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**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(C) OF THE  
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

**Japan\***

The present report is a summary of 23 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

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\* The present document was not edited before being sent to the United Nations translation services.

## **I. BACKGROUND AND FRAMEWORK**

1. The Ministry of Foreign Affairs made a call on its website for the submission of opinions to serve as reference materials for the preparation of the Government's report to the UPR, as indicated by the Japan Federation of Bar Associations (JFBA), the Japan International Human Rights Network (JIHR NGO Network) and the Japan All Solidarity Network for the Settlement of the "Comfort Women" Issue (JASN). However, information was received from the latter NGO's that until 8 February 2008, no consultations had been organised by the Government.<sup>2</sup>

### **A. Scope of international obligations**

2. Amnesty International (AI), as well as the Japanese Worker's Committee for Human Rights (JWCHR), recommended the signature and the ratification of the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP 1) and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT).<sup>3</sup> The Federation of Japanese Women's Organizations (FUDANREN), called upon the State to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW).<sup>4</sup> JWCHR further noted that Japan has not yet taken measures to withdraw reservations made to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and recommended that the Government adhere to the complaint procedures of CAT and the International Convention on the Elimination of all Forms of Racial Discrimination (CERD).<sup>5</sup>

### **B. Constitutional and legislative framework**

3. In accordance with the Constitution, which establishes the obligation to observe treaties, treaties ratified by Japan are incorporated into the domestic legal system and have the same force as domestic law, as indicated by the JFBA.<sup>6</sup> AI noted that the Government had failed to implement a number of recommendations by human rights treaty bodies to strengthen national human rights legislation.<sup>7</sup> Cultural Survival (CS) indicated that while Article 14 of the Constitution prohibits racial discrimination there is no law allowing individuals or groups to seek legal redress for discrimination.<sup>8</sup> The JIHR NGO Network indicated that there is no framework to provide remedies for discrimination experienced by children born out of wedlock and persons belonging to minority groups, such as returnees from China, Ainu, Okinawans, Zainichi Koreans (Koreans living in Japan), Buraku people, migrants and foreigners.<sup>9</sup>

4. The JFBA noted that the Courts provide judicial redress for human rights violations but are disinclined to apply international human rights treaties as judicial norms, and in the interpretation of treaties, courts tend to ignore the general comments and views of treaty bodies. Further, the JFBA indicated that because the ground of appeals to the Supreme Court is limited to unconstitutionality, litigants cannot directly invoke a treaty violation.<sup>10</sup>

### **C. Institutional and human rights infrastructure**

5. The JFBA, the JIHR NGO Network, AI and Human Rights Now/Asian Legal Resource Centre (HRN/ALRC) noted that Japan has yet to establish a national human rights institution in accordance with the Paris Principles.<sup>11</sup> According to AI, the existing Human Rights Commission reports to the Ministry of Justice, which is also responsible for prisons, detention centres and immigration centres. AI also noted that the lack of independence of this institution, inherent in this arrangement, undermines its authority to function effectively and to speak out on human rights concerns without fear of censorship. AI further noted that the close association of the Human Rights

Commission with a Government Ministry may also deter victims, their relatives and other individuals or organisations from submitting complaints for fear of reprisals or lack of expectation that they will obtain justice.<sup>12</sup>

#### **D. Policy measures**

6. Japan has not developed a national plan of action for the promotion and protection of human rights, as noted by the JFBA.<sup>13</sup> The National Plan of Action for the United Nations Decade for Human Rights Education has been promoted in Japan, but no systematic human rights education programme has been carried out for those working in the Government, as indicated by the JIHR NGO Network.<sup>14</sup>

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **A. Cooperation with human rights mechanisms**

7. The Government has not met the deadlines for submitting periodic reports to treaty monitoring bodies, as noted by AI.<sup>15</sup> The Japan Network on Education for the Advancement of Gender Equality (JNEAGE) indicated that the Government should seek to consult with civil society when preparing the State reports on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>16</sup>

### **B. Implementation of international human rights obligations**

#### **1. Equality and non-discrimination**

8. FUDANREN noted that women face various forms of discrimination.<sup>17</sup> The New Japan Women's Association (NJWA) indicated that when the Basic Plan for Gender Equality was revised in 2005, the Government inserted a commentary on its interpretation of the term "gender-free" and deleted the references to reproductive health/rights. NJWA further indicated that the civil code contains discriminatory provisions against women, concerning in particular marriage and family, such as the minimum age for marriage (18 for men and 16 for women), the waiting period required for women to remarry after divorce, the choice of surnames for married couples and inheritance provisions for children born out of wedlock. NJWA urged the Government to take effective measures to promote gender equality based on CEDAW and the Japanese Constitution.<sup>18</sup> The JFBA also reported on discrimination against children born out of wedlock, in particular regarding children born to a Japanese father and foreign mothers, who do not obtain Japanese citizenship, as the father-child relationship is not legally established, unless the father acknowledges it before birth.<sup>19</sup>

9. The JFBA indicated that the Basic Law for Persons with Disabilities prohibits discrimination as a fundamental principle, however, it does not define discrimination and thus is insufficient as the norm for judicial remedies.<sup>20</sup> The JIHR NGO Network noted that Japan is signatory to the Convention on the Rights of Persons with Disabilities, but according to NGOs promoting the human rights of people with disabilities, the provisional translation made by the Government for dissemination does not fully reflect the content of the Convention and should be rectified.<sup>21</sup>

