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NGO Information on Migrants and Asylum Seekers for the UN Human Rights Committee, 121st session: List of Issues Prior to Reporting, Japan

This report provides an outline of issues of concern with regards to the state party's compliance with the provisions of the International Covenant on Civil and Political Rights to assist the Human Rights Committee with drawing up the List of Issues Prior to Reporting in advance of Japan's seventh Periodic Report. There are eight main issues below:

A. **Gender-Based Violence and Domestic Violence**
B. **Hate Speech and Racial Discrimination**
C. **Extensive and Systematic Surveillance and Profiling of Muslims in Japan**
D. **Principles of Non-refoulement and Rights of Asylum Seekers**
E. **Expulsion and Detention of Undocumented Residents**
F. **Trafficking in Persons**
G. **Technical Intern Training Program**
H. **Education of Foreign Children and Foreign Schools**

submitted by Solidarity Network with Migrants Japan (SMJ)
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July 23, 2017

Solidarity Network with Migrants Japan (SMJ) was established in April 1997 with the aim to promote communication and common action among organizations throughout Japan working to provide assistance and relief and striving to protect, promote, and realize the human rights of migrants, migrant workers, refugees, and their families in Japan.

Since then, SMJ has grown into a nationwide network of 98 NGOs, civil society organizations, labor unions, religious organizations, professional associations, and women's rights organizations, with an individual member base of 335 as of March 2017. The secretariats office is located in Tokyo.

Non-discrimination and Equal Rights (Articles 2, 3, 24 and 26)

A. Gender-Based Violence and Domestic Violence

1. Current Status (since August 2014)

In the previous Concluding Observations, the Committee recommended that the State ensure that victims of gender-based violence and domestic violence have access to adequate protection and that the visa status of migrant women is protected (paragraph 10).

However, since August 2014, no new measures have been taken regarding violence against migrant women. The Government has not even conducted a survey on the situation that is necessary to design policies addressing violence against migrant women and domestic violence. The Japanese Government has not made any progress in making concrete efforts regarding prosecuting those responsible for the violence or providing remedies and protection for the victims.

In regard to domestic violence against migrant women, it has become apparent from the data on the number of people receiving temporary protection published by the Ministry of Health, Labor and Welfare, and the population ratio of foreign women and Japanese women, that migrant women are given protection at a rate close to five times higher than Japanese women. The Act on the Prevention of Spousal Violence and the Protection of Victims states that their human rights will be respected, "regardless of their nationality," but a national minimum standard on specific policy measures has not been established. Support measures for migrant women who are victims of violence are left to the efforts of local Governments. Apart from a few progressive areas, these efforts have been lagging.

Since 2014, recommendations have been issued regarding the need for protection of the visa status of migrant women who are victims of domestic violence by the Committee on the Elimination of Racial Discrimination (CERD) (August, 2014) and the Committee on the Elimination of Discrimination against Women (CEDAW) (February, 2016).

The CERD Concluding Comment includes the issue of violence against migrant, minority, and indigenous women in paragraph 17, for which the Government is

requested to provide additional information within one year under the follow-up procedure. The Committee raised its concerns on the impact of the procedures to revoke the residence status of spouses for the victims of domestic violence, stating that it was

> "Particularly concerned that, under the provisions of the revised Immigration Control and Refugee Recognition Act of 2012, the authorities may revoke the residence status of foreign women who have been married to a Japanese national or a foreigner with a permanent residency status if such foreign women 'fail to continue to engage in activities as spouse while residing in Japan for more than six months,' as provided under Section I, Article 22-4 of the Immigration Control Act,"

and recommended improving the procedures.

The problem with the procedures of residence status revocation is that, regardless of the number of actual cases of revocation (30 cases each in 2014 and 2015), the mere existence of the procedures threatens many migrant women, who reside with the status of spouses of Japanese nationals and permanent residents, which causes hesitation to escape from the harms of domestic violence. The procedures have become factors in making the situation more serious for the victims.

The Japanese Government explains that victims of domestic violence are excluded from the revocation procedures, but migrant women are not informed of the exclusion provisions, and it is difficult for the affected women to explain their circumstances to the immigration authorities. Because of this, NGOs report of cases in which women had had their resident status revoked, even though they were married, had suffered violence, and had been abandoned. Although the revocation procedures require that the authorities hear the views of the affected women prior to revocation, there has been no information on how these hearings are conducted.

On the residence status of victims of domestic violence, the Japanese Government explains that it has formulated an Outline of Measures Related to Cases of Domestic Violence within the Immigration Bureau, and when a victim of domestic violence is identified, it gives special consideration in renewing and changing residence status, giving priority to the protection of victims. Yet the number of victims of domestic violence identified by the Immigration Bureau around the country was 95 (for the year 2015), and that is only the tip of the iceberg compared with the number of potential victims. This is against the backdrop of the lack of an environment enabling migrant women to bring forward their claims of domestic violence to the Immigration Bureau, as

well as the lack of adequate training on domestic violence for immigration officials, and that these officials are not well informed about the Outline. As a consequence, there is a concern that only limited cases, such as those in which lawyers are able to explain the circumstances and provide documents, are identified as domestic violence cases.

