



Franciscans International
A voice at the United Nations

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Human Rights Situation in Japan *With specific focus on human rights in Okinawa*

A joint submission of :

**All Okinawa Council for Human Rights, International Movement Against All Forms
of Discrimination and Racism (IMADR) and Franciscans International (FI)**

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INTRODUCTION

1. The All Okinawa Council for Human Rights,¹ IMADR,² Franciscans International³ present this submission concerning the human rights situation in Japan for consideration by the UPR Working Group at its 28th session, November 2017. The focus is the human rights situation in Okinawa on issues of 1) Freedom of expression and assembly and 2) Establishment of a National Human Rights Commission.

BACKGROUND

2. Okinawa/Ryukyu, the islands located at the southernmost part of Japan, had been an independent kingdom with unique culture and language until the Government of Japan forcibly annexed it in 1879. Since then, Japan had promoted cultural assimilation policies. Although the Government of Japan has not yet admitted it, the people of Ryukyu/Okinawa are indigenous people.
3. At the end of Second World War, Okinawa became the battlefield between the United States and Japan, and a quarter of Okinawan population was lost in the battle. After the war, Okinawan islands were occupied by the U.S. military, and the land of Ryukyuan/Okinawan were taken forcibly. Although Okinawa was returned to Japan in 1972, many U.S. military bases were left in the islands. Okinawa covers only 0.6% of Japan's land area, but more than 70% of U.S. military's exclusive facilities in Japan concentrates in Okinawa, and they induce human rights violations against the people of Okinawa/Ryukyu.
4. The Governments of Japan and the U.S. now try to construct a new U.S. military base by landfilling the Oura bay in Henoko, situated in the North of Okinawa main island, but the people of Okinawa/Ryukyu are strongly opposing the plan. Furthermore, the Government of Japan conducted the construction of new U.S. military helipads in Takae, the Northern forest area, with police using excessive force to silence the strong protest activity of civilians.

FREEDOM OF EXPRESSION AND ASSEMBLY

Second-Cycle UPR Recommendations

5. During the 2nd UPR Cycle in 2012, the issue of limitations on freedom of expression was raised. The Government of Japan accepted two recommendations concerning the rights of minority groups which include the promotion and implementation of programmes and policies to improve the situation of minorities and the strengthening of public awareness about the human rights of (...) minority groups.⁴

Legal and Institutional Framework

6. Japan is a State party to the International Covenant on Civil and Political Rights (ICCPR). Article 21 of the Constitution of Japan guarantees the freedom of speech, press and other forms of expression, which is in conformity with the Article 19 of the ICCPR.

¹ All Okinawa Council for Human Rights is a research group consisting of researchers, journalists, and committed volunteers. Its purpose is to illuminate the continuing violation of human rights in Okinawa from the perspective of international human rights law, and send voices of Okinawa to the international society.

² International Movement Against All Forms of Discrimination and Racism (IMADR) is an international non-governmental human rights organization devoted to eliminating discrimination and racism, forging international solidarity among discriminated minorities and advancing the international human rights system.

³ FI is a faith-based International Non-Governmental Organization (INGO) with General Consultative Status with the Economic and Social Council of the United Nations. It was established in 1989 to bring to the UN the concerns of the most marginalised and disadvantaged.

⁴ See A/HRC/22/14, para 80, the delegation of Uzbekistan noted concerns, among others, limitation on freedom of expression; recommendations 147.161 and 161 which are accepted by the Government of Japan.

7. With regards to media, Japan enacted Broadcast Act (Act No 132 of 1950), which was amended in 2010.⁵ Article 1 of the Act stipulates that the purpose of the Act is “to regulate broadcasting so as to conform to public welfare and to achieve its sound development.”
8. On 3 June 2016, the Government of Japan promulgated “the Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and behaviour against Persons Originating from Outside Japan.”⁶ The purpose of the Act is the “the elimination of unfair discriminatory speech and behaviour against persons originating from outside Japan.”⁷ “Persons originating from outside Japan” are defined as “persons originating exclusively from a country or region other than Japan or their descendants and who are lawfully residing in Japan”.⁸ Therefore, the provisions of the Act exclude the people of Ryukyu/ Okinawa and other indigenous people and minorities holding the Japanese nationality.