10. There is no legislation to combat discrimination based on sexual orientation and gender identity that would protect lesbians, gays, bi-sexuals, transgender/transsexual and intersex persons (LGBTI), as reported by LGBTI NGOs in a joint submission.<sup>22</sup> According to the latter, LGBTI people suffer bullying, harassment and disadvantages, and violence and crimes motivated by hatred toward particular forms of sexual orientation and gender identity have been reported. LGBTI NGOs

further indicated that same-sex couples are not granted the right to marry; only persons with no children are allowed to change their gender on the family registry; no refugee status is granted to asylum-seekers on the basis of sexual orientation; and; bi-national same-sex couples cannot obtain a visa for the foreign partner based on their relationship.<sup>23</sup> LGBTI NGOs recommended that the Government enact legislation prohibiting discrimination based on sexual orientation and gender identity in employment, housing, social security, education and health services; to combat hate crimes and prohibit violence and harassment based on sexual orientation and gender identity; to ensure that the issues, needs and rights of LGBTI people to HIV/AIDS, STI prevention, care, support and treatment are addressed.<sup>24</sup>

## **2. Right to life, liberty and security of the person**

11. The JFBA, HRN-ALRC and AI, highlighted human rights concerns with regard to capital punishment.<sup>25</sup> HRN-ALRC noted that the number of death row inmates has doubled since 2003 and that only in 2007, the Courts sentenced 46 persons to death, the largest number since 1980.<sup>26</sup> According to AI, executions in Japan are carried out in secret, prisoners are informed hours before their execution, and their families are not forewarned. AI further noted that in September 2007, the Minister of Justice, spoke publicly about the need to streamline executions, including scrapping the rule requiring the Minister of Justice to personally authorise executions. This would allow for death row inmates to be automatically executed within six months after their appeal process has been completed. Procedures initiated after a death sentence has been handed down, including appeals for clemency, do not automatically suspend executions. AI expressed concern that this will increase the risk of innocent persons being executed.<sup>27</sup> AI, as well as the JFBA, requested the Human Rights Council to recommend to the Japanese Government to the introduction of a formal moratorium on executions.<sup>28</sup>

12. Under the *daiyo kangoku* (substitute prison) system a person can be detained in a police cell for up to 23 days without charge, as reported by AI, the JFBA and HRN-ALRC.<sup>29</sup> AI, as well as the JFBA, expressed concern that there are no regulations regarding the length of interrogations, that access of lawyers to their clients is restricted, and that interrogation sessions are not recorded. AI is concerned that this system is routinely used to obtain ‘confessions’ through torture or other cruel, inhuman or degrading treatment, and has documented a variety of such measures, including beating, intimidation, sleep deprivation, questioning from early morning until late at night, and making the suspect stand or sit in a fixed position for long periods. In January 2008, the National Police Agency issued guidelines for conducting interrogations; however, AI indicated that these fall short of the recommendations made by the CAT. According to the JFBA another problem is the lack of an independent institution to investigate complaints while suspects are in police detention facilities.<sup>30</sup> The JFBA, and also AI, recommended that the Human Rights Council ask the Japanese Government to abolish the *daiyo kangoku* (substitute prison) system, or bring it into line with international standards, and implement safeguards, such as explicit directives for prompt and unhindered access to legal counsel as well as electronic recording of all interrogations.<sup>31</sup>

13. The number of prisoners in Japan has increased during the last years, as reported by the Center for Prisoners’ Rights Japan (CPR); the Immigration Review Task Force (IRTF); the Tokyo Center for Mental Health and Human Rights (hereinafter referred to as the “CAT Network”) in a joint submission. A new ‘Law Concerning Penal Institutions and the Treatment of Sentenced Inmates’ was enacted in 2006, and amended in June 2007, contains positive provisions, such as the expansion of prisoners’ contacts with the outside world, the establishment of independent committees to inspect prisons, and the improvement of the complaints mechanisms. However, the CAT Network expressed concern about the possibility for the revalidation of the period of the solitary confinement with no limitation, the introduction of a new type of handcuffs and their use

together with the solitary confinement, and the absence of definitive provisions for the investigation of deaths in prisons. In addition, the CAT Network raised concerns about medical assistance to prisoners, recommending that the jurisdiction over prison medical administration fall under the Ministry of Health.<sup>32</sup> According to HRN-ALRC, the practice of torture in several Japanese prisons was revealed recently, i.e. in 2007, torture in Tokushima Prison, including by a doctor, caused seven deaths and one suicide among prisoners.<sup>33</sup>

14. As noted by NJWA, there has been progress in addressing violence against women and sexual violence, particularly with regard to the legal framework, through the enactment of the Law for the Prevention of Spousal Violence and the Protection of Victims (Domestic Violence Law), the Law Banning Child Prostitution and Child Pornography, the Law Concerning the Regulation of Acts Inducing Children Using the Internet Dating Services and other matters. However, NJWA indicated that these laws should be amended, noting that the present Anti-Prostitution Law criminalizes women and there is almost no legal regulation on pornography.<sup>34</sup>