2. Proposed Questions

(1) How does the Government find out about the situation of violence and domestic violence against migrant women?
(2) What policy measures does the Government take to protect the residence status of migrant women who are victims of domestic violence?
(3) Does the Government plan to review the provision for revoking the residence status of spouses under Article 22-4 paragraph 1 of the Immigration Control Act from the viewpoint of protection of migrant women who are victims of domestic violence, as recommended by CERD?

B. Hate Speech and Racial Discrimination

1. Recommendation from the previous report

The recommendation issued by the Committee in 2014 reads as follows:

The State should prohibit all propaganda advocating racial superiority or hatred that incites discrimination, hostility, or violence,
and it should prohibit demonstrations that are intended to disseminate such propaganda.

The State party should also allocate sufficient resources for awareness-raising campaigns against racism and increase its efforts to ensure that judges, prosecutors, and police officials are trained to detect hate and racially motivated crimes.

The State party should also take all necessary steps to prevent racist attacks and to ensure that the alleged perpetrators are thoroughly investigated, prosecuted, and, if convicted, punished with appropriate sanctions.

2. Report on the situation following the publication of the recommendation

In 2014, a month after the said recommendation was issued, the Committee on the Elimination of Racial Discrimination also issued recommendations for the establishment of laws and regulations against hate crime, hate speech and racial discrimination.

The Government conducted research on a demonstration and sound truck on the street that incited hate speech in 2015 for the first time ever. According to the report released in March 2016, the number of demonstrations with or without sound truck have been recorded as follows: 237 times from April to December of 2012, 347 times in 2013, 378 times in 2014, and 190 times in the first nine months of 2015.

In 2015, the members of the opposition parties submitted a bill to promote the elimination of racial discrimination including hate speech. The law was not passed, but in April of the following year the ruling partis submitted an alternative bill on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan, which was passed in May.

This Hate Speech Elimination Act is the first anti-racial-discrimination law in Japan that designates the elimination of the hate speech for foreign residents living in Japan as an urgent issue.

Since the number of hate demonstrations has decreased by half since the law has been put in place, it is clear that the law has had an effect to some degree.

However, the effectiveness of this law is still weak, as it does not provide prohibitions or sanctions for breaking the law, nor does it give policy makers an obligation to pass a policy, plan, or fiscal measures to solve this issue. The law calls for taking action in the domains of consultation, education, and awareness, but nothing more.

Hate demonstrations with and without sound trucks have been continuously active, and the situation on the internet, where there is no oversight, is much worse.
Even now, hate speech and hate crime against unspecified groups are not subject to punishment in civil or criminal law, and there is no legal way to stop these activities.

According to the "Questionnaire Survey on Discrimination Against Foreign Nationals" conducted for the first time ever by the Government in autumn 2016, more than 40% of foreigners have experienced housing discrimination in the past 5 years, 25% experienced employment discrimination, and 30 % have been abused verbally.
Among the cases of verbal discrimination, 53% of them were conducted by total strangers, 38% were at their workplace, 19% were by neighboring residents, 13% were by public agents, and 11% were in schools. In other words, they are being discriminated in almost every stage of their life.

The report also indicates a devastating situation on the internet; the report shows that 20% of foreign residents in Japan have quit visiting certain websites after witnessing hate speech on them. The number rises to over 40% among the Korean residents in Japan, who are a major target of discrimination.

Despite the on-going severe racial discrimination and the deficiencies in the legal system to counter it, the Government maintains, as it always has, that they do not recognize any additional need for taking comprehensive measures to ban racial discrimination, as described in a report submitted to the Committee on the Elimination of Racial Discrimination in July 2017 that argues the Constitution and other measures, which clearly prohibit racial discrimination, should suffice.

In December 2015, the Ministry of Justice has set the goal of "establishing Japan as a leading nation in human rights issues" by 2020, when the Tokyo Olympic and Paralympic Games will take place. Their policies and plans, however, do not show any sign of reflecting the said goal.

3. Recommendations from other international human rights monitoring organizations

In March 2016, the Committee on the Elimination of Discrimination against Women issued a recommendation calling for a ban against discrimination in general (para. 13).

In May 2017, a Special Rapporteur concerning Freedom of Expression issued a recommendation of "the introduction of a broadly applicable anti-discrimination law" as a first response to hate speech (para. 53 to 55, 78)

4. Proposed Questions

(1) Please show us a comprehensive national policy and a tangible plan on how, and by when, each department in charge will solve the issue of hate speech taking place in the workplace, schools, towns, the internet, and other various areas of life.
(2) What plans do the Government have to stop the malicious and serious hate speech, especially against an unspecified group, carried out by people with criminal conscience, that continues to take place, even after the anti-hate speech resolution was put in place?
(3) The result of a survey conducted by the government shows life-threatening infringement of human rights, such as 40% of discrimination in housing, despite current legal prohibition of racial discrimination in the Constitution. Does it not clearly show a dire need to establish an additional law to ban said discrimination?

