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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the second periodic report of Japan

Addendum

Information received from Japan on follow-up to the concluding observations*

[Date received: 13 March 2013]

1. In the concluding observations on the second periodic report of Japan, the Committee against Torture requested that the Government of Japan provide follow-up information regarding the recommendations contained in paragraphs 10, 11, 15 and 19 of the concluding observations. The responses by the Government of Japan to those recommendations are provided below. The Government of Japan wishes to reserve its right to explain in the future its position on other recommendations by the Committee. The Government of Japan would also like to express its desire to continue constructive dialogue with the Committee.

Paragraph 10

The Committee reiterates its previous recommendations (para. 15) that the State party:

(a) Take legislative and other measures to ensure, in practice, separation between the functions of investigation and detention;

2. Concerning complete separation between the functions of investigation and detention, the Act on Penal Detention Facilities and Treatment of Inmates and Detainees (hereinafter referred to as the "Penal and Detention Facilities Act") provides that detention officers shall not engage in criminal investigations of those detainees who are detained in the detention facilities supervised by such detention officers. Also, the National Public Safety Commission's Rules of Criminal Investigation prohibit investigators who are

* The present document is being issued without formal editing.

engaged in criminal investigations related to a detainee from being involved in the treatment of such detainee.

3. Japanese police have always treated detainees with consideration with regard to human rights. As part of such consideration, detainees are treated by those detention officers that belong to the general affairs (administration) division, which is not engaged in investigation, and investigators are prohibited from controlling the treatment of detainees in order to ensure separation between the functions of investigation and detention. In particular, the Penal and Detention Facilities Act, enforced in June 2007, clearly stipulates the principle of separating the functions of investigation and detention. The Act also establishes a system by which a Detention Facilities Visiting Committee, consisting of external third parties, visits detention facilities, interviews detainees, and presents its opinions to the detention services managers. The Act furthermore establishes complaint mechanisms and ensures that detainees are treated in the same manner as unsentenced inmates awaiting trial at penal institutions with respect to the serving of meals, the handover of money and goods by their visitors, the provision of medical care, visitation, the sending/receipt of letters, and other treatment, and that human rights education is given to detention officers.

4. Based on the facts described above, the substitute detention system in Japan, under which suspects are detained at police detention facilities instead of penal institutions controlled by the Ministry of Justice, does not raise the possibility of abusing the human rights of detainees. Thus, in Japan, adequate detention administration is ensured with due consideration of their human rights.

(b) Limit the maximum time detainees can be held in police custody;

5. In order to conduct investigation to fully reveal the true facts of cases while guaranteeing the human rights of suspects, the Code of Criminal Procedure of Japan requires, with regard to the detention of suspects prior to indictment, that strict judicial examinations be carried out at every stage of arrest, detention, and extended detention, and that the duration of custody be limited to a maximum of 23 days (see *Note* below). These provisions of the code are considered adequate and rational.

Note: In the cases of crimes related to insurrection, crimes related to foreign aggression, crimes related to foreign relations and crimes of disturbance, the detention period can be exceptionally extended for up to 15 days and as a result the maximum duration of custody is 28 days.

(c) Guarantee all fundamental legal safeguards for all suspects in pretrial detention, including the right of confidential access to a lawyer throughout the interrogation process, and to legal aid from the moment of arrest, and to all police records related to their case, as well as the right to receive independent medical assistance, and to contact relatives;

The right of confidential access to a lawyer

6. The accused or the suspect in custody is guaranteed the right to have an interview with counsel or prospective counsel upon the request of a person entitled to appoint counsel without any official being present (Article 39, paragraph (1) of the Code of Criminal Procedure).

The right to legal aid from the moment of arrest

7. The Code of Criminal Procedure guarantees every suspect the right to appoint counsel (Article 30, paragraph (1) of the Code of Criminal Procedure). In addition, there is

a system under which, if a suspect detained in connection with a case punishable by the death penalty, life imprisonment or imprisonment with or without work for a maximum period of more than three years is unable to appoint counsel because of indigence or other reasons, the court appoints counsel for the suspect (Article 37-2 of the Code of Criminal Procedure). An amendment that would expand cases eligible for the court-appointed counsel system to include all cases in which the suspect detained is planned to be submitted to the Diet.

