



**International covenant
on civil and
political rights**

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**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE
CONSIDERATION OF THE FIFTH PERIODIC REPORT OF JAPAN**

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please provide information on cases, and their outcome, where provisions of the Covenant have been invoked directly before the courts or administrative authorities of the State party since the examination of the fourth periodic report.
2. Please provide updated information on the progress achieved and the time frame envisaged with regard to the establishment of an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134, annex) (See paragraph 1 of the report).
3. Please provide updated information on the State party's current position concerning its possible accession to the first Optional Protocol to the Covenant (para. 62).
4. In light of the Committee's previous concluding observations (CCPR/C/79/Add.102, para. 8), has the State party lifted the restrictions which can be placed on the rights granted in the Covenant on the grounds of "public welfare"?

**Discrimination and violence against women and domestic violence
(arts. 2 (1), 3, 7, 26)**

5. Please indicate whether the State party considers repealing discriminatory provisions from its Civil Code, including the prohibition for women to remarry during six months following divorce in the event that it is necessary to determine the paternity of a child and the difference in the minimum age of marriage for women (16) and men (18) (paras. 338-339).
6. Please provide information on the measures taken to achieve equal representation, beyond the current goal of 30 per cent (paras. 80-81 of the report), of women in the National Diet, the cabinet, local assemblies, the judiciary, and leading positions in the public service at national and regional levels (see annexes III-VII of the report).
7. Please provide information on the measures taken to promote the employment of women in management positions in the private sector (paras. 84-85 and annex VIII of the report), including at senior levels. Has the State party considered such measures as special training for women, reviewing the career track based personnel system, facilitating the transfer from clerical to management track, and expanding the definition of, and increasing the sanctions for, indirect discrimination in the Law on Equal Opportunity and Treatment between Men and Women in Employment.
8. Please indicate whether the State party considers reviewing the definition of rape in article 177 of the Penal Code, with a view to including spousal rape. What measures are being taken to protect and assist victims of gender-based violence, including female detainees, e.g. by strictly applying the rule that female officers must accompany female suspects, detainees and prisoners, introducing mandatory gender-sensitive training for the police, prosecutors, judges and other law enforcement officers, and ensuring counselling and immediate medical treatment, as well as access to mid-term and long-term shelters and rehabilitation programmes, for victims.
9. Please indicate whether the State party intends to introduce minimum sentence requirements for the crime of domestic violence and to treat domestic violence as a criminal offence subject to ex officio prosecution. What measures are being taken to further strengthen the protection of and assistance to victims of domestic violence, i.e. by strengthening legal remedies, strictly enforcing and extending protection orders to include threats by phone and e-mail, increasing the number of shelters providing mid-term and long-term support and rehabilitation to victims, enabling foreign victims to stay in Japan after separation or divorce from their abusive spouses, and enhancing access to employment and cash assistance for single mothers? (See paragraphs 98-109 of the report).
10. Please indicate whether the State party considers amending the Prison Law (2006) to limit the systematic use of the Daiyo Kangoku substitute prison system for the prolonged detention of arrested persons in police stations for 23 days without the possibility of bail (paras. 236-237 of the report), as recommended by the Committee in its previous concluding observations. Please also provide information on the use of alternative measures at the pre-trial stage and on measures to ensure that all suspects have access to court-appointed lawyers from the moment of arrest (paras. 293-296), as well as to all relevant materials in police records after indictment (paras. 297-299)?

11. How, if at all, have amendments to the criminal law addressed the previous practice whereby there is no obligation on the prosecution to disclose evidence it may have gathered in the course of the investigation other than that which it intends to produce at the trial, and that the defence has no general right to ask for the disclosure of that material at any stage in the proceedings (CCPR/C/79/Add.102, para. 26)?

Right to life, prohibition of torture and cruel, inhuman or degrading treatment and treatment of prisoners, and right to a fair trial (arts. 6, 7, 9, 10 and 14)

12. In light of article 6, paragraph 2, of the Covenant, what is the position of the State party in relation to the obligation that the sentence of death may be imposed only for the most serious crimes (para. 129 of the report)? What is the status of the moratorium on the execution of death sentences? Does the State party intend to adopt legislation providing for the commutation of such sentences?

13. What steps have been taken to introduce a mandatory appeal system for capital cases, enhance access by death row inmates to legal aid, guarantee the confidentiality of communication with counsel during appeal requesting retrial, and ensure the suspensive effect of re-trial proceedings or requests for pardon?

14. What steps, if any, are being taken to limit the frequent use of solitary confinement (para. 224 of the report), *keitheikin* ('minor solitary confinement') and *hogobo* ('protection cells') as punitive measures, to provide for an independent organ to review decisions imposing such measures (paras. 225 and 234), and to relax the rule under which inmates on death row are placed in solitary confinement, often for prolonged periods?

15. Please provide information on measures taken, if any, to establish independent external mechanisms to inspect police detention facilities and penal institutions and to investigate complaints about torture and ill-treatment of inmates and detainees (paras. 175 and 228-235 of the report). Please also provide statistical data for the last three years on the number of complaints received under existing mechanisms, the number of investigations, the number and severity of sentences or disciplinary sanctions imposed on perpetrators, and any compensation provided to victims.

16. Please indicate whether the State party considers introducing strict time limits for the duration of interrogations of detainees in police custody and ensuring systematic surveillance (para. 167 of the report) of, and the presence of counsel during, such interrogations (para. 166), as well as prompt access to medical services in police detention facilities. Is it still the case that a large number of convictions in criminal trials are based on confessions (see CCPR/C/79/Add.102, para. 25)?

17. Please indicate whether the State party considers amending the Immigration Control and Refugee Recognition Act (2006) which currently does not explicitly prohibit deportation to countries where the deported person faces a substantial risk of torture or cruel, inhuman or degrading treatment or punishment.

18. What steps, if any, such as the establishment of independent inspection and complaint mechanisms, are being taken to improve the conditions in immigration detention and landing prevention facilities (paras. 7-9 of the report), where foreign nationals awaiting deportation have allegedly been abused, harassed and deprived of access to medical services? Please indicate how the State party ensures that these persons are not detained for prolonged periods (para. 172) and, unlike criminal suspects or convicts, are accommodated without separating families, preferably in open regime units, or released into the community pending their removal.

19. What measures are being taken to remedy the problems of overcrowding and lack of personnel in penitentiary institutions in the State party (paras. 192-194 of the report)?

Elimination of slavery and servitude (art. 8)

20. Please provide updated statistical data on the number of women and children trafficked into the State Party for sexual exploitation, as well as through it to other destinations. Please also provide information on the measures taken to protect and de-criminalize victims of trafficking, i.e. by effectively prosecuting and sentencing traffickers, strengthening witness protection, granting special permission to stay under article 50 of the Immigration and Refugee Recognition Act to victims who have stayed in Japan for long periods, and ensuring that the risk that victims may face upon return to their country of origin is assessed by an independent body. What measures have been taken to enhance victims' access to effective remedies, shelters, rehabilitation, legal assistance, interpreters, social security and medical services (paras. 110-115 of the report)?

21. Please indicate whether the State party considers assuming any legal responsibility for the "comfort women" system of military sexual slavery under the former Japanese military regime before 1945, and whether it intends to investigate and prosecute perpetrators who are still alive, educate the general public on this issue, and provide compensation to victims as a matter of right, including in countries that were not covered by the Asian Women's Fund (1995-2007).

Expulsion of aliens (art. 13)

22. Please clarify whether rejected asylum-seekers have access to effective remedies before an independent body for submitting the reasons against their expulsion and having their case reviewed (paras. 170, 281-282 and 286-287 of the report). Please also clarify whether such proceedings stay the execution of a deportation order and whether asylum-seekers have access to counsel, legal aid and certified interpreters throughout the asylum proceedings (paras. 283-285 and 294-296).

Freedom of expression; right to form and join trade unions (arts. 19 and 22)

23. In light of the Committee's previous concluding observations (CCPR/C/79/Add.102, para. 28), please indicate why, if it is not the case, the Central Labour Relations Commission is not willing to

hear an application of unfair labour practices if the workers wear armbands indicating their affiliation to a trade union. (para. 333 of the report)

Incitement to racial hatred (art. 20)

24. Please indicate whether the State party intends to adopt criminal law provisions specifically criminalizing incitement to national, racial or religious hatred or treating racist motivation of such offences as an aggravating factor.

Rights of the child (art. 24)

25. What measures are being taken to combat child abuse (paras. 355-368 of the report), including sexual abuse of children, such as adoption of a comprehensive strategy for the prevention of child abuse, ensuring that reports on child abuse are effectively investigated, and perpetrators prosecuted and sentenced, providing adequate funding and qualified personnel to meet the increasing demand for recovery and counselling services, and raising the minimum age of sexual consent from its current level of 13 years?

Equality before the law and equal protection of the law (arts. 2 (1) and 26)

26. Has the State party changed its position with regard to the concept of “reasonable discrimination”, in light of the Committee’s previous concluding observations (CCPR/C/79/Add.102, para. 11)?

27. Please indicate whether the State party intends to amend its legislation, with a view to eliminating any discrimination against children born out of wedlock, in particular with regard to nationality and inheritance rights (see paragraph 370 of the report), and to remove the concept of “illegitimate children” from legislation and practice.

Rights of persons belonging to minorities (arts. 24 and 27)

28. Please provide detailed information on measures taken to ensure adequate opportunities for minority children to receive instruction in or of their language and about their culture, in particular as regards the Korean and Ainu minorities (paras. 378-383 of the report). What measures have been taken towards officially recognizing Korean and other minority schools, making available subsidies to such schools on a non-discriminatory basis, and recognizing their school leaving certificates as university entrance qualifications?

Dissemination of information relating to the Covenant and the Optional Protocol (art.2)

29. Please provide more detailed information on the steps taken to disseminate information on the Covenant and on the submission of the present report, as well as on the involvement of

representatives of civil society and of minority groups in the preparatory process (paras. 28 and 35 of the report).