C. Extensive and Systematic Surveillance and Profiling of Muslims in Japan

1. Background

Presently, around 100,000 Muslims live in Japan and many suffer Government surveillance. In October 2010, internal police documents were leaked on the Internet. The documents reveal that the police have conducted systematic surveillance against Muslims in Japan.

According to the revealed documents, in order to observe and monitor the Muslim population, the Japanese police agents audited attendants in mosques and surveilled various Muslim communities such as halal shops and Islamic schools. The leaked documents explicitly state that the police have conducted surveillance of Muslims solely based on their religion.

Based on the findings of surveillance activities, the Japanese police have constructed a database of Muslim individuals. The database includes sensitive personal data such as physical characteristics, participation in religious ceremonies, Internet habits, and which mosques they visit. Please see the attached appendix for the kind of information collected by the Japanese police.

A group of 17 Muslims victims filed suit against the Japanese police, demanding compensation for violation of various constitutional and statutory rights, including privacy and religious freedom. The Tokyo district court issued a decision in January 2014, and rubber-stamped the police's surveillance activities. According to the court, the surveillance activities based on Muslim religion were "necessary and inevitable measures for the prevention of international terrorism", and did not violate the human rights of Muslims. This decision was affirmed by the Tokyo Appellate Court and the Supreme Court.[1]

The Japanese Government has continuously denied the surveillance against Muslims despite the fact that even the court found the leaked documents came from the

[1] The judgment of the Tokyo Appellate Court, April 14, 2015. The decision of the Supreme Court, May 31, 2016. The text of the ruling of the Tokyo District Court is available from the following website. http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/JPN/INT_CERD_NGO_JPN_17783_E.pdf

Japanese police agency.[2] The Japanese Government has neither provided any apology nor explanation for Muslim individuals whose personal information was leaked. Muslims cannot know what kind of personal data has been collected by the police. There is no way for them to correct or delete the personal data stored in the police database.

Even after the leak in 2010, attorneys, who have supported Muslims communities, have received complaints from Muslims about surveillance and profiling by the police.

2. Relevant Recommendations

(1) UN Human Rights Committee (2014 July)[3]

Surveillance of Muslims

20. The Committee is concerned about reports on widespread surveillance of Muslims by law enforcement officials (arts. 2, 17 and 26).

The State party should:

(a) Train law enforcement personnel on cultural awareness and the inadmissibility of racial profiling, including the widespread surveillance of Muslims by law enforcement officials;

(b) Ensure that affected persons have access to effective remedies in cases of abuse.

(2) UN CERD Committee (2014 August)[4]

Ethno-religious profiling of members of Muslim communities

25. The Committee is concerned about reports of surveillance activities of Muslims of foreign origin by law-enforcement officials of the State party, which may amount to ethnic profiling. The Committee considers the systematic collection of security information about individuals — solely on the basis of their belonging to an ethnic or ethno-religious group — to be a serious form of discrimination (arts. 2 and 5).

The Committee urges the State party to ensure that its law-enforcement officials do not rely on ethnic or ethno-religious profiling of Muslims.

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[2] CERD/C/JPN/10-11, para 142. (With regard to Paragraph 25 of the concluding observations of the Committee on the Elimination of Racial Discrimination to the previous Periodic Report, the police perform their duties impartially and neutrally in accordance with the provisions of the law, and in fact do not perform surveillance of Muslims of foreign origin, which may constitute ethnic or ethno-religious profiling)

[3] CCPR/C/JPN/CO/6, para 20.

[4] CERD/C/JPN/CO/7-9, para 25.

3. Proposed Questions

(1) After a leak of personal information of Muslims, are the police continuing to conduct systematic and extensive surveillance against Muslims? Does the Japanese Government plan to provide any procedures for correcting or deleting personal information of Muslims from its database in response to requests from Muslim victims?
(2) What specific efforts have been made or will be made to review, modify, or end surveillance and profiling based on Islamic religion? For example, does the Government plan to make any guideline or order inside the police department not to disseminate discrimination against Muslims?

English Translation of a Sample Document Detailing Personal Information of Muslims.

