



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

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COMMITTEE AGAINST TORTURE
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**List of issues prior to the submission of the second periodic report of
JAPAN (CAT/C/JPN/2)¹**

**Specific information on the implementation of articles 1 to 16 of the Convention, including
with regard to the Committee's previous recommendations**

Articles 1 and 4

1. Please provide information on steps taken to incorporate into domestic law the definition of torture as contained in article 1 of the Convention, as recommended by the Committee in its previous concluding observations (CAT/C/JPN/CO/1, para. 10). In particular, please provide information on the definition of "mental torture" in the Penal Code and on the penalties for related acts. Furthermore, please indicate if the Penal Code of the State party covers acts of all types of public officials and individuals acting in an official capacity, including the situation of individuals acting at the instigation or with the consent or acquiescence of a public official or other person acting in an official capacity.

Article 2

2. In its previous concluding observations, the Committee expressed deep concern at the prevalence and systematic use of the Daiyo Kangoku substitute prison system for the prolonged detention of arrested persons (CAT/C/JPN/CO/1, para. 15). Please provide updated information on

¹ The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedures established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

steps taken by the State party to address this concern. In particular, please provide information on steps taken to:

(a) Implement the principle of separating functions of investigation and detention in practice, as stipulated in the Act on Penal and Detention Facilities and the Treatment of Inmates and Detainees. In this respect, please elaborate on the content of this Act regarding the separating of these functions;

(b) Reduce the number of days detainees can be held in police custody to bring it in line with international minimum standards;

(c) Ensure that legal aid is made available for all detained persons from the moment of arrest, regardless of the categories of crimes with which they are charged;

(d) Ensure that detainees in pretrial detention have an effective access to defence counsel in practice and that defence counsel are present during interrogations;

(e) Provide defence counsel access to all relevant materials in police records after indictment, in order to enable them to prepare the defence. In particular, please describe steps taken to address the concern at the power of prosecutors to decide what evidence to disclose upon indictment;

(f) Ensure that persons in police custody have prompt access to appropriate medical care. Please provide updated information on the number of cases detainees received medical services by doctors in 2007, 2008 and 2009;

(g) Adopt alternative measures to custodial ones at pretrial stage, as well as establish a pre-indictment bail system.

3. The Committee and the Human Rights Committee expressed their deep concern at the large number of convictions in criminal trials based primarily on confessions, in particular in light of the lack of effective judicial control over the use of pretrial detention, as well as at the disproportionately high number of convictions over acquittals (CAT/C/JPN/CO/1, para. 16 and CCPR/C/JPN/CO/5, para. 19). Please provide information on measures taken by the State party to address these concerns.

4. In light of the Committee's previous concluding observations, please provide information on measures taken to guarantee the independence of external monitoring of police custody (CAT/C/JPN/CO/1, para. 15). In this respect, please elaborate on the composition and functioning of the Board of Visitors for Inspection of Police Custody.

5. Please provide updated information on the State party's position on adopting an immediate moratorium on executions. Furthermore, please indicate if the following procedural reforms have been adopted or are under formal consideration to be adopted:

(a) Is the power of pardon, commutation and reprieve genuinely available to those sentenced to death? How many of such cases have taken place since the consideration of the State party's previous report.

- (b) Is a right to appeal mandatory for all capital cases?
- (c) Does a retrial procedure or a request for pardon lead to suspension of the execution? Please elaborate on the status and content of the proposal launched by the Minister of Justice in September 2007 on streamlining procedures regarding executions. Would this allow for death row inmates to be automatically executed within six months of the end of their appeals process?
- (d) Is strict confidentiality of all meetings between death row inmates and their lawyers concerning retrial ensured?
6. Please indicate steps taken by the State party to establish an independent national human rights institution, in accordance with the Paris Principles.

