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III-Treatment of Foreigners in Detention: Comments by the Japanese Government

DOCUMENT SUMMARY

On 10 November 1997, Amnesty International published a 46-page report highlighting cases of foreign nationals ill-treated in detention in Japan (see *Japan: Ill-Treatment of Foreigners in Detention*, AI Index: ASA 22/09/97). 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. These two sets of comments have been translated by Amnesty International and are published in this document in full, together with Amnesty International's additional remarks on some points (in italics).

Amnesty International is addressing this response to the Ministry of Foreign Affairs. However, to Amnesty International's knowledge, the Comments were 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).

Overall, the government's comments confirm the concerns raised by Amnesty International; while the new information provided on some individual cases is relevant to some concerns, most of the comments only consist of formalistic reiteration of official views, with little consideration of the actual situation of detainees. In some areas the comments simply confirm that human rights violations, as defined under international human rights instruments ratified by Japan, do occur in Japanese places of detention.

Amnesty International welcomes, however, the Japanese Government's willingness to engage in dialogue on this issue and hopes this will translate into prompt action on some of the recommendations contained in its report. In particular Amnesty International urges the government to ratify the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

COMMENTS BY THE JAPANESE GOVERNMENT ON THE REPORT ON JAPAN PRODUCED BY AMNESTY INTERNATIONAL¹

7 November 1997

The Government expresses its deep regret about the unfair manner in which Amnesty International released the report without allowing the Government enough time to comment on it, though it was Amnesty International's request that the Government should comment. The Government provides preliminary comments on some points that are clearly not appropriate or not true; this does not mean that the Government admits the reasonableness of other assertions in the report. The Government may issue further comments in the future.

1. INTRODUCTION

The second paragraph states that many foreigners in detention centres suffer arbitrary punishments at the hands of Immigration Bureau officials, or are detained, beaten and deprived of access to the outside world due to the mere possession of forged travel documents. However, this description is inaccurate, as imprisonment is always properly performed under relevant legislation. Immigration Bureau officials do not beat suspects on the grounds of possession of forged travel documents, though they may stop them from hiding or destroying evidence, or may restrain them from resorting to violence. The Bureau allows [Immigration Detention Centre] inmates to meet visitors and to dispatch and receive correspondence, unless there are security or health reasons [not to allow such meetings or correspondence]. The paragraph also states that the authorities do not allow an inmate to take medicine for chronic diseases. The Government is sure, however, that it makes the necessary efforts and takes appropriate measures for the purpose of maintaining the health of all inmates.

Amnesty International's remarks:

- In spite of the above assurance, Amnesty International's report shows that law and practice in Japan do not always conform to international standards. Furthermore, beatings have occurred and they clearly constitute ill-treatment.*

¹This translation is Amnesty International's and is unofficial. The comments' original language is Japanese.

The third paragraph describes assaults by officials on inmates; denial of access to interpreters and counsels; and forcible signing of statements written in a language which inmates do not understand (the same description is also seen in the first paragraph of “*Right to legal representation, advice and interpretation*” of section 2 “*Background*”). These are very biased statements about incidents being described as if they were objectively reported. However, the reports are solely based on the assertions of detainees, not on any objective fact recognised by a criminal procedure or claim for damages. Japanese law guarantees all suspects the right to appoint counsels at any time (Art.30 of the Criminal Procedure Law [hereafter referred to as CPL]) and at the time of arrest the police are obliged to inform suspects of the rights that are guaranteed to them, in order to ensure the effective exercise of these rights (Art 203(1)).

Amnesty International’s remarks:

- *Amnesty International’s report is based on independent research. Individual testimonies are cited to show patterns of ill-treatment.*
- *The failure of a court to grant damages, or the failure of a victim to seek compensation are not necessarily indications that human rights violations did not occur.*
- *The guarantee of the right to appoint counsels does not apply to all people in custody (in practice people detained by Immigration officials do not always have access to a lawyer). Also, while the right to appoint a lawyer can be exercised at any time in cases covered by the Criminal Procedure Law (CPL), lawyers are not present during police interrogation.*

2. BACKGROUND

i) Discrimination in Japan

The third paragraph mentions a change of policy concerning immigration around the time of the “*bursting*” of the “*bubble economy*”. The Immigration Bureau of the Japanese Ministry of Justice has consistently implemented immigration policies against illegal employment, both during the period of the “*bubble economy*” and afterwards. It has never accepted foreign migrant workers without work permits solely to meet the needs of the labour force. The government’s policy is to issue work permits to foreign workers who have technical skills and expertise, not to unskilled workers. The government has

accepted a considerable number of migrant workers in accordance with the law that provides for “visa with work permit”.

ii) Rights to legal representation, advice and interpretation

(a) Art.14 of the International Covenant on Civil and Political Rights

The first paragraph alleges a failure to comply with Art.14(3)(a) of the ICCPR: that is, that the Government does not provide interpreters to foreigners detained in criminal proceedings. As stated above, this criticism is not correct since the said statement only relies on assertions by detainees which are not backed up by objective facts.

The CPL requires that all suspects be informed when arrested about the facts constituting the offence. If the police arrest a suspect, this information is provided at the time when the suspect is asked to explain the facts of the crime of which he or she is suspected. [Information about the facts constituting the offence may be provided] in the course of arrest or when the suspect is referred to the Prosecutor. In case an application is made for a detention order [for detention beyond 72 hours], this information is provided during the interrogation procedure in detention (Art. 203(1), 111, 116, 206(1), 205(1), 61, 207(1) of the CPL). The law guarantees that detainees have an interpreter when they do not understand Japanese and that an official copy of the indictment document is sent to them (Art. 271) promptly after the start of the criminal procedure. Suspects therefore know the contents of the indictment by asking the translator. Suspects are also entitled to be accompanied by an interpreter when the indictment document is read aloud in the public court hearing. The provisions of Art.14(3)(a) of the ICCPR are properly fulfilled by the provisions of the CPL and in practice.

Amnesty International's remarks:

- Amnesty International stands by its statement that foreigners have been forced to sign statements they did not fully understand. Many foreigners have made this point in court or in statements to lawyers and human rights organizations. These statements constitute the only available evidence because of the failure of the police to allow lawyers to be present during police interrogation of suspects.*
- The comments only list the CPL's requirements with regard to a suspect's rights. But Amnesty International's concerns are about the practical implementation of these requirements by all law enforcement officials, including police and immigration officials. Suspects do not have access to a translator outside interrogation time, except (in theory) if they can hire one*

privately. While suspects are entitled to be accompanied in court by a translator, this entitlement is not systematically enforced.

