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Professor YAMASHITA Eiji

Japan's Freedom of Expression

UN Special Rapporteur David Kaye's Report on freedom of expression in Japan praises Japan's high degree of Internet freedom, but also shows great concern regarding the freedom of Japanese broadcast and print media, among others. For most people, including non-Japanese living in Japan, these views are sharply at odds with the actual situation in Japan, where freedom of expression is fully guaranteed by law and custom and fully enjoyed and practiced on a daily basis throughout all sectors of Japanese society. As a whole, David Kaye's views closely resemble those of the Japanese Communist Party.

We think UN Rapporteur David Kaye, Clinical Professor of Law at the University of California-Irvine, may be operating under the misconception, common among American university-based political activists, that Japanese Prime Minister ABE Shinzo is a nationalist. In fact, Prime Minister Abe is a patriot, and not a nationalist. From an international perspective, it is very difficult to find any country more nationalistic than the United States. We therefore think David Kaye's great concerns about freedom of speech should be directed towards his home country rather than Japan. For example, Prime Minister Abe is much less nationalistic than the former President, Barack Obama, to say nothing of the current President Donald Trump.

On April 20, 2016, just one day after Professor Kaye issued his Preliminary Report, the Paris-based NGO Reporters without Borders (RWB) announced its annual World Press Freedom Index for 2016. According to this index, Japan was ranked No. 72 in press freedom among 180 countries around the world. To our great disbelief, Japan was ranked beneath Tanzania, which came in at No. 71. Japan's ranking by RWB plummeted after 2013 following the inauguration of the Abe administration in December of 2012. Despite being ranked No. 11 in press freedom in 2010, Japan was ranked No. 53 in 2013, No. 59 in 2014, and No. 61 in 2015. RWB's views are clearly

based on prejudice against the Abe administration. We are unable to arrive at any other conclusion, as the objective status of freedom of opinion and expression in Japan has remained basically unchanged since Abe's election to the office of prime minister.

RWB's rankings fluctuate widely despite continuity of circumstance, making these rankings unreliable, and useful for little more than the kind of political maneuvering much favored by American academics. RWB was established in Paris in 1985, and seems to lack the experience and sophistication needed to lend credibility to its reports. A narrow-minded, short-sighted play for political gain seems to be much more apropos in explaining the RWB ranking than any grounding in objective fact.

Fortunately, a much more reliable world freedom ranking is available. According to the "Freedom in the World 2017" report produced by the international NGO Freedom House in January 2017, Japan is ranked No. 12—higher than Germany (No. 16), the UK (No. 17), France (No. 27), the US (No. 28), and Italy (No. 29). Freedom House was established in Washington D.C. in 1941, making it more than twice as established as RWB. Accordingly, Freedom House's world ranking are stable and evenhanded, in stark contrast to the oscillations and biases painfully evident in the RWB reports.

It seems to us that David Kaye has been strongly influenced by a handful of anti-Japan extremists living in Japan and abroad, particularly in the US. We have some corroboration for this claim. For example, on May 12, 2016, just a few weeks after the release of his Preliminary Report in Tokyo, Professor Kaye and University of Connecticut Professor Alexis Dudden held a two-person open dialogue titled "Threats to Freedom of Speech in Japan" at the University of California-Irvine. The event was hosted by the Journal of Asian Studies (JAS), which is published by the Association for Asian Studies (AAS). Professor Dudden is notorious as a longtime Japan basher with deep animus towards Prime Minister Abe. In May 2015, Professor Dudden famously used the AAS as her platform for mounting yet another attack on Prime Minister Abe. Professor Kaye thus seems to be in complete alignment with two of the most prominent anti-Japan extremists in the world, RWB and Professor Dudden. This trio is clearly working in tandem to attack Japan: UN Rapporteur Kaye's Preliminary Report, the announcement of RWB's ranking in 2016, and the debriefing summit between Professors Kaye and Dudden all happened within less than a month of each other, between April 19 and May 12 in 2016.

From April 21 through April 29, 2017, the Asahi Shimbun, considered by many to be the most "liberal" daily newspaper in Japan, published interviews with seven newscasters representing every major Japanese TV broadcasting network. In

these interviews, not one newscaster replied that he or she had ever experienced external pressure to change his or her reporting or views. Not one of the seven newscasters was anxious about the current situation of freedom of opinion and expression in Japan. These interviews are so diametrically inconsistent with Professor Kaye's Report as to introduce a dilemma: either the liberal Asahi's reporting is incorrect, or Professor Kaye's rapporteur work is.

According to the independent New York-based NPO Committee to Protect Journalists (CPJ), 802 journalists around the world have been murdered since 1992, 259 journalists were imprisoned in 2006, and 452 journalists have been forced into exile since 2010. In Japan, one reporter with the Hanshin branch of the Asahi Shimbun was killed in May 1987. But this was a tragic and extremely isolated anomaly. Incidents of violence or intimidation against journalists in Japan or based in Japan are almost universally unheard of. Completely contrary to David Kaye's Report, we are proud that Japan's current situation of freedom of speech remains at the very top level, making Japan a world beacon of freedom of expression and investigation.

We in the free and democratic world are now facing great challenges from big countries lacking freedom of opinion and expression, such as Russia and China. Moreover, more and more countries and areas, such as Turkey, Poland, Hungary, Venezuela, and Hong Kong, are also rapidly losing their freedom of expression, making the protection of free speech the most important challenge confronting those fortunate enough to live in havens of unfettered reporting.

In a January 28, 2016 Wall Street Journal essay titled "Democracy Takes a Global Hit," Professor Mark Lagon, President of Freedom House and professor of human rights at Georgetown University, wrote, "Every year since 2006 more democracies have experienced erosion in political rights and civil liberties. [...] Authoritarian states have ratcheted up international repression, and the most powerful dictatorships—China, Russia, Iran, Saudi Arabia—have extended their antidemocratic influence abroad."

Shutting his eyes to these threats, however, Professor Kaye, after becoming UN Special Rapporteur on the Right to Freedom of Opinion and Expression in August 2014, selected three countries as his research objectives: Tajikistan, Japan, and Turkey. Had Professor Kaye any comprehensive understanding of human rights, he would not have selected Japan as one of his research targets. As Professor Lagon pointed out, China, Russia, Iran, and Saudi Arabia would have presented Professor Kaye with actual substantive threats to free expression waiting to be brought out into the light. The post of UN Special Rapporteur was designed to address precisely this kind of

pressing world problem. Professor Kaye's Report, however, was made based on his interviews with a limited number of journalists when he visited Japan for just a week. The choice of journalists lacks balance, and was made according to political considerations and expediencies.

Before the release of David Kaye's Draft Report on May 29, 2017, unprecedented numbers of rebuttals from Japan were issued against his Preliminary Report in April 2016. Viewers and Listeners for Legal Compliance in Broadcasting issued two documents, "Open Letter to David Kaye" and "Statement on RWB Press Freedom Index and on David Kaye," in January 2017, while the Alliance for Truth about Comfort Women issued its "Open Letter to David Kaye's Preliminary Report" in February 2017. Forty-six Japanese academics, led by Academics' Alliance for Correcting Groundless Criticisms of Japan (AACGCJ), issued two documents, "Statements on David Kaye's Preliminary Report" and "Open Letter to UN High Commissioner for Human Rights Prince Zeid," on May 2, 2017. Moreover, on May 30, 2017 the Japanese government issued 17 pages of very detailed comments on Kaye's Draft Report.

The extremely deleterious effects of UN Special Rapporteur David Kaye's Preliminary Report are already evident in the March, 2017 Country Report on Human Rights Practices for 2016 issued by the US Department of State. In the Japan-related section of this report, the State Department referred to UN Special Rapporteur David Kaye's Preliminary Report in proclaiming that the "independence of the [Japanese] press is facing serious threat." In fact, this kind of expression is radically at odds with the actual situation of freedom of speech in Japan.

We are seriously concerned that the Kaye Report will be another Coomaraswamy Report, which also contains many grave errors of fact. The 1996 Coomaraswamy Report's association with the UN has given these grave errors currency throughout the world. The UN Human Rights Council should withdraw the Coomaraswamy Report, and should not accept the David Kaye Report.