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Ministry of Foreign Affairs
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Japan

19 October 2012

Dear Minister,

OPEN LETTER: JAPAN'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

We write on the occasion of your country's candidacy for membership to the UN Human Rights Council in the elections scheduled on 12 November 2012. We welcome your election pledges to promote and protect human rights at the national and international levels, as indicated in the Annex to the *note verbale* dated 27 March 2012 from the Permanent Mission of Japan to the United Nations addressed to the President of the General Assembly.¹

We recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.² Following your candidacy to the Human Rights Council, we take the opportunity to comment on Japan's election pledges and to note additional opportunities for your government to promote and protect human rights. In doing so, we refer to the guidance of the Office of the High Commissioner for Human Rights on presenting voluntary human rights pledges and commitments, including that such pledges and commitments should be specific, measurable and verifiable.³

Commitments at the international level

Ratification of international human rights instruments

We welcome your commitments to work towards early conclusion of ratification of the Convention on the Rights of Persons with Disabilities and the Hague Convention on the Civil Aspects of International Child Abduction.

We wish to take this opportunity to also encourage you to ratify other international human rights instruments, in particular the First and Second Optional Protocols to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this regard, we note that Japan committed to considering ratification of the First Optional Protocol to the International Covenant on Civil and Political Rights and

¹ A/67/76.

² A/RES/60/251, para 9.

³ Office of the High Commissioner for Human Rights, *Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council*, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf>.

the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment during its first Universal Periodic Review in 2008.⁴

Cooperation with the Special Procedures

We note your commitment to continue full cooperation with the Special Procedures. In this spirit, we urge you to facilitate without delay the visits requested by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, and by the Working Group on arbitrary detention. We also urge you to fully cooperate with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and to implement his recommendations, in the context of his planned visit in November 2012.

Cooperation with the treaty monitoring bodies

We note your commitment to follow up on recommendations received from the Treaty Bodies. In this respect, we call on you to implement the 2008 recommendations by the Human Rights Committee, in particular those calling for you to accept full responsibility for the crimes committed against the “comfort women,”⁵ and to abolish or reform the *daiyo kangoku* system in line with international standards.⁶

Engagement with the Universal Periodic Review

We welcome your pledge to follow through on the accepted recommendations arising from Japan’s first Universal Periodic Review. We note in this regard that there has been little or no progress in implementing recommendations to ratify a number of human rights instruments, including the First Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.⁷ Japan also accepted a recommendation to establish a national human rights institution in line with the Paris Principles.⁸ However, the Basic Framework on the Establishment of a new National Human Rights Institute and the proposed bill fall far short of the Paris Principles.

The second review of Japan is taking place in October 2012. In our submission for the review, we have highlighted concerns regarding torture and other ill-treatment of detainees in the *daiyo kangoku* system,⁹ abuses against asylum-seekers and refugees in detention centres,¹⁰ and the denial of justice and reparations to the survivors of Japan’s military sexual slavery system.¹¹ We urge you to address these issues in the course of the review and to be open to supporting and implementing recommendations pertaining to those concerns.

Participation in the deliberations of the Human Rights Council

We note your commitment to actively engage in the Human Rights Council so as to promote the improvement of human rights situations in various countries and regions.

In this regard, we urge your government to work with delegations from all regions to ensure that the Council addresses situations of human rights violations, including gross and systematic human rights violations and human rights emergencies, without selectivity or double-standards. We also urge your government to support efforts to ensure that all credible allegations of reprisals or intimidation against

⁴ Report of the Working Group on the Universal Periodic Review, Japan, Addendum, 26 August 2008 (A/HRC/8/44/Add.1), para 1(b) referring to recommendation 60.1 (Albania, United Kingdom, Mexico, Brazil).

⁵ Concluding observations of the Human Rights Committee, Japan, 18 December 2008 (CCPR/C/JPN/CO/5), para 22.

⁶ CCPR/C/JPN/CO/5, para 18.

⁷ A/HRC/8/44/Add.1, para 1(b) referring to recommendation 60.1 (Albania, United Kingdom, Mexico, Brazil).

⁸ A/HRC/8/44/Add.1, para 1(a) referring to recommendation 60.2 (Algeria, Canada, Mexico, Qatar) and 60.3 (Islamic Republic of Iran).

⁹ Japan: Amnesty International Submission to the UN Universal Periodic Review, April 2012 (AI Index: ASA 22/007/2012), p 5.

¹⁰ ASA 22/007/2012, p 6.

¹¹ ASA 22/007/2012, p 5.

persons and groups who have engaged or have sought to engage with the UN human rights machinery are brought to the urgent attention of the Council; that the Council demands the government concerned to ensure that any alleged reprisals are investigated in a prompt, impartial, transparent and effective manner and that perpetrators are held to account; and that the Council requests the government concerned to inform it of measures taken in this regard.

Commitments at the national level

We note your commitments in relation to implementation of measures to eliminate child pornography, to increase the representation of women in leadership positions, and to promote effective policy measures for the Ainu people.

We also note your efforts to establish a national human rights institution, and we call on you to ensure that any bill submitted to the Japanese Diet (Parliament) for the creation of such an institution fully reflects the Paris Principles and allows for the creation of an independent, impartial and credible institution to effectively uphold the human rights of all individuals in Japan.

We also call on you to reform the *daiyo kangoku* system of detention to bring it into line with international standards, including by implementing safeguards such as electronic recordings of the entire interrogation process, and ensuring that detainees are not questioned without the presence of a lawyer and have prompt and unhindered access to legal counsel.

We further urge you to accept full responsibility for the military sexual slavery system against the “comfort women” and to issue an unequivocal apology in a manner that is acceptable to the majority of the survivors. There should be public acknowledgement of the harm suffered by these women, and your government should take measures to help restore their dignity, including by providing adequate compensation.

Finally, we call on you to ensure that the refugee status determination process is conducted in a fair, effective and transparent manner in line with international law and standards.

We welcome the pledges and commitments already made by Japan, and we recommend that your government use this opportunity to further strengthen its election pledges by including the additional recommendations listed above. We also encourage your government to announce the steps it will take to fulfil its electoral pledges and to regularly inform the General Assembly and the Human Rights Council of progress in implementing these commitments. This could be done, for example, in the form of an oral or written statement to these bodies.

We would be pleased to receive your comments and responses to the issues raised in this letter.

A copy of this letter has been sent to your country’s permanent missions in Geneva and New York.

Yours sincerely,

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Asia-Pacific Regional Programme
Amnesty International