(b) The Vienna Convention on Consular Relations (VCCR)

The second paragraph [of the section of the report which deals with the VCCR] states that the warden of a prison or detention centre has discretion in determining whether to allow communication by a detainee with the Consulate of their country. When the Japanese Government arrests or carries out punishment (including confinement in a work house [prison]) on a national of a signatory state to the VCCR, the authorities promptly inform the detainee of the rights guaranteed under Art.36(1)(b) of the Convention, in accordance with the VCCR. If the detainee's request to contact the Consulate is confirmed, the Government promptly takes the relevant steps. If the detainee does not wish the Consulate to be informed, the Government follows this wish. The decision whether to report to the Consulate is left solely to the detainee; therefore this part of the report is incorrect.

The Immigration Bureau explains to detainees that they have a right to communicate with the Consulate of their nationality in their own language. When a request to do so is made, it goes without saying that the Bureau informs the Consulate without delay.

Amnesty International's remarks:

- *Detainees interviewed by Amnesty International did not recall hearing detention officials making any mention of their rights under the Vienna Convention on Consular Relations or of the rights guaranteed therein. Immigration Bureau detainees interviewed by Amnesty International did not recall receiving information about their right to communicate with the Consulate of their nationality.*

iii) Access to medical treatment

The report criticises as inadequate the medical treatment for inmates in correctional institutions in Japan. However, governmental funding affords sufficient medical controls and timely treatment for diseases. An inmate may, if necessary, receive immediate treatment in hospital, or in a health care room situated in the institution. The same applies in [institutions run by] the Immigration Bureau.

Amnesty International's remarks:

- *Amnesty International stands by its view that medical attention for inmates, foreign and Japanese, is grossly inadequate and that inmates lack access to adequate medical care.*

iv) Prison rules and their enforcement

The report states that all the laws concerning the correction and rehabilitation of offenders, except the Prison Law, are secret. However, the authorities have never kept secret the fundamental sources of the rules on the administration of prison institutions. The authorities have made public legislation such as the Prison Law Enforcement Regulations and the Ordinance for Prisoner's Progressive Treatment, as well as other major ordinances and instructions.

The report also states that restraining devices and protection cells (*hogobo*), which are supposed to prevent inmates from resorting to violent action, are used in a punitive manner. However, the use of restraining devices and *hogobo* complies with the relevant law, and these are not exploited as means of punishment. In addition, institutions do not use "straight jackets", [contrary to what is] mentioned in the report.

Amnesty International's remarks:

- *Detailed regulations governing the actual running of individual places of detention are indeed secret, thereby reducing the accountability of the authorities. Amnesty International has recently obtained some of these secret rules, and intends to publish extracts from them to show areas in which these rules appear to be inconsistent with international human rights standards.*
- *There is a long-standing pattern of the use of restraining devices in ways which, while they may not be contrary to the letter of Japanese law, contravene international human rights standards binding on Japan. Amnesty International recognizes that Japanese places of detention do not use straight jackets. The instrument they use is a leather belt with handcuffs attached, which has the same effect as a straightjacket.*

v) Detention of asylum-seekers in Japan

The report criticises Japan for admitting too few asylum-seekers. Since the United Nations Convention on the Status of Refugees and its Protocol came into force in 1982 in

Japan, the Bureau has been carefully examining the legitimacy of refugee applications in accordance with the obligations provided under the Convention. As at 30 September 1997, the Government has admitted 210 out of 1537 applicants.

The report points out that Japan automatically rejects an application which is made after the period of 60 days allowed for application. The reason for setting such a period for application is to ensure impartial and smooth implementation of refugee acceptance mechanisms. When an application is made long after the events which cause an applicant to make an asylum claim, it will be difficult to comprehend the facts in order to consider the claim. However the authorities also consider late applications and examine the reasonableness of delays; therefore Japan does not in practice automatically reject [late applications]. The Bureau carefully listens to an asylum claim made on the grounds of fear of persecution.

The report also states that Immigration Bureau officials have arrested and detained Kurdish asylum seekers for the purpose of stopping Kurdish people making asylum claims. However, when the authorities find illegal [foreign] workers, such workers may be [in the course of] applying for asylum. If the criteria for deportation are fulfilled in a given case, the Bureau initiates the deportation procedure after taking the illegal worker into custody as necessary. However, even during custody, the authorities respond flexibly to the individual situation of the people concerned and never target a particular group of asylum seekers for arrest or detention.

The report states that the Immigration Bureau does not provide detailed reasons when asylum applications are rejected. In principle however, the Bureau makes such details available.

The question [raised in the report] appears to be about the rejection of asylum claims which are made after the period allowed for application by law. The Immigration Bureau examines whether the delay in submitting the application is justified, when the application is submitted more than 60 days after the applicant's arrival on Japanese territory (or after circumstances occur which cause a person present in Japan to apply for asylum). In that case, the Bureau carefully considers whether a claim is based on a well-founded fear of persecution. Nonetheless when it does not find reasonable justification for the lateness of an application, it rejects the application according to Art.61(2) of the Immigration Control and Refugee Recognition Act, by stating that "the application has not been made within the required period of time, and the Bureau does not see any reasonable circumstance to justify the delay".

The report states that the Immigration Bureau, in considering asylum claims, does not satisfactorily examine the evidence which is submitted by the applicant. The onus of providing evidence that the refugee status is justified rests on the person who is applying

for refugee status. However, the officials will investigate the credibility of the evidence submitted, through oral examinations of applicants and by reference to agencies concerned.