Promotion and Protection of Human Rights on the Ground

9. In April 2016, Mr. David Kaye, the UN Special Rapporteur on the right to freedom of opinion and expression, made a country visit to Japan. In his preliminary observations, he expressed his concern regarding the information on broadcast journalists who received intense pressure from the Government. He also noted the similar problem with the print media journalists, in which newspapers delayed or cancelled publication of articles critical to the Government. Further, he received information from journalists that media avoid to address issues which may lead to criticism by the Government.⁹ Moreover, the Rapporteur expressed his concern on the allegation of disproportionate restriction on protest activity in Okinawa.

Political interference in the Okinawan media

10. There have been numerous discriminatory and oppressive remarks by the ruling Liberal Democratic Party (LDP) members or government agencies against the Okinawan media, in particular two local newspapers: Ryukyu Shimpo and Okinawa Times.¹⁰ The Hyakuta incident is a clear example among many oppressive remarks.
11. On 25 June 2015, about 40 junior LDP Diet members held a study session at their headquarters. This study session named “Culture and Art gathering” and its aim was to promote constitutional amendment. They invited the famous writer Naoki Hyakuta, a former member of the Board of Governors of NHK (Japan Broadcasting Cooperation). The study session was vibrant, with a series of critical opinions about media from the LDP Diet members and Naoki Hyakuta.
12. Hideo Ohnishi from the LDP said “The best way to teach media a lesson is to deprive them of advertisement income. Neither politicians nor Prime Minister Abe can say this, so we want you to appeal to the Federation of Economic Organizations that it is outrageous to provide advertisement income to media which commits a fault against the interest of Japan. Something like boycotting.” Takashi Nagao from the LDP asked Hyakuta, “It is the failure of post war conservatives that created the odd structure of media in Okinawa. What will you do to straighten the biased public opinion of Okinawa? I believe media is completely taken over by the left wing.”

⁵ By the Act for Partial Revision of the Broadcast Act and Other Related Acts (Act No. 65 of 2010).

⁶ Ministry of Justice, http://www.moj.go.jp/ENGLISH/m_jinken04_00001.html

⁷ Article 1

⁸ Article 2

⁹ See: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19842>

¹⁰ See the “list of political interference in the Okinawan Media” http://imadr.org/wordpress/wp-content/uploads/2016/09/Joint-report-Targeted-attack-on-freedom-of-expression-in-Okinawa_27SEP2016.pdf

13. Answering to these opinions and questions, Hyakuta said “We must smash up two Okinawan newspapers”.¹¹ He went further to tell a false history of the Futenma Air Base saying “People from the neighboring community moved around the Air base for the money”. Minoru Kihara from the LDP, the head of this gathering, said “Mr. Hyakuta has been providing information and voicing his opinions and belief to the public, and he is well accepted by the people. We, politicians, should all learn from him.” Several government officials also attended this study session.
14. Although Hideo Ohnishi received reprimand from his party, he did not change his opinion but said to the press “We should punish (the media critical about the new Security bill)” and “I believe companies should restrain spending advertisement fees to the media which conduct false news coverage.” again on 30 June 2015.¹²
15. Remarks cited above were intended to oppress the Okinawan media. The LDP removed Kihara Minoru from the Director of Youth Division, and ordered the suspension of any post for a year. Hideo Ohnishi, Takahiro Inoue, Takashi Nagao were reprimanded. However, these punishments cannot address the problematic nature associated with the incident because of the following three points.
16. Firstly, “Culture and Art gathering” was an official study session held at the LDP Headquarters, which many Diet members with high-ranking positions in the LDP and the Government participated. Therefore, those remarks created political pressure using the position of the ruling party.
17. Secondly, we must highlight the fact that the remarks were concrete, including specific methods on how to reduce the resources of media. Their utterances denied the freedom of the press, therefore the event was an official threat to the freedom of expression.
18. Thirdly, we must point out that the remarks made by Naoki Hyakuta were not rejected or questioned, but were accepted positively by the Diet members. As the representatives of Japan, the Diet members should have adamantly opposed to such proposal of media regulation. Instead, they said “We must learn from Hyakuta Naoki.” Consequently, similar remarks have been repeatedly made by LDP members and government officials.