Classification					No.	
Nationality (Domicile)	[redacted]			Place of Birth [redacted]	[redacted]	
Name	[redacted]		Male / Female	Date of Birth (Age)		
Current Address	[redacted]					
Place of Employment (Address)	[redacted]					
Vehicle	[redacted]					
Suspicions	[redacted]				Profile Picture (August 2004)	
Response Status and Policy	[redacted]					
Familial Relationship and Acquaintances	Relationship	Name	Date of Birth (age)	Place of Employment	Address (Same· Separate) If separate address	
	Wife	[redacted]	[redacted]	[redacted]	○Same Separate	
	Child	[redacted]	[redacted]		○Same Separate	
	Child	[redacted]	[redacted]		○Same Separate	
	Child	[redacted]	[redacted]		○Same Separate	
					Same Separate	
					Same Separate	
					Same Separate	Scene Photograph (year, month)
Entry and Residence Related	Date of Entry	[redacted]	Passport Number	[redacted]	Passport Issue Date	[redacted]
	Residence Status	Permanent Resident	Address at Home Country	[redacted]		
	Duration of Residence (Residence Status)		Registry Date	Municipality of Residence		Registration Number
	[redacted]		[redacted]	[redacted]		[redacted]
History of Addresses, Schooling, and Employment	Duration	History of Address		Duration	History of Schooling and Employment (Address)	
	[redacted]	[redacted]		[redacted]	[redacted]	
Licenses	Type of License		Date Obtained		License Number	
Criminal Information	Date of Arrest		Offense		Station of Arrest	Outcome
Affiliated Organisations			Position, Post, Role		Physical Characteristics	
Comings and Goings at Mosques	[redacted]				Height	[redacted]
					Build	[redacted]
Visited and Frequented Locations					Hair	[redacted]
					Beard	[redacted]
Summary of Behavioural Patterns					Eye Glasses	
					Date	2008. Nov. 7

Expulsion and Detention of Aliens (Arts. 7, 9, and 13)

D. Principles of Non-refoulement Rights of Asylum Seekers

1. Current Status

(1) Access to fair procedures for Refugee Status Determination (RSD) and for protection against refoulement

This issue is mentioned in para. 19(b) of the Concluding Observations on the sixth periodic report of Japan (August 2014).

Asylum seekers are rarely given international protection in Japan. The Immigration Bureau, which is in charge of RSD, started a categorization of refugee claims in September 2015 for the purpose of prompt refugee protection, and it concluded that only two cases out of 5,000 could be categorized as Group A cases that had a high potential for international protection, while about 40 percent of the cases were categorized into Group B or C (which were deemed manifestly unfounded cases) and brought to the fast-track process. Once a person is categorized into Group B or C he/she will not receive fair procedures against refoulement, even if he/she would face a life-threatening situation or torture upon being deported.

(2) Detention of asylum seekers

This issue is mentioned in para. 19(c) of the Concluding Observations on the sixth periodic report of Japan (August 2014).

Detention of asylum seekers has been extensively reported recently. In 2016, among 152 persons who applied for asylum at ports, 148 decisions were made on provisional stay permission during the year, and none of them were granted the permission, leaving those refugee applicants in continuous immigration detention. While an alternative to the detention program (ATD) for asylum seekers at ports was introduced in 2012, it has been extremely rare for asylum seekers to avoid immigration detention under this ATD program.

In 2016, 307 refugee applicants without legal residence status presented themselves before the immigration authorities and applied for refugee status. Among them, only 58 persons were permitted for provisional stay.

Provisional release is not permitted on a flexible basis. Especially after the immigration authorities issued administrative notifications instructing the administrators to strengthen the oversight of those who were permitted a provisional release in 2015 and 2016, detention periods became lengthy and some asylum seekers were (re)detained without being given a reason before their formal asylum decision was finalized.

(3) Lack of an independent appeal mechanism with suspensive effect against negative asylum decisions.

This issue is mentioned in the latter part of para. 19(b) of the sixth Concluding Observations.

The administrative appeal mechanism for international protection has not been functioning as planned. While it is extremely rare for refugee adjudication councilors (RACs) to give positive opinions for international protection, when RACs give these positive opinions they are not always respected by the Minister of Legal Affairs, who is the final decision maker in this procedure. Out of 31 positive opinions made by RACs between 2014 and 2016, either unanimously or with majority votes, 13 cases (about 40 percent) were rejected by the Minister without a specific explanation as to why they were not respected.

While it is also extremely rare for courts to give positive decisions for international protection, in 2016, 2 cases were rejected refugee protection even after a high court had found the refugee eligible and rescinded the rejections. In total, 5 cases, including the two cases in 2016, have been treated in the same way, which shows that the independence of the judiciary body is undermined by administrative discretion.

While deportation is suspended before an administrative decision on asylum is finalized, access to an appeal mechanism with suspensive effect are effectively denied. In several reported cases, rejected asylum seekers have been deported within 24 hours of being informed of the negative decision at the administrative review, and, after that, they were denied the right to phone legal representatives. While some of the rejected asylum seekers had informed immigration officers of their intention to appeal to a court, they

were told that they could file a lawsuit in their home countries and were eventually deported by force.

(4) Ill-treatment against the provisionally-released, including asylum seekers (Art. 7)

While asylum seekers with legal residence status at the time of asylum application are permitted to work up to 6 months after the application, those without legal status at the time of refugee application are denied legal status and are unable to earn a living during the procedures. Only a limited number of refugee applicants are able to receive a livelihood assistance for refugee applicants (hogohi), and even this assistance is not sufficient. Many asylum seekers are forced to live in destitute situations.