Amnesty International's remarks:

- *The government states that it has admitted 210 refugees since 1982, but this statistic does not change the fact, correctly stated by Amnesty International, that only one person has been granted refugee status in each of the last three years and that only 15 applications have been granted between January 1990 and May 1997.*
- *The "60-day" period permitted for refugee applications is inconsistent with the recommendations of the United Nations High Commissioner for Refugees. The tolerance for "late" applications is welcome, but the 60-day limit should itself be lifted. The government's comment also reiterates Amnesty International's concern that applications for refugee status submitted beyond the 60-day limit are processed under procedures different to those pertaining to other applications.*
- *In view of a recent pattern of detention of Kurdish asylum-seekers, Amnesty International has reasonable cause to express concern that Kurds may have been targeted for arrest by immigration authorities.*
- *Amnesty International reiterates its concern that refugee status rejections are, in practice, not accompanied with sufficiently detailed explanations as to why they have been rejected.*
- *The comment states that the onus of providing evidence that the refugee status is justified rests on the person who is applying for refugee status. But this statement is in clear contradiction to the letter and spirit of the 1951 Refugee Convention to which Japan is a party. Under the Convention, Japan is committed to provide protection to anyone who has a "reasonable fear" of persecution. The Convention and other UNHCR guidelines do not place on refugee claimants the burden of "providing evidence". The government's statement provides a worrying indication that Japan is not fulfilling its commitments under the Refugee Convention.*

3. VICTIMS OF ILL-TREATMENT

This chapter raises some individual cases concerning criminal procedures and claims for damages. The Government regards those reports as based on the one-sided views of the parties, without the support of any objective evidence; it therefore cannot help concluding that the report lacks objectivity and impartiality. The government finds some descriptions given as if they were utterly true, even though the courts rejected the credibility of the allegations after looking at the evidence presented in the course of the proceedings.

The report describes some criminal cases which are currently undergoing investigation or which have been brought before district courts. The Government is of the opinion that it should not comment on this occasion and that it should avoid commenting on the description in this chapter relating to fact-finding in legal proceedings. It considers that facts should be discussed completely and evidence considered exhaustively by both parties before the courts in accordance with law. There is a misreading of the facts in the reports presented by Amnesty International on the treatment of foreigners in detention centres and on criminal investigations.

Amnesty International's remarks:

- *Amnesty International's report is 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, from court documents to legislation have also been used in the preparation of the report. Amnesty International has also sought to discuss cases and issues with senior officials in Japan. With the exception of the National Police Agency, the officials have all declined to discuss individual cases. In this context, the report by Amnesty International represents the best efforts of the organization to describe, as reasonably as possible, patterns of human rights violations. It is regrettable that the Comments question the objectivity and impartiality of the report while failing to provide information which fundamentally questions those patterns.*
- *While the government suggests that the Comments cover only individual cases which are not the subject of current court proceedings, the reality is different. The government has in fact commented on several cases which are (or were at the time of writing) under the consideration of civil or criminal courts.*

Preliminary comments on some individual cases are as follows.

i) Case of Mr Arjang Mehrpooran

No police officer assaulted Mr Arjang Mehrpooran. Following a court order, a Professor of Forensic Medicine at the Tokyo University Faculty of Medicine carried out a post-mortem examination on Mr Arjang Mehrpooran to determine the cause of his death. He found morphine and cocaine in his urine and he concluded that the hypodermic bleeding on his back, legs and arms, and the wounds on his forehead, were too old to have caused the death. Death was caused not by external factors but by internal ones, namely by acute cardiac failure resulting from unknown causes. The assertion that assault by police officers caused his death is without factual foundation.

Mr Arjang Mehrpooran received medical treatment in a hospital at 10.20pm on 20 June, soon after his arrest. He did not say anything about a headache, and told the doctor he was feeling well when asked by him about any other ailments. It was at 2.50am on 21 June, following his transfer to Minami-Senju Police Station, that he told police officers about his headache.

The police promptly took Mr Arjang Mehrpooran to Shirahigebashi Hospital where he could receive immediate medical treatment during the night, including a CT scan of his head and examination of his pupils. There was no sign of neuralgia, bleeding or sprain in the cranium.

Thereafter, police officers who checked on him in his cell almost every 15 minutes found that his condition worsened and that he was groaning at 6.10am. They immediately took him to the hospital by ambulance, and confirmed his death at 7.04am. As is shown here, the police arranged appropriate medical treatment for Mr Arjang Mehrpooran.

Amnesty International's remarks:

- Amnesty International is not alleging that assault by police officers directly caused the death of Arjang Mehrpooran. However the circumstances surrounding his death give rise to grave suspicion that assault may have contributed to his death, and that medical treatment was unavailable at a crucial period on the night of his death because Arjang Mehrpooran was in police detention rather than in hospital.*
- To Amnesty International's knowledge, the police claim that Arjang Mehrpooran's head wound was self-inflicted has neither been confirmed nor denied by independent evidence. However, his state of health gave sufficient cause for concern to the police for him to be taken to hospital in the early hours of 21 June 1994 and for a Computerised Tomography (CT) scan of his head to be performed. Immediately after the CT scan, Arjang Mehrpooran was transferred back to detention in a police station and he died within three to four hours of having the CT scan. While Amnesty International is not in a*

position to assess the cause of death, the organization believes that there was a reasonable case to keep Arjang Mehrpooran under observation in hospital in the hours following the CT scan. The reasons why this was not done are not clear.

ii) Case of Mr Govinda Prasad Mainali

Mr Govinda Prasad Mainali was not in the police station between 7:40 am and around 7.00pm on 22 April due to being transferred to the public prosecutor's office. It was not police interference that caused his counsel's inability to see him. He met the counsel between 8.06pm and 8.30pm after he returned to the police station.

Amnesty International's remarks:

• The information provided by the Government complements, but does not contradict, Amnesty International's account of this case. The organization remains concerned that he was not given adequate access to a lawyer in accordance with international human rights standards. As he has now been charged with murder, Amnesty International is particularly concerned that he may be sentenced to death. He has pleaded not guilty.

iii) Case of Mr Khalid Ziad Mirza

Mr Khalid Ziad Mirza was examined by a psychiatrist on 24 February because he expressed "the wish to die". The examination was undertaken in the presence of a qualified and skilled interpreter in English. The doctor diagnosed the possibility of depression, and understood that he had a wish to die due to depression, as well as difficulty in sleeping, since 1989. The Government thinks there was no difficulty in communication between them. The doctor prescribed medicines for depression and neurasthenia, as well as sleeping pills, but he did not think that Mr Khalid Ziad Mirza was unfit for detention at the police station. Furthermore, he received more medicine on 7 March and on 17 March in accordance with medical prescription. As this shows, the police adequately arranged an interpreter and medical examination and treatment during his detention in the police station.

The details of his detention are as follows:

- Date of arrest: 10 February 1995
- Reason for the detention: violation of the law regulating possession of marijuana (smuggling).