15. The Asia-Japan Women's Resource Centre (AJWRC) highlighted that Japan is one of the major destination countries for women trafficked for commercial sexual exploitation purposes. In 2004, the Government formulated the National Action Plan to Combat Trafficking in Persons. Accordingly, the Immigration Control and Refugee Recognition Act was revised to stipulate that victims of human trafficking can get a special permit. It was also determined that Women's Consulting Offices established by the prefectures should accept victims for temporary protection to be entrusted to private-run shelters. However, according to AJWRC, the system to recognize trafficking victims remains unclear. In practice, those who are discovered during the investigation for sex-related businesses may be arrested even if they could be victims. Consequently, many trafficked victims are treated as illegal migrants and thus deported without redress and remedy. The fear of arrest and deportation makes migrant women working in the sex industry an easy target of exploitation and violence by both customers and employers. AJWRC further noted that there is a lack of comprehensive support, including interpretation, medical care and counselling, and legal support in claiming unpaid wages or compensation to victims.<sup>35</sup> AJWRC recommended that Government agencies ensure that victims of violence receive protection and support regardless of nationality and status of residence and without fear of being reported to the immigration office.<sup>36</sup>

16. Corporal punishment of children is unlawful as a sentence for crime and as a disciplinary measure in penal institutions, as reported by the Global Initiative to End All Corporal Punishment of Children (GIEACPC). In alternative care settings, corporal punishment is reportedly prohibited in day care and residential institutions for children. However, GIEACPC noted that the Heads of Child Welfare Institutions exercise parental authority, until someone is found to exercise parental authority or guardianship, and it would seem that corporal punishment could be administered in such circumstances. In schools, corporal punishment is unlawful under the School Education Law. Corporal punishment is however lawful in the home. Under the Civil Code a child is subject to "parental power" (article 818). The Penal Code provides protection from violence leading to bodily injury, physical violence without bodily injury and intimidation, but does not prohibit all corporal punishment. The definition of abuse in the Revised Child Abuse Prevention Law (in effect from 2004) includes violence which causes or may cause bodily injury and "behaviour and words that inflict psychological trauma to a child". Other applicable legislation includes the Law Concerning Punishment of Physical Violence and Others.<sup>37</sup> GIEACPC recommended that Japan introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including the home.<sup>38</sup>

### **3. Administration of justice and the rule of law**

17. According to HRN/ALRC, the conviction rate in Japan is above 99.8 percent, raising serious doubts that the “presumption of innocence” is guaranteed in Japan. The recommendations of the Human Rights Committee in 1998 that the State party should ensure that its law and practice enable the defence to have access to all relevant material gathered as evidence, so as not to hamper the right of defence, were noted by HRN/LRC. It further indicated that while the revision of Japan’s Code of Criminal Procedure in 2004 set forth new provisions with regard to the disclosure of such material, the obligations of the prosecution to disclose evidence collected remained rather limited and vague. In particular, there is still no obligation for a prosecuting attorney to disclose exculpatory evidence.<sup>39</sup>

18. AJWRC indicated that under a bilateral security agreement with a foreign country, there are 135 foreign military facilities and about 37,000 foreign troops of this country stationed throughout Japan. Cases of rape, abduction and murder by foreign soldiers have been reported. According to AJWRC, victims who seek justice face great difficulty due to the conditions set out in the Status of Forces Agreement, inaction on the part of the Japanese Government that prioritizes military cooperation over human rights protection and the lack of gender sensitivity in the Japanese criminal justice system.<sup>40</sup> AJWRC recommended that the Government ensure the safety of women and girls around the foreign military bases by taking necessary measures to prevent and prosecute sexual abuses. For that purpose, the Government should seek the cooperation of the concerned Government, including to revise the conditions set out in the Status of Forces Agreement.<sup>41</sup> AJWRC recommended that Government authorities, including the Ministry of Defence and police, make further efforts to support victims in accessing justice.<sup>42</sup> Similar concerns were also highlighted by FUDANREN.<sup>43</sup>

19. AI, AJWRC, FUDANREN, the Japan Fellowship of Reconciliation (JFOR), NJWA, JWCHR and other organizations hereinafter referred to as JS1<sup>44</sup>, provided information on the issue of up to 200,000 women who were sexually enslaved by the Japanese Imperial Army from around 1932 to the end of World War II (known as the issue of “comfort women”).<sup>45</sup> Survivors have suffered from physical and mental ill-health, isolation, shame and often extreme poverty as a result of their enslavement. Due to procedural and substantive barriers in national legislation, all cases brought before Japanese courts have been dismissed, despite court judgements recognising the direct and indirect involvement of Japanese Armed Forces.<sup>46</sup> As also noted by several organizations, compensation offered by the Government is perceived by survivors as a way of buying their silence. Furthermore, it has been reported that many victims living abroad were excluded from the benefits and that victims who refused to accept the money from the Asian Women’s Fund (AWF), a private fund created by Japanese civilians assisted by the Japanese government, never received a letter of apology.<sup>47</sup> Several organisations asked the Human Rights Council to play an important role in calling on the Japanese Government to apologize and assume their legal responsibility to restore justice to the victims, before they die, and to accept the recommendations from the international community, including various UN human rights mechanisms.<sup>48</sup>

