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**Human Rights Committee****List of issues prior to submission of the seventh periodic report of Japan\*\*\*****A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

1. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/JPN/CO/6), including any relevant statistical data, and information on the mechanisms in place to review the process of implementation of previous recommendations. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, including examples of cases in which the provisions of the Covenant have been referred to by national courts and other law-applying institutions, and training programmes for lawyers, judges and prosecutors on the application and interpretation of the Covenant.

**B. Specific information on the implementation of articles 1-27 of the Covenant, including with regard to the previous recommendations of the Committee****Constitutional and legal framework within which the Covenant is implemented (art. 2)**

2. Please clarify the State party's current position on the issue of accession to the first Optional Protocol to the Covenant providing for an individual communication procedure.

3. Please respond to concerns that the proposed deletion of article 97 of the Constitution upholding the inviolability of fundamental human rights, as part of constitutional revisions advanced by the government, would undermine the protection of human rights, including Covenant rights, domestically.

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\* Adopted by the Committee at its 121st session (16 October-10 November 2017).

\*\* Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's previous concluding observations, CCPR/C/JPN/CO/6.

4. With reference to the previous concluding observations (para. 7), please report on the progress made in establishing an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134, annex).

**Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 20 and 26)**

5. In reference to the previous concluding observations (para. 11), please indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that addresses discrimination, including in the private sphere; prohibits direct, indirect and multiple discrimination; contains a comprehensive list of prohibited grounds of discrimination, including colour, language, political or other opinion, national origin, property, birth, sexual orientation, gender identity and other status. Please also report on measures to eliminate all discriminatory provisions regarding the status of children born out of wedlock.

6. In the light of the previous concluding observations (para. 12), please respond to reports of widespread racial discrimination and hate speech, including in political discourse, the media and on the Internet, targeting minorities such as Chinese, Burakumin, indigenous peoples in the Ryukyus/Okinawa, and especially ethnic Korean residents; of street demonstrations that incite discrimination against ethnic minorities; and of proliferation of false stories, including in the media, encouraging such discrimination. Please respond to concerns that the Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behaviour against Persons Originating from Outside Japan adopted in May 2016 fails to directly prohibit hate speech or to punish such conduct. Please report on any other measures taken to: (a) prohibit all propaganda advocating racial superiority or hatred that incites to discrimination, hostility or violence; (b) curb demonstrations that are intended to disseminate such propaganda; (c) follow-up on the hate speech rallies report released by the Ministry of Justice on 30 March 2016; (d) raise awareness about racism and train judges, prosecutors and police officials in detecting hate and racially motivated crimes; (e) ensure that racist motivation constitutes an aggravating circumstance. Please also provide information on the number of hate crimes reported to the police and on the ensuing investigations and convictions.

7. In the light of the previous concluding observations (para. 11), please report on progress made in combatting homophobic and transphobic discourse by politicians and discrimination and stigma against LGBTI individuals, particularly in access to employment, education, healthcare, welfare and legal services, including through the education system. Please also: (a) report on measures taken to address the higher than average suicide rate among LGBTI individuals; (b) clarify whether steps have been taken towards official recognition of same-sex unions at national level; (c) explain the compatibility with the Covenant of certain requirements for legal recognition of gender reassignment such as deprivation of reproductive organs or reproductive ability, gender confirmation surgery and single status; and (d) address reports about mistreatment of transgender prisoners in detention facilities.

**Equality between men and women (arts. 3 and 25)**

8. With reference to the previous concluding observations (para. 8), please clarify whether consideration is given to abolishing altogether the waiting period for women to remarry upon divorce, and report on measures taken to equalize the minimum age of marriage for women and men to 18 years of age. Please also indicate whether there has been any progress with amending article 750 of the Civil Code requiring married couples to use the same surname which in practice often compels women to adopt their husbands'

surnames. Please provide information on the progress made in increasing political representation of women, including of minority women such as Buraku, Ainu and Zainichi Korean women.

**State of emergency and counter-terrorism measures (arts. 4, 9, 14, 17, 19, 21 and 22)**

9. Please comment on concerns that the draft constitutional proposals provide for broad derogations in times of emergency, and elaborate on measures taken to ensure that any amendments to regulations governing states of emergency are compatible with article 4 of the Covenant. Please respond to concerns that the Act on Punishment of Organized Crimes and Control of Crime Proceeds (the ‘Conspiracy Law’) may unduly restrict the freedoms of expression, assembly and association and lead to violations of the right to liberty and security and of the right to a fair trial owing in particular to open-ended elements of the crime of conspiracy, such as “organized criminal group”, “planning”, and “preparatory acts”, that allegedly do not comply with the principle of legal certainty and predictability, and due to the fact that the 277 new crimes in Appendix 4 include crimes apparently unrelated to terrorism and organized crime.