Forcible removal of journalists

19. There have been incidents of interference and forcible removal of journalists reporting the protest activities in Henoko and Takae. For instance, a movie director who was recording the protest activity in Henoko’s Oura bay on the boat was arrested by an officer of the Japan Coast Guard (JCG).
20. On 22 July 2016, the police and the Okinawa Defense Bureau (ODB) closed the prefectural road in Takae to restrict the protest activity against the U.S. military helipads. Approximately 200 civilians gathered at the construction site were forcibly removed from the blocked road by the police, and only about 15 protesters could stay there. Reporters¹³ were requested to leave, but those who happened to be inside the restricted area when the road was closed, were not forcibly removed. However, they were told that they would not be permitted to return once they left. Also, the police were surveilling the press by demanding

¹¹ Ryukyu Shimpo (June 26, 2015) <http://english.ryukyushimpo.jp/2015/07/01/19051/>

¹² Japan Press Weekly (June 28, 2015) <http://www.japan-press.co.jp/modules/news/index.php?id=8340>

¹³ These reporters witnessed and reported the violent forcible elimination of remaining civilians. Video footage available at: <https://www.youtube.com/watch?v=1WvI3Z48Ffk>

journalists to be accompanied by them when entering the area. Blockade continued for 11 hours.

21. On 20 August, reporters from the Okinawa Times and Ryukyu Shimpo, covering the riot police's evacuation of the approximately 50 protesters on the Takaebashi bridge, were also forcibly removed by the riot police, temporarily detained and prevented from reporting. Although both informed their newspaper's name showing their IDs, the riot police continued the detention without any explanation. These acts significantly infringed the freedom of the press by intimidating its representatives, therefore impacting on the right to information. The Ryukyu Shimpo denounced the incident in its editorial on 12 October 2016.¹⁴

Recommendation to the Government of Japan

- *Ensure and guarantee the independence of media and press freedom including through conducting human rights training to law enforcement officers.*

“Dojin” remark by the riot police officer

22. On 18 October 2016 in Takae, a Japanese riot police officer from the Osaka prefectural police called protesters, “Dojin.”¹⁵ The protesters, who are against the construction of U.S. military helipads, were pushing the U.S. military's Northern Training Area fences.¹⁶ “Dojin” is a discriminatory word which means “primitive people” with highly negative connotations such as “backward” and “uncivilized”.
23. Following the incident, Chief Cabinet Secretary Yoshihide Suga condemned the incident as “inappropriate and extremely regrettable. It must not be forgiven.”¹⁷ The National Police Agency provided strict orders on 19 October to the police departments throughout the country to instruct the officers to prevent further incidents.¹⁸ The concerned police officer was sent back to Osaka, and the Osaka police investigated the incident from 20 October.¹⁹ On 21 October, the concerned officer was reprimanded for “the indiscreet and inappropriate comments that hurt trust in the police.”²⁰
24. Yet regrettably, the Governor of Osaka Ichiro Matsui posted a defensive comment on Twitter which said on 19 October, “I saw the online footage and even if the expression the officer used was inappropriate, I learned that cops with the Osaka prefectural police department were working very hard obeying orders and doing their tasks. Good job working away from home.”²¹ In the same week, another riot police officer from the Osaka prefectural police said, “Shut up, ‘Shinajin’ to the protesters in Takae.”²² “Shinajin” is a derogatory term to call Chinese people. The incident took place on 18 October.²³ He has been withdrawn from the front-line assignment, and he was also reprimanded for “the indiscreet and inappropriate comments that hurt trust in the police.”²⁴

¹⁴ Ryukyu Shimpo (12 Oct 2016) <http://ryukyushimpo.jp/editorial/entry-373762.html> (Japanese)

¹⁵ NHK WORLD (19 October 2016), “Police officer insults protesters in Okinawa”, available at:

http://www3.nhk.or.jp/nhkworld/en/news/20161019_31/

¹⁶ The Japan Times (19 October 2016), “Police officer dispatched from Osaka insults protesters in Okinawa”, available at:

<http://www.japantimes.co.jp/news/2016/10/19/national/police-officer-dispatched-osaka-insults-protesters-okinawa/#.WAiyfvmLSM9> The video of the incident is available in Japanese at: <https://www.youtube.com/watch?v=zm6NbNKIayk>.