### **4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

20. Recently, several local governments required school teachers and children during public ceremonies to sing the national anthem, Kimigayo, under the Hinomaru flag, both of which are highly controversial since they were the essential symbol of Japanese Imperialism before and during the World War II, as indicated by HRN-ALRC. In February 2007, the Supreme Court found

that a reprimand against a music teacher who refused to play piano for Kimigayo did not violate article 19 of the Constitution, which guarantees freedom of thought and conscience to all citizens.<sup>49</sup>

21. NJWA indicated that the single-seat constituency system introduced in 1995 for national elections has been a major cause of under-representation of Japanese women in parliament.<sup>50</sup>

### **5. Right to work and to just and favourable conditions of work**

22. Concerns about the situation of working women were raised by FUDANREN, AJWRC, NJWA, and the Working Women's Network (WWN).<sup>51</sup> AJWRC and other organisations indicated that, despite the Labour Standards Act and the Equal Employment Opportunity Law prohibiting discrimination based on sex, and the 2007 Part-time Workers Law, women are paid less than men for the same job and are more vulnerable to sexual harassment and abuse. Women mainly work as non-regular workers or part-time and are excluded from benefits, such as paid leave and family allowances. AJWRC and other organisations recommended that the Government follow recommendations of the ILO and CEDAW and adopt effective measures to ensure equal pay and equal opportunity to men and women through legislation and administration. It also recommended the strengthening of mechanisms to monitor and enforce existing labour standards.<sup>52</sup>

### **6. Right to social security and to an adequate standard of living**

23. According to HRN-ALRC, Japan has not fulfilled its minimum core obligation of economic, social and cultural rights, such as providing essential food, essential primary health care and basic housing. While Japan has adopted a "livelihood protection allowance system" for most disadvantaged people in society, it is a recent nationwide phenomenon that municipal government officers often reject applications for the allowances, as well as strongly encourage applicants to withdraw their applications. Several instances were highlighted of persons who consequently starved to death. The Ministry of Health, Labour and Welfare does not take adequate measures to stop this practice.<sup>53</sup> According to NJWA, more than one million households are living on welfare and about half of them are families of the elderly. It further informed that the Government has lowered the levels of welfare benefits for single-mothers and elderly people.<sup>54</sup>

24. In addition, as noted by HRN/ALRC, there are around 20,000 homeless people in Japan who cannot register with the Employment Bureau and use its services, and are prevented from receiving old-age pensions, disability pensions, and livelihood protection allowances because they are considered to be unsettled. The National and Municipal Governments provide shelter or housing, but do not offer assistance to find a job.<sup>55</sup> In a joint submission, the Association Working for the Abolishment of Nationality Clause from the Pension System in Japan, the Association of Supporting the Trial for Just Pension System for People from Former Colonies in Japan, the Pension Lawsuit and Plaintiff Group for Foreign Residents with Disabilities in Japan (hereinafter referred to as 'Associations for a Just Pension System'), indicated that despite the revision of the National Pension Law in 1986, foreigners legally residing in Japan and making the required payments, are discriminated against and excluded from the public pension system. They also indicated that the State has a responsibility to provide security for people with physical or mental disabilities.<sup>56</sup>

### **7. Right to education**

25. According to JNEAGE, the Basic Act on Education was revised in December in 2006 against the opposition of many people. It informed that the Articles promoting coeducation and gender equality were removed. Furthermore, family education was emphasized. JNEAGE also noted that

the words "gender" and the description of war-time "comfort women" disappeared from school textbooks. The description of a "diverse family" was also revised in the textbooks. They also referred to changes in the school curriculum and the introduction of the achievement tests to evaluate children. JNEAGE reported that children are stressed and that teachers are suffering from long working hours and trainings. Many teachers are retiring earlier and suicide is a problem.<sup>57</sup>

## **8. Minorities and indigenous peoples**

26. CS indicated that while over the past 20 years, Japan has taken legislative and symbolic steps to recognize the Ainu as an indigenous people and to eliminate racial discrimination, against this particular group, it has not followed through with appropriate implementation of laws to protect the Ainu culture. The Ainu, numbering between 30,000 and 50,000, have resided for centuries on the northern Pacific island of Hokkaido. However, CS reported that the Ainu still experience discrimination as a result of Japan's mono-cultural national identity and the lack of judicial remedies to respond to discrimination. According to CS, Ainu children face discrimination in school; the Ainu language has not been incorporated in the educational curriculum; the Ainu also lack parliamentary representation. Today, the Ainu possess only ten percent of their ancestral lands.<sup>58</sup> The Society for Threatened Peoples (STP) indicated that the Ainu are among Japan's poorest inhabitants. STP indicated that the Ainu are still struggling for full recognition and acceptance by the Japanese society of their culture and language, and for the recognition in law of their rights as indigenous people.<sup>59</sup> The JFBA also raised concerns about discrimination against the Ainu as well as against the Buraku minority.<sup>60</sup>

27. STP further noted that Japan's main minority group, the three million Burakumin, also suffer from discrimination. The Burakumin are descendants of outcast communities of the feudal era, which mainly comprised those with occupations considered "tainted" with death or ritual impurity. With the abolition of the feudal caste system in 1871, the Burakumin were legally liberated, but the long history of taboos and myths left a continuous legacy of social exclusion.<sup>61</sup>