On 6 February 1995, the Tokyo Customs found marijuana resin (gross 8.4g) hidden in a parcel from Pakistan addressed to Ms Tsumita Ikuko. Customs confiscated it and reported to the police on 8 February. The police obtained a warrant for the arrest of Ms Tsumita and for search and seizure at her residence on 9 February, and held the search in her presence on the next morning. When the police asked about the suspected drug smuggling, she answered at the beginning: "I know nothing, I have nothing to do with it". Then the police showed the close resemblance of the handwriting on the parcel containing the marijuana with that of the mail addressed to Mr Khalid Ziabad Mirza from Pakistan which was found in the course of the search in the residence. She stated that "[her] husband's family in Pakistan had sent parcels to him a few times, and to [her] as well".

From this statement, the police inferred that Mr Khalid Ziabad Mirza was the main criminal in the smuggling. They refrained from implementing the arrest warrant on Ms Tsumita and took her on a non-compulsory basis to Osaki Police Station where the police obtained a written statement from her. On that basis they obtained a warrant for the arrest of Mr Khalid Ziabad Mirza and arrested him on the same evening.

An Urdu interpreter was employed when he gave his explanations on the matter and when the police searched him. After he asked for another interpreter, the rest of the interrogation was held with the help of an English-speaking interpreter. Both Mr Khalid Ziabad Mirza and Ms Tsumita Ikuko admitted in written statements that his proficiency in English was sufficient for communication with others.

Mr Khalid Ziabad Mirza made a written statement in English on 17 February in which he admitted that he had asked a friend in Pakistan, Qureshi, to send him marijuana to treat his mental illness. From the interrogation, the police concluded that Ms Tsumita was not involved in the smuggling, and therefore did not arrest her. The Government has not confirmed the accuracy of the statement [by the Chief of Osaki Police Station] given in the headline of the report.

Amnesty International's remarks:

- *The information given in the Comments says nothing about the allegations by Khalid Ziabad Mirza's wife that police officers shouted at her and threatened her with arrest if she did not sign a statement, and nothing about her allegations that they made derogatory statements about her husband's nationality.*
- *The Comments do not explain why Khalid Ziabad Mirza was dissatisfied with the services of his first interpreter. (In Japan, there is no certification*

procedure to vet interpreters used in judicial proceedings and interpreters do not appear always to meet consistent professional standards.)

- The Comments do not explain why Khalid Ziabad Mirza only saw a psychiatrist once in 43 days in police detention (he apparently did not see one either after his transfer to a prison where he spent a further eight weeks). The increasing mental instability displayed by Khalid Ziabad Mirza during his detention in police custody and in prison seems clearly to indicate that the determination of his fitness for detention, made on the basis of a single medical visit, was inadequate.*
- The fact that only one visit by a psychiatrist was arranged during the 43-day period of police detention further suggests that police detention practices do not guarantee an adequate level of access to medical care.*
- The Comments say nothing about the treatment of Khalid Ziabad Mirza after his transfer to Kosuge Prison in Tokyo. They say nothing about the reasons why he is not granted permission to return to Japan to be reunited with his wife. The statement that an improper comment allegedly made by a senior police official “could not be confirmed” is insufficient in that it does not indicate whether an impartial enquiry into the alleged comment was undertaken, and whether any conclusions were drawn from such an enquiry.*

iv) Case of Ms Zhou Bizhu

During her detention in police custody, Ms Zhou Bizhu was given medical examinations twice in police premises and five times in hospital. A doctor examined her on 6 March [1997] after she complained of a stomach ache. During the examination, she told the doctor that she had felt nausea and cold since the evening of 5 March and that she felt pain in her lower abdomen and on the right side of her back. When the doctor asked her whether she had her period or was pregnant, Ms Zhou answered that she was not sure about pregnancy although her period was late. The doctor ordered a urine test as the pain was not relieved, and prescribed digestive medicine according to the diagnosis of acute gastroenteritis.

She received further medical examination in a hospital on 11 March and was prescribed digestive medicine and medicine for nausea. When a police detention guard asked her about the possibility of pregnancy, she answered negatively because she thought her pain was not very likely to be caused by pregnancy, although there was a possibility that she was pregnant. It was ten days after her arrest, on 13 March, that Ms Zhou asked for medical treatment at a gynaecology clinic as she felt she might be pregnant. The police made an appointment at a gynaecology clinic on 17 March and she was examined on the

same day. She was diagnosed as being seven weeks' pregnant and an operation to remove a polyp from her uterus was also carried out, and an ointment prescribed against vaginal infection.

On 24 March she requested medicine against nausea and received further treatment in hospital. On 26 March she received another medical examination in hospital because she had complained of vaginal bleeding. On that occasion, hospital staff carried out an ultrasonic scan and concluded that the foetus had no abnormality. Ms Zhou complained of stomach ache on 10 March and of morning sickness on 26 March; following both complaints she was given medicine in accordance with medical prescriptions.

It is clear from these facts that the police have given her the necessary medical treatment: the police had her examined in hospital when she complained of illness and provided her with medicine as prescribed by doctors.

As to the provision of meals: Ms Zhou had 21 lunches she bought herself, totalling 29 items additional to the meals supplied by the detention authorities, [every day] after 7 March except for Sundays. She always finished her [police-supplied] meals, although she sometimes left a piece of bread served by the prison when she had some of her own food. The staple food was changed [from steamed rice] to rice porridge, upon her request, from 6 to 15 March. She had apples provided from the outside at meal times on two occasions. It is clear therefore that the police allowed her adequate opportunities to receive enough nutrition. The police supplied her with an extra blanket when she complained of feeling cold.

When she was moved to a Detention Centre she told police guards: "I am in a good condition and the baby is fine", and "thank you very much for [your help over] a long period". The police did not discriminate against her [and treated her like the] Japanese detainees. They also provided her with adequate medical treatment according to her wishes.