¹⁷ Ibid

¹⁸ The Asahi Shimbun (20 October 2016), “Okinawa outrage at police officers’ racist slurs used on protesters”, available at:

<http://www.asahi.com/ajw/articles/AJ201610200032.html>

¹⁹ Ibid

²⁰ The Asahi Shimbun (22 October 2016), “Riot police say they didn’t know slurs in Okinawa were racist”, available at:

<http://www.asahi.com/ajw/articles/AJ201610220031.html>

²¹ The Asahi Shimbun (20 October 2016), “Okinawa outrage at police officers’ racist slurs used on protesters

²² The Japan Times, Ibid

²³ The video footage is available in Japanese at: https://www.youtube.com/watch?v=tM_J-2FQzr8.

²⁴ The Asahi Shimbun (22 October 2016), “Riot police say they didn’t know slurs in Okinawa were racist”

25. Addressing the riot police officer's "Dojin" remark, the Minister of State for Okinawa and Northern Territories Affairs Yosuke Tsuruho said on 8 November 2016 at the Diet: "From the position of the Minister, it is impossible for me to conclude this (the remark) as discrimination"; "Personally I cannot conclude that calling someone a dojin is discrimination"; and "It is extremely dangerous if a third party unilaterally decides whether it is a human rights issue or not. Of course everyone has a freedom of speech."²⁵
26. While Minister Tsuruho faced criticisms from opposition lawmakers, the Government did not ask him to apologize for his attitude and comments. On 21 November, the Government made a cabinet decision concluding that no correction or apology is necessary since the term "Dojin" has a meaning of "a person who was born and lives on the land" in addition to the derogatory meaning, "uncivilised natives." Therefore, the cabinet claims that "it is difficult to tell unambiguously" whether it is considered as a discriminatory term.²⁶ Moreover, when the Minister Tsuruho was asked on 12 December at the Diet whether he checked the circumstance of the "Dojin" remark incident, he answered "I did not watch the video closely."²⁷ Instead of taking the remark incident seriously and making efforts to combat discrimination, the Government's reaction has left the human rights issue unaddressed. The issue was not clarified that the "Dojin" remark was discrimination against Okinawans, therefore a hate speech.²⁸
27. After the forced annexation in 1879, the cultural assimilation of Ryukyu/Okinawa into Japan was promoted with the rapid modernisation while Japanese were sent from the mainland to serve as bureaucrats or executives of the military and police in Okinawa. It led to unfair treatments in the relationship between Japan and Okinawa and structural inequality in the political and economic spheres. Thus, the discriminatory feeling against Ryukyuan/Okinawans grew. For example, in certain testimonies about discriminatory incidents from 1980s to 1990s, some restaurants and places in the mainland denied access to Ryukyuan/Okinawans. Even recently, there was an incident that a person was rejected to rent a house by the landlord because he was working for the Okinawan newspaper.
28. It must be noted that with his remark, the riot police officer did not mean people who were born and have been living in Okinawa for generations (indigenous people). The remark clearly carries, discriminatory and despised feelings towards Ryukyuan/Okinawans. As a proof, the video shows that the riot police officer made the "Dojin" remark immediately after having said abusive words such as "Kuso (shit)" and "Boke (idiot).
29. The cabinet decision is the clear evidence that the Government of Japan is not doing its best efforts to stop the discrimination against the people of Ryukyu/Okinawa but is, at best, tolerating it, and may even encourage it.

The main land media's biased coverage of Okinawa

30. On 2 January 2017, Tokyo MX TV, a local TV station from Tokyo, broadcasted the program "News Jyoshi (girls)" and covered the citizens' protest movement against the base construction. Not only the program was made without interviewing the citizens concerned and basing on facts, its content slandered Ryukyuan/Okinawans and the minority ethnic Koreans (Zainichi Koreans).

²⁵ 8 November 2016 at the Cabinet Committee of the Upper House

²⁶ 21 November 2016 at the Committee on Audit and Oversight of Administration of the Lower House. The Asahi Shimbun (22 November 2016), "Cabinet: No need for Tsuruho to apologize over 'dojin' issue", available at: <http://www.asahi.com/ajw/articles/AJ201611220077.html>

²⁷ 12 December 2016 at the Special Committee on Okinawa and Northern Problems of the Upper House

²⁸ Japan is a state party to ICERD therefore, it is adhered to the article 4 and 20 of the ICERD