2. Proposed Questions

(1) Please explain why provisional stay permission is given only to a limited number of persons.

(2) Please explain the reason(s) for making a distinction between refugee applicants with legal residence status, and those without.

(3) Please comment on the observation of NGOs that provisional release is not permitted on a flexible basis.

(4) Please explain what due considerations are made on fast-track rejection procedures. What benefits are there to protect those who should be given international protection? Does it contribute to the speedy refugee protection?

(5) Please comment on the above-mentioned concerns about the RAC system, which was introduced for further independence of the administrative review procedures. What due considerations are made to secure expertise of RACs?

(6) Under the present circumstances, would you weigh in for the involvement of the UNHCR in RSD?

E. Expulsion and Detention of Undocumented Residents

1. Current status (since the Concluding Observations of August, 2014)

(1) Detention

Issues regarding detention were raised in paragraph 19 (c) of the Concluding Observations on the 6th Periodic Report of Japan (CCPR/C/JPN/6).

Those who have been issued a deportation order as someone falling under deportation procedures will be held at the detention facilities of the Immigration Bureau. The Japanese Government insists that the detention is conducted according to administrative procedures that do not come under judicial review. It has not even revised the indeterminate nature of the period of detention. Neither is it mentioned in the 5th Basic Plan for Immigration Control (which is the plan to provide the basis for the Immigration Bureau for the next 5 years).

According to the Immigration Bureau, as of November 1, 2016, there are 215 detainees who have been held for 6 months or more, although the number of those who have been detained for more than 2 years has declined. Only those who have been allowed provisional release can wait for the procedures at home. However, there are no procedures for judicial review of a negative decision on an application for the provisional release. There have been no adequate discussions regarding the alternative measures for detention, as mentioned in the Concluding Observations. Detainees are not detained for a short, appropriate period; rather, there are many who have been detained for an extensive period.

(2) Treatment during detention

This topic has not been raised during the latest examination of the Periodic Report, but one would hope that it would be looked into, as it could lead to life-threatening situations. NGOs have received reports from detainees that the medical care in the detention facilities of the Immigration Bureau is exceedingly poor.

On March 25, 2017, a Vietnamese man in his 40s who had been detained at the Eastern Japan Immigration Center died. According to the testimony of a detainee who was held in the same block, the man had complained of pain in the head, neck, and back since his detention on March 16, had been seen by a doctor, and had been prescribed

painkillers. 2 days into his detention, he was transferred from a cell for multiple persons to a single-person cell. During the week leading up to his death, his complaints of pain grew louder from groans to shouts. However, no doctor examined him during the week, and he died of subarachnoidal hemorrhage due to a rupture in the left vertebral artery.

Deaths due to illness in the immigration detention facilities have been constant, examples include the deaths of a Rohingyan asylum seeker in October 2013, Iranian and Cameroonian detainees in March 2014, and a Sri Lankan detainee in 2014. In some of these cases, the Immigration Bureau acknowledged that there was a problem with the access to medical care for detainees in the immigration detention facilities.

According to the testimonies of the detainees, examination by doctors may sometimes be conducted 1 month after requesting such examination. At the earliest, such examination may be available a few days or 1 week after submitting the request. There are even cases, when immigration officials may decide that the medical examination would not be allowed. There are many serious problems regarding access to medical care.

(3) Treatment of those given provisional release

The immigration practice on provisional release has become increasingly strict, particularly in recent years. In 2015 and 2016, the Immigration Bureau issued instructions for monitoring people given provisional release and intensifying the monitoring. People under provisional release are explicitly prohibited from working and are ineligible for public financial aid with partial exceptions of those who are applying for refugee status. Immigration staff visit their houses to check on how they are living and even check the contents of their refrigerators. Once the immigration authorities find out that a person under provisional release is working, he or she is detained.

Incidentally, in Japan, contrary to the Immigration and Control Act, repatriation costs are principally borne by the person to be repatriated, and a deportation order, once issued, is indefinitely valid. As a result, the treatment of people under provisional release is inhumane and degrading.

(4) Deportation of undocumented migrants

The ill-treatment mentioned in paragraph 19 (a) in the Concluding Observations (CCPR/C/JPN/6) has not been revised. This includes the use of restraining

tools. These have been used to keep people from raising their voices or to break their will to resist.

These types of restraining tools are provided for in the Rules on Treatment of Detainees, but, as in past cases, pieces of cloth that are not prescribed in the Rules has been used to muzzle a person, or a wooden stick has been placed in a person's mouth, which is then taped over. These methods are dangerous, as it makes it difficult for the people to breathe, but nothing has been done to revise these methods.

These procedures are conducted as administrative procedures of the Immigration Bureau until deportation orders are issued. The only procedure to review a deportation order for suspension must be carried out by the court, which is the only independent organ, and through a provisional disposition for a stay of the execution of deportation attached to the main legal action seeking revocation of a non-recognition of refugee status, or a revocation of the deportation order.