## **9. Migrants, refugees and asylum-seekers**

28. AI noted that recognition rates of asylum-seekers for refugee status in Japan are slow and that there are insufficient guarantees of access to an independent, ideally judicial, review of asylum decisions. In some instances, returns are alleged to have been carried out immediately after the conclusion of the administrative procedure before an asylum-seeker can submit an appeal against a negative decision. AI further indicated that the 2006 Immigration Control and Refugee Recognition Act do not expressly prohibit the return of asylum-seekers to countries where there is a risk of torture.<sup>62</sup> The CAT Network raised similar concerns regarding the procedures for reviewing asylum decisions and further noted that State funded legal aid is not provided.<sup>63</sup>

29. As noted by the Service for War-displaced Japanese in China, Returnees to Japan and the Families (The Service), during the Second World War, the Government of Japan promoted immigration to former Manchuria, the present North-western part of the People's Republic of China. Many of the first generation of the war-displaced Japanese and their families have returned to Japan, after the re-establishment of diplomatic relations between the two countries in the 1980s. The Service estimates the number of returnees to Japan and their families as more than 100,000. In 2007, the Diet amended "the Act to promote faster return of displaced Japanese and to assist self-support after return (Act No. 30 of 1994). However, The Service noted that the Act and the amendment do not have provisions to address discrimination against returnees to Japan and their families, and that only the returnees, and not spouses and second or third generations, can enjoy measures of redress.<sup>64</sup>



## **10. Human rights and counter-terrorism**

30. AI reported that from November 2007, an amendment to the Immigration Control and Refugee Recognition Act introduced fast-track procedures to deport anyone deemed a ‘possible terrorist’ by the Minister of Justice. Under these procedures, according to AI, individuals are denied the right to appeal against a decision to deport, including those with a claim to international protection. These measures are combined with plans to develop a ‘watch list’, as noted by AI. So far, plans to implement the list, including which authority will compile the list and the criteria for a person to be placed on the list, are shrouded in secrecy.<sup>65</sup> AI recommended to revise the counter-terrorism law to bring it into line with international standards, including mechanisms of effective appeal against inclusion in a ‘watch list’.<sup>66</sup>

### **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

31. AI welcomed as an achievement, Japan’s accession to the Rome Statute of the International Criminal Court in 2007 and the introduction of the prohibition of trafficking in persons into the Penal Code. However, AI remained concerned that protection for victims of trafficking remains insufficient in practice.<sup>67</sup>

32. The JASN highlighted as a best practice, the fact that the Japanese judicial courts have recognized the damages done to “comfort women” by Japanese soldiers. Moreover, JASN indicated that in a judgement by the Tokyo District Court on 24 April 2003, on a case of sexual violence damages, although denying the claim for compensation, the Court noted that it is possible to resolve the matter by legislation or administrative measures. The expectation that the Government would agree on a new plan to settle the issue in response to the additional remark by the court was high. However, nothing has been done in that regard until now.<sup>68</sup>

33. The JIHR NGO Network indicated that there are a few cases in which provisions of international human rights norms have been invoked by the courts, as the basis for judgment. In 1999, for example, in an incident when a man was refused entry into a shop on the grounds that he was a foreigner, CERD was invoked as a standard for legal interpretation in holding the shop owner guilty of the wrongful act of racial discrimination. Also, in 2005 and 2006, judgments were handed down for the first time that acknowledged the possibility of directly applying Article 2 (2) of the CDESCR on non-discrimination and equality in regards to discrimination based on nationality. It is essential to increase the awareness of judges so that international conventions are used more in the courts of law in the future.<sup>69</sup>

### **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

#### **Specific recommendations for follow-up**

34. AI recommended the implementation, as a matter of urgency, of the recommendations of UN human rights bodies, including to ensure that adequate human rights legislation is introduced and implemented.<sup>70</sup> JWCHR indicated that the State should set up a specialized organization for the follow-up and implementation of recommendations and timely reporting to UN human rights mechanisms.<sup>71</sup>

35. The Association for the Support of Children out of Wedlock (ASCW) noted the Government’s lack of commitment to implement the recommendations by CEDAW and the Human Rights Committee regarding the discrimination in law and administrative practice against children born out of wedlock, in particular with regard to registration and inheritance rights.<sup>72</sup>

36. As noted in a joint submission by JS1, and recommended also by AI, the Government of Japan should accept full responsibility and apologise unreservedly for the ‘comfort women’ system in a way that is acceptable to the majority of victims and which publicly acknowledges the harm they have suffered and restores the dignity of the survivors, including by providing adequate compensation.<sup>73</sup> The Foundation of Japanese Honorary Debts (FJHD), further indicated that to date, Japanese authorities have been ignoring the findings and recommendations of UN human rights mechanisms, such as the Working Group on Contemporary Forms of Slavery and the Special Rapporteur on violence against women, its causes and consequences, regarding crimes perpetrated by the Japanese Military during the Second World War.<sup>74</sup>

## V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

37. The JIHR NGO Network noted that there is a need for international technical support in the following areas: to promote an understanding of the rights of indigenous peoples and the concepts of “descent-based discrimination” and “discrimination based on work and descent”; to promote a deeper understanding about the importance and features of independent national human rights institutions for the protection and promotion of human rights; to put in place a comprehensive law prohibiting individuals from discriminating on the basis of race, ethnicity, descent, etc.; to provide human rights education to judges and law-enforcement officials.<sup>75</sup>

### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

#### Civil Society

AI	Amnesty International*, London, UK
AJWRC	Asia-Japan Women’s Resource Centre*, Tokyo, Japan
ASCW	Association for the Support of Children out of Wedlock, Japan
Associations for a Just Pension System	Joint submission - Association Working for the Abolishment of Nationality Clause from the Pension System in Japan, the Association of Supporting the Trial for Just Pension System for People from Former Colonies in Japan, the Pension Lawsuit and Plaintiff Group for Foreign Residents with Disabilities in Japan, Japan
CAT Network Japan	Joint submission - The Centre for Prisoners’ Rights Japan (CPR); The Immigration Review Task Force (IRTF); The Tokyo Centre for Mental Health and Human Rights, Japan
CS	Cultural Survival*, Cambridge, Massachusetts (USA)
FUDANREN	Federation of Japanese Women’s Organizations (FUDANREN), Japan
FJHD	Foundation of Japanese Honorary Debts*, The Hague, The Netherlands
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, UK
HRN-ALRC	Joint submission - Human Rights Now/Asian Legal Resource Centre*, Tokyo, Japan

JANMSSI	Japan Action Network for the Military Sexual Slavery Issue, Tokyo, Japan
JASN	All-Solidarity Network - Japan All Solidarity Network for the Settlement of the "Comfort Women" Issue, Tokyo, Japan
JFBA	Japan Federation of Bar Associations*, Japan
JFOR	Japan Fellowship of Reconciliation*, Japan
JHR NGO Network	Joint submission - Japan International Human Rights NGO Network and 50 signatory organizations: The International Movement Against All Forms of Discrimination and Racism (IMADR)*; Shimin Gaikou Centre (Citizens' Diplomatic Centre for the Rights of Indigenous Peoples)*; Asia-Japan Women's Resource Centre*; Peace Boat* ; Action for the Rights of Children (ARC); Ainu Association of RERA; Aomori Residents Concerned about the Sayama Case; Asian Women's Empowerment Project; Association for Elimination of Pension Discrimination against Korean Residents; Association for Returnees from China; Association for the Support of Children out of Wedlock; Buraku Liberation and Human Rights Research Institute; Buraku Liberation League Central Headquarters; Centre for Prisoners' Rights; Citizens' Council for Human Rights Japan; Ebina Liberation Educators Association; Educators Association for Foreign Residents in Japan; Forum for Peace, Human Rights and Environment; Human Rights Now (HRN); International Network against Discrimination on the Internet (INDI); Japan Forum for Survivor or Consumer of Psychiatry; Japan International Human Rights NGO Network; Japan National Assembly of Disabled Peoples' International; Japan National Group of Mentally Disabled People; Japan Women's Council I Central Headquarters; Kalakasan - Migrant Women Empowerment Centre; Kanagawa Human Rights Centre; Korea NGO Centre; Korean Women Residents in Japan, MIRINE; Kyojukon; Multi-Ethnic 'Human Rights' Education Centre for the Pro-existence; National Christian Council of Japan Human Rights Committee of Foreigners Living in Japan; Network Addressing the Problem of Non-Inclusion in the National Pension Plan; Network against Discrimination and for Research on Human Rights; OCIC (Okinawa Citizens Information Centre); Organization of United Korean Youth in Japan; Peace & Rights, Hamamatsu; Release Education Laboratory; Research-Action Institute for the Koreans in Japan (RAIK); Rights of Immigrants Network in Kansai; Solidarity Network with Migrants Japan; Support Network for State Redress Lawsuits; The Ainu Association of Hokkaido; The association of supporting the trial for just pension system for people from former colonies in Japan; The Association of working for the abolishment of nationality clause from the pension system in Japan; The International Movement Against All Forms of Discrimination and Racism Japan Committee (IMADR-JC); The Japan Citizens' Coalition for the UN International Decade of the World's Indigenous Peoples (INDEC); The pension lawsuit and plaintiff group for foreign resident with disabilities in Japan; Women's Active Museum on War and Peace (WAM); Yuimaaru Ryukyu no Jichi.
JNEAGE	Japan Network on Education for the Advancement of Gender Equality, Japan
JWCHR	Japanese Workers' Committee for Human Rights*, Japan

JS1	Joint submission - Korean Women's Association United; MINBYUN-Lawyers for a Democratic Society; People's Solidarity for Participatory Democracy; The Korean Council for the Women Drafted for Military Sexual Slavery by Japan, Seoul, Korea
LGBTI NGOs	Joint submission - Asia-Japan Women's Resource Centre (AJWRC)*; ARC-International; Centre for Gender Studies, International Christian University; FTM Nihon; Gay Friends for AIDS, PLACE TOKYO; GayJapanNews; ILGA-ASIA; International Gay and Lesbian Human Rights Commission (IGLHRC); Kanagawa Rainbow Centre SHIP; KANTO GAKUIN UNIVERSITY RAINBOW STAGE; Light Hearts; Office ZEN nature; PA/F SPACE; P-Flag Japan; Rainbow Pride Ehime; rainbow support net; Sexuality=Humanrights Est Organization; Shin-Osaka Counselling Room; STN21; Waseda University Sexual Minority Network; Yokohama Cruise network, Japan
NJWA	New Japan Women's Association*, Japan
The Service	Service for War-displaced Japanese in China, Returnees to Japan and the Families, Japan
STP	Society for Threatened Peoples*, Göttingen, Germany
WWN	Working Women's Network, Japan

<sup>2</sup> Japan Federation of Bar Associations, p. 1; Japan International Human Rights NGO Network, p. 1; the Japan All Solidarity Network for the Settlement of the "Comfort Women" Issue, p. 1.

<sup>3</sup> Amnesty International, p. 5; The Japanese Workers' Committee for Human Rights, p. 5.

<sup>4</sup> Federation of Japanese Women's Organisations, p. 1.

<sup>5</sup> Japanese Workers' Committee for Human Rights, pages 1 and 5.

<sup>6</sup> Japan Federation of Bar Associations, p. 1.

<sup>7</sup> Amnesty International, p. 1.

<sup>8</sup> Cultural Survival, p. 2.

<sup>9</sup> Japan International Human Rights NGO Network, p. 2.

<sup>10</sup> Japan Federation of Bar Associations, p. 1.

<sup>11</sup> Japan Federation of Bar Associations, p. 1; Japan International Human Rights NGO Network, p. 1; Amnesty International, p. 1; Human Rights Now/Asian Legal Resource Centre, p. 1.

<sup>12</sup> Amnesty International, p. 1.

<sup>13</sup> Japan Federation of Bar Associations, p. 1.

<sup>14</sup> Japan International Human Rights NGO Network, p. 3.

<sup>15</sup> Amnesty International, p. 1.

<sup>16</sup> Japan Network on Education for the Advancement of Gender Equality, p. 1.

<sup>17</sup> Federation of Japanese Women's Organisations, p. 1.

<sup>18</sup> New Japan Women's Association, pp. 1-2.

<sup>19</sup> Japan Federation of Bar Associations, p. 5.

<sup>20</sup> Japan Federation of Bar Associations, p. 5.

<sup>21</sup> Japan International Human Rights NGO Network, pp. 4-5.

- <sup>22</sup> Joint submission by the Asia-Japan Women's Resource Centre, ARC-International, Centre for Gender Studies, International Christian University; FTM Nihon, Gay Friends for AIDS, PLACE Tokyo, GayJapanNews, ILGA-Asia, International Gay and Lesbian Human Rights Commission, Kanagawa Rainbow Centre SHIP, KANTO GAKUIN University Rainbow Stage, Light Hearts; Office ZEN nature; PA/F SPACE; P-Flag Japan, Rainbow Pride Ehime, Rainbow support net; Sexuality=Humanrights Est Organization, Shin-Osaka Counselling Room, STN21, Waseda University Sexual Minority Network, Yokohama Cruise network.
- <sup>23</sup> Asia-Japan Women's Resource Center, ARC-International, Center for Gender Studies, International Christian University; FTM Nihon, Gay Friends for AIDS, PLACE Tokyo, GayJapanNews, ILGA-Asia, International Gay and Lesbian Human Rights Commission, Kanagawa Rainbow Center SHIP, KANTO GAKUIN University Rainbow Stage, Light Hearts; Office ZEN nature; PA/F SPACE; P-Flag Japan, Rainbow Pride Ehime, Rainbow support net; Sexuality=Humanrights Est Organization, Shin-Osaka Counselling Room, STN21, Waseda University Sexual Minority Network, Yokohama Cruise network, p. 1.
- <sup>24</sup> Asia-Japan Women's Resource Center, ARC-International, Center for Gender Studies, International Christian University; FTM Nihon, Gay Friends for AIDS, PLACE Tokyo, GayJapanNews, ILGA-Asia, International Gay and Lesbian Human Rights Commission, Kanagawa Rainbow Center SHIP, KANTO GAKUIN University Rainbow Stage, Light Hearts; Office ZEN nature; PA/F SPACE; P-Flag Japan, Rainbow Pride Ehime, Rainbow support net; Sexuality=Humanrights Est Organization, Shin-Osaka Counselling Room, STN21, Waseda University Sexual Minority Network, Yokohama Cruise network, p. 4.
- <sup>25</sup> Japan Federation of Bar Associations, p. 3. See also Human Rights Now/Asian Legal Resource Centre and Amnesty International.
- <sup>26</sup> Human Rights Now/Asian Legal Resource Centre, p. 3.
- <sup>27</sup> Amnesty International, p. 2.
- <sup>28</sup> Amnesty International, p. 5; Japan Federation of Bar Associations, p. 3.
- <sup>29</sup> Amnesty International, pp. 3-4; Japan Federation of Bar Associations, pp. 2-3; Human Rights Now/Asian Legal Resource Centre, p. 1.
- <sup>30</sup> Japan Federation of Bar Associations, p. 3.
- <sup>31</sup> Japan Federation of Bar Associations, p. 2; Amnesty International, p. 5.
- <sup>32</sup> The Center for Prisoners' Rights Japan (CPR); The Immigration Review Task Force (IRTF); The Tokyo Center for Mental Health and Human Rights, pp. 1-2.
- <sup>33</sup> Human Rights Now/Asian Legal Resource Centre, p. 3.
- <sup>34</sup> New Japan Women's Association, p. 3.
- <sup>35</sup> Asia-Japan Women's Resource Center, p. 5.
- <sup>36</sup> Asia-Japan Women's Resource Center, p. 5.
- <sup>37</sup> Global Initiative to End All Corporal Punishment of Children, p. 2.
- <sup>38</sup> Global Initiative to End All Corporal Punishment of Children, p. 1.
- <sup>39</sup> Human Rights Now/Asian Legal Resource Centre, pp. 2-3.
- <sup>40</sup> Asia-Japan Women's Resource Center, p. 4.
- <sup>41</sup> Asia-Japan Women's Resource Center, p. 4.
- <sup>42</sup> Asia-Japan Women's Resource Center, p. 4.
- <sup>43</sup> Federation of Japanese Women's Organisations, p. 2.
- <sup>44</sup> Joint submission by the Japan All Solidarity Network for the Settlement of the "Comfort Women" Issue (JASN), as well as the Korean Women's Association United, MINBYUN-Lawyers for a Democratic Society, People's Solidarity for Participatory Democracy, The Korean Council for the Women Drafted for Military Sexual Slavery by Japan, the Japan Fellowship of Reconciliation (JFOR), New Japan Women's Association (NJWA) and the Japanese Workers Committee for Human Rights (JWCHR).