Access to all police records related to their case

8. It is inappropriate to guarantee suspects the right to the disclosure of evidence in the investigation stage considering the possibility of concealment or destruction of evidence, and, therefore, the recommendation requiring that the suspect's right to the disclosure of evidence be guaranteed during pretrial detention is unacceptable. (We understand that the previous recommendation by the Committee against Torture differed from this recommendation in that it did not apply to pretrial detention but to the stage after indictment.)

Medical measures for detainees

9. With regard to medical measures for detainees, the Penal and Detention Facilities Act provides that doctors assigned by the detention services managers shall conduct health examinations at the frequency of about twice a month and that when detainees are injured or sick, necessary medical measures shall be taken including the prompt provision of medical treatment by a doctor at public expense. By conducting medical examinations of detainees about twice a month, it is possible to know the health conditions of detainees in detail and to ensure them an opportunity to receive medical treatment as necessary at an appropriate time. These provisions have been applied in actual cases.

The right to contact relatives

10. Suspects in detention are guaranteed the right to have an interview with, or to send or receive documents, including letters or articles from persons other than counsel, including their relatives (Article 80 and Article 207 of the Code of Criminal Procedure). However, when there is probable cause to assume that the suspect in detention may flee or conceal or destroy evidence, the court may prohibit the suspect from having an interview with persons other than his/her counsel (Article 81 of the Code of Criminal Procedure). The latter provision was introduced because it is inappropriate to allow a suspect to meet his/her relatives in cases where there is probable cause to assume that the suspect may flee or conceal or destroy evidence by having an interview with his/her relatives.

(d) Consider abolishing the Daiyo Kangoku system in order to bring the State party's legislation and practices fully into line with international standards.

11. In Japan, it is required that necessary investigations be completed and the decision whether to indict or release the suspect be made in as short period of time as possible after the suspect is arrested. The substitute detention system, in which suspects can be detained in detention facilities instead of penal institutions, is operated as a system indispensable to conducting criminal investigations in an appropriate and prompt manner and helpful for the convenience of suspects to have an interview with their counsel, family members, etc. Therefore, abolishing the substitute detention system is considered unrealistic at present.

12. In cases where suspects or the accused is detained in detention facilities, as stated in paragraphs 4 and 5 of the Reply by the Government of Japan to the list of issues adopted by the Committee against Torture concerning the second periodic report (CAT/C/JPN/2), they are treated in an appropriate manner with due consideration of their human rights.

Paragraph 11

The Committee reiterates its previous recommendations (para. 16) that the State party take all necessary steps to in practice ensure inadmissibility in court of confessions obtained under torture and ill-treatment in all cases in line with article 38(2) of the Constitution, article 319(1) of the Code of Criminal Procedure as well as article 15 of the Convention by, inter alia:

(a) Establishing rules concerning the length of interrogations, with appropriate sanctions for non-compliance;

13. The Japanese police have the following rules:

- Interrogation late at night or for long durations must be avoided except when there are inevitable reasons (in force since April 2008);
- Prior approval must be obtained from the Chief of Prefectural Police Headquarters, etc., when the interrogation of the suspect is to be carried out between the hours of 10 p.m. and 5 a.m. the next day or when the interrogation of the suspect is to be carried out over eight hours in a single day (in force since April 2009).

14. In the cases described in the latter rule, the Chief of Prefectural Police Headquarters, etc., who is asked for approval, determines the necessity, reasonableness and appropriateness of approval for each case, comprehensively taking into account the outline of the case, state of interrogation, state of deposition, prospect of the investigation and circumstances surrounding the suspect, etc. If the interrogation of the suspect has been carried out between the hours of 10 p.m. and 5 a.m. the next day or if the interrogation of the suspect has been carried out over eight hours in a single day without prior approval, the supervising division that is not involved in investigation takes certain steps, including the suspension of interrogation.