There have been 4 deportations of undocumented residents by chartered planes since August 2014. When these deportations by chartered planes took place, people were placed in isolation as soon as they were issued deportation orders or given negative responses to their asylum applications by the Refugee Adjudication Counselors, even when they were within the limitation period for legal action for appeal. Their requests to see their lawyers, reapply for asylum, or file suit for revocation would be denied, and they would be placed on the chartered planes to be deported.

These actions are clearly in contradiction to what is recommended under paragraph 19 (b).

2. Proposed Questions

(1) What measures have been taken so that migrants would not be ill-treated during the deportation process?
(2) What restraining tools other than those specified in the Rules for Treatment of Detainees have been used at the time of the execution of deportation orders, and how have they been used?
(3) How many cases of deportation have been executed (within the limitation period for legal action for revocation) without the consent of the person concerned due to a negative

decision from the Refugee Adjudication Counselors, or the issuance of deportation orders by the regional directors of the Immigration Bureau?

(4) What systems have been adopted as alternative measures to detention, and what other systems are being considered?

(5) Is an independent organ to review cases of detention being considered?

(6) Are there any other procedures to review the legality of detention, other than those seeking provisional disposition for stay of execution of deportation in a legal action for the revocation of the deportation order?

(7) What is the direction of improvement for medical care in immigration detention facilities?

(8) Please provide statistical data to justify issuance of the new instructions to intensify the monitoring of people under provisional release.

(9) Please provide comments on the reports that the treatment of people under provisional release is inhumane and degrading.

Elimination of Slavery and Servitude (Article 8)

F. Trafficking in Persons

1. Situation

(1) The phenomenon of human trafficking still deeply persists.

The means of trafficking has recently become remarkably sophisticated. Regarding foreign victims, cases that abuse visa statuses, such as "spouse of Japanese national", "long-term residence", "technical intern training", "student," and "dependent (family)," for the purpose of sexual and labor exploitation have occurred frequently. As for Japanese victims, cases of production and distribution of pornography, including child pornography, as well as cases of prostitution via so-called "JK business (business using high school girls)" and those that are disguised as "compensated dating" have occurred frequently.

The Japanese Government, in response to the said situation, has resolved "Action Plan against Trafficking In Persons 2014" in December 2014 by placing the issues of "coerced participation in pornographic materials (so-called "adult videos")," "JK Business," and "child prostitution and child pornography" as trafficking-related cases and, in Spring 2017, it began to take measures against them.

On the other hand, the Government has promoted its program to accept foreign housekeepers and, in March 2017, the first such workers arrived in Japan. Since the Government has not yet ratified ILO convention #189, there is a concern that a new kind of human rights violation may arise (Please see the paragraph 27 of the Concluding Observation of UN CERD, Sept. 26, 2014, and the paragraph 35(f) of the Concluding Observation of UN CEDAW, March 7, 2016).

The Government has not carried out the enhancement of the victim identification procedures of forced labor or specialized training.

(2) "Vigorous prosecution of perpetrators" and "imposition of penalties that are commensurate with the seriousness of the acts committed" are not sufficiently implemented.

(a) During the three-year period of 2014 through 2016, the police department arrested 121 suspects in 120 cases. Incidentally, in 2016, the police department arrested 443 suspects in 570 cases of violation of the Prostitution Prevention Law, 701 suspects in 809 cases of child prostitution, and 1,531 suspects in 2,097 cases of child pornography; the Labor Standards Inspection Office filed 98 serious and pernicious cases that violated the Labor Standard Law and other related labor laws that involved technical internship training programs. However, among those cases, only a handful were identified as human trafficking cases.

(b) During the three-year period of 2014 through 2016, the Prosecutor's office prosecuted 96 suspects. 76 of them were convicted, but only 24 received fines, 40 received imprisonment with suspended sentences, and only 15 were sentenced with unsuspended imprisonment. In 2016, labor trafficking suspects were prosecuted for the first time, but all of the cases resulted only in fines.

(3) Enhancement of the victim protection measures, including interpretation services and legal support, has not yet been sufficiently implemented.

(a) In Japan, there is no law that enacts the protection and restoration of the rights of human trafficking victims.

(b) In order to protect and support a wide range of victims, the interpretation of the word "exploitation" should be done more flexibly. However, the Japanese Government, even when identifying victims that should be protected and supported, maintains the strict interpretation that presupposes criminal punishment of perpetrators, and thus keeps the number of identified victims very low. Even if the "purpose of exploitation" is not obviously acknowledged, when the person suffers some kind of harm, there should be a certain protection and support, depending on the level of the damage. However, this kind of support is not included in the Government's measures.

(c) Interpreters must have sufficient knowledge of the reality of human trafficking, situations of the victims, procedures of victim identification, the framework of victims support, and other related matters. However, the quality of the interpreters in the process of victim identification is unknown, and the quantity of the interpreters in the process of victim support falls short due to lack of budget.

