Committee engaging in any kind of inquisition. It sought information from all States parties out of a concern to promote the enjoyment of human rights everywhere, not only in a State whose report was being examined but also in other countries which could learn from that State's experience.

52. The Committee had embarked on a very fruitful dialogue with Japan, which it looked forward to continuing in the future. He thanked the representatives of Japan for their replies and the Government of Japan for the report submitted.

53. Mr. ERMACORA asked how many Koreans were living together in Japan in communities with their own particular characteristics.

54. Mr. YAGI (Japan) said that he was not in possession of data on that subject. An answer would be submitted in writing at a later date.

The meeting rose at 5.25 p.m.

乙A第9号証の2

市民的及び政治的権利に関する国際規約

配布：一般

CCPR/C/SR.324

1981年11月10日

原文：英語

人権理事会

14回会期

324回会議要約記録

ポンのパート・ゴースペルクにある Wissenschaftszentrum で開催された

1981年10月22日火曜日午後3時に行われた

議長：Mr. MAVROMMATIS

内容

規約40条に基づき締約国から提出された報告書の審査（継続）

（中略）

5. 政府による条約違反を理由として、個人が政府に対して訴訟を起こした場合には、裁判所は、通常、その個人の主張に関連する国内法を見つけ、その法律に基づいて判決を下すこととなる。関連する国内法が存在しない稀なケースにおいては、裁判所は直接に条約を援用し、条約の規定に基づいて判決を下すこととなる。国内法と条約とが抵触する場合には、条約が優先される。

（以下略）