(b) Improving criminal investigation methods to end practices whereby confession is relied on as the primary and central element of proof in criminal prosecution;

15. In the recommendation, the Committee indicates that there exist "practices whereby confession is relied on as the primary and central element of proof in criminal prosecution." However, this statement is not correct. Prior to criminal prosecution, the public prosecutor collects as much objective evidence as possible and properly evaluates the admissibility of such evidence. Also, the credibility of confessions is examined cautiously in light of the objective evidence. Following these precise investigations, the public prosecutor institutes prosecution only where there is a high probability of achieving a conviction.

16. Under the Code of Criminal Procedure of Japan, if a confession is the only evidence against the accused, the accused will not be convicted and therefore it is impossible for the court to convict the accused solely based on his/her confession. Further, it is impossible for the public prosecutor to institute prosecution solely based on a confession.

17. In May 2011, for the purpose of establishing a new criminal justice system in keeping with the times, the Minister of Justice called on the Legislative Council of the Ministry of Justice to deliberate on how to develop substantive criminal law and procedural law, including by reviewing the modality for investigation and trial that is excessively dependent on interrogations and statements of confession, and the introduction of an audiovisual recording system of interrogations of suspects. After the deliberation, the Council returned a report to the Minister in September 2014. The report requests, as a measure to "change the practice excessively dependent on interrogations and moderate and diversify evidence-gathering methods", the introduction of the audiovisual recording

system of interrogations of suspects, a prosecutorial agreement system for cooperation in investigations and trials (see *Note* below), and a testimonial immunity system along with streamlining of wiretapping, et cetera. The Ministry of Justice plans to submit to the Diet a bill to develop legal systems based on the report.

18. The National Police Agency is also enhancing investigation methods including the effective operation of DNA profiling and the DNA database for criminal investigations and the expansion of interception of electronic communications in order to promote measures to properly deal with crimes that have become more sophisticated and complicated with the advancement of technology and to enable appropriate proof based on objective evidence.

Note: Under the prosecutorial agreement system for cooperation in investigations and trials, a public prosecutor may have a proffer session and enter into agreements with suspects and his/her defense counsels, when necessary for investigation or prosecution of another person, that the prosecutor will not prosecute the suspect for specific offences, recommend a specific punishment to the court, et cetera in return for the suspect or the accused providing testimony and other cooperation.

(c) Implementing safeguards such as electronic recordings of the entire interrogation process and ensuring that recordings are made available for use in trials;

19. The prosecutors' office is making positive efforts to make audiovisual recordings of the interrogation process to the furthest extent possible, including the recording of the entire process, in the cases listed below, in which the suspect is in custody, unless certain circumstances exist, such as that the demand for trial is not likely to be made.

- Cases subject to lay judge trials;
- Cases involving a suspect, etc., who has difficulty in communicating due to intellectual disability;
- Cases involving a suspect whose criminal competency is suspected of having been diminished or lost due to mental disability; etc.;
- Cases in which the public prosecutor initiated the investigation and arrested the suspect;
- In addition, based on past results, from October 1, 2014, the prosecutors' office has started a new trial of audiovisual recordings and made further positive efforts, in the cases in which it is considered necessary to use audiovisual recordings in the interrogation of suspects in custody for incidents such that the demand for trial is likely to be made, and in the cases in which it is considered necessary to use audiovisual recordings in the interrogation of the victims and witnesses to the incidents such as that the demand for trial is likely to be made.

20. The number of cases in which the audiovisual recording of interrogations has been implemented is as follows:

(a) *Trial implementation of audiovisual recording in cases subject to lay judge trials*

- Over one year from the year before last April until last March:
    - Recording implemented: 3,836 cases (implementation rate approximately 98.6%)
    - Recording not implemented: 56 cases

- Among those, the number of cases in which a demand for trial has been finally made on the charge subject to lay judge trials is as follows:
    - Recording implemented: 1,363 cases (implementation rate approximately 99.2%)
    - Recording not implemented: 11 cases

In 2,893 cases out of the total 3,836 cases for which recording has been implemented, an audiovisual recording of the entire process of interrogation by the public prosecutor has been made. (The recording rate of the entire process is 75.4%.)