Article 3

7. With reference to the Committee's previous concluding observations and the request for clarification sent by the Rapporteur for Follow-up to Conclusions and Recommendations, please provide updated information on steps taken by the State party to incorporate the principle of non-refoulement which constitutes the fundament of article 3 of the Convention into domestic legislation so as to ensure that asylum-seekers are not returned to countries where there are substantial grounds for believing that the individual to be returned would be in danger of being subjected to torture (CAT/C/JPN/CO/1, para. 14).
8. Please indicate any requests for extradition received and provide detailed information on all cases of extradition, return or expulsion that have taken place since the previous report.
9. (a) Please provide detailed information on steps taken to ensure due process in asylum applications and deportations proceedings, including access to counsel, legal aid and an interpreter.
- (b) Please describe measures taken to establish an entirely independent appeal mechanism to review decisions by immigration officials. In this respect, please indicate if refugee examination counsellors are independently appointed and have the power to issue binding decisions.
- (c) Please provide information on steps taken to guarantee access to judicial review for all asylum-seekers. In this respect, please indicate steps taken to address the reports of rejected asylum-seekers being deported immediately before they could submit an appeal against the negative asylum decision.
- (d) Please indicate if the State party has made public the information concerning the requirement for detention after the issuance of a written deportation order.

Articles 5 and 7

10. Please indicate if the State party exercises universal jurisdiction for acts of torture. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed

an offence of torture, and thus engaging its own prosecution as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

11. In light of the Committee's previous concluding observations, please provide information on steps taken to ensure that all materials related to education curriculum of law enforcement personnel, and in particular investigators, are in conformity with the Convention and are made public (CAT/C/JPN/CO/1, para. 22).

12. (a) Please provide information on further educational programmes developed and implemented by the State party to ensure that all categories of law enforcement personnel, as well as judges, prosecutors and immigration officials are regularly trained in the human rights implications of their work, with a particular focus on the provisions of the Convention and on prevention of torture as well as on the rights of children and women in this respect.

(b) What measures have been undertaken to ensure that all relevant personnel receive specific training on how to identify signs of torture and ill-treatment? Please indicate whether the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) effectively has become an integral part of the training provided to physicians? How many physicians have received such training?

(c) Furthermore, please indicate if the State party has developed and implemented a methodology to evaluate the implementation of its training/educational programmes, and its effectiveness and impact on the incidence of cases of torture and ill-treatment. If so, please provide information on the content and implementation of such methodology as well as on the results of the implemented measures.

Article 11

13. Please provide information on any new interrogation rules, instructions, methods and practices as well as arrangements for custody that may have been introduced since the consideration of the last periodic report. Please also indicate the frequency with which these are reviewed.

14. (a) Please provide updated information on steps taken to ensure that the interrogation of detainees in police custody or substitute prisons is systematically monitored by mechanisms, such as electronic and video recording of all interrogations, and that detainees are guaranteed access to and the presence of defence counsel during interrogation as well as that recordings are made available for use in criminal trials. In this respect, please elaborate on the content and implementation of the guidelines for conducting interrogations issued by the National Police Agency in January 2008.

(b) Please indicate if the State party has taken other alternative measures to ensure that interrogations of suspects are in accordance with the Convention as well as if it has adopted strict rules concerning the length of interrogations, with appropriate sanctions of non-compliance. Please also elaborate on the internal document of the Ehime Prefectural Police, which included guidelines

to “weaken” suspects who deny charges through long hours of questioning in order to gain confessions. Please elaborate on any steps taken after the disclosure of this document.

Articles 12 and 13

15. In light of the Committee’s previous concluding observations, please indicate if the rules and provisions on the statute of limitations are reviewed to bring them fully in line with the State party’s obligations under the Convention, so that acts amounting to torture and ill-treatment, including attempts to commit torture and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations (CAT/C/JPN/CO/1, para. 12).

16. (a) Please indicate if an independent authority has been established to review complaints on treatment in immigration detention facilities, as recommended by the Committee in its previous concluding observations (CAT/C/JPN/CO/1, para. 14).

(b) In its comments to the Committee’s previous concluding observations, the State party stated that “the Immigration Bureau of the Ministry of Justice is in the process of collecting information on the operation statuses of the penal facility visiting committees and on overseas case examples, and conducting surveys and research in order to consider the pros and cons and whether to establish a third-party treatment monitoring system”. Please provide updated information on status of this process and on the outcome.

