

# UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

## UNIVERSAL PERIODIC REVIEW, 2ND SESSION JAPAN (ADOPTION OF REPORT FINAL) REVIEWED ON 9 MAY 2008, AFTERNOON

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### Overview

The review of Japan by the Working Group on the universal periodic review (UPR) commenced with an initial presentation of the report by Ambassador in charge of human rights at the Ministry of Foreign Affairs of Japan, Mr. Yoshitaka Akimoto. The presentation addressed key issues including its obligations under instruments to which it is already party, developments in the signing and ratification of further instruments, Japan's penal system, gender equality and the death penalty. The initial presentation addressed previously submitted questions by members and in total 42 State Delegations participated in the dialogue, with responses provided by Japan on three occasions.

There were many positive responses to Japan's national report and presentation, including its accession to the Rome Statute, recognising the competence of the International Criminal Court, and work done in reducing discrimination against, and increasing protection of, persons with leprosy<sup>1</sup>. Other core themes addressed in the interactive dialogue included Japan's position on the death penalty<sup>2</sup>; the controversy surrounding the so-

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<sup>1</sup> Countries that raised the issue of leprosy: Algeria, Philippines, Malaysia, Albania, Mexico, Sri Lanka.

<sup>2</sup> Countries that raised the issue of the death penalty: Belgium, UK, Luxembourg, Portugal, France, Albania, Mexico, Netherlands, Brazil, Turkey, Switzerland, Italy,

called “comfort women” of the camps during the Second World War<sup>3</sup>; the rights of women and children, particularly in line with equality and protection against abuse and trafficking<sup>4</sup>; monitoring of interrogations<sup>5</sup>; the need to establish a national human rights institution (NHRI) and indigenous and minority rights<sup>6</sup>.

Other questions and recommendations put forward by the states included the following:

- the adoption of further mechanisms and the implementation of recommendations from the Treaty Bodies;<sup>7</sup>
- issues concerning indigenous populations<sup>8</sup> and minorities;<sup>9</sup>
- ensure equality in legislation and in practice for immigrants and migrant workers;<sup>10</sup>
- aid and other assistance to other countries in the areas of human rights and development;<sup>11</sup>
- gender equality<sup>12</sup> and protection for differing sexual orientation;<sup>13</sup>
- issues concerning racial discrimination and xenophobia;<sup>14</sup>
- penal legislation and detention centres;<sup>15</sup>
- issues concerning the so-called “comfort women” of the Second World War and sexual slavery;<sup>16</sup>
- corporal punishment of children<sup>17</sup> and bullying in schools;<sup>18</sup>
- protection of the rights of the elderly;<sup>19</sup>
- protection of the rights of those with disabilities;<sup>20</sup>
- education in schools, including Japan’s view of history and the content of history text books;<sup>21</sup>
- refugees and Asylum seekers.<sup>22</sup>

States fully utilised the standard sources available for the UPR; Japan’s national report, the compilation of UN documents and the summary of information received from other relevant stakeholders, as the basis for their questions, observations and recommendations. This was particularly evident in the underscoring of the need to observe and implement treaty body recommendations and to sign or ratify outstanding human rights instruments. Member States, in line with information provided in the compilation of UN information, also urged the implementation of the Bill to establish a national human rights institution (NHRI) in accordance with the Paris Principles; the ratification of several mechanisms, including the *International Convention on Forced Disappearances* and the Optional Protocols to the ICCPR, CAT and CEDAW. Many States also called for the abolition of the death penalty in Japan, urging the State to join the moratorium.

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<sup>3</sup> Countries that raised the issue of “comfort women”: Netherlands, Republic of Korea

<sup>4</sup> Countries that raised issues concerning the rights of women and children and trafficking: Algeria, Philippines, Canada, Islamic Republic of Iran, Jordan, DPRK, Portugal, France, Slovenia, Mexico, Brazil, Germany, Russian Federation, Turkey, Azerbaijan, Sri Lanka,

<sup>5</sup> Countries that raised issues concerning the monitoring of interrogations and forced confessions: Algeria, Belgium, Germany

<sup>6</sup> Countries that raised issues concerning indigenous populations and minorities: Algeria, Guatemala, DPRK, U.K., Germany, Peru.

<sup>7</sup> Algeria, DPRK, Belgium, China, Canada, UK, Luxembourg, Portugal, France, Albania, Mexico, Netherlands, Brazil, Germany, Republic of Korea, Guatemala, Azerbaijan, Italy, Argentina, Qatar, Peru.

<sup>8</sup> Algeria, Guatemala, Peru.

<sup>9</sup> DPRK, U.K., Germany, Peru.

<sup>10</sup> Philippines, Brazil, United States, Germany, Azerbaijan, Russian Federation, Peru.