(b) *Trial implementation of audiovisual recording in cases involving a suspect, etc. who has difficulty in communicating due to intellectual disability*

- Over one year from April of the year before last until last March:
    - Recording implemented: 1,082 cases (implementation rate approximately 98.6%)
    - Recording not implemented: 15 cases

In 685 cases out of the total 1,082 cases for which recording has been implemented, an audiovisual recording of the entire process of interrogation by the public prosecutor has been made. (The recording rate of the entire process is 63.3%.)

(c) *Trial implementation of audiovisual recording in cases in which the public prosecutor initiated the investigation and arrested the suspect*

- Over one year from April of the year before last until last March:
    - Recording implemented: 123 cases (implementation rate approximately 100%)
    - Recording not implemented: 0 cases

In 95 cases out of the total 123 cases for which recording has been implemented, an audiovisual recording of the entire process of interrogation by the public prosecutor has been made. (The recording rate of the entire process is 77.2%.)

(d) *Trial implementation of audiovisual recording in cases involving a suspect whose criminal competency is suspected of having been diminished or lost due to mental disability, etc.*

- Over one year from April of the year before last until last March:
    - Recording implemented: 2,759 cases (implementation rate approximately 98.1%)
    - Recording not implemented: 53 cases

In 1,349 cases out of the total 2,759 cases for which recording has been implemented, an audiovisual recording of the entire process of interrogation by the public prosecutor has been made. (The recording rate of the entire process is 48.9%.)

21. At the trial, the prosecutors' office requests the examination of the DVD, etc. of the audiovisual recording of interrogations as proof of the voluntary nature and credibility of the statement. In addition, if the defense counsel makes a request for the disclosure of a DVD, etc., of the audiovisual recording of interrogations as evidence, the prosecutors' office discloses such DVD, etc., as evidence to the defense counsel following the procedure prescribed by the law.

22. As noted in paragraph 17, the bill that obliges audiovisual recording of all processes of interrogation of suspects is planned to be submitted to the Diet.

23. The police have been implementing the audiovisual recording of interrogations on a trial basis since September 2008. In the five years and seven months since the start of trial implementation to March 2014, recordings were made for 7,651 cases subject to lay judge trials (the implementation rate for FY2013 was approximately 93.7%), and, in one year and eleven months from May 2012 to March 2013, recordings were made in 2,023 cases involving a suspect with an intellectual disability. (The implementation rate for FY2013 was approximately 98.0%.) (The number of cases from April 2014 to December 2014 is currently being calculated.)

(d) Informing the Committee of the number of confessions made under compulsion, torture or threat, or after prolonged arrest or detention, that were not admitted into evidence based on article 319(1) of the Code of Criminal Procedure.

24. There are no statistics available on "the number of confessions made under compulsion, torture or threat, or after prolonged arrest or detention that were not admitted into evidence."

25. Among the cases subject to lay judge trials (cases of crimes punishable by the death penalty or life imprisonment or imprisonment without work and cases of intentionally committed crimes resulting in the victim's death that are punishable by imprisonment with or without work for a minimum term of no less than one year), the number of cases in which the voluntary nature of the confession was disputed; the audiovisual recording medium of the interrogation of the accused was admitted into evidence; then, after the examination of that evidence, the request to examine the written statement of the accused as evidence was dismissed as its voluntary nature was questionable was: 0 in 2008; 2 in 2009; 0 in 2010; 0 in 2011; and 1 in 2012.

Paragraph 15

In light of the previous recommendations made by the Committee (para. 17), the Human Rights Committee (CCPR/C/GC/32, para. 38) as well as the communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/14/24/Add.1, paras. 515 ff), the Committee urges the State party to ensure that death row inmates are afforded all the legal safeguards and protections provided by the Convention, inter alia, by:

(a) Giving death row inmates and their family reasonable advance notice of the scheduled date and time of the execution;

26. Regarding notification on the execution of the death penalty, inmates sentenced to death are to be notified of their execution on the day it is to be performed. This is because, if inmates sentenced to death are notified of their execution before the day it will occur, their peace of mind may be negatively affected and the notification could inflict excessive pain on them, etc.