Amnesty International's remarks:

- *The detailed information given by the National Police Agency on her case, while welcome, only covers the period of Zhou Bizhu's detention in police custody, whereas her miscarriage occurred almost three weeks after she was transferred to the Tokyo Detention Centre. It is regrettable that the detention centre authorities failed to provide an adequate account of the way in which they provided Zhou Bizhu with medical attention. Amnesty International remains concerned that the miscarriage suffered by Zhou Bizhu could have been avoided if she had received adequate medical attention (including hospitalization if necessary) throughout her detention.*

4. CONCLUSIONS AND RECOMMENDATIONS

i) Treatment of detainees

(a) Detention regulations, the rights of detainees and detainees' access to information

Article 36 of the Japanese Constitution proscribes torture or cruel punishment by government officials. Under this provision, law enforcement officials who, during investigations, commit assaults or treat suspects in an inhuman or degrading way, will not only be charged with criminal offences but will also be subjected to strict disciplinary sanctions. Furthermore, Art.38(2) of the Constitution stipulates that self-incrimination obtained from defendants through coercion, torture or threat, or after an unlawfully prolonged detention, should not be used as evidence by the Courts. As a result, the law of evidence regulates the lawfulness of interrogation procedures, and protects the rights of suspects. There is no doubt that these regulations are applied to the interrogation of foreign suspects as well as that of Japanese detainees, therefore the procedures regarding foreign suspects are as lawful as those concerning Japanese suspects.

Amnesty International's remarks

- *Legislation prohibiting the use of coercion, torture, threat or unlawful detention to obtain confessions is welcome, as are other safeguards against torture and ill-treatment in Japanese law. However, these would be strongly reinforced by Japan signing, ratifying and strictly implementing the Convention against Torture (CAT). The Convention sets out internationally accepted principles and standards, and includes a procedure for objective monitoring of its provisions by each state party. Amnesty International's report shows that current legal safeguards in force in Japan are not sufficient to fully eliminate the incidence of torture or ill-treatment, whether in relation to confessions or in relation to conditions of detention.*

When the police suspect that a person is involved in two or more unlawful acts, they may interrogate that suspect, if the suspect agrees, about matters other than those for which the suspect was arrested. Specifically, it may be advantageous for the suspect to cooperate with investigations on different charges at the same time, rather than risk repeated arrests and [periods of] detention for each different charge. However, there have been cases where confessions obtained during interrogation had to be discarded because they were obtained as a result of unlawful arrest or detention - namely, when a suspect has been detained on one charge without necessity, only to be interrogated about other charges. As a result, unlawful arrest or detention can also be prevented by the law of evidence.

Amnesty International's remarks

- *Unlawful arrest or detention should not occur at all, whether or not confessions are obtained under such circumstances. Under current legislation, a long period of detention is allowed in "substitute prisons" (daiyo kangoku), which may facilitate the occurrence of ill-treatment. Ratification and implementation of the CAT, and abolition of the "substitute prisons" system in its present form, would provide more effective safeguards against ill-treatment than those provided under the current law of evidence*

Restrictions on the length of detention of suspects are aimed at safeguarding their human rights. During detention, however, the police must investigate thoroughly the facts which caused the arrest and detention and all related matters; they must then bring the suspect before the Court if it is reasonable and appropriate to indict the suspect as being guilty on the basis of the findings. In order to strictly implement the law, investigation during detention must be thorough. The government thinks that the length of authorised detention [before a court appearance], which is of 23 days at most under the CPL, is an appropriate period of time which keeps the balance between the need for investigation and the protection of suspects' human rights.

Amnesty International's remarks:

- *Detention in "substitute prisons" does not offer the same safeguards for prisoners' rights as detention in Detention Centres administered by the Ministry of Justice. The concept that it may be acceptable to restrict inalienable fundamental rights to facilitate criminal investigations appears gravely flawed. The "substitute prison" system institutionalises procedures which weaken the human rights safeguards applicable to detainees under Japanese law.*

The CPL allows pre-trial detention of suspects for the purpose of preventing them from absconding or destroying evidence. Detention may result in restrictions to detainees' freedom of correspondence and of access to visitors, within necessary and reasonable limitations. These limitations exist to prevent escape and destruction of evidence and to maintain order and discipline in police detention facilities. Therefore, the imposition of such restrictions, within limits, on the rights of detainees, is not in violation of Japan's international treaty obligations.

Amnesty International's remarks

- *Amnesty International's concern is that restrictions on the exercise of basic rights by detainees in police custody, prisons and Immigration Detention Centres are often unreasonable and go much further than those necessary to ensure secure detention and non-interference with judicial investigations. The restrictions include the censorship of commercially available books and very tight limitations on the duration of visits.*

It goes without saying that the police provide detainees with interpreters during interrogation. Furthermore, at the beginning of detention the police inform detainees of their rights and the [police detention] rules, either through an interpreter or through the latest interpretation machine, which uses a CD-ROM (in English, Mandarin, Cantonese, Thai, Tagalog, Urdu, Spanish, Persian, Korean, Malay, Bengali, Russian, Vietnamese and Burmese). Examples of rules explained to detainees are:

- that they must handle carefully the property of the place of detention;
- that they must not quarrel, argue, use violence or commit an indecent act;
- that they must not exchange anything such as money or food with other inmates; they must maintain their personal hygiene and keep their clothes clean;
- that they must tell an officer if they feel ill or if there is something wrong with themselves.

Police officers also use an interpreter or an interpreting machine to communicate with detainees who voice a complaint.

At the time of arrest, a detainee is informed that he has the right to appoint a counsel, the right to keep silent, and the right to request information from the Consulate of his or her nationality. When a detainee requests that his or her Consulate be informed or wishes to appoint a counsel, the police immediately take the necessary steps.

Interviews with the officials of the consulate may be restricted in accordance with the law, for the purpose of preventing destruction of evidence. However, this does not

arbitrarily restrict the rights of detainees; such restrictions therefore do not violate the Vienna Convention on Consular Relations.

Amnesty International's remarks

- *In practice many interpreters lack training in judicial matters, and Japan has no procedure for certifying interpreters as able to carry out judicial work. "Interpretation machines" essentially fulfil the same functions as phrasebooks; while they may be adequate to convey orders from the police to detainees, as the examples of rules indicate, they are not able to convey opinions or requests from detainees to the police. In reality interpreters are not readily available for detainees to voice a complaint.*
- *Foreigners detained by authorities other than the police (such as Immigration officials) are apparently not given information about their rights. Many lawyers have testified to Amnesty International that detainees in police custody, be they Japanese or foreign nationals, were not informed by police of their right to remain silent. It is unclear in what way access by consular officials to foreign detainees could lead to the destruction of judicial evidence.*

b) Procedures for complaints on [ill-]treatment

Police officers in police detention facilities may receive from detainees complaints about [ill-]treatment or assault in the course of interrogation. Complaints are transmitted to the Director [of the National Police Agency] through the senior officer in charge of the police detention facility. The Director deals honestly with the complaint and responds to the detainee on the result of the complaint; the Director also records the date, contents and result of the complaint.