31. Although the program proceeded in a style of examining rumors, it had a series of factual errors and manipulation of impression. Especially, the segment, which examined rumors “(1) Extremists stopped the ambulance? (2) Riot police officers faced violence (3) Protesters received daily allowance?”, made a deliberate coverage to give a false impression.
32. The first rumor, “Extremists stopped the ambulance,” was spread on the internet. Even though several media checked with the local fire station and revealed that the rumor is false, the program reported as if the rumor is true.
33. The second rumor, “Riot police officers faced violence,” is unfounded. There have been multiple incidents of protesting citizens’ injuries caused by forcible evacuation. The program did not touch upon this point, but it reported the one-sided information which was sympathetic towards riot police officers.
34. On the third rumor, “Protesters received daily allowance,” is again unfounded. The program was staged with bias to give the impression that the protest activity is violent and against the law. The fact that such a program was broadcasted on TV shows that discrimination against Ryukyu/ Okinawa is widely spread throughout the Japanese society. It is a serious problem that the discrimination against Ryukyu/ Okinawa is supported by false information in the media, therefore an anti-discrimination law should be established to prevent further incidents.

Recommendation to the Government of Japan

- *Adopt a comprehensive anti-discrimination law with adequate and corresponding penal provisions.*
- *Impose strict punishment to the incitement to hatred or discrimination by a person in a public position.*
- *Conduct human rights training to law enforcement officers in order to prevent hate speech and hate crimes, as well as excessive use of force*

Violent repression of protest activities by police, riot police and Japan Coast Guard

35. Despite the strong protest of civilians, the new U.S. helipads were constructed very close to the residential area. Both in Henoko and Takae, the police, the riot police, and the Japan Coast Guard (JCG) violently repressed the protest.

Takae

36. While geographically extensive, the village of Higashi has a population of just 1,800 people, only 140 of whom live in the Takae district. The village is normally peaceful and calm. However, in December 1996, the U.S.-Japan Special Action Committee on Okinawa (SACO) decided that six U.S military helipads would be constructed in the Takae District; two of them had been already built. As a result, local residents have been constantly exposed to severe noise pollution by the U.S aircraft, especially Ospreys, flying extremely low over residential areas. Local residents believe that the noise pollution has been making children sick. In the early morning of 11 July 2016, , the Government of Japan suddenly re-started preparation for construction by transporting materials to the construction site without any prior consultation or notice.. More than 40 riot police were deployed in front of the main gate of the Northern Training Area in Takae to forcibly remove any local residents who staged a sit-in protest attempting to block the route to the site, stopping construction vehicles from entering.
37. Moreover, on 19 July, the Government of Japan dispatched about 500 riot police to Takae, to further strengthen its control over protesters at the site. The riot police first set up

'checkpoints' and closed the prefectural road. The checkpoints were set up at two points and the inspection lasted three days. The Okinawa Prefectural Police claimed that the purpose of the inspection was to maintain public order and safety. However, local residents who were stopped at the checkpoints were asked to show their driver licenses as well as to divulge their destination and plans. In addition, the riot officers recorded their names and addresses.

38. In addition, the Okinawa Prefectural Police and the ODB barricaded the prefectural road surrounding the site on 22 July, the day the construction was resumed. Normally requests to close roads have to be submitted beforehand to the Okinawa Prefectural government, which is the authority in charge? However, there was no prior notification this time. They blocked the road for 11 hours, during which the heavy machines for the construction were successively transported to the site. Neither the Okinawa Prefectural Office staff, nor the media, much less local residents, were allowed inside the restricted area during this time. The traffic regulation to stop general vehicles in order to pass the construction vehicles continued successively.
39. The police officers and the riot police, always wore masks and sunglasses to conceal their faces, but they continually film and photograph protestors in order to identify them. These actions were intended to frighten citizens so that they will not exercise their right to express political opinions.
40. Scuffles between citizens and prefectural and riot police continued intermittently as the police forcibly evicted citizens. There were some citizens transported by ambulance to hospitals due to injuries, which they suffered as police forcibly evicted them. Women participants were also violently removed as they were held and pulled by male riot police. Although the protestors' freedom of expression and assembly were violated, the Government has not conducted any investigation, provided any compensation, or taken any action to address these human rights violations. Nor has it made any effort to prevent further incidents. This significantly infringes on the right to freedom of peaceful assembly and on freedom of expression.