<sup>45</sup> See submissions from AI, AJWRC, FUDANREN, the Japan Action Network for the Military Sexual Slavery Issue (JANMSST), the Japan All Solidarity Network for the Settlement of the “Comfort Women” Issue (JASN), as well as the Korean Women's Association United, MINBYUN-Lawyers for a Democratic Society, People's Solidarity for Participatory Democracy, The Korean Council for the Women Drafted for Military Sexual Slavery by Japan, the Japan Fellowship of Reconciliation (JFOR), New Japan Women’s Association (NJWA) and the Japanese Workers Committee for Human Rights (JWCHR).

<sup>46</sup> Amnesty International, p. 4.

<sup>47</sup> Japan Action Network for the Military Sexual Slavery Issue, p. 3.

<sup>48</sup> AI, AJWRC, FUDANREN, the Japan Action Network for the Military Sexual Slavery Issue (JANMSST), the Japan All Solidarity Network for the Settlement of the “Comfort Women” Issue (JASN), as well as the Korean Women's Association United, MINBYUN-Lawyers for a Democratic Society, People's Solidarity for Participatory Democracy, The Korean Council for the Women Drafted for Military Sexual Slavery by Japan, the Japan Fellowship of Reconciliation (JFOR), New Japan Women’s Association (NJWA) and the Japanese Workers Committee for Human Rights (JWCHR).

<sup>49</sup> Human Rights Now/Asian Legal Resource Centre, p. 5.

<sup>50</sup> New Japan Women’s Association, p. 5.

<sup>51</sup> Federation of Japanese Women’s Organisations, p. 2; Asia-Japan Women’s Resource Center (AJWRC), p. 2; New Japan Women’s Association, p. 4; Working Women’s Network, pp. 1-5.

<sup>52</sup> Asia-Japan Women’s Resource Center, p. 2. See also New Japan Women’s Association, p. 4; Working Women’s Network, pp. 1-5.

<sup>53</sup> Human Rights Now/Asian Legal Resource Centre, p. 3.

<sup>54</sup> New Japan Women’s Association, p. 4.

<sup>55</sup> Human Rights Now/Asian Legal Resource Centre, p. 3.

<sup>56</sup> The Association Working for the Abolishment of Nationality Clause from the Pension System in Japan, the Association of Supporting the Trial for Just Pension System for People from Former Colonies in Japan, the Pension Lawsuit and Plaintiff Group for Foreign Residents with Disabilities in Japan, pp. 1-4.

<sup>57</sup> Japan Network on Education for the Advancement of Gender Equality, pp. 1-4.

<sup>58</sup> Cultural Survival, p. 1.

<sup>59</sup> Society for Threatened Peoples, pp. 1-2.

<sup>60</sup> Japan Federation of Bar Associations, pp. 4-5.

<sup>61</sup> Society for Threatened Peoples, pp. 1-2.

<sup>62</sup> Amnesty International, p. 3.

<sup>63</sup> The CAT Network, pp. 2-3.

<sup>64</sup> The Service for War-displaced Japanese in China, Returnees to Japan and the Families, pp. 1-2.

<sup>65</sup> Amnesty International, pp. 1-2.

<sup>66</sup> Amnesty International, p. 5.

<sup>67</sup> Amnesty International, p. 4.

<sup>68</sup> Japan All Solidarity Network for the Settlement of the “Comfort Women” Issue, p. 4.

<sup>69</sup> Japan International Human Rights NGO Network, p. 3.

<sup>70</sup> Amnesty International, p. 5.

<sup>71</sup> Japanese Workers' Committee for Human Rights, p. 4.

<sup>72</sup> Association for the Support of Children out of Wedlock, pp. 1-4.

<sup>73</sup> The Korean Women's Association United; MINBYUN-Lawyers for a Democratic Society; People's Solidarity for Participatory Democracy; The Korean Council for the Women Drafted for Military Sexual Slavery by Japan, p. 1; The Japanese Workers Committee for Human Rights, pp. 4-5; Amnesty International, p. 5.

<sup>74</sup> The Foundation of Japanese Honorary Debts, pp. 1-5.

<sup>75</sup> Japan International Human Rights NGO Network, p. 5.

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