17. (a) With reference to the Committee’s previous concluding observations, please provide updated information on steps taken to establish an independent mechanism, with authority to promptly, impartially and effectively investigate all reported allegations of and complaints about acts of torture and ill-treatment from both individuals in pre-trial detention in police facilities or penal institutions and inmates in penal institutions (CAT/C/JPN/CO/1, para. 21). In this respect, please indicate if such mechanism has adequate resources and staff, and has full access to all relevant information in order to effectively discharge its mandate;

(b) Please provide information on measures taken to ensure that the rights of inmates to complain can be fully exercised. Do these measures include the guarantee that inmates may avail themselves of legal representation to file complaints and are entitled to a protection mechanism against intimidation of witnesses, and a review of all rulings limiting the right to claim compensation?

(c) Please provide detailed statistical data, disaggregated by the crime committed, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on the related investigations, prosecutions, and penal or disciplinary sanctions as well as on any compensation provided to victims.

Article 14

18. (a) Pursuant the Committee's previous concluding observations, please provide information on steps taken to ensure that all victims of acts of torture or ill-treatment can exercise fully their right to redress, including compensation and rehabilitation (CAT/C/JPN/CO/1, para. 23). Please elaborate on the rehabilitation services established in the State party;

(b) Please provide data on the number of requests for compensation made, the number granted, and the amounts ordered and those actually provided in each case.

19. In its previous concluding observations, the Committee expressed its concern that the State party's continued failure to prosecute anyone responsible and to provide adequate rehabilitation for victims of World War II sexual abuse fosters continuing abuse and re-traumatisation for these victims (CAT/C/JPN/CO/1, para. 24). Please provide information on steps taken to address this concern. Has the State party taken effective legislative and administrative measures to provide official compensation to all survivors of war time abuse, to investigate and prosecute perpetrators of sexual slavery, as well as to provide education to students and the general public to address the discriminatory roots of sexual and gender-based violence? Please provide information on steps taken by the State party to refute publicly and sanction any attempts to defame the victims of wartime sexual abuse or to deny the events.

Article 15

20. (a) Please provide detailed information on the inadmissibility of confessions extracted by torture or ill-treatment provided in article 319(1) of the Code of Criminal Procedure and its enforcement and implementation in practice, as requested by the Rapporteur on Follow-up.

(b) Please provide updated data on the number of complaints of alleged ill-treatment during interrogations and of the use of torture to extract confessions, the number of these cases that went to trial, and the outcomes of the trials, including information on the kinds of punishments meted out and compensations offered to victims.

Article 16

21. (a) In light of the Committee's previous concluding observations, please provide information on steps taken to improve the conditions of detention in landing prevention facilities and immigration detention centres, inter alia, by addressing the allegations of violence and the lack of access to proper health care (CAT/C/JPN/CO/1, para. 14). Information should also be provided on steps taken to ensure that minors are kept separate from adult detainees in these facilities.

(b) Please describe steps taken to address the concern about the length of detention for rejected and case-pending asylum-seekers. Statistical information should also be provided on the length of detention for asylum applicants in 2008 and 2009, disaggregated by age, gender, nationality, and location of detention. Furthermore, please provide information on the number of applicants in 2007, 2008 and 2009 who benefited from the special considerations of age, health conditions, and other humanitarian reasons and have been provisionally released despite pending deportation orders.

22. Please indicate if the State party has abolished the use of gags at police detention facilities, as recommended by the Committee in its previous concluding observations (CAT/C/JPN/CO/1, para. 15).

23. (a) In light of the Committee's previous concluding observations, please describe steps taken to improve conditions in places of detention to bring them in line with international minimum standards, and in particular to address overcrowding (CAT/C/JPN/CO/1, para. 17).

(b) In this respect, please elaborate on the content and implementation of the "Law concerning penal institutions and the treatment of sentenced inmates" and its amendments. Information should also be provided on the impact and effectiveness of these measures in improving detention conditions.

(c) Please indicate if the use of restraining devices is strictly monitored and if the State party has adopted measures to prevent these devices from being used for punishment. In this respect, please provide information on the use of a new type of handcuffs and straitjackets to restrain prisoners.

24. With reference to the Committee's previous concluding observations, please provide information on steps taken to provide adequate, independent and prompt medical assistance to all inmates without undue delay (CAT/C/JPN/CO/1, para. 17). In this respect, please indicate if the jurisdiction over prison medical administration has been placed under the Ministry of Health.

25. (a) Pursuant the Committee's previous concluding observations, please indicate if the State party has amended its legislation in order to ensure that solitary confinement remains an exceptional measure of limited duration, in accordance with international minimum standards (CAT/C/JPN/CO/1, para. 18). In particular, does the amended legislation include a time limit for solitary confinement, require a prior physical and mental examination as well as provide access to complaints mechanisms against decisions imposing solitary confinement upon persons serving sentences?