**Violence against women, including sexual and domestic violence (arts. 2, 3, 6, 7, and 26)**

10. In the light of the previous concluding observations (para. 10) and the recent concluding observations of CEDAW (CEDAW/C/JPN/CO/7-8 (2016), para. 23), please report on any new measures taken to combat domestic violence, including to address delays in the issuance of emergency protection orders by courts, to investigate all reports of domestic violence and prosecute perpetrators, and to ensure that sufficient support measures and, where relevant, assurances against loss of immigration status are in place for victims of domestic violence who are migrant women and members of minority communities. Please clarify whether relevant legislation has been amended to expand the restrictive definition of rape, to ensure *ex officio* prosecution of rape and other crimes of sexual violence, and to raise the age of sexual consent set at 13 years. Please also report on any plans to explicitly criminalize marital rape and to raise the minimum penalty for statutory rape.

**Right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, fair trial and the rights of the child (arts. 6, 7, 14 and 24)**

11. In reference to the previous concluding observations (para. 13) and the Committee’s evaluation of the follow-up replies of the State party (see CCPR/C/116/2 and CCPR/C/120/2), please:

(a) Clarify whether measures are being planned or taken towards the abolition of the death penalty and the accession to the Second Optional Protocol; pending abolition, have steps being taken to ensure that the death penalty may be imposed only for the most serious crimes as prescribed in article 6 (2) of the Covenant, i.e. only to crimes of extreme gravity involving intentional killing?;

(b) Report on whether measures have been taken to: (i) provide individuals on death row and their families with reasonable advance notice of the scheduled date and time of execution; (ii) refrain from imposing solitary confinement on death row prisoners, except in the most exceptional circumstances and for strictly limited periods; (iii) strengthen legal safeguards against wrongful conviction in capital cases; (iv) guarantee that confessions obtained by torture or ill-treatment are not admissible as evidence in capital cases; (v) guarantee the strict confidentiality of all meetings between death row inmates and their lawyers;

(c) Clarify whether a mandatory and effective system of review has been established in capital cases, and the conditions under which requests for retrial or pardon have a suspensive effect;

(d) Respond to reports alleging the continued application of the death penalty against persons with serious psychosocial and intellectual disabilities and clarify whether the State party introduced an independent mechanism to review the mental health of death row inmates;

(e) Clarify also whether any review of the current method of execution has been undertaken to ensure it is not contrary to article 7.

12. Please report on measures taken to address the extremely high conviction rate based primarily on confessions and the large number of wrongful convictions. In particular, please report on how the new system of disclosing the list of evidence kept by the prosecutor following the entry into force of the bill amending the Code of Criminal Procedure in May 2016 will ensure full access of the defence to all prosecution materials as well as whether such disclosure will be mandatory in all criminal cases. Also provide information on the percentage of criminal cases subject to mandatory recordings of interrogations pursuant to the bill amending the Code of Criminal Procedure, including any exceptions, and clarifications on whether an audiovisual recording is required for the entire interrogation process and for interrogations prior to a formal arrest; whether such recordings will be provided in all interrogations in capital cases; whether there are plans to make audiovisual recordings of interrogations mandatory in all criminal cases; and whether a copy of the recordings are made available to the defendant. Please indicate whether the State party plans to provide court-appointed lawyers to all juvenile offenders irrespective of the crime committed.

13. In reference to the previous concluding observations (para. 23), please respond to concerns that the lifting in March 2017 of the designation of all remaining contaminated areas with radiation exposure under 20 millisieverts per year as evacuation zones places the life and health of affected persons at risk, and the termination of the free housing support for evacuees living outside of the evacuation zone may force them to return to highly contaminated areas. Please indicate whether consideration has been given to reviewing the high threshold of radiation exposure level for designation of evacuation areas. Please also comment on reports of high prevalence of thyroid cancer in children since the nuclear accident, and elaborate on measures taken to protect the right to life of people affected by the radiation and to provide them with adequate health services required for radiation exposure.

14. Please respond to reports of forced sterilization of persons with disabilities under the Eugenic Protection Act and elaborate on measures taken to bring perpetrators to justice and to provide full reparation to victims of forced sterilization, including compensation and rehabilitation.

**Liberty and security of person and treatment of persons deprived of their liberty (arts. 7, 9 and 10)**

15. With reference to the previous concluding observations (para. 17), please report on measures taken to: (a) ensure that involuntary hospitalization of persons with mental disabilities is imposed only as a last resort, for the shortest appropriate period of time, and only when necessary and proportionate for the purpose of protecting the person in question from serious harm or preventing injury to others; and that adequate safeguards are available both in law and in practice; (b) ensure an effective and independent monitoring and reporting system for mental institutions, aimed at effectively investigating and sanctioning abuses; (c) extend the application of the Act on the Prevention of Abuse of Persons with Disabilities and Support for Caregivers to abuses taking place in mental health institutions.