27. In addition, if the families, etc. of inmates sentenced to death are notified in advance of the execution, it would cause unnecessary psychological suffering to those who have received the notification. If the family, etc. of an inmate sentenced to death who has received such a notification visits the inmate and the inmate comes to know the schedule of his/her execution, similar harmful effects may occur. Therefore, we consider that the current method of addressing the situation is unavoidable.

28. After the execution of an inmate, the person who has been designated in advance by the inmate sentenced to death (it is possible to designate a family member or an attorney, etc.) is to be promptly notified pursuant to laws and regulations.

(b) Revising the rule of solitary confinement for death row inmates;

29. At penal institutions, it is necessary to secure the custody of inmates sentenced to death and to pay attention so as to ensure that inmates sentenced to death can maintain their peace of mind. Article 36 of the Penal and Detention Facilities Act provides that the treatment of an inmate sentenced to death shall be conducted in a single room throughout day and night, and also provides that no inmate sentenced to death shall, in principle, be permitted to make mutual contact even outside of the inmate's room.

30. However, Article 36 of the said act provides that an inmate sentenced to death may be permitted to make contact with another inmate sentenced to death if it is deemed instrumental to helping the inmate sentenced to death maintain peace of mind. Thus, we do not consider such handling an abuse of human rights.

31. Moreover, so as to save inmates sentenced to death from suffering from isolation, penal institutions have arranged opportunities such as counseling and religious teachings provided by nongovernmental volunteers, consultation by staff members, and, if necessary, watching television and video programs in order to help the inmates maintain peace of mind.

(c) Guaranteeing effective assistance by legal counsel for death row inmates at all stages of the proceedings, and the strict confidentiality of all meetings with their lawyers;

32. The Penal and Detention Facilities Act provides that a penal institution official shall, in principle, accompany visits to an inmate sentenced to death. However, measures such as the presence of an official are not taken for visits by a counsel to an inmate sentenced to death for whom the court's order of commencement of a retrial has become final and binding, since the provisions of the law on unsentenced persons (the accused, in criminal cases) apply mutatis mutandis thereto.

33. For visits to an inmate sentenced to death for whom an order of commencement of a retrial has yet to become final and binding by a lawyer who represents the inmate in the procedure for a retrial, an official shall not attend unless there is a special circumstance under which such visit is likely to cause a disruption of discipline and order in the penal institution or if there is a strong need for the official to accompany the visit in order to grasp the feelings of the inmate sentenced to death. The warden of each penal institution, therefore, makes determinations in an appropriate manner on specific individual cases.

34. With regard to the letters sent and received by an inmate sentenced to death, a penal institution official shall examine them. As for the letters sent and received between an inmate sentenced to death and a lawyer who is asked to represent such inmate in a civil lawsuit concerning the treatment that such inmate received, certain considerations are given, such as that letters are examined within the limit necessary for ascertaining that they are such letters as specified above unless there is a special circumstance under which it is deemed likely to cause the disruption of discipline and order in the penal institution.

35. With regard to the letters sent and received between a counsel and an inmate sentenced to death for whom the court's order of commencement of a retrial has become final and binding, the provisions of the law on unsentenced persons apply mutatis mutandis and certain considerations are given, such as that letters from a counsel, etc., are examined within the limit necessary for ascertaining that they are such letters as specified above.

(d) Making available the power of pardon, commutation and reprieve in practice for death row inmates;

36. Grounds for the suspension of an execution are insanity and pregnancy, and the execution is suspended in those cases.