When a detainee wishes to take the further step of taking a complaint to a Court on the basis of the Government Compensation Law, CPL or the law of Habeas Corpus, the police allow the immediate dispatch of the application to the Court, after examining whether the documents contain information about escaping or destruction of evidence.

The police never retaliate against a detainee for taking legal action or making a complaint.

Amnesty International's remarks:

- *Under the current complaints system, there is a risk of police retaliating against detainees who make complaints. There is no guarantee that complaints are dealt with impartially since senior police officials deal with complaints formulated against their own subordinates. Beyond a general and welcome statement of principle, no particular precautionary measure - such as systematic transfer to another custodial facility - seems to be taken to reduce the risk of retaliation.*

ii) Medical Treatment

Detainees [in police custody] undergo periodical medical examinations twice a month with a part-time medical doctor, and may receive immediate and adequate treatment in case of illness or injury. If necessary, they may receive medical care in hospital and not in the police station; (a psychiatrist may examine detainees who need it). All such medical treatment is given at public expense; detainees may receive further treatment by a doctor appointed [by detainees themselves], at their own expense, if they so wish. As in the examples given [in the present Comments], police take all possible steps to protect the health of every detainee, particularly in view of the fact that they are detained in police stations.

Amnesty International's remarks:

- *Amnesty International stands by its concern that medical attention has been insufficient in a number of cases where foreign detainees have been held in custody. The authorities should ensure that the number of medical practitioners specially trained to treat the particular medical problems which may be experienced by detainees is significantly increased.*

iii) Daiyo Kangoku system

Under the Criminal Law, all places of detention of suspects must be situated close to the investigating authority and have well-equipped interrogation rooms - if not, they must make arrangements for transferring suspects to the custody of investigation authorities. For the purpose of performing appropriate and prompt investigations, *daiyo kangoku* [substitute prison] is the only system fulfilling these requirements, and from a practical point of view it is necessary to maintain this system.

The police take adequate steps to further protect detainees' human rights. Supervision of the treatment of detainees is under the authority of detention officers, who belong to the administrative section [of the National Police Agency] and are not involved in

investigations; as a result, interrogation officers cannot influence the treatment of detainees. The duties related to detention are strictly separated from those related to investigation; this separation contributes to the proper administration of police detention. There is some criticism that the police resort to improper investigation methods, such as assault on suspects. This is a matter concerning investigation, not the *daiyo kangoku* system itself.

Amnesty International's remarks:

- *Amnesty International remains concerned that the “substitute prison” system does not adequately safeguard the rights of detainees. The separation of responsibility for detention from that for investigation does not answer this concern. Complaints procedures for detainees who allege that the police have committed human rights violation against them, either during investigation or during detention, remain inadequate.*

iv) Hygiene issues and detainees' access to exercise

Police detention facilities are kept clean. Cells are cleaned at least once every day and disinfected at least once every month. Bedding is washed whenever detainees change or at least once per month. Furthermore, police detention facilities are usually located on the south-facing side of police stations, on the ground floor or above, and there is sufficient ventilation and light; temperature is kept adequate by air conditioners throughout the day. Detainees may exercise [outdoors] for 30 minutes every day (or for an hour or more if they wish) except if it rains. As this makes clear, police detention facilities amply cater for cell hygiene and detainees' exercise.

Amnesty International's remarks

- *Outdoor exercise in police detention facilities and in some detention centres is often more limited than mandated under international standards. It often consists of a small area where suspects can do little more than jump up and down. The statement that detainees in police facilities may exercise outdoors “for more than an hour if they wish” does not appear to be borne out by practice.*

v) Training of detention officers

The Japanese Constitution safeguards the fundamental rights of foreigners, except for those rights which are by nature limited to Japanese citizens, and it prohibits public

servants from resorting to torture and ill-treatment. It is obvious that a police officer should not torture, abuse, or engage in racially discriminatory speech or action. Police officers are trained to respect the fundamental rights of Japanese citizens as well as those of foreigners when discharging their duties. Such education is held in collective lectures in the Police Academy, on the occasion of [graduation and the start of] employment and on each occasion when officers are promoted to Police Sergeant, Assistant Police Inspector or Police Inspector. Moreover, training emphasizing respect for fundamental human rights is also given day-to-day in the workplace. At the time of their appointment as detention officers, in particular, police officers attend courses on the relevant legislation and on the psychology of detention, in order to discharge their duties with respect for the fundamental rights of detainees, including foreigners.

Amnesty International's remarks

- *While the Comments suggest that police officers currently receive adequate training on human rights safeguards, Amnesty International remains concerned that safeguards for human rights in Japanese places of detention would be better implemented if its recommendations were taken up by the Japanese Government. In particular, all relevant legislation should be brought into full accordance with international human rights standards as suggested in the report, and human rights training for all officials dealing with detainees should be enhanced.*

vi) Punishment of detainees

Police detention facilities do not use restraining devices such as handcuffs and straight jackets as a means of punishment against detainees. When a detainee breaks a rule, the detainee is warned not to repeat the breach; if the breach amounts to an offence under the Criminal Law or regulations, the police take steps in accordance with the CPL. The use of restraining devices is limited to situations where it is necessary to prevent a detainee from escaping, behaving violently, or committing suicide.

Amnesty International's remarks

- *Amnesty International stands by its concern, detailed in the report, that the use of any instrument of restraint should be limited to circumstances consistent with international human rights standards, and be accompanied by adequate safeguards such as medical supervision.*

vii) Comments on the recommendation to video-record interrogation to prevent illegal acts

It is rare that investigating officers commit illegal acts during interrogation; it therefore seems unnecessary to introduce video recording to prevent unlawful forms of interrogation. Furthermore, replay and examination of video records would take up large amounts of time, labour and cost, when the police already undertake thorough investigations to fully inquire into the truth.

Preparation of a written statement involves the following procedures: an investigating officer reads the statement to the person giving it, or asks the person to read it. The person may then tell the officer whether anything needs to be added or corrected; in so doing the person confirms the contents of the statement, signs and affixes their personal seal onto the document. The person who provides the statement has to be present at a public court hearing to confirm that the statement was given voluntarily and that it is credible but it is up to the court to make a judgement on this. The Government is of the view that, even without video recording interrogation, ample safeguards exist to ensure that statements are made voluntarily and are credible.