(d) Victims of human trafficking are, institutionally, able to use the Civil Legal Aid System to receive legal support from lawyers, but the victims cannot use it once outside

Japan. Even when they can use the system, unless they have accurate information on the perpetrators, including that of their assets, it would actually be infeasible to recover compensation payment or unpaid salary. The Government should establish a system to confiscate perpetrators' illegal profits and turn them into restitution for victims.

2. Proposed Questions

(1) Please provide the actual situation and statistics of cases of prostitution, child prostitution, child pornography, coerced participation in pornographic materials, "JK Businesses," and compensated dating.
(2) Does the Japanese Government plan to ratify ILO convention #189? If not, please provide the reason.
(3) Please provide the actual content of the training programs being conducted to judicial police officers, prosecutors, and judges.
(4) Please provide the number of cases in which victims actually used legal support from lawyers and the legal aid system.
(5) Does the Government have an intention to consider establishing a system to confiscate perpetrators' illegal profits and turn them into restitution for victims? If not, please provide the reason.

G. Technical Intern Training Program

Related to Paragraph 16 of the Concluding Observations on the sixth periodic report of Japan (August 2014).

(This is submitted to the Human Rights Committee upon the basis of information previously presented in September 2016 and points out further issues which have become apparent since that time.)

1. Information Pertaining to the Technical Intern Training Act

In March 2015 the Japanese Government proposed the Technical Intern Training Bill to the Diet, and, following amendments, it was passed into legislature in the extraordinary Diet session in November 2016, and is due to be enforced from November 1st, 2017.

There was however no amendment made in the law to counter the practice of forcing trainees to return to their country against their will with criminal punishment. However, reflecting debates within the Diet, a fundamental principle was established based on the Technical Intern Training Act, which recognizes "Technical Interns should not be forced to return to their country against their will during their training period," establishing a requirement that "a notification must be submitted without delay before the time of departure" in the case that a trainee is returning to their country before the end of their training.

Debates in the Diet have had an impact on the procedures of the Ministry of Justice's Immigration Bureau that has, as a result, begun to provide "Verifications of Will" in eight languages at airports and seaports and conduct checks upon these submissions since September 2016. As a result, it (the Bureau) was able to confirm the forced return of 13 trainees up until January 2017. However, in the space of just one year in 2016, 10,627 trainees returned to their countries half way through their training, and the response to their circumstances of departure has been completely inadequate. Currently there are many NGOs who continue to handle consultations on the issue of forced returns.

As part of the expansion of the Technical Intern Training Program under the Technical Intern Training Law, any host company with between 6 and 30 full time staff

can accept a total of 36 trainees over 5 years. This allows companies to take up to 6 times as many trainees as they have staff, which prevents them from fulfilling the supposed purpose of this scheme to transferring skills and clearly demonstrates how this program is being used as a front to secure labor power.

2. Regarding Regulatory Inspections

According to the latest figures released at the end of 2016, there are currently 228,588 technical intern trainees in Japan, the first time their numbers have risen above 200,000. According to a survey made in 2015, there are 1,889 coordination organizations and 35,370 host companies. With the passing of the Technical Intern Training Bill, this program has further expanded, and we can expect a further sharp increase in these numbers from now on.

As part of the new legislation, the Organization for Technical Intern Training has been established in order to perform regulation of the system, and, as the Organization of 330 staff with 150 of these allotted to operation inspections, each staff member will have to inspect 90 companies per year.

In such an organizational structure, the inspection of host companies is likely to remain at the rate of once every three years, leading to doubts of its efficacy. Foreseeing the further increase in host companies, it is clear that this structure of inspection has particular failings.

We would rather anticipate a structure that works from “the bottom-up,” in which the trainees themselves can report upon the host companies. It is therefore paramount that we create a structure in which trainees may seek out consultation and make complaints concerning their conditions. In order to make this happen we need an appropriate level of language support, an increase in the number of consultation times, and a greater flexibility in consultation services.

Currently the number of trainees from Vietnam is the largest from any given country, and, as their numbers have suddenly increased in recent years despite there being few Vietnamese interpreters, the consultation services in Vietnamese are currently extremely poor and unable to respond to demand. Furthermore most public institutions providing consultation services do so only during the day time on week days, providing no support during the times trainees might actually be able to take time for consultation,

namely in the evenings and on weekends. The method of consultation has also left much to be desired. As the cost of making a phone call on a mobile phone is relatively expensive in Japan, most trainees prefer to communicate via SNS, through which public institutions are currently failing to provide services for. As a result, only 89 complaints were filed in 2015 by trainees in response to breaches of the labor standards law.

3. Proposed Questions

(1) It is clear that, in order for regulation of the Technical Intern Training Program to have real effectiveness, there needs to be a provision for a structure to the operation of the established the Organization for Technical Intern Training. Please indicate what the Government think is required to provide an effective regulatory system in terms of people, organization, and budget.
(2) It is thought that in order to prevent forced returns of trainees during their trainee period, the establishment of criminal punishment for such acts is necessary. What is the Government thinking towards this? And what considerations are the Government making in taking effective measures against forced premature return as part of departure proceedings?
(3) In order to provide effective regulation of agencies introducing trainees, there needs to be a law-binding agreement between the Japanese Government and the cooperating countries, and a clear punishment for any unjust actions on the part of the agencies. What is your position on this?

H. Education of Foreign Children and Foreign Schools (Articles 24, 26 and 27)

1. Current Status

(1) As of May 2016, there are 125 authorized foreign schools. The schools have become more diverse and can be broadly categorized into western-style international schools, Chinese schools, ethnic Korean schools originating in Japan's colonial rule in the past, Latin American schools (such as Brazilian and Peruvian, as the number of people arriving from these countries has increased sharply since the 1990s), and Asian international schools such as Indian and Nepalese schools.

According to the School Basic Survey of the Ministry of Education, Culture, Science, Sport and Technology (hereinafter, MEXT), the number of foreign children enrolled in Japanese public (including national) and private schools (from elementary to senior high schools) was 85,445 in 2016. Meanwhile the number of children enrolled in foreign schools in 2016 was 23,088, 27% of the former (The rate would exceed 30%, if unauthorized foreign schools were included).

The reasons foreign children go to foreign schools vary, including the opportunity to learn their native language which would not be guaranteed in Japanese schools, or the ability to learn in safety by avoiding bullying caused by discrimination and prejudice against foreigners. The foreign schools play a large role in responding to the diverse needs of children with diverse backgrounds.

Nevertheless, foreign schools receive almost no financial support. Schools provided for under Article 1 of the School Education Act (hereinafter, Article 1 schools) focus on educating Japanese. They must provide education based on the Course of Study prepared by MEXT, and must use textbooks that have been screened and authorized. It is therefore almost impossible to learn the native languages, social affairs, and culture of foreign children. Because of this, most foreign schools are not Article 1 schools, but have chosen to become authorized as miscellaneous schools under Article 134 of the School Education Act. Private Article 1 schools receive financial support from the national Government under the Act on Subsidies for Private Schools, but foreign schools that are categorized as "miscellaneous schools" and are therefore excluded from the scope of the Act. Some local Governments have independently provided subsidies to these schools,

but the amount is very small; around a tenth of what the general private schools are receiving. Foreign schools are also excluded from the school lunch and public health (such as regular physical examination) programs, because they are not Article 1 schools. There is also discriminatory treatment among the foreign schools. Western-style international schools are designated as specified public-service promotion corporations and are therefore eligible for tax breaks on the donations they receive, whereas Asian ethnic schools cannot be designated as such.

There are also many foreign schools that are authorized by the relevant home country Governments but cannot be authorized as miscellaneous schools in Japan, because they cannot meet the requirements regarding school facilities, land, and funding. Unauthorized schools cannot receive local Government subsidies, must have consumption taxes levied on their tuition fees, and cannot receive student discounts on public transportation for their students due to their ineligibility. With the impact of the global financial crisis in 2008, the number of Brazilian schools around the country dropped significantly from over 100 in 2008 to around 70 in May 2011. These factors have even led to non-attendance among foreign children.

MEXT published a report titled "On the Measures to Enhance Educational Support for Foreign Children in Schools" in June 2016, yet there is no mention of support to foreign schools in the report. We strongly urge the adoption of policy measures that properly assess the important role played by the education provided by foreign schools.

In 2007, the Committee on the Elimination of Racial Discrimination (CERD) expressed concern and issued recommendations regarding the lack of adequate opportunities for Ainu and foreign children to learn their native language or learn in their native language. In 2010, the Child Rights Committee raised its concern on the persisting societal discrimination against children belonging to ethnic minorities, children of non-Japanese nationality, children of migrant workers and refugee children, as well as the insufficient subsidies for foreign schools.

(2) The school tuition waiver program, which was launched in April 2010, was groundbreaking, in that it included foreign schools authorized as miscellaneous schools. However, North Korean schools were excluded for political reasons. The local Governments have gradually suspended or decreased their subsidies to North Korean

schools, as if following suit. The children's right to education is facing a crisis and a revision of the policy is urgently called for.

In 2013, the Committee on Economic, Social and Cultural Rights issued its concerns and recommendation regarding the exclusion from the tuition-waiver program, and, in 2014, CERD recommended that the Japanese Government should include the Korean schools in the tuition-waiver program and invite local Governments to resume or maintain the provision of subsidies to these schools.

2. Proposed Questions

(1) What discussions and actions have been conducted by the national and local Governments to give a positive role to foreign schools, from the viewpoint of decreasing non-attendance in schools by providing diverse opportunities for education and guaranteeing the right to learn one's language and culture?
(2) What discussions and actions have been conducted to close the gap in public support to children attending foreign schools (miscellaneous and unauthorized schools) and those attending Japanese schools (Article 1 schools)?
(3) Numerous UN Treaty bodies have issued recommendations to revise the discriminatory treatment of excluding Korean schools among foreign schools from the tuition-waiver program. Why has the exclusion policy not been revised?

Credits

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