37. An inmate sentenced to death may file an application for a pardon (special pardon, commutation of sentence, or remission of execution of sentence), at any time, with the warden of the penal institution to which he/she is committed. The warden of a penal institution who has received such an application has to file a petition for a pardon with the National Offenders Rehabilitation Commission, established in the Ministry of Justice, without fail. Thus, the inmates sentenced to death are provided with an opportunity for pardon in the same way as other inmates.

38. The procedure for filing a petition for examination of pardon is stipulated in the Pardon Act and the Ordinance for Enforcement of the Pardon Act. Therefore, the transparency of such procedures is ensured.

39. There has been no case in which an inmate sentenced to death was granted a pardon since 2007. During this period, however, several inmates sentenced to death filed applications for a pardon and each time the warden of the penal institution filed a petition for pardon. We understand that, in each case, the National Offenders Rehabilitation Commission carried out deliberate examination on whether giving a pardon was appropriate and made a proper conclusion.

(e) Introducing a mandatory system of review in capital cases, with suspensive effect following a death penalty conviction in first instance;

40. The right to appeal and the right to final appeal are guaranteed in all criminal cases in Japan, not limited to capital cases (Article 372 and Article 405 of the Code of Criminal Procedure).

41. In Japan:

(1) Based on the principle of warrant and strict evidence rules that are employed in court practice as well as the three-tiered judicial system, a conviction is confirmed through a carefully managed process throughout investigation and trials;

(2) For final and binding judgments, relief systems are in place including retrial and extraordinary appeal to the Supreme Court, which function effectively in preventing misjudgment; and

(3) An execution is carried out after careful examination regarding the presence of cause for retrial. In this way, capital punishment is carried out extremely carefully in Japan under a rigorous system and therefore there is no need for a mandatory appeal system.

(f) Ensuring an independent review of all cases when there is credible evidence that death row inmate is mentally ill. Furthermore, the State party should ensure that a detainee with mental illness is not executed in accordance with article 479(1) of the Code of Criminal Procedures;

42. Article 62, paragraph (1) of the Penal and Detention Facilities Act provides that in cases in which an inmate is injured or suffering from disease, the warden of the penal institution shall promptly provide him/her with medical treatment by a doctor who is on staff at the penal institution, along with other necessary medical measures. At penal institutions, due care and careful consideration are always given to the inmates sentenced to death; and efforts are made to determine the physical and mental conditions of inmates

sentenced to death, including regular medical examinations and the opportunity to receive medical treatment by a doctor outside the institution as necessary.

43. With respect to the death penalty, Article 479 of the Code of Criminal Procedure provides that "where the person who has been sentenced to death is in a state of insanity," the execution shall be suspended by order of the Minister of Justice, and appropriate procedure is taken in accordance with this provision.

44. We intend to continue our efforts to be fully aware of the health conditions of inmates sentenced to death, including their mental conditions, and to properly deal with each case.

(g) Providing data on death row inmates, disaggregated by sex, age, ethnicity and offence;

45. As of January 27, 2015, of the inmates sentenced to death by final and binding judgments, 123 are male and 6 are female.

46. The composition by age group is as follows.

Aged 80 or over:	6
Aged 70 or over and below 80:	14
Aged 60 or over and below 70:	34
Aged 50 or over and below 60:	34
Aged 40 or over and below 50:	24
Aged below 40:	17

47. Six inmates sentenced to death by final and binding judgments were foreign nationals. No statistics are available on composition by ethnicity.

48. Sixty-six such inmates committed homicide, and 63 inmates committed robbery-homicide. (Those who committed both homicide and robbery-homicide are counted among those that committed robbery-homicide for which a heavier statutory penalty is imposed.)

(h) Considering the possibility of abolishing the death penalty.

49. Whether to retain or abolish the death penalty is an important issue that affects the basis of the criminal justice system in Japan. It should be considered carefully from various viewpoints, such as the realization of justice in society, with sufficient attention given to public opinion.

50. The majority of citizens in Japan consider that the death penalty is unavoidable for extremely malicious/brutal crimes. In light of the current situation that shows no sign of decline in brutal crimes, it is unavoidable to impose the death penalty on persons who have committed extremely brutal crimes and bear heavy criminal responsibility, and therefore abolishing the death penalty is not appropriate.

