

**Joint Statement to Urge the Japanese government to
immediately accept the Country Visit by The UN
Working Group on Arbitrary Detention**

January 20, 2020

Japan

Prime Minister	Mr. Shinzo Abe
Minister of Foreign Affairs	Mr. Toshimitsu Motegi
Minister of Legal Affairs	Ms. Masako Mori
Minister of Health, Labor and Welfare	Mr. Katsunobu Kato
Chairman of the National Public Safety Commission	Mr. Ryota Takeda
Chief of Immigration Service Agency	Ms. Shoko Sasaki

I. PURPOSE

We demand Japanese government to take the following actions:

- 1 Japanese government shall immediately accept the Country Visit of The UN Working Group on Arbitrary Detention (the “WGAD”) (the ‘Country Visit’) and make it happen.
- 2 Japanese government shall fully cooperate with the Country Visit.
- 3 When the WGAD makes recommendations based on the Country Visit, Japanese government shall remediate the human rights violations in Japan in connection with the arbitrary detention pursuant to the recommendations.

II. REASON

- 1 We are ordinary citizens, lawyers, scholars and health care providers and alike who are tackling the human rights violations in connection with the arbitrary detention in each field of the immigration detention, the criminal detention and the psychiatric care.
- 2 Today, the human rights violations in each field of the immigration detention, the criminal detention and the psychiatric care are becoming more serious in Japan. These human rights violations infringe the international human rights standard and Japan has been urged to remediate these human rights violations repeatedly by The United Nations Human Rights Council (the “UNHRC”) and The United Nations

Human Rights Treaty Bodies, (the “UNHRTB”), but the human rights violations are far from being remediated and not only that, it has been worsening in the each field in recent years as explained below.

- 3 In the field of the immigration detention, a lack of judicial review in respect of the detention/release, a lack of ascertained detention period under the deportation order and such detention is indefinite, detentions of asylum seekers and alike whose detentions are unnecessary, have been rebuked, nonetheless in the recent few years, it has been obvious that the period of detention has lengthened and considerable deterioration of the detainees’ health has been serious concern. In June of 2019, there was a tragic incident in Omura Immigration Center which should never happen in detention centers. A Nigerian citizen died from a starvation.

On August 8, 2019, the Japan Federation of Bar Associations (the “JFBA”) concerned with worsening of the situation surrounding the immigration detention also publicly made a statement to demand taking immediate action.

(<https://www.nichibenren.or.jp/document/statement/year/2019/190808.html>)

Furthermore, in respect of the treatments of the detainees during the detention, violence by staff members and unreasonable withholding of medical treatment have been repeatedly reported and most recently in January 2019, there was a violent incident in East Japan Immigration Center that about 6 staff members “suppressed” a detainee who requested a medication by use of physical force such as pushing down the detainee’s neck and cuffing the detainee on back hand.

Also, it has been reported that a detainee who had claimed a pain in his testis was left untreated medically for three and half a month. As a result, he was found to be suffering from a testis cancer during his provisional release and his testis had to be removed.

On October 10, 2019, the Individual Compliant was submitted to the WGAD with regards to the re-detention of two asylum seekers following their two-week provisional release and after they had been placed under the more than three years of long-term detention.

- 4 In the field of criminal detention, there are following human rights violations and these violations have caused many false charges due to forced thus untrue confessions.

First, in the field of detention in police stations and detention of unsentenced persons: the persistence in using police cells as prisons (“*daiyo-kangoku*”) and the prolonged detention period, the persistence in long hours of police interrogation,

the refusal of attendance of lawyers in the police interrogations, a lack of bail system before prosecution, tolerating detention for reason of destruction of evidence although the risk is uncertain, the court tolerating prohibition on contacting outside world: family and friends (“*sekken-kinshi-shobun*”), a lack of medical treatment inside the facility, cruel bail conditions that make engaging in social activities impossible.

Furthermore, with regards to the detention in criminal facilities, there are human rights violations such as an extensive use of solitary detention, the lack of independence of medical treatment in the facilities, the cruel measures to maintain discipline and order for a slight violation of a rule, practice of rarely allowed parole, where, among 1,800 inmates sentenced to life in prison, less than ten of them are granted with provisional release per year. These human rights violations have physically and mentally harmed the detainees.

These treatments all violate Article 7, 9, 10 and 14 of the International Covenant on Civil and Political Rights (the “ICCPR”).

Under the worsening of these situations, JFBA has adopted the Declaration on Protection of Human Rights Convention which demands the establishment of right to have lawyer present during the police interrogation, and reform of physical restraint system under the criminal procedure (enforcement of principle of physical unrestraint without fail, adoption of system for order to restrict residence etc. as alternative to detention, adoption of bail before prosecution, reduction of the time of physical restraint and regulation over interrogation time) etc. (https://www.nichibenren.or.jp/document/civil_liberties/year/2019/2019_1.html)

In January 2019, Mr. Hiroji Yamashiro who is a leader of a group opposing the relocation of U.S. airport in Futenma to Henoko in Nago city was detained in a criminal facility for 5 months for a property damage charge in relation to protest against the relocation. The WGAD has issued an opinion that this long-term detention punished the exercise of civil liberty (Category 2) and it is discrimination against civil activist (Category 5) that it falls under the arbitrary detention.

