

REFERENCE: CED/JPN/19th session

16 October 2020

Excellency,

In my capacity as one of the Rapporteurs on follow-up to concluding observations of the Committee on Enforced Disappearances, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 12, 14 and 32 of the Concluding observations on the report submitted by Japan under article 29, paragraph 1, of the International Convention for the Protection of All Persons from Enforced Disappearance (CED/C/JPN/CO/1).

The Committee has asked me to express its appreciation for the information provided by the State party (CED/C/JPN/FCO/1), which was considered by the Committee during its nineteenth session, online, that started on 7 September and will be closed on 21 October 2020. The Committee considered that the three recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation.

The Committee then wishes to highlight that, pursuant to rule 47 of the Committee's rules of procedure, my co-rapporteur, Teraya Koji, did not participate in the consideration of this part of the report on follow-up to concluding observations.

It is my honour to share with you the assessment of the Committee below:

Japan

Concluding observations:	CED/C/JPN/CO/1, adopted 14 November 2018
Recommendations to be followed up:	Paragraphs 12, 14 and 32
Reply:	CED/C/JPN/FCO/1, due 16 November 2019, received 26 December 2019
Information from other stakeholders:	Japan Federation of Bar Associations, received 16 October 2019

Paragraph 12: The Committee recommends that the State party take the legislative measures necessary to incorporate into domestic law an absolute prohibition of enforced disappearance, in line with article 1 (2) of the Convention.

State party's reply

The reply of the State party is provided in CED/C/JPN/FCO/1, paragraphs 2 to 4.

Committee's evaluation

[E]: The Committee regrets that the State party does not consider it necessary to take the legislative measures recommended by the Committee to incorporate into domestic law an absolute prohibition of enforced disappearance, in line with article 1 (2) of the Convention. The Committee therefore reiterates the recommendation contained in paragraph 12 of its concluding observations and requests the State party to provide information about the measures taken in that regard, in accordance with its conventional obligations.

Japan

Paragraph 14: The Committee recommends that the State party adopt the legislative measures necessary as soon as possible to ensure that enforced disappearance is incorporated into domestic law as an autonomous offence, in accordance with the definition contained in article 2 of the Convention, and as a crime against humanity, in accordance with the standards provided for under article 5 of the Convention.

State party's reply

The reply of the State party is provided in CED/C/JPN/FCO/1, paragraphs 5 and 6.

Committee's evaluation

[E]: The Committee notes the information provided by the State party, and regrets that the State party does not consider it necessary to define enforced disappearance in its domestic criminal legislation in accordance with article 2 of the Convention. The Committee would like to recall that, pursuant to article 4 of the Convention, States parties have the obligation to take the necessary measures to ensure that enforced disappearance constitutes an offence under their criminal law, in conformity with the definition enshrined in article 2 of the Convention. The Committee emphasizes that criminalizing enforced disappearance as an autonomous offence constitutes an important safeguard against impunity, and a preventive measure against the occurrence of this crime.

The Committee further regrets the position expressed by the State party that it is unnecessary to incorporate separately into domestic law the widespread or systematic practice of enforced disappearance as a specific crime against humanity. The Committee would like to recall that, pursuant to article 5 of the Convention, States parties have the obligation to take the necessary measures to ensure that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity.

The Committee therefore reiterates the recommendation contained in paragraph 14 of its concluding observations and requests the State party to provide information on the measures taken to incorporate enforced disappearance into domestic criminal legislation as:

- (a) An autonomous offence, in accordance with article 4 of the Convention and in compliance with the definition contained in article 2 of the Convention;
- (b) A crime against humanity, in accordance with article 5 of the Convention.

Paragraph 32: The Committee recommends that the State party guarantee:

- (a) **That all persons deprived of liberty in all places of deprivation of liberty have access to a lawyer from the outset of deprivation of liberty and can communicate without delay with and be visited by their relatives, counsel or any person of their choosing and, in the case of foreigners, with their consular authorities;**
- (b) **The independence of the authorized mechanisms for visiting places of deprivation of liberty, including through the establishment of objective criteria for the selection of members and their unrestricted access to all places of deprivation of liberty and the provision of training on the Convention.**

State party's reply

The reply of the State party is provided in CED/C/JPN/FCO/1, paragraphs 7 to 24.

Committee's evaluation

[C]: While noting the information provided, the Committee regrets that the State party does not describe any measures that have been taken since the adoption of the concluding observations to guarantee that all persons deprived of liberty in all places of deprivation of liberty have access to a lawyer from the outset of deprivation of liberty and can communicate without delay with and be visited by their relatives, counsel or any person of their choosing and, in the case of foreigners, with their consular authorities.

The Committee further notes that no information is provided on the measures taken to guarantee the independence of the authorized mechanisms for visiting places of deprivation of liberty. In particular, the State party does not provide information about (a) the steps taken

Japan

towards establishing objective criteria for the selection of members of the authorized mechanisms for visiting places of deprivation of liberty; (b) the measures adopted to guarantee that the mechanisms have unrestricted access to all places of deprivation of liberty; or (c) the training provided for such mechanisms on the Convention.

In view of the above, the Committee reiterates the recommendations contained in paragraph 32 of its concluding observations and requests the State party to provide information on the measures taken in that regard since the adoption of the concluding observations.

In view of the above, the Committee decided to request the State party to include further information on the issues referred to, taking into account, when implementing the Committee's recommendations and submitting its additional information under article 29 (4) of the Convention, the specific guidance and request for information contained in the Committee's report follow-up to concluding observations, together with the Committee's guiding principles for the search for disappeared persons (CED/C/7), attached to the present letter.

In compliance with the deadline indicated in the Committee's concluding observations, the State party is requested to provide its report on additional information by **16 November 2024**.

The full version of the Committee's report on follow-up to concluding observations is available at the following link:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CED%2fC%2f19%2f4&Lang=en

For any further information, you can contact the Secretary of the Committee on Enforced Disappearances, Ms. Albane Prophetie-Pallasco (tel.: 022 917 9719; e-mail: aprophette@ohchr.org and ced@ohchr.org).

The Committee looks forward to pursuing its constructive dialogue with the authorities of Japan on the implementation of the Convention.

Please accept, Excellency, the assurances of our highest consideration.



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Co-rapporteur on follow-up to
Concluding observations

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