Paragraph 19

Recalling its general comment No. 3 (2012), the Committee urges the State party to take immediate and effective legislative and administrative measures to find a victim-centred resolution for the issues of "comfort women", in particular, by:

(a) Publicly acknowledging legal responsibility for the crimes of sexual slavery, and prosecuting and punishing perpetrators with appropriate penalties;

(b) Refuting attempts to deny the facts by government authorities and public figures and to re-traumatize the victims through such repeated denials;

(c) Disclosing related materials, and investigating the facts thoroughly;

(d) Recognizing the victim's right to redress, and accordingly providing them full and effective redress and reparation, including compensation, satisfaction and the means for as full rehabilitation as possible;

(e) Educating the general public about the issue and include the events in all history textbooks, as a means of preventing further violations of the State party's obligations under the Convention.

51. The Government of Japan has no intention of denying or trivializing the comfort women issue. With regard to the comfort women issue, Prime Minister Abe, in the same manner as the Prime Ministers who proceeded him, is deeply pained to think of the comfort women who experienced immeasurable pain and suffering beyond description, which has been repeatedly expressed.

52. Recognizing that the comfort women issue was a grave affront to the honour and dignity of a large number of women, in fact, the Government of Japan, together with the people of Japan, seriously discussed what could be done to express their sincere apologies and remorse to the former comfort women. As a result, the people and the Government of Japan cooperated and together established the Asian Women's Fund (AWF) on July 19, 1995 to extend atonement from the Japanese people to the former comfort women. To be specific, the AWF provided "atonement money" (2 million yen per person) to former comfort women in the Republic of Korea, the Philippines and Taiwan who were identified by their governments/－authority and other bodies and wished to receive it. As a result, 285 former comfort women (211 persons in the Philippines, 61 persons in the Republic of Korea, 13 persons in Taiwan) received funds. Moreover, in addition to the "atonement money", the AWF provided funds for medical and welfare support in those countries/areas (3 million yen per person in the Republic of Korea and Taiwan, 1.2 million for the Philippines), financial support for building new elder care facilities in Indonesia, and financial support for a welfare project which helps to enhance the living conditions of those who suffered incurable physical and psychological wounds during World War II in the Netherlands. The Government of Japan provided a total of 4.8 billion yen for programs of the fund and offered the utmost cooperation to support programs for former comfort women, such as programs to offer medical care and welfare support (a total of 1.122 billion yen) and a program to offer "atonement money" from donations of the people of Japan. In terms of the Fund's activities in the ROK, "atonement money" of 2 million yen, donated from the private sector, and 3 million yen for medical and welfare projects, which was from government contributions (for a total of 5 million yen per person), were provided to a total of 61 former comfort women in the Republic of Korea up to the end of the Fund's activities. In addition, when the atonement money was provided, the then Prime Ministers (namely, PM Ryutaro Hashimoto, PM Keizo Obuchi, PM Yoshiro Mori and PM Junichiro Koizumi), on behalf of the Government, sent a signed letter expressing apologies and remorse directly to each former comfort woman (see the attachment). While the AWF was disbanded in March 2007 with the termination of the project in Indonesia, the Government of Japan has continued to implement follow-up activities of the fund.

53. As mentioned above, the Government of Japan would like to call attention again to the efforts of the "Asian Women's Fund (AWF)", on which the Government and the people of Japan cooperated together to establish so that their goodwill and sincere feelings could reach the former comfort women to the greatest extent possible, and as a result, our feelings were transmitted to many of them. With regard to the AWF, the former comfort women

who had received or wanted to receive benefit from the project from the AWF were subject to "harassment" by certain groups in the Republic of Korea. In addition, the former comfort women who had already received benefit from the project from the AWF would no longer be eligible for the "Life-Support Fund", which was established by the Government of the Republic of Korea with the aim to provide money to the former comfort women. We regret that not all of the former comfort women benefitted from the project from the AWF owing to these circumstances. (Among the approximately 200 former comfort women in the Republic of Korea who were identified by the Government of the Republic of Korea, ultimately only 61 received benefit from the AWF.) In this regard, we consider that the efforts of the "Asian Women's Fund" should be recognized appropriately. We call your attention to the fact that Japan started the support project to the former comfort women through the AWF ahead of that of the Republic of Korea.