Nonetheless, no remediation has been evidenced and contrarily, the family of Mr. Carlos Ghosn, the former chairman of Nissan Motors who was arrested and prosecuted for the violation of Companies Act (aggregated breach of trust) (“*Tokubetu-Hainin*”) submitted the Individual Complaint to the WGAD in respect of Mr. Ghosn’s long-term detention and bail conditions.

Furthermore, on July 8, 2019, some of 77 (cumulative number) union members of the All Japan Construction Transportation Solidarity Union’s Kansai Region

Ready-mixed Concrete Branch (RCB) who were arrested and prosecuted for attempted extortion and obstruction of business submitted the Individual Complaint in respect of Labor rights infringement, improper detention and long-term detention to the WGAD.

- 5 In the field of psychiatric care, the arbitrary detention has been caused by pervasiveness of conditions for compulsory hospitalization, the lack of judicial review for deprivation of freedom, the inadequacy of procedure to remediate violation of patients' rights, the inadequate alternative measure to hospitalization which can prevent prolonging unnecessary hospitalization.

The involuntary hospitalization which makes self-harm and harming others as its condition is initiated based on the decision of a prefectural governor and the conditions are extremely broadly interpreted and applied.

A protective hospitalization for medical care which makes the lack of ability to consent as a condition is decided by the administrators of private hospitals and the cases that hospitalizing the patients who do not need to be hospitalized are not rare in both types of the involuntary hospitalizations.

Furthermore, the case that the Examination Committee of Psychiatric Care under the authority of prefectural govern which examines the application of discharge of hospitalized patients to grant the discharge is extremely rare.

Furthermore, because Japanese government does not develop the social resource to avoid the hospitalization, many patients are continuously hospitalized without need. The United Nations Human Rights Committee and the Committee against Torture have pointed out that these problems should be remediated.

In April 19, 2018, the WGAD issued its opinion that six months of long-term involuntary hospitalization of a male who had schizophrenia which was triggered by attempted theft of one bottle of coca cola was without legal basis (Category 1) and discrimination against a person with disability and therefore it falls under the arbitrary detention.

Furthermore, in January 16, 2019, the WGAD issued an opinion that hospitalization a female who mistakenly dirtied a bed in a hotel in a psychiatric hospital for long-term of two years falls under arbitrary detention as well.

- 6 [Japan](#) has been a member state of the UNHRC since 2017 and it was reelected on October 17, 2019. Accordingly, Japan will continue to serving as a member state for three years from January 2020.

(https://www.mofa.go.jp/mofaj/press/release/press4_007933.html) .

Japan who is a member state of UNHRC ignoring the opinions from the

WGAD under the council and urges from each UNHRTB cannot be tolerated. Japan must sincerely react to the opinions and the urges and tackle the problems of detention in the each field of the immigration detention, the criminal detention and the psychiatric care which continues to worsen in recently years and remediation of human rights violations must be in order.

For that, accepting the Country Visit of the WGAD which consists of international professionals for detention problems and obtain the recommendation and the advice from the same based on their fact-finding inspection is absolutely necessary.

However, while Japan has officially received the request of the Country Visit at least twice, in April 15, 2015 and February 2, 2018, the Country Visit to Japan has not happened.

Where the WGAD is a special procedure under the UNHRC, Japan who is the member state of the UNHRC has the obligation to eliminate any and all obstacles to the Country Visit of the WGAD and to make it happen in order to comply and execute the representation and pledge of “Standing Invitation” it made in March 1, 2011 and the voluntary pledge it made at the election of member state in 2016: which were “it will proactivity participation in UNHRC”, “it values the role of special procedure” and “it will continue to firmly cooperate to enable the productive and constructive communication with special rapporteurs going forward”.

7 Therefore, we demand Japanese government to take following actions as stated in the Purpose of this Joint Statement:

- (1) Japanese government shall immediately accept the Country Visit by the WGAD and make it happen.
- (2) Japanese government shall fully cooperate with the Country Visit.
- (3) When WGAD makes recommendation under the Country Visit, Japanese government shall remediate the violation of human rights in connection with the arbitrary detention pursuant to the notification.

Japan Lawyers Network for Refugees
Solidarity Network with Migrants Japan
Center for Prisoners' Rights
Japanese Lawyers and Citizens Network for the Medical Aid of Welfare and Human Rights

Human Rights Now

Immigration Review Task Force

Kanto Provisional Release Association in Japan

Hammersmith Promise (Attorneys Fighting against Mandatory Detention Policy)

Citizen's Network for the All Japan Construction Transportation Solidarity

Union's Kansai Region Ready-mixed Concrete Branch (RCB)

Catholic Commission of Japan for Migrants, Refugees and People on the Move