(b) Please provide information on steps taken to systematically review all cases of prolonged solitary confinement, through a specialized psychological and psychiatric evaluation, with a view to release those whose detention can be considered in violation of the Convention. Information should be provided on the number of cases that have been reviewed and how many detainees have been released from solitary confinement as a result of such review.

26. Please provide updated information on measures taken to improve the conditions of detention of persons on death row, in order to bring them into line with international minimum standards. In particular, please provide information on steps taken to ensure that:

(a) The death row inmates and their families are duly notified of the time of their execution;

(b) There are no limitations on number and persons of visitors to the death row inmates;

(c) Death row inmates are not held in solitary confinement for extended periods of time;

(d) A more human approach is adopted with regard to the execution of persons at an advanced age or with mental disabilities.

27. In light of the Committee's previous concluding observations, please provide information on steps taken to ensure effective and thorough judicial control over detention procedures in public and private mental health institutions (CAT/C/JPN/CO/1, para. 26).

28. (a) In light of the Committee's previous concluding observations, please provide information on steps taken to prevent all forms of violence against women, including domestic violence and gender-based violence, as well as to promptly, effectively and impartially investigate all allegations of torture or ill-treatment with a view to prosecuting those responsible (CAT/C/JPN/CO/1, para. 25). In this respect, please describe steps taken by the State party to facilitate the reporting of such violence and provide protection and appropriate care for victims, including, inter alia, access to safe houses, shelters and psychosocial assistance.

(b) Please provide information on steps taken to ensure that all victims can claim redress before courts of law, including victims of violence by foreign military personnel stationed on military bases. This information should include the number of requests made, the number granted, and the amounts ordered and those actually provided in each case.

(c) Please elaborate on the training programmes in place for law enforcement officials and the judiciary to ensure that they are fully familiar with relevant legal provisions and are sensitized to all forms of violence against women as well as to the rights and needs of victims.

(d) Please provide information on the impact and effectiveness of these measures in reducing cases of violence against women. Statistical data should also be provided on the number of complaints relating to violence against women, and on the related investigations, prosecutions, and sanctions, as well as on protection provided to victims.

29. Please indicate measures taken to broaden the scope of the definition of rape in article 177 of the Criminal Code to include incest, sexual abuse other than actual sexual intercourse, as well as rape of men. Furthermore, please provide information on steps taken to remove the burden of victims to prove resistance against the assault as well as to eliminate the requirement of the victim's complaint in order to prosecute crimes of sexual violence.

30. (a) With reference to the Committee's previous concluding observations, please provide information on steps taken to combat trafficking in persons (CAT/C/JPN/CO/1, para. 25). In this respect, please indicate if the State party has restricted the use of entertainment visas and closely monitors the issuance of visas for internship and trainee programmes. Please describe steps taken to ratify all relevant international treaties, such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

(b) Please indicate if the State party effectively enforces the criminal laws in this regard. In this respect, please provide updated information on the implementation and impact of the National Plan of Action to combat trafficking in persons of December 2004, the revisions of the

relevant laws and regulations in the Penal Code as well as the Immigration Control and Refugee Recognition Act.

(c) Please provide information on measures taken to address the concern that the protection for victims of trafficking remains insufficient in practice.

(d) Please provide information on the impact and effectiveness of these measures in reducing cases of trafficking. Please provide data on the number of persons trafficked to and in transit through the State party. Statistical data should also be provided on the number of complaints relating to trafficking, and on the related investigations, prosecutions, and sanctions, as well as on protection provided to victims.

31. Please provide information on steps taken by the State party to prohibit corporal punishment in the home.

Other issues

32. Please indicate which steps have been taken by the State party to accept the competence of the Committee under article 22 of the Convention as well as to ratify the Optional Protocol to the Convention, as recommended by the Committee in its previous concluding observations (CAT/C/JPN/CO/1, para. 27).

33. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these measures have affected human rights safeguards in law and practice and how it has ensured that those measures taken to combat terrorism comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

34. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

35. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated to it, its means, objectives and results.

36. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the

previous periodic report in 2007, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.