<sup>11</sup> Philippines, Tunisia, Egypt, Bangladesh,

<sup>12</sup> Slovenia, Turkey, Russian Federation, Romania, Pakistan

<sup>13</sup> Canada,

<sup>14</sup> China, France, Brazil, Islamic Republic of Iran, Guatemala,

<sup>15</sup> Islamic Republic of Iran, United States, Germany, Italy

<sup>16</sup> Netherlands, Republic of Korea

<sup>17</sup> Turkey, Italy

<sup>18</sup> Philippines, Italy,

<sup>19</sup> Turkey, Mauritania, Vietnam

<sup>20</sup> Malaysia, Turkey, Azerbaijan,

<sup>21</sup> China, Mexico, Republic of Korea, Guatemala,

<sup>22</sup> Slovakia

During the initial presentation, as detailed below, Japan's responses to issues were mostly clear and succinct. However there were certain responses which lacked further explanation, leaving the meaning or intention of the statement somewhat unclear. To highlight two examples, Mr Akimoto stated that Japan supports the view that human rights are the concern of the community and that the State makes an important contribution to human rights, but that it is important to take into account each country's specific history. How a particular history should be taken into account was not addressed, nor was the relevance to Japan's submission explained. This is also true of Mr Akimoto addressing questions pertaining to child abduction, parental responsibility and measures for protecting children. He noted that the State values the protection of children's rights but due consideration must be given to the current social system in Japan. Again, further explanation as to how the social system in Japan may impact on the protection of children's rights was not forthcoming.

## General information on State under review

### **Membership of the Human Rights Council**

Japan is a member of the Human Rights Council (1<sup>st</sup> term, June 2006-June 2008).

### **Members of the troika**

France, Indonesia, Djibouti<sup>23</sup>

### **National consultation**

According to the national report in discussion meetings were held with NGOs and ordinary citizens. In addition, the report noted that NGOs and the Ministry of Foreign Affairs have co-hosted the Public Forum for United Nations reform 6 times since August 2005. The report also states that the Ministry of Foreign Affairs posted information on its homepage on the UPR system and process and requested opinions of NGOs and ordinary citizens and as a result opinions were received from 11 NGOs and 214 ordinary citizens.

## Information submitted to the Working Group

### **State report**

Japan submitted a comprehensive national report which was divided into four key parts: 'Japan's Legal System and International Human Rights Instruments Concluded by Japan'; 'Recent Implementation of Protection of Human Rights and Results Achieved'; 'Future Issues and Responses'; and 'Preparation Process for the Universal Periodic Review'. Japan's report noted that under the Constitution judicial power is vested entirely in the courts with all trials and judgements declared publicly. Also there are 8 Human Rights divisions in addition to the Human Rights Bureau and 42 Human Rights Offices established in the District Legal Affairs Bureau. The substance of the report is within the second part concerning the implementation of human rights and results achieved. In this regard the report states that human rights organs answer enquiries and work to relieve and prevent human rights violations. According to the report 21,000 human rights violations were brought to the new procedures and 277,000 inquiries concerning human rights. Training in human rights includes bi-annual workshops for Government officials and the Legal Research and Training Institute gives lectures for judges and legal apprentices with human rights education being included in schools. Other matters addressed by the report included penal reform; measures to combat trafficking; and the

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<sup>23</sup>Regional groups selected: African Group, Asian Group, WEOG. There were no objections by Japan or by the members of the troika to the selection. For a full summary of the selection of troikas, see [http://www.ishr.ch/hrm/council/councilalert/council\\_update\\_7session.pdf](http://www.ishr.ch/hrm/council/councilalert/council_update_7session.pdf)

rights of women and children and measures taken to improve the conditions for those who suffer leprosy. In Part 3 of the report it is noted that Japan was actively involved with negotiations for the *International Convention on the Rights of Persons with Disabilities* (CPD) and the *International Convention for the Protection of All Persons from Forced Disappearances* (ICPPFD). Both Conventions have been signed and Japan aims to ratify them as soon as possible. In addressing the matter of a national human rights institute the report states that in 2002 the Human Rights Bill was submitted to Parliament, which aims to establish a new Human Rights Commission. According to the national report, the Bill ensures independence from the Government but remains under review following the dissolution of the Lower House in 2003.

### Official UN documents

Japan is party to several core human rights treaties with some reservations and declarations.<sup>24</sup> Japan has been encouraged to ratify the *Optional Protocol to the Convention against Torture* (OP-CAT)<sup>25</sup> and adhere to the respective complaint procedure,<sup>26</sup> as well as *ILO Conventions 105, 111 and 169*.<sup>27</sup> Calls were also made for the withdrawal of declarations to Articles 9 and 10 and the reservation to Article 37 (c) of the CRC; the reservation to Article 4 (a) and (b) of ICERD and reservations to ICESCR<sup>28</sup>, whilst CAT, CEDAW and CERD urged the State Party to ‘adhere to the respective complaints procedure’.<sup>29</sup> The ratification of *ILO Conventions 138 and 182* were welcomed.<sup>30</sup> In addition, it was noted that Japan is overdue in submitting reports to several of the treaty bodies.<sup>31</sup>

Treaty bodies noted that Japan’s Constitution provides for equality but there is no definition of discrimination in domestic legislation. Concerns were expressed on discrimination toward children born out of wedlock. There is also a lack of definition of torture in the Penal Code and questions have been raised on conditions in penal institutions, the systemic use of the substitute prison system *Daiyo Kangou*, and a lack of monitoring of interrogations leading to high number of convictