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UNIVERSAL PERIODIC REVIEW

**Written statement^{*} submitted by the Japanese Federation of Bar Associations (JFBA)
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2008]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Universal Periodic Review: Review of Japan and Modalities of the Universal Periodic Review

UPR Review of Japan

1. The Japan Federation of Bar Associations (JFBA) appreciates the positive approach that the government of Japan took as a Member of the Human Rights Council in its review under the Human Rights Council's new universal periodic review (UPR) system by including the officers of the relevant ministries in its delegation and responding to the questions from other states in an open manner. We note that shortly before the review of Japan, the government submitted two periodic reports to the treaty bodies, both of which were overdue for about two years. That may be considered as an illustration of positive effects of the UPR on the government toward realization of human rights.

2. 26 recommendations made by the states to Japan in the Working Group on the UPR encourage the government of Japan to make endeavours on those human rights issues that have remained unsolved despite the repeated recommendations made by treaty bodies including death penalty, the substitute prison (*Daiyo-Kangoku*) and a national human rights institution in accordance with the Paris Principles, which the JFBA also requested in its submission. The JFBA hopes that the government of Japan will accept all of these 26 recommendations without exception.

3. The JFBA is willing to provide active cooperation for follow-up to the recommendations that the government of Japan expressed its intention to accept. It is understandable that some recommendations may not be easy for the government to implement immediately. It is a challenge to all the reviewed states under the UPR system to build processes of dialogue and consultation aimed at implementation of such recommendations which are difficult to achieve, by way of including inquiring causes, learning from experiences of other states which have overcome similar problems and receiving expert assistance from the Office of High Commissioner for Human Rights and other organizations. We are ready to engage in dialogue with the government of Japan and seriously consider possible steps together with the government, so that we will achieve through the UPR process real progress in advancing measures on human rights issues in Japan with particular focus on the implementation of such recommendations difficult to achieve. Only with such serious involvement in the follow-up process, can the UPR be developed as really an effective process for each state to overcome its respective human rights issues.

4. We welcome the candidness of the government of Japan in response to the questions including difficult issues raised by other states in the Working Group on the UPR, which is appreciated as the ground for dialogue. It is regrettable, however, that the Japanese delegation sometimes failed to go into the substantive dialogue over the real points of the issues but only provided the formal replies. In particular, concerns expressed by many states during the Working Group on the UPR over the continuing executions in Japan and the recommendations to the government of Japan to establish a moratorium on executions made by those states can be seen as the manifestation of the common voice of the international community and coincide with the position of the JFBA. The JFBA hopes that the government of Japan will sincerely listen to and accept this recommendation made by many states on a moratorium on executions. With regard to the issue of the substitute

prison (*Daiyo-Kangoku*), the reply of the government did not touch upon the core problem that the suspects once put into the custody at the investigation stage are returned to the police, detained in its detention cells as substitute detention facilities up to 23 days, which enables the investigation officers to interrogate the suspects throughout that whole period. It was also misleading that the government explained that at the police detention and investigation are supervised by the different organizations. Furthermore, the government of Japan merely repeated its particular long holding position that video-recording the whole process of interrogation may hamper the finding of the truth. We believe that in order to achieve solution of human rights problems, diligent and continuing processes of dialogue are necessary between the government and the civil society including NGOs in the country as well as between the government concerned and other governments and international organizations. The UPR is part of such continuous processes of dialogue and the JFBA is resolved to keep on dialogue with our government through the UPR review of Japan this time and in the future.

Modalities of the UPR

5. The JFBA has actively participated in the process of discussions on the institutional building of the UPR. The JFBA is pleased that the UPR started in operation having concluded the stage of institutional building.

6. The UPR takes a form of producing recommendations and conclusions through the dialogue by exchanging questions, comments and responses between the reviewed state and Member and Observer States. It is a so-called “peer review” conducted by representatives of the governments. This mechanism facilitates positive efforts toward the implementation of the international human rights standards not only by the reviewed states but also by the reviewing states. The reviewed states will make endeavours to implement the international human rights standards in order to prepare for and respond to the questions, comments and recommendations from peer governments. On the other hand, those states who recommend improvement of human rights situations in other states may initiate in advance their own efforts to solve similar human rights problems at home or strengthen such efforts in order to enhance the weight and legitimacy of their recommendations. We may call this process a “positive spiral”, a global move for the promotion of human rights as the effect of the UPR.

7. It may be required to meet the two conditions in order for this “positive spiral” for the promotion of human rights to function further effectively in the future. The one is to ensure the publicity of disseminating the real processes of the UPR. The other is to promote dialogue between the government concerned and NGOs over the issues raised and given recommendations on in the UPR.

8. On the first point, it is appreciated that the review in the Working Group is broadcasted and the relevant documents including three UPR documents are posted on the website of the Human Rights Council. Thanks to these means, the civil society including our member lawyers could directly learn what was going on in the review process even in Japan about 6,000 miles away from Geneva. There is no question that maintaining the archives of these videos and documents on the website will further enhance the constructive dialogue in Japan in the future. We would like to make a request that the Human Rights Council consider the continuation of these excellent systems and the adoption of advanced information and communication technology such as video-link in the

UPR process as its further efforts aimed to overcome the geographical distance, which is one of the factors causing the regional human rights gaps.

9. The second point of promotion of dialogue with NGOs has been considered as an indispensable element in the institutional building of the UPR. The JFBA organized an information session on the human rights situation in Japan in the United Nations premises prior to the UPR review of Japan during the second session of the Working Group. The session received participation of NGOs from Japan and other countries, and regional and international NGOs as well. In the session, NGOs explained essential points of the human rights issues that they are working on, which helped identify once again the inter-relatedness and importance of specific issue in the overall view of the human rights situation in Japan. We trust that this information session provided an opportunity for the representatives of the government of Japan and of other Member and Observer States who attended to directly listen to the voice of NGOs and contributed to the constructive dialogue in the UPR review of Japan.

10. Based on this experience, the JFBA would like to make the following proposal. We propose to make it easier for NGOs to organize briefings for the review in the UN premises prior to the review of the state concerned during the future sessions of the Working Group. Furthermore, it is helpful if consideration is given to the possibilities of organizing the common regional briefings on the reviewed states from the same region to be reviewed in the session whenever appropriate. In addition, it is necessary to facilitate the constructive dialogue between the reviewed state and NGOs in order to monitor the progress of follow-up to the acceptance and the implementation by the reviewed states of the recommendations and conclusions adopted as a result of the review. We expect various forms of opportunities to be offered to this end. In this regard we would like to call for the assistance from the international community such as visits of staffs of the OHCHR or the Troika Members upon request in order to ensure the constructive nature of dialogue in the follow-up process.

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