Art.38 (2) of the Constitution and Art.319 (1) of the CPL stipulate that confessions made under compulsion, torture or threat, or after an unreasonably long period of detention, will not be regarded as evidence, and legal precedents have established that a confession will not be deemed to be credible evidence when it is obtained through unlawful investigation.

Amnesty International's remarks:

- *Video recording of interrogation is but one of Amnesty International's recommendations aimed at reinforcing human rights safeguards. Amnesty International hopes that the whole range of options for improving safeguards will be considered by the Japanese authorities on the basis of advice from a wide range of experts. Safeguards should be introduced to ensure that independent investigations are carried out in all situations where there is a reasonable indication that ill-treatment may have occurred, irrespective of the position of the possible perpetrator.*

viii) Rules on the recognition of refugees

(a) Comment on the recommendation that the Government should clarify the process regarding its examination of asylum claims

Since last year [1996], the Ministry of Justice has regularly ensured that exchanges of views take place between local Immigration Bureaux and the regional UNHCR office for Japan and Korea. The Ministry itself also discusses specific issues with the said office.

(b) Recommendation that the body responsible for deciding on claims for asylum must be an independent and specialist authority with expertise on international refugee law and international human rights law.

The Refugee Convention does not specifically detail such procedures as the composition of the body determining refugee status, but leaves such issues to the discretion of individual governments. In Japan, it is the Immigration Bureau which is responsible for considering asylum claims, not an independent body. However, the government directs the Ministry of Justice to hold regular meetings with UNHCR officials to exchange views at local and central level, for the purpose of maintaining transparent refugee determination procedures. At the same time, the Government is endeavouring to train border officials through a variety of methods, in order to give them a thorough knowledge of international refugee law and international human rights law.

(c) Recommendation to ensure that the asylum-seekers are made fully aware of the application procedure and that application forms are readily available at all ports of entry into Japan.

Asylum-seekers first apply for leave to enter Japan to Immigration Inspectors and receive temporary protection by submitting an Entry and Departure (E/D) Card. This E/D Card may be obtained at any time at any airport or sea port. Asylum-seekers can also request a brochure on asylum claim procedures from any Immigration Bureau.

(d) Comment on the recommendation that the border officials be fully trained to recognise anyone who may be at risk of human rights violations if repatriated

The Government has a provided training programmes for border officials in all Immigration Bureaux since last year, and endeavoured to improve the skills of border officers in examining refugee claims by adding lectures by external lecturers to their training curriculum. Under the training programme, legal officials from the regional UNHCR office for Japan and Korea are invited to talk to border officers on the Refugee Convention and on the refugee problem in the world. This year, two meetings were held between the UNHCR and local Airport Immigration Offices.

Amnesty International's remarks:

- *The section of the Comments concerning the refugee determination procedures is similar to many earlier Japanese Government statements on*

the issue. However, contrary to what the Comments suggest, coordination between UNHCR and Immigration officials is far from systematic. UNHCR guidelines recommend that the body responsible for deciding on asylum claims be an independent and specialist authority. In many countries, members of that body include magistrates and other experts who are not government employees. Amnesty International is also concerned that in practice there is no formal body to consider appeals against denial of refugee status.

ADDITIONAL COMMENTS BY THE JAPANESE GOVERNMENT CONCERNING AMNESTY INTERNATIONAL'S REPORT ON JAPAN

26 February 1998

As has been pointed out before, the report contained accounts of legal cases brought against the government based purely on the statements of the plaintiffs. It appears the report lists the complaints of the plaintiffs in an uncritical way and lacks objectivity and impartiality. Moreover, many parts of the report are either in complete contradiction to the facts or bend the truth in a remarkable way. Parts of the report talk about certain things as facts even though they have been completely rejected as such by Japanese courts. Therefore, the report cannot be said to paint an accurate picture of the way in which Japan treats foreign detainees. It is with great regret therefore, that the government feels obliged to call on Amnesty International to correct the report.

Amnesty International's remarks

- *As has been stated before, the information in Amnesty International's report was obtained from a wide variety of different sources and demonstrates a pattern of human rights violations.*
- *The fact that the Japanese courts have rejected some of the information presented does not necessarily mean that human rights violations did not occur. Amnesty International remains concerned that detainees do not always have access to an effective, impartial and timely complaints mechanism for alleged human rights violations.*
- *Amnesty International is not claiming that all foreign detainees in Japan are ill-treated. However, the current system clearly does not afford adequate protection for detained foreigners.*

1. REGARDING EXAMPLES OF ILL-TREATMENT OF DETAINEES

It is supposed to be up to the courts to judge the truth of any lawsuits according to legally established procedures. However the one-sided allegations put forward in the report give rise to serious misconceptions about the treatment of foreigners in Japan. The Japanese government cannot overlook this and puts forward a number of additional comments concerning the cases as follows

Examples concerning penal facilities²

i) Cases of "A" , an Egyptian man, "BD", an Iranian man and an American man, held in Fuchu Prison.

All of these cases are currently the subject of suits for state compensation. The truth of the cases will be clarified by the outcome of these lawsuits. However, if the government were to make comments on these cases, they would be along the following lines. For example, the report makes the following allegations:

- a) that prison officers kicked and beat detainees in a violent manner, used instruments of restraint as a means of punishment³, and held detainees in protection cells⁴;
- b) that prison officers give excessively harsh punishments for trivial reasons;
- c) that solitary confinement is meted out to those who make formal statements of complaint or take out legal proceedings concerning their treatment in prison.

² ***"Penal facilities" includes prisons, young offenders institutions, and detention centres. It does not include police detention facilities.***

³ Instruments of restraint: Of all the instruments prescribed by law, the ones that are actually used fall into two categories: handcuffs and ropes. Handcuffs may either be metal or leather. Leather handcuffs are a form of restraint whereby the movement of a detainee's hands are restricted by two leather wristbands attached to a leather belt. These instruments are only used in two circumstances: when it is feared that detainees will attempt to escape, act violently, or commit suicide; or when detainees are outside the prison. Moreover, it goes without saying that the use of such instruments is terminated when the fear [that detainees will escape, act violently or commit suicide] has passed or when the situation is over.