16. In the light of the Committee's previous recommendations (para. 18) and the evaluation of its implementation (see CCPR/C/116/2 and CCPR/C/120/2), please report on measures taken to abolish the substitute detention system (*Daiyo Kangoku*) or to ensure its full compatibility with all guarantees in articles 9 and 14 of the Covenant, including clarification on: (a) whether alternatives to detention, such as bail, are duly considered during pre-indictment detention and resorted to in practice; (b) whether steps have been taken to ensure that defence counsel is present during all interrogations; (c) the eligibility criteria for court-appointed counsel under the bill enacted in May 2016 and availability of such legal assistance from the moment of apprehension; (d) whether strict time limits for the duration and methods of interrogation have been set; (e) whether an independent complaint mechanism to investigate promptly, impartially and effectively allegations of torture and ill-treatment during interrogation has been established.

17. Please report on regulations governing the use of solitary confinement against prisoners and on measures taken to ensure that solitary confinement is imposed as a measure of last resort, that it is proportionate to the offence committed and that it is applied for as short a period of time as possible. Please comment on the reports of prolonged solitary confinement and the increase in the number of prisoners placed in solitary confinement for more than 10 years, including prisoners with mental disabilities. Please elaborate on steps taken to improve healthcare in prisons and report on the impact of the Act on Special Provisions for the Subsidiary Work and Working Hours of Correctional Medical Officers of 2015 in addressing the chronic shortage of medical staff in penitentiary institutions. Please respond to reports of restrictions of contact with the outside world on broadly formulated grounds, censorship of correspondence from lawyers and prison staff attending interviews conducted by lawyers from the human rights protection committees and local bar associations with prisoners, and report on measures taken to ensure the confidentiality of such meetings. Please clarify what are the criteria for release on parole of prisoners serving life sentences and provide information on the number of such releases since July 2014.

#### **Elimination of slavery, servitude and trafficking in persons (art. 8)**

18. With reference to the Committee's previous recommendations (para. 14) and the evaluation of its implementation (see CCPR/C/116/2 and CCPR/C/120/2), please report on the 28 December 2015 agreement and any further measures taken to address the issue of sexual slavery ("comfort women") perpetrated by the Japanese military during the Second World War, which may lead to: investigation of all allegations of sexual slavery or other human rights violations against the "comfort women" and prosecute perpetrators; ensuring that full reparation, including compensation and rehabilitation, is provided to victims of sexual slavery and their families irrespective of their nationality; disclosing all available evidence; condemning, officially and publically, attempts to defame victims or to deny the events; and to expressing an unequivocal public apology and official recognition of the responsibility of the State party. Please also elaborate on efforts to educate students and the general public about the issue of comfort women including through references in textbooks, and respond to allegations of influence by authorities in the preparation of school textbooks relating to historical events, in particular the issue of comfort women, intended to remove references to this issue.

19. In reference to the previous concluding observations (para. 15), please report on measures taken to combat trafficking for purposes of sexual exploitation and forced labour, including to: (a) enhance victim identification procedures, particularly with regard to victims of forced labour; (b) provide specialized training to relevant officials; (c) investigate, prosecute and punish perpetrators with penalties commensurate with the seriousness of the acts committed (please provide relevant statistics since July 2014 on investigations, prosecutions, convictions and sanctions imposed); (d) ensure effective

victim protection and support measures, including adequate interpretation services and legal support for claiming compensation.

20. With reference to the Committee's previous recommendations (para. 16) and the evaluation of its implementation (see CCPR/C/116/2 and CCPR/C/120/2), please: (a) provide information on recent measures, including legislative measures, taken to address the violations committed in relation to forcible return of intern trainees and low-paid labour, to expand the prohibition of forced training to training implementing organizations; and to provide for safeguards against reprisals and deportation of trainees complaining of violation of their rights; (b) clarify whether further measures to prevent recruitment of low-paid intern trainees are being planned; (c) report on measures taken to increase the number of on-site inspections since the adoption of the Committee's concluding observations in July 2014; (d) indicate what measures have been taken to ensure that human resources allocated to the Organization for Technical Intern Training and the periodicity of its inspections will enable it to carry out its functions effectively; (e) provide updated information on the number of complaints submitted annually by trainees since the adoption of the concluding observations and on the measures taken to establish a genuinely independent complaint mechanism.

### **Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 10 and 13)**

21. With reference to the previous concluding observations (para. 19), please report on measures taken to: (a) prevent ill-treatment during deportations; (b) ensure that all persons applying for international protection, including those placed on 'fast track' procedures (Group B/C), are given access to fair and efficient asylum procedures and protection against *refoulement*; (c) provide access to an independent appeal mechanism with suspensive effect against negative decisions on asylum; (d) implement in good faith positive opinions in refugee cases of refugee adjudication councillors and the High Court; (e) ensure that the detention of asylum-seekers is used only as a measure of last resort, for the shortest possible period, and only after existing alternatives to administrative detention have been duly considered, and that asylum-seekers are able to challenge the lawfulness of their detention before a court. In addition, please report on the implementation of alternatives to detention in practice and indicate whether there are plans to expand the existing alternatives to detention. Please clarify whether the State party intends to adopt comprehensive asylum legislation, to introduce a maximum period of immigration detention, and to allow legal representatives to participate at all stages of the asylum procedure, and facilitate access by asylum seekers and refugees to the job market. Please also respond to reports of poor medical care in immigration detention facilities that allegedly led to the death of a Vietnamese man on 25 March 2017.

### **Right to privacy (art. 17)**

22. With reference to the previous concluding observations (para. 20), please report on measures taken to prevent the blanket surveillance and information gathering activities targeting Muslims, to provide for safeguards against unlawful surveillance and for access to effective remedies in case of abuse. Please also clarify whether the use of surveillance cameras, including cameras offering facial recognition, and on-line surveillance is regulated by law.

### **Freedom of thought, conscience and religious belief and freedom of expression (arts. 2, 18, 19 and 25)**

23. In reference to the previous concluding observations (para. 22), please report on steps taken to clarify the vague and open-ended concept of "public welfare" and to ensure that it does not lead to restrictions on the rights to freedom of thought, conscience and

religion or freedom of expression beyond the narrow restrictions permitted in paragraph 3 of articles 18 and 19 of the Covenant.

24. Please report on any proposed amendments to article 21 of the Constitution and on their compatibility with the Covenant. Please clarify whether there are plans to review the legal framework governing the broadcast media to ensure that media regulation is independent of the government. Please respond to reports of government pressure over and interference with the media and harassment of journalists critical of the government or covering sensitive subjects, such as in the case of Takashi Uemura who reported on the issue of “comfort women” in the newspaper Asahi Shinbun, leading to media self-censorship. Please clarify whether there are plans to review the restrictions imposed by the Public Office Election Act on political campaign activities.

25. In reference to the previous concluding observations (para. 23), please report on measures taken to ensure that the categories and subcategories of information that could be classified as secret under the Act on the Protection of Specially Designated Secrets are narrowly defined; that any restriction on the right to seek, receive and impart information complies with the principles of legality, proportionality and necessity to prevent a specific and identifiable threat to national security; and that no individual is punished for disseminating information of legitimate public interest that does not harm national security. In addition, please comment on the reported lack of sufficient independence of the oversight mechanisms established by the Act that do not have guaranteed access to the information in order to determine the appropriateness of its designation as secret. Please also clarify whether whistle-blowing regarding unethical behaviour in connection with the designation of secrets is protected under either the Act on the Protection of Specially Designated Secrets or the Whistle-blower Protection Act.

26. Please explain the compatibility with the Covenant of measures taken to enforce against teachers and students Directive 10.23 issued by the Tokyo Board of Education in 2003, including alleged application of force to compel students to stand in ceremonies and financial sanctions against teachers.

#### **Peaceful assembly (art. 21)**

27. Please respond to allegations of undue restrictions on demonstrations, including recording of protesters, imposed particularly on protests against the Diet and protests in Okinawa that were met with excessive use of force and result in arrests, including of journalists covering such events, and disproportionate penalties against protesters.

#### **Right to participate in public life (arts. 25 and 26)**

28. Please explain how the blanket denial of the right to vote to persons sentenced to imprisonment or severer punishment until completion of their sentences is compatible with the Covenant. Please clarify whether the State party is considering granting the right to vote in local elections, to foreign nationals who have acquired the right of permanent residence, including to those from the former colonies of Japan such as Koreans.

#### **Rights of minorities (arts. 26 and 27)**

29. With reference to the previous concluding observations (para. 26), please report on measures taken to revise relevant legislation and fully guarantee the rights of Ainu, Ryukyu and Okinawa communities to their traditional land and natural resources, to ensure respect for their right to engage in free, prior and informed participation in policies that affect them and to facilitate, to the extent possible, education for their children in their own language.

30. Please also clarify whether there are plans to recognize Korean residents who have been living in Japan since the colonial times and their descendants as national or ethnic minority, and report on measures taken to protect their rights under the Covenant without

any discrimination on grounds of nationality, including in such matters as social security and the exercise of political rights. Please comment on reports alleging the exclusion of student in Korean schools from the Tuition Waiver and Tuition Support Fund Program for High School Education, and the *de facto* exclusion of certain very old and handicapped Korean residents from benefits under the National Pension Law.

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