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**Human Rights Situation in Japan
With specific focus on women's and children's
human rights in Okinawa**

A joint submission of:
Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA),
All Okinawa Council for Human Rights,
Okinawa women act against military violence and
Women's International League for Peace and Freedom Kyoto (WILPF kyoto)

INTRODUCTION

1. Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA)¹, the All Okinawa Council for Human Rights², Okinawa women act against military violence³ and Women's International League for Peace and Freedom Kyoto (WILPF)⁴ 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 right situation in Okinawa on issues of right to women's and children's.

BACKGROUND

Regarding sexual assaults targeting women committed by American military members that have been stationed long-term in Okinawa

2. As most of the United States military bases in Japan are concentrated in Okinawa, naturally, it is the current residence of many members of the U.S. Armed Forces. The number of U.S. military personnel in Okinawa is as many as 24,612, which is 68.4% of the 35,965 total members of the U.S. Forces in Japan. As a result of this, there is a frequent occurrence of incidents involving American military personnel.
3. Especially troubling is the fact that since the arrival of U.S. Armed Forces in 1945, sexual assault cases targeting women have not stopped and thus continue to threaten the safety of the women of Okinawa. In May of 2016, there was a case that involved a former U.S. military man who had raped, killed, and abandoned the body of a 20-year-old Okinawan woman. Per statistics provided by the Okinawa Prefectural Police, since the recovery of Okinawa from U.S. Occupation (1972) until 2015, there were 5,896 crimes committed by United States military personnel, 129 of which were rape cases. However, as these numbers only include cases in which the assailant was officially placed under arrest, it is commonly believed that the actual number of such cases is much larger. The existence of these sexual assault and rape cases, dating back to World War II and the Battle of Okinawa in 1945 which was the point that marked the arrival of U.S. Armed Forces in Okinawa, can be clearly established by listening to the survey responses of countless local women.⁵
4. In the event of a sexual assault or rape in Japan, due to an Antragsdelikt penal code, many victims are unable to muster the audacity to press charges and therefore are compelled to accept a traumatic situation in which the sexual assault itself was simply the tip of the iceberg. There is presently a movement in place working toward a non-Antragsdelikt penal code, however, established requirements for what constitutes a sex crime under the category of a threat of violence have yet to determine how and to what extent they include coercion, surprise attacks, and persuasion to commit sexual acts by using one's power and social

¹ Asia-Pacific Human Rights Information Center was inaugurated on 17 December 1994. It was given the short name "HURIGHTS OSAKA." Since then, HURIGHTS OSAKA has been undertaking different initiatives on the promotion of human rights in Asia and the Pacific in collaboration with local, national, regional and international institutions. In 2009, HURIGHTS OSAKA obtained a special consultative status with the Economic and Social Council (ECOSOC) of the United Nations.

² 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.

³ Okinawa Women Act Against Military Violence is a women's peace and human rights organization in Okinawa, Japan. Since its establishment in 1995 as a wide network to connect various women's groups in Okinawa, OWAAMV has worked for protection and achievement of the human rights of women and children, addressing particularly the issue of various forms of violence by the US military stationed in Okinawa such as sexual violence, environmental destruction, or unequal bilateral treaties. OWAAMV has called for demilitarization of security policies from a gender perspective.

⁴ WILPF Kyoto is a branch of the Japan section of Women's International League for Peace and Freedom, the world's oldest international women's peace organization founded in 1915 in the Hague. WILPF has addressed the "root causes" of war that includes sexism, patriarchy, militarism, all forms of discrimination and poverty, in its activities to stop war and to create a peaceful world. WILPF has its headquarters in Geneva, and has national sections in over 30 countries/regions.

⁵ "Sex Crimes Against Women Involving U.S. Armed Forces & Okinawa" 12th Edition (April 1945 - May 2016)

status. This means that not only are all rapes and sexual assaults not accurately recognized as actual criminal acts, but also that still exists a firm rooted legal gender bias.

5. Furthermore, under the U.S.-Japan Status of Forces Agreement, which exists to protect the status of U.S. Forces Japan, even if U.S. military personnel were to be involved in an incident outside of their official duties, Okinawa police are unable to place restraints on the suspect before indictment, thus hindering their ability to carry out a sufficient investigation. Also, because consent is required for Japanese authorities to gain custody of a victim that has fled to a U.S. military base, but the U.S. military is not obligated to give said consent, there are a multitude of cases in which victims are forced to accept the suffering caused by an unsolved case because the suspects are sent back to their home country untried. Between the year 2001 and 2008, the rate of crimes committed outside of official duties by U.S. military personnel lacking a prosecution climbed as high as 83%, leaving most such crimes in an unsolved state. In other words, it can be said that in Okinawa, which is the location of the largest American base in the Far East, there exists structural discrimination and mistreatment, as Okinawa has not received relief from the sexual violence related human rights violations, as well as legal and political damages.
6. It must be said that the structural exploitations of women which spread widely from the end of World War II to the end of U.S. Occupation in Okinawa (1972) still exist today despite the passing of over 40 years. In addition, it can be said that, because bases in Okinawa are constantly prepared for potential war, if military personnel stationed there consider dispatching to a location outside of their base as part of this preparation, women in Okinawa would be exposed to the risk of being sexually assaulted at a level as high as it was during wartime.
7. According to paragraph 16 of the CEDAW's **19th General Recommendation Regarding Assault Targeting Women** (11th Session, 1992), it is established that: "War, armed disputes, and territorial occupations often times bring about an increase in prostitution, human trafficking of women, and sexual assaults on women. This demands the establishment of the protection of these women as well as the punishment for these crimes." After World War II, American military personnel have been stationed long-term for practical military training in Okinawa for over 70 years, however, the current conditions bear exceeding resemblance to times of war rather than times of peace.
8. The Japanese government must adopt a zero tolerance policy to prevent, investigate, and punish all forms of sexual assault committed by those belonging to the exceedingly nationalistic United States military in prompt accordance with paragraph 38 of the CEDAW's **30th General Recommendation Regarding the Pre-Conflict, Mid-Conflict, and Post-Conflict Conditions of Women**: "(b) The implementation of a zero-tolerance policy [without any exceptions] intended to prevent, investigate, and punish of all forms of violence, especially sexual assaults committed by nationals and non-nationals, based on gender..." It must be stated that the continuation of modern political instability is the result of the state's legal inaction, which is responsible for the current condition in which women of Okinawa are highly susceptible to sexual assaults.
9. In addition, the article clause determines the following matters.
 - (a) A ban of all forms of sexual assault based on gender involving national and non-national subjects to be in accordance with all laws, policies, and principles.
((b) This item has been omitted as it is mentioned in the above statement.)
 - (c) Guarantee of the access to the administration of justice for women and girls; the adoption of considerate investigation procedures in sexual assaults based on gender; the adoption of standards and policies regarding training of peacekeeping members, police, and military personnel to educate them about gender issues; the construction of a legal and judicial system that guarantees a fair, independent, and honest approach to these issues, including during the transitional period to a new system.
 - (d) A law requiring the standardization of the collection of data related to violent acts based on gender, especially regarding all conditions related to the outbreak and spreading of sexual assaults of various classifications.
 - (e) The appropriate distribution of resources in order to properly implement a system under which all victims of gender-based violence, especially sexual assault, can realistically access comprehensive healthcare, mental health care, and psychological and social assistance

(f) A multipurpose community center that promotes the economic and societal empowerment, as well as the readjustment to society, for sexual assault survivors as a one stop shop that also includes emergency aid in the form of psychological and social services, laws, and medical care; the implementation of a standard that requires public officials to be involved in educating the public on services related to sexual assault and gender based violence, including mobile treatment centers.

(g) The proper distribution of resources and incorporation of technical knowledge in the creation of news particularly regarding women and girls that have been sexually assaulted (including effects on the health of the sexuality and reproductive system of women caused by sexual violence)

(h) The incorporation of a concrete national plan to prevent and treat issues caused by sexual violence, including HIV prevention and treatment.

10. We request that the Japanese government promptly distribute resources and implement legal action in accordance with the above recommendations.
11. In 1995, there was a case in which a sixth-grade girl was trapped and raped by three American military members and in accordance to the agreement protecting their status, the military strongly opposed turning over the suspects, which led to both governments agreement on improving the adoption of the agreement in order to include the turning over of suspects of heinous sexual crimes prior to indictment.
12. In a report conducted by the U.S. Navy and Marine Corps regarding U.S. Marine Corps involvement in sexual assault cases, it was reported that Marines had committed 67 cases of sexual assault at the military base in Okinawa, which is the second highest number among all bases, even including those located in the United States. Furthermore, there is a great likelihood that this figure of 67 cases is only the tip of the iceberg, as made evident by an investigation conducted by the National Military Establishment in 2010, which reported that about 80% of sexual assaults go unreported, a fact that “is made evident by such considerably few reports of sexual assaults.”
13. The below items, related to a commitment to freedom, equality, and dignity, were mentioned in a November, 2010 American report to the UPR⁶. “People should enjoy fair treatment reflected in due process and equality before the law. Governments have an obligation not to discriminate or persecute and should establish mechanisms for protection and redress. ”, “People should be treated with dignity. Governments have an obligation to protect the security of the person and to respect human dignity.”⁷
14. In that same American report⁸, it was written that initiatives related to the items below regarding fairness, equality, and women were being carried out. “Moreover, the Administration established the first White House Advisor on Violence Against Women, appointed two women to the U.S. Supreme Court, and created an unprecedented position of Ambassador-at-Large for Global Women’s Issues to mobilize support for women around the world. The Obama Administration strongly supports U.S. ratification of the Convention on the Elimination of all forms of Discrimination Against Women and is working with our Senate toward this end.”⁹
15. In 2014, the Convention on the Elimination of All Forms of Racial Discrimination (CERD) recommended that the United States implement methods of carrying out the necessary investigations and punishments of offenders, and to provide relief to women victims of violence. Also, it is recommended that a counter-measure be put in place to provide effective relief and justice to indigenous women victims of assault in particular.¹⁰
16. In 2014, the Committee Against Torture (CAT) recommended that the United States claim responsibility for the inhumane acts committed by those with ties to the United States and to put forth a method of

⁶ A/HRC/WG.6/9/USA/1

⁷ A/HRC/WG.6/9/USA/1 page 6

⁸ A/HRC/WG.6/9/USA/1

⁹ A/HRC/WG.6/9/USA/1 page 10

¹⁰ CERD/C/USA/CO/7-9 page9

preventing the occurrence of such incidents.¹¹

17. The women exposed to the continuous sexual assaults committed by United States military personnel stationed long-term overseas during wartime experienced an infringement of their right to freedom and safety according to the Universal Declaration of Human Rights; and those military personnel committed violations without receiving judgement by using the 17th paragraph of the Japan-US Status of Forces Agreement; and the lack of relief given to victims in these cases violates the 7th and 8th paragraph of the Universal Declaration of Human Rights.
18. We request that the Japanese government conduct a factual investigation and transparent public announcement on the exact measures taken by U.S. Forces Japan, particularly those in Okinawa, after the American government received the above UPR recommendations; that is, it is the responsibility of the U.S. Government to revise the 17th paragraph of the Japan-US Status of Forces Agreement, similar to the reform done to the Bonn Agreement (status agreement regarding American military personnel stationed in Germany) in order to allow the appropriate country's police to carry out a proper investigation on behalf of the victims of sexual assaults committed by American military personnel.

Regarding the health effects on women and children resulting from the military training of U.S. Forces Japan personnel that have been stationed long-term in Okinawa

19. In March of 2016, the CEDAW's recommendation was sent to the Japanese government¹² and contained in paragraph 46, regarding what are known as "groups of women in adverse circumstances," it reads, "the committee is concerned about reports that women that are indigenous and ethnic minorities such as Ainu, Buraku, Korean women in Japan, disabled women, LBT women, and migrant women continue to undergo complex and cross discrimination. The committee is particularly concerned that these women are still restricted access to health, education and employment." It continues on paragraph 47, "The committee requests the signatory nations to put forth an assertive effort to eradicate the complex and cross discrimination which affects the health, education, employment, access of public activities, health and education services, and workplace experience of indigenous and minority women such as those that are Ainu, Buraku, Korean, as well as disabled and LBT women."
20. In Okinawa Prefecture, between 1995 and 1998, Futenma conducted an "examination of the health effects caused by aircraft noise" on residents near Kadena Air Base, which found such effects as loss of hearing due to exposure to the noise for many years, an increase of the birthrate of low birth-weight infants, physical, mental, and behavior of infants that requires observation, etc., which revealed that adverse effects on residents caused by aircraft noise are clearly taking place¹³.
21. The residents around Futenma and Kadena Air Base file lawsuits against the state regarding flights at night and seeking compensation for damages, but in both cases, the Japanese government states it does not have the authority to restrict the actions of the US military, claiming it is simply engaged in "third party conduct" which results in a decision to dismiss the lawsuits¹⁴.
22. To this point, the Japanese government has not investigated the health effects on residents around the base, resulting in a state where the damages have been neglected. We request a prompt factual investigation of the health effects on the local residents, especially women and children, caused by the late night and early morning warplane flight noises, after which the results of the investigation are to be made clear.

Regarding the economic and employment conditions for women, as well as sexual assaults on women

¹¹ The Committee welcomes the State party's unequivocal commitment to abide by the universal prohibition of torture and ill-treatment everywhere, including at Bagram and Guantanamo Bay detention facilities, as well as the assurances that United States personnel are legally prohibited under international and domestic law from engaging in torture or cruel, inhuman, or degrading treatment or punishment at all times and in all places.

¹² CEDAW/C/JPN/CO/7-8

¹³ "U.S. military base in Okinawa March, 2008" Okinawa Prefecture

¹⁴ Judgment of the Naha District Okinawa branch in the third Kadena blast sound litigation on February 23, 2017.

23. CEDAW has concerns about the "persistent, complex, and intersecting forms of discrimination against indigenous and minority women (Korean, Buraku, Okinawan, etc.), disabled women, and immigrant women in the field of employment" ¹⁵ and requests that the Japanese government examine employment conditions, gather statistics on gender, and consider the ratification of ILO Convention #111¹⁶ in relation to employment and occupation¹⁷.
24. The average income in Okinawa Prefecture is around 70% of the national average¹⁸, and the occurrence of an annual income of less than 2 million yen in Okinawa is nearly three times as common as it is across the country at 24.7%, with an abundance of working poor¹⁹. In addition, the irregular employment of women in Okinawa has a rate of 60.1%, the number of irregular manual laborers aged 25 to 29 is 52.5%, as more than half of young women are irregular manual laborers²⁰. In a survey conducted by Okinawa Prefecture, the occurrence rate of single-parent households in Okinawa is 5.46%, two times the national figure (2.65% nationwide), and, looking at the income of mother and child households, the average national income is 1.81 million yen, while the figure in Okinawa prefecture has decreased by 260,000 yen to 1.55 million yen (Cabinet Office Okinawa Prefecture submitted data), and the most troublesome factor shortly after becoming a single parent household in the maternal household is "household living expenses" at 83.5% of the family finances. Overall, the poverty rate of children is 29.9%, far exceeding the national average (16.3%).
25. Such employment conditions are attributable to the fact that the industrial structure of the Okinawa Prefecture has a high proportion of tertiary industry with high needs for irregular workers. In vulnerable industrial structures where poverty is likely to occur, sexual crimes (sexual violence) targeting women due to gender inequality and sexual exploitation of girls are more likely to occur as well.
26. We request that the Japanese government promptly conduct a factual investigation on the actual economic and employment conditions of women, carrying out the measures found in CEDAW General Recommendation # 30 paragraph 38 (c)~(h), while also following the United Nations' recommended standards regarding "the establishment of rape crisis centers that can serve 200,000 women each," as well as the establishment of centers that provide access to sufficient aid for reproductive health and HIV prevention and care, with proper consideration of the special geographical characteristics of the islands of Okinawa in all of these matters.

RECOMMENDATIONS TO THE GOVERNMENT OF JAPAN

Furthermore we propose the following recommendations to the Government of Japan.

1. We request a factual investigation of sexual assaults targeting women living in Okinawa committed by American military members that have been stationed long-term in Okinawa.
2. We request a factual investigation of all impacts, particularly those on physical and mental health, experienced by women and children living in Okinawa as a result of the training of American military members that have been stationed long-term in Okinawa.
3. We request a factual investigation on the employment and income of women living in Okinawa.
4. We request the prompt establishment of a law prohibiting discrimination toward women, which includes

¹⁵ CEDAW/C/JPN/CO/7-8 Paragraph34(e)

¹⁶ CEDAW/C/JPN/CO/7-8 Paragraph34(e)

¹⁷ CEDAW/C/JPN/CO/7-8 Paragraph34(e)

¹⁸ According to the Monthly Labor Survey in 2015, the average salary (total income) in the Okinawa prefecture of individuals working for business establishments with five or more employees is the lowest in the country at approximately 240,000 yen. There are about 70,000 yen difference, with the national average at 310,000 yen, meaning that the Okinawan figure is only 77% of the national figure. (Okinawa Times on January 1, 2017)

¹⁹ Okinawa Times on November 4, 2015

²⁰ 50% of employment in the prefecture is women Enforcement of the Law of Gender Equality for 30 years (Ryukyu News on August 18, 2016)

complex and intersecting provisions that comprehensively prohibit discrimination toward women belonging to minority groups.