54. The Government of Japan has sincerely dealt with issues of reparations, property and claims pertaining to the Second World War, including the comfort women issue, under the San Francisco Peace Treaty, which the Government of Japan concluded with 45 countries, including the United States, the United Kingdom and France, and through bilateral treaties, agreements and instruments. The issues of claims of individuals, including former comfort women, have been legally settled with the parties to these treaties, agreements and instruments. In particular, the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea stipulates that "problems concerning property, rights and interests of the two Contracting Parties and their nationals (including juridical persons) and concerning claims between the Contracting Parties and their nationals, … have been settled completely and finally." (Article II, paragraph 1). In addition, on the basis of the Agreement, Japan provided 500 million US dollars to the Republic of Korea and more than 300 million dollars credit to the private sector. The amount of 500 million US dollars provided from the Government of Japan was 1.6 times as much as the State budget of the Republic of Korea at that time. The above-mentioned "Asian Women's Fund" was established as an effort of goodwill on the part of Japan, although this issue had been legally settled with the parties to the above-mentioned treaties, agreements and instruments.

55. On this occasion, it should also be pointed out that there are one-sided claims which lack any corroborative evidence in reports by United Nations Special Rapporteurs as well as in criticisms and recommendations from treaty bodies. For instance, such reports have referred to the testimony of Seiji Yoshida, as the "only witness" to the "forceful recruitment of comfort women", along with the figure of "200,000 comfort women." A major newspaper in Japan, which has proactively reported the issue of comfort women, retracted articles, in August 2014, based on "testimony judged to be a fabrication that was provided by the late Seiji Yoshida about forcibly deporting comfort women from Jeju Island, South Korea" and apologized for "publishing erroneous articles" related to him. It also admitted to its confusion between comfort women and women volunteer corps "that were mobilized to work at munitions factories and at other locations during the war" which seemed to be the basis of the figure of "200,000 comfort women".

56. Within the materials found during the investigations by the Government of Japan since the early 1990s, which were already published, no descriptions were found that directly indicated any so-called forceful deportation of women by the military or the Government of Japan. Nor was there any evidence of there being "200,000 comfort women." This figure spread due to the confusion, admitted by the Japanese newspaper, between comfort women and women volunteer corps, and lacks any corroborative evidence. It is very regrettable that this false information provides the essential basis for United Nations reports and recommendations.

57. The Government of Japan requests that Japan's efforts be correctly recognized by the international community, based on a correct awareness of the facts.

58. Throughout history, women's dignity and basic human rights have often been infringed upon during the many wars and conflicts of the past. The Government of Japan places paramount importance on and is committed to doing its utmost to ensure that the 21st century is free from further violations of women's dignity and basic human rights.

59. Lastly, the Government of Japan considers that it is not appropriate for this report to take up the comfort women issue in terms of the implementation of State Party's undertakings under the Convention as this Convention does not apply to any issues that occurred prior to Japan's conclusion thereof (1999). With regard to the expression "sexual slave" used in the Committee's concluding observations concerning Japan's report, the Government of Japan has considered the definition of "slavery" stipulated in Article 1 of the Slavery Convention, concluded in 1926, and finds that it is inappropriate to consider the comfort women system as "slavery" from the perspective of international law at the time.

Paragraph 23

The State party should explicitly prohibit corporal punishment and all forms of degrading treatment of children in all settings by law.

60. This is a factual error regarding this issue, as corporal punishment is prohibited under Article 11 of the School Education Act (see *Note* below).

Note: School Education Act

> Article 11 – The principal and teachers may discipline their pupils or students when deemed necessary for educational purposes and as specified by the Minister of Education, Culture, Sports, Science and Technology, provided, however, that corporal punishment is prohibited.