Henoko

41. Japanese police have undermined the freedom of expression through oppressive and violent measures against protesters demonstrating both at land and sea. On a daily basis, the police forcibly evacuate peaceful protesters who gather in front of the gate of the Camp Schwab, the U.S. military base in Henoko.²⁹ Those evacuated protesters are detained at the side walk where they are kept inside a place fenced by iron bars and police vehicles. At sea, the JCG use violence to remove protesters and journalists in kayaks and small boats by detaining and evacuating, purposely colliding with their boats and even flipping the boats.³⁰ The police and JCG take video footage of protesters and journalists, look up their names, and threaten them by name to intimidate them.³¹ The JCG frequently use excessive force including chokehold and putting a protester's head into the water to cause them terror of drowning. Since July 2014, there have been at least 456 individuals who were subject to alleged excessive use of force or detention and 32 arrests of protesters.³² From 4 November 2015, the riot police send additional squads from the mainland daily. Each squad is composed of around 100 officers. As a result, it has increased the number of the injured due to excessive

²⁹ IMADR. "Militarization and Human Rights Violations in Okinawa, Japan", *the islands' voice to UN Human Rights Council*. September 9, 2015. http://imadr.org/militarizationhumanrights_okinawa_japan_hrc30-21september2015/

³⁰ Under the warrant principle, a restriction of personal liberty has to be supported by a warrant from a court judge. This measure is restricted for an emergency situation.

³¹ IMADR, *Human Rights Violations in Okinawa, Japan (HRC30, 2015, Joint-WS)*. September 17, 2015. <http://imadr.org/humanrights-violations-okinawa-japan-hrc30-2015-joint-ws/>

³² See the list "Violence detention and arrests in Henoko Okinawa in 2014-17" http://imadr.org/wordpress/wp-content/uploads/2017/02/Joint-report_Silencing_the_Voices_of_Okinawans_3FEB2017.pdf

use of force by the riot police.³³ It has de facto undermined protest and peaceful assembly and escalated the tension between the people of Ryukyu/ Okinawa and the Government.

42. In fact, legal grounds of those repressive actions by the police and JCG are questionable. Although the police claim that their measures comply with the law, it is not clear which law is referred.³⁴ The Police Duties Execution Act illustrates that measures without warrant can be exceptionally conducted in a necessary capacity to avoid a risk only when there is a threat to lives or bodies of persons or property.³⁵ However, protesters are demonstrating in a non-violent manner which does not pose a threat to persons or property.
43. Moreover, allegations of “obstructing official duties” as well as the Act on Special Measures Concerning Criminal Cases³⁶ are arbitrary used to arrest and oppress protesters and journalists. Circumstances of arrest for “obstructing official duties” are not always clear, since it often takes place during a scuffle with protesters and police officers.
44. In 2015, three individuals were arrested for alleged violation of the Act on Special Measures, of those two were dragged by the security guards into the Camp Schwab then arrested³⁷. It was a clear arbitrary arrest case with the application of the Act on Special Measures. Furthermore, JCG have mentioned a possible application of the Act against detained protesters who entered the temporary restricted area. This raises a serious question on the Government’s interpretation of the Act. The purpose of the Act on Special Measures is to guarantee activities of the U.S. military in Japan, but the current temporary restricted area is set for completing the construction work for the foundation of a base which in fact is a project of the Government of Japan. Therefore, the Government of Japan has misused the Act in order to prevent peaceful protesters from expressing their opinions. UN Special Rapporteurs expressed the concern on these cases.³⁸
45. A notable example of infringement of the freedom of peaceful assembly and expression was the case of Mr. Yamashiro Hiroji. He is the chairman of the Okinawa Peace Movement Centre, and was arrested for an alleged minor crime on 17 October 2016. Since then, he was subject to two retroactive arrests. The latest arrest was made on 29 November for his conduct in January 2016, which he laid over a thousand concrete bricks with protesters for three days in front of the gate of U.S. Camp Schwab Base to prevent the construction work of a new U.S. military base in Henoko, Okinawa. Even though it took place in front of police officers and Defense Bureau personnel, they did not arrest him at the scene but did so 10 months later.
46. He was under pre-trial detention for 5 months. The Supreme Court denied bail on 20 February 2017, and his detention was justified for a risk of destruction of evidence. However, several legal professionals pointed out that there is no such risk for his cases. The contacts from outside was fully banned except for the lawyers or his lawyers-to-be. His wife was finally allowed to see him on 13 March 2017. Such strict measures were unusual for the minor charges which are imposed on him. Moreover, he was recovering from malignant lymphoma since 2015. Many civil society groups in Japan have been condemning the arrests and detention as arbitrary measures. The first trial hearing was held in 17 March and Mr. Yamashiro was bailed on 18 March 2017

³³ See the list “Violence detention and arrests in Henoko Okinawa in 2014-15”

³⁴ Lawyers group for lawsuit to cancel the approval of landfill in Henoko, *Statement against Wrongful Detention in front of the Camp Schwab Gate by Riot Police of Okinawa Prefecture*, 29 July 2015

³⁵ *Ibid*

³⁶ This act is based on “*The Treaty of Mutual Cooperation and Security between Japan and the United States of America, regarding Facilities and Areas and the Status of United States Armed Forces in Japan*”

³⁷ The incident took place on 22 February 2015. Ryukyu Shimpo, *Henoko protesters detained by US military*, <http://english.ryukyushimpo.jp/2015/02/24/17224/>

³⁸ A/HRC/31/79, Case No. [JPN 1/2015](http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx), <http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx>

47. Those measures are taken to oppress protesters and to produce chilling effects to prevent people from joining demonstrations. Regrettably, national courts have not found those measures legally problematic, despite serious impacts on human rights, in particular the freedom of expression and peaceful assembly. The Government of Japan should refrain from taking any oppressive measures against peaceful demonstrations in order to respect those rights.

Surveillance on protests

48. Citizens against the construction of a new base began their protest activities at sea in fishing boats and canoes when the Government commenced preparations for the construction offshore of Henoko, in August 2014. From that time, the JCG started warning participants of the protests by name. Since those citizens did not reveal their names at the protest site, they wondered how JCG officers knew their names therefore they grew a suspicion towards the Government.
49. Offshore at Henoko, there are the JCG, which is responsible for maritime safety and policing, and two private security companies which are contracted by the ODB for security activities. The security companies are: “Rising Sun Security Service” and its subsidiary, “Marine Security”. It was disclosed by the Okinawa Times that the security companies had an internal list for the purpose of surveilling the movements of citizens.³⁹
50. According to the report, the list contained information on about 60 citizens, including their photos, names as well as their ships’ pictures, names and vessel numbers. People on the list were protest leaders, who have been participating in protests on a day-to-day basis. Security company employees photographed citizens and enlarged the photos to check them against the list. They reported “who was doing what” to the company on-site office by radio. All radio conversations were transcribed onto paper.
51. The security companies explained that the list “was made on our own and the Government was not involved. (We) have destroyed it.” The companies further claimed that the identification of individuals was based on public information, including social networking sites (SNS). However, several persons in the list do not use and are not associated with SNS. Moreover, the list contained information that cannot be obtained from the internet, such as who has a lawmaker in relatives; it was distributed inside the companies. Citizens suspect that the Japanese police and JCG provided private information to the companies, since the information in the list exceeded what private companies can legitimately collect. Furthermore, there were internal communications that the information on “who was doing what” was passed to the JCG and ODB by radio.
52. The security companies not only deployed their employees at sea, but also at the Teima fishing port of Nago City, where citizens moor their boats. They surveilled citizens from the point where they put out to sea, far from the temporary restricted area, which the Government unilaterally imposed. The legal basis of the restricted area is in dispute; therefore, surveillance at the port cannot be justified on any basis. Moreover, activities of the security companies are contracted by the ODB; therefore, the Bureau is directly responsible for the preparation of the list and surveillance of citizens.
53. Lawyers also point out that though the police and JCG are allowed to collect private information to the extent necessary for criminal investigations, it is totally illegal for the ODB to gather such information since it does not have police authority. Citizens have

³⁹ (Original source in Japanese) Okinawa Times (30 June 2016), “Purchase of the security company’s list of protesters in Henoko. Citizens allege “Government’s involvement”, last accessed on 5 August 2016 at: <http://www.okinawatimes.co.jp/articles/-/34252>

brought complaints against the ODB multiple times. Yet, the Bureau has consistently denied its involvement and has claimed that “it did not know about the existence of the list”, “it has not seen the original list since the media report” and “it did not cooperate in compilation of the list”. However, the Bureau has refused to answer inquiries from media institutions and has remained silent. Such act violates the freedom of expression by unlawfully collecting private information and should be stopped immediately.

Recommendation to the Government of Japan

- *Ensure and guarantee the freedom of peaceful assembly and expression in Okinawa, including through providing the human rights training to law enforcement officers.*
- *Provide a legal recognition of the people of Ryukyu/Okinawa as indigenous people, and take the historical and social background into account when deploying law enforcement officers to manage the protest activity.*

THE NEED TO ESTABLISH A NATIONAL HUMAN RIGHTS COMMISSION

Second-Cycle UPR Recommendations

54. During the 2nd UPR Cycle in 2012, the Government of Japan accepted several recommendations concerning the establishment of the National Human Rights Commission according to Paris Principles.⁴⁰ However, Japan has not established a national human rights institution.

Legal and Institutional Framework

55. Japan enacted the State Redress Act in 1947. Article 1 of the Act stipulates “when a public entity has, in the course of his/her duties, unlawfully inflicted damage on another person intentionally or negligently, the State or public entity shall assume the responsibility to compensate therefor.” System for Filing Complaints, Human Rights Protection System and Petition for Human Rights Protection are the mechanisms established to implement the provision of the Act.

Promotion and Protection of Human Rights on the Ground

^{56.} State Redress Act is not utilized because it is not cost effective in most cases. In cases of unreasonable detention, confinement or excessive force by police agencies, it is rare for victims’ claims to be granted based on the State Redress Act. Also, it is common for this type of lawsuit to take a couple of years or more. In addition, the amount of compensation is not worth the effort and costs of lawsuit is not enough to have a deterrent effect on police agencies’ illegal acts; the compensation amount for damages because of unreasonable detention, confinement or use of excessive force by police agencies is low and attorney’s fees and judicial fees become around 100,000 yen (about 90 USD). Therefore, people tend to not utilize the system due to its low cost-effectiveness. For instance, in the case of 4 arrested men that the Special Rapporteurs jointly addressed to the Government of Japan, the victims have not utilised this Act for the reasons above.⁴¹

57. System for Filing Complaints: In most cases, expected results are not recognized even if this system is utilized. Local and leading figures in financial world are often appointed as members of the Public Safety Commission although they are not familiar with police and jurisdiction. This poses considerable problems of legitimacy and competence.

⁴⁰ See A/HRC/22/14, paras 147.47-59,

⁴¹ A/HRC/31/79, Case No. [JPN 1/2015](http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx), <http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx>

58. Another common problem in Japan is that the police have a strong influence, especially in decision-making process in the commissions. Even though the Public Safety Commission is supposed to be a “watchdog” in most of the local governments, it rarely raises objections against the police. A similar situation occurred in Okinawa as well. When the Okinawan Prefectural Assembly took up the issue of police’s excessive guard, the Public Safety Commission repeated the same claim that the chief of Prefectural Police insisted: “The protest activity was illegal and was necessary to be cracked down.”
59. Human Rights Protection System: It is extremely unlikely that victim’s claims will be granted. This system is for making claims against the Legal Affairs Bureau; however, the bureau is not independent from the State because it belongs to the Ministry of Justice. Especially because the Public Prosecutor’s Office belongs to the Ministry of Justice, it is hard to seek a remedy for infringement of human rights by investigating authority. When abuse of power and excessive use of force by the police violate the rights of people who are against the political measure by the Government of Japan, the likelihood of victim’s claim to be granted is very low.
60. Additionally, the Human Rights Protection System does not include effective and independent investigation and judicial procedures. Even when an infringement of human rights has been acknowledged, there is no system that offers effective solutions and it only provides limited measures, including accepting requests, giving instructions, and providing advices. As a result, with the weak recognition of the system, the number of people, who utilizes the system in similar cases, will be lower.
61. Petition to the Bar Association for Human Rights Protection: In most of the cases, expected results cannot be recognized even if this system has been utilized. The Bar Association is independent from the State power because its autonomy has been guaranteed without supervision of the Government, but its investigation does not have any legal compelling power, and the warnings, advices or requests that are given when an infringement of human rights has been granted only require voluntary implementation by opponent.
62. At the time of any arrest, police on site has an obligation to notify about the right to remain silent. Yet, there is no explanation about those systems. Taking into consideration of the cost-effectiveness, people cannot but hesitate to utilize the system. Virtually, there is no effective remedy system for human rights infringement.

Recommendation to the Government of Japan

- *Establish an independent national human rights institution based on Paris Principles.*