⁴ Protection cells:
Protection cells are a type of single-cell. In order to prevent people committing suicide or injuring themselves, the cells are furnished with a bed made of vinyl chloride and the walls are made of wood. The wash basin and the toilet are sunk into the floor with no protruding objects attached.

Protection cells are only used to detain the following categories of prisoner: those who are suspected of trying to escaping, acting violently, committing harm to themselves or others, or committing suicide; those who persist in making a noise and refuse to obey orders to stop; those who are suspected of exhibiting repeatedly abnormal behaviour resulting in the dirtying of their cells or damage to property; and those whom it is deemed inappropriate to hold in a normal cell.

However, the truth is:

Concerning (a), accounts to the effect that detainees have been violently kicked and beaten completely contradict the facts. In every case, because it was feared that the detainee concerned would act violently towards the prison guard(s) and cause injury, the guard(s) were forced to use the minimum force necessary and/or instruments of restraint, or hold the detainee in a protection cell. In other cases, the person concerned insisted on shouting or making a loud noise and was confined in a protection cell for this reason. The prison guards did not act violently towards the detainees. Moreover, it is impossible that instruments of restraint and protection cells could have been used as a punishment.

Concerning (b), the punishment of detainees⁵ is restricted to those occasions when a detainee breaks one of the stipulated rules. The punishment is carried out according to proper procedure and nothing is illegal or inappropriate. Furthermore, in every case mentioned, punishment was only carried out for rational reasons and the scope of the punishment was commensurate with the deviancy of the behavior. It was not excessively harsh.

Concerning (c), it is not possible for a detainee to be held in a single cell as a consequence of making a complaint. This sanction is only applicable when the detainee concerned has repeatedly broken the rules, become uncooperative etc. and it has consequently become impossible to continue to hold him with other detainees.

Amnesty International's remarks:

- *Amnesty International has documented many cases in which prison officers are alleged to have beaten detainees and where instruments of restraint have been used as a means of punishment. A denial by the prison authorities does not, in itself, mean the violations did not occur. What is needed in Japan are mechanisms which provide for an independent investigation into allegations of ill-treatment. The government should also permit regular inspections of all detention facilities by independent inspectors.*
- *Detainees held in protection cells may be handcuffed for several days during which time they are forced to eat like an animal (without using their*

⁵ Punishment:

Of all those punishments stipulated in the Prison Law, the ones that are actually used are minor solitary confinement, reduction of work remuneration, verbal warning etc. Major solitary confinement and reduction of food are not used. As far as minor solitary confinement is concerned, the detainee is held incommunicado for a fixed period of time in a single cell with the same structure and facilities as other single cells.

hands) and to defecate through a slit in their trousers. This constitutes cruel, inhuman and degrading treatment, in violation of international human rights standards, whether or not it is inflicted as a form of punishment.

- *Amnesty International has documented many cases where detainees were in fact placed in solitary confinement after making a complaint or for a minor infraction of the prison rules.*
- *Amnesty International believes the prison rules in Japan to be unnecessarily complex and harsh. This concern is reinforced by the fact that they are secret. The Japanese Government should make the rules public, including those drawn up by individual detention centres.*

ii) The case of “B”, a Nigerian man

According to the report, the Nigerian “B” alleges that he has been the target of violence from prison guards on four occasions since 10 February 1994. However the facts of the matter are as follows:

a) The report makes statements to the effect that “because on 11 February 1994 he protested at a guard’s arbitrary decision to confiscate his bedding, five guards came into his cell and beat him. He was then taken to a protection cell where he was stripped naked and subjected to further beatings all over his body for 30-40 minutes. As a result, he suffered from headaches, abdominal pains and backache as well as severe anal bleeding”.

However, the facts are as follows:

According to prison rules, it is forbidden for detainees to lay out their bedding outside of the stipulated time for going to bed. On that day, the detainee concerned spread out his bedding and sat down on it outside the stipulated time for bed. When the guard told him to fold it up, he paid no attention. Therefore the guard picked up the bedding himself. At this, the detainee suddenly began hitting the wall and shouting in a loud voice. The guard warned him to keep quiet but he refused to listen, raised his voice even louder and continued hitting the wall. The guard therefore grabbed his two wrists to restrain him and took him to a protection cell.

While in the cell, he was strip-searched to check whether he had any objects concealed on his person that he might use to injure himself or commit suicide. When no such objects were found, he was given some clothes to wear while he was in the cell. During this time, it is completely untrue that guards acted violently towards him.

The detainee concerned was examined by a doctor immediately after his detention in the protection cell, and then 12 days later. During this examination, the detainee only complained about his hands and feet being cold due to the cold temperature in the prison. He did not complain about any injuries and there were no signs of any external wounds. He was fit and well. Moreover, he was released from the protection cell on the same day that he went in.

On the 19 March, the detainee was examined by a doctor because he had complained of anal bleeding. The diagnosis was that the bleeding was due to a minor case of piles. On 27 December of the same year, the examination certificate and the expert opinion both recorded that he had no external injuries in the anal region apart from the above-mentioned piles.

This shows clearly that the individual's allegations conflict with objective evidence and are fabrications.

(b) The report states to the effect that: "In April of the same year when he asked for an explanation for the internal rule that only Japanese inmates should be provided with soap and toothpaste, he was slapped on the face by a prison guard. He was also taken to a protection cell and subjected to 25 minutes of repeated beatings."

However, the facts are as follows:

On 31 May of the same year, the detainee concerned punched a prison guard when he was informed that he would have to change cells. The guard restrained him and took him to a protection cell. It is completely untrue that prison guards subjected him to 25 minutes of repeated beatings. He was examined by a doctor on the same day that he entered the protection cell and again the next day. He made no complaints about injuries and there were no signs of external injuries. He was pronounced fit and healthy. This all proves that there is no truth in his allegations of beatings and that his claims were clearly fabricated. Moreover, there is no internal rule that says that only Japanese inmates should receive soap and toothpaste. There is no truth in his claims that he received that kind of treatment and it is clear that his claims that he asked for an explanation of such a rule are pure fabrication.

(c) The report states that "in early August, when he protested at being punished for shouting "you stupid bastard!", he was restrained by seven or eight guards and forcibly taken to a protection cell. He was beaten around the head and as a consequence a tooth was broken and he had pain in his left ear. His right ear bled continually for two weeks and he had blurred vision in his left eye."