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Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Follow-up Report on Country Visits

Call for Submissions

Japan

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression will present a follow-up report pursuant to country visits conducted under the auspices of the mandate. He will examine the impact of country visits on the promotion, protection, fulfilment and overall enjoyment of the right in five selected countries. He will analyse the level of implementation of recommendations made following the visits, and consider any other developments impacting upon the rights which may have occurred since the visit was completed. The findings will be presented at the 41st session of the Human Rights Council in June 2019. For more information, please see the concept note attached.

In order to facilitate the preparation of the report the Special Rapporteur would welcome information from States and relevant stakeholders in response to the questions below, based primarily on recommendations made in the country visit report.

Please provide responses in the table below. We hope to receive your submission no later than 22 February 2019 to freedex@ohchr.org with “Submission to the follow-up study on country visits of the Special Rapporteur on the right to freedom of opinion and expression” as the title of the email.

On the implementation of recommendations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression following the visit of the Mandate Holder to Japan

Has the Government initiated a review of the legal framework governing broadcast media in Japan? In particular, have any changes been made concerning article 4 of the Broadcast Act?

(See: A/HRC/35/22/Add.1 para 65)

In March 2018, the Asahi Shimbun reported internal document of Trade and Investment WG with The Council for Regulatory Reform. According to the article, the government considered internally to abolish article 4 of the Broadcast Act. But this argument has not appeared officially ever since.

Japan's government may abolish political fairness clause in broadcasting law as part of industry shake-up

<https://www.japantimes.co.jp/news/2018/03/15/national/japans-government-may-abolish-political-fairness-clause-broadcasting-law-part-industry-shake/>

Third Report by the Council for Promotion of Regulatory Reform -For New Era to Come- was approved by the Council on 4 June 2018. This report required to formulate cross-boundary business model of communication and broadcasting. In this report, Ministry of Internal Affairs and Communication will review of the status of the business foundation of local broadcasting, and ensure management governance of broadcasting company.

<https://www8.cao.go.jp/kisei-kaikaku/english/pdf/180604/toshin3.pdf>

Amendment bill of the Broadcast Act will submit to the current Diet session. This will be included simultaneously distribute of broadcasting and internet streaming by NHK.

Limit: 500 words

Has the Government taken steps towards the development of an independent regulator of broadcast media? If so, at what stage is this process?

(See: A/HRC/35/22/Add.1 para 65)

No

Limit: 500 words

Has the Government expressed public support for journalists and investigative reporters? Have threats and intimidation against such persons been denounced?

(See: A/HRC/35/22/Add.1 para 66)

There has not been such a motion by the government. Moreover, current situation is far from that. In 2017, the Asahi Shimbun revealed scandals related to Prime Minister and his wife. The government tried to label as a fake news or wrong information, and criticise against investigative news reporters and media outlet which were seriously pursuing investigation. And the government sometimes interrupted a question by specific investigative reporter who didn't give up getting actual answer at the press conference.

The Kake and Moritomo scandals and the bureaucracy

<https://www.japantimes.co.jp/opinion/2017/10/20/editorials/kake-moritomo-scandals-bureaucracy/>

The Moritomo cronyism scandal: Could it hurt Abe?

<https://www.japantimes.co.jp/news/2018/03/12/national/politics-diplomacy/moritomo-cronyism-scandal-hurt-abe/>

In February 2019, the Cabinet Secretariat claimed to the press club and newspaper company to show restraint a question from a specific news reporter to the Chief Cabinet Secretary at the press conference. At the same time, the head of Cabinet Public Information Office who proceeds the press conference occasionally interrupts a question by this reporter. It has continued about one and half years.

Government slammed for singling out 'problematic' Tokyo Shimbun reporter in warning to press club
<https://www.japantimes.co.jp/news/2019/02/13/national/politics-diplomacy/government-slammed-singling-problematic-tokyo-shimbun-reporter-warning-press-club/>

Limit: 500 words

Have either public or private broadcast and print media groups taken steps to prevent direct or indirect pressure on their editorial activities and their journalists? Have any steps to support journalists in investigating and reporting on controversial topics been taken?

(See: A/HRC/35/22/Add.1 para 67)

There is no such taking step toward to prevent pressure as broadcast and print media groups. But there has been Massmedia & Information Culture(MIC) which is a coalition of labor union of newspaper company, broadcasting company, publication company and so on since 1963. MIC is active to prevent pressure from the government as well as company management, and to support news reporter, director, and editor.

Limit: 750 words

Have changes been made to the kisha club system, in particular in an attempt to broaden its membership?

(See: A/HRC/35/22/Add.1 para 68)

No

Limit: 500 words

Has the Government made efforts to ensure full transparency in the elaboration of public school curricula and the safeguarding of the Textbook Council from Government influence?

(See: A/HRC/35/22/Add.1 para 69)

No

Limit: 500 words

Has the Government requested a visit of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence?

(See: A/HRC/35/22/Add.1 para 70)

No

Limit: 500 words

Have steps been taken towards revising the Public Office Election Act and in particular provisions imposing disproportionate restrictions on political campaigning?

(See: A/HRC/35/22/Add.1 para 71)

No. But there is an initiative to reform the Public Office Election Act by civil society organization.

Limit: 500 words

Have any efforts been made by public authorities, including law enforcement authorities, to enable the enjoyment of the right to freedom of assembly?

(See: A/HRC/35/22/Add.1 para 72)

No.

In local authority, there are some issues on this.

Shinjuku ward amended a park use standard and restricted only one park to be able to use a demonstration. Shinjuku ward claimed it is necessary to prevent and counter measure of demonstration with hate speech. But the amendment of standard has just reported the Shinjuku Municipal Assembly of Shinjuku ward, there was no discussion in spite of possible threaten of freedom of expression and assembly.

Ebina city in Kanagawa prefecture refused to use a passage in front of the station for mannequin flash mob which criticised the administration in 2016. Citizens sued to the city and the Yokohama district court overturned city's decision. In 2018, Ebina city amended ordinances which caused of ban and revise a range of ban to use the alley.

Ban on 'mannequin flash mob' overturned

<https://www.japantimes.co.jp/news/2017/03/08/national/crime-legal/ban-mannequin-flash-mob-overturned/>

Limit: 500 words

Have any amendments to the Act on the Protection of Specially Designated Secrets been initiated, in particular concerning the application of penalties outlined in article 25 to journalists, and an exemption in the Act guaranteeing that no individuals shall be punished for disclosing information of public interest that does not harm national security?

(See: A/HRC/35/22/Add.1 para 74)

The Act is not amended. At this moment, there is no actual sign of serious issue between article 25 and freedom of press apparently. But this does not mean that there is no chilling effect and restriction of press freedom.

Limit: 500 words

Has an oversight board equipped with experts been put in place to ensure Government accountability in relation to the application of the Act on the Protection of Specially Designated Secrets? If so, what have been its success and what challenges has it faced?

(See: A/HRC/35/22/Add.1 para 77)

The existing oversight bodies do not equip with experts.

The head of oversight body setting up in the Cabinet office was promoted the rank from deputy director general to director. It can say the oversight body's position was more strengthened than before but this promotion is nothing relevant with the SDS Act. Both House of the Diet established the Board of Oversight and Review of Specially Designated Secrets. The house of representatives' review board is active more than the house of councillors and publishes annual reports which show that the review board oversees the SDS act and other relevant government activities as a part of administration oversight. But it has to be noted that level of activity depends on members of the board.

In December 2019, the Act will be enforced for 5 years. The general standard of the Act includes a provision of review the implementation of the Act and necessary amendment of the general standard.

At this moment, there is no argument in the politics and the government to establish a new oversight function or equip experts.

Limit: 500 words

Have any legislative steps been taken towards the adoption of a broad anti-discrimination law? If so, at what stage is this process?

(See: A/HRC/35/22/Add.1 para 78)

No

Limit: 500 words

Has any new legislation been enacted concerning surveillance of communications? If so, what has been done to ensure that any such laws adhere to the principle of non-discrimination, are permitted only in the most exceptional circumstances, and are subject to independent judicial oversight?

(See: A/HRC/35/22/Add.1 para 81)

No

There is a supreme court judgement which stated using GPS without warrant is illegal in 2017.

Set rules on GPS data collection

<https://www.japantimes.co.jp/opinion/2017/03/25/editorials/set-rules-gps-data-collection/>

Currently, there is a serious argument on personal information collection from private corporation by the police and the prosecutor as a ground of article 197.2 of the Code of Criminal Procedure. Article 197.2 says that "Public offices or public or private organizations may be asked to make a report on necessary matters relating to the investigation." According to Personal Information Protection Act for private sector and public sector, and ordinances which are for local government, they have an article to be able to provide personal information if requester has a legal ground such like article 197.2 of the Code of Criminal Procedure. At this time, personal information collected by the police without warrant is broader than usual expectation and includes GPS data which communication company requires he police warrant because of privacy of communication when they provide it. But for example, internet game provider get GPS data from their customer and provide it to the police without warrant so far. The government does not think it is illegal activity.

T Card customer data handed to police and prosecutors without court approval since 2012, operator says

<https://www.japantimes.co.jp/news/2019/01/21/national/operator-popular-reward-program-t-card-supplying-clients-personal-information-police-prosecutors/>

Limit: 500 words

Have any further laws, regulations, policies, administrative decisions or other measures affecting the right to freedom of opinion and expression been implemented following the Special Rapporteur's visit?

The government requested to communication company to block access by their user when he or she tries to access specific websites which are serious breach of copyrights. This caused serious argument regarding privacy of communication. The government intended to establish a legal ground on it but strong criticism was occurred from multiple sector and experts. As a result of it, the government could not reach consensus among experts whom the government invited to the expert panel to discuss it. Currently, the government set an agenda to amend the Copyright Act for criminalizing person who downloads production uploaded illegally online without authority. There are some situation regarding privacy of communication, copyright, or other fundamental rights

Japan's NTT to block websites with links to pirated manga, anime and other content

<https://www.japantimes.co.jp/news/2018/04/24/national/japans-ntt-block-websites-links-pirated-manga-anime-content/>



Japan to make unauthorized downloads of all copyrighted work illegal

<https://www.japantimes.co.jp/news/2019/02/14/national/japan-make-unauthorized-downloads-copyrighted-work-illegal/>

Limit: 1,000 words

Is there any relevant additional information you would wish to add?

Limit: 500 words