

## Japanese Government's response to Amnesty International

On 10 November 1997, Amnesty International published a 46-page report highlighting some of the common patterns of human rights violations affecting foreigners detained in Japan (see *Japan: Ill-Treatment of Foreigners in Detention*, AI Index: ASA 22/09/97). This report gives examples of ill-treatment suffered by foreigners held in police custody, detention centres, immigration detention centres and prisons in Japan. It describes situations where the authorities have prevented adequate scrutiny of reported ill-treatment and where they have failed to provide an effective remedy for foreigners who complain that they have suffered human rights violations.

Prior to the public release of the report, Amnesty International had asked the Japanese Government for its comments on the concerns it raised. On 7 November 1997 the Japanese Government provided Amnesty International with a 13-page rebuttal of many of the report's findings. On 26 February 1998 it sent an additional 15-page response. To Amnesty International's knowledge, the government's response was prepared by officials from different sections of the Ministry of Justice (including the Prison Division and the Refugee Division) and by the National Police Agency (NPA). Amnesty International has translated these two sets of comments into English and published them, together with a short response.

Amnesty International welcomes the Japanese Government's willingness to engage in dialogue on the concerns raised in its report but remains disappointed that none of the report's recommendations have been implemented, including ratification of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the International Covenant on Civil and Political Rights.

The government's comments consist generally of a reiteration of official views and dispute many of the facts presented by Amnesty International regarding general policy and individual cases. In some areas the comments simply confirm that human rights violations, as defined under international human rights instruments, do occur in Japanese places of detention.

The government says it is constantly striving to improve the treatment of detainees and acknowledges the importance of international standards. However, it claims that Amnesty International has relied on one-sided and biased statements from victims. It denies that torture takes place in prisons, detention centres or police detention facilities and states that all detainees have equal access to lawyers and interpreters and that medical facilities are adequate. It denies that rules and regulations on the running of prisons and detention centres are secret and claims that restraining devices and protection cells are never used as a form of punishment. It defends its use of *Daiyo Kangoku* (substitute prison system) and procedures for the screening of asylum seekers. Furthermore, it claims that all detainees receive adequate exercise, that detention officials are properly trained, that punishments are fair and that detainees may easily make a complaint about their treatment. The government's comments also give detailed responses to individual cases raised by Amnesty International, in some cases disputing the facts as presented by the human rights organization.

Amnesty International emphasizes that its report was based on interviews with numerous sources, ranging from alleged victims of human rights violations to Japanese legal scholars, lawyers, international law experts and diplomats. Large numbers of official documents, including court documents and legislation, were also used in the preparation of the report. Representatives of Amnesty International who visited Japan in May 1997 discussed the issues with government officials and were permitted to visit one prison and two police stations.

In preparing the report, Amnesty International also used its long experience of documenting human rights violations in countries throughout the world. While the organization does not claim that all prisoners in Japan are ill-treated, it does believe that the evidence points to a pattern of ill-treatment in Japanese prisons, detention centres and police detention facilities and a lack of safeguards to protect the rights of detainees.

Although the Japanese Government denies the violations documented in Amnesty International's report, it has resisted international and domestic pressure to ratify the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International is concerned that Japan's continued failure to ratify this Convention indicates a lack of willingness on the part of its government to condemn torture and ill-treatment.

Amnesty International reiterates other recommendations from its report:

- All detainees should be informed of their right to see a lawyer. Foreign detainees should be informed of their right to contact their embassy or consulate and should have access to qualified translators during interrogation. Detainees should be able to exercise these rights.
- All detainees should have access to qualified medical staff, including psychiatric and counselling services.
- There should be better safeguards to protect the rights of detainees in police custody; confessions obtained under duress should never be used against a criminal suspect in legal proceedings.
- Human rights training should be improved for all law-enforcement and detention officials.
- The government should permit regular and independent inspections of all prisons and detention centres.
- The rules and regulations which exist in prisons and detention centres should be brought into line with international human rights standards and they should be made public.
- Conditions of detention should conform to international standards, in particular standards relating to levels of cleanliness, exercise and communication with the outside world.
- Protection cells and instruments of restraint should never be used as a form of punishment.
- All detainees should have access to independent and confidential complaints mechanisms.
- The government should order independent investigations into all reports of torture and ill-treatment and publish the results.

- Rules and practices governing the treatment of asylum seekers should be amended to comply with international standards.

★ A copy of Amnesty International's report, entitled *Japan: Ill-Treatment of Foreigners in detention*, and the government's response, can be obtained from the International Secretariat or the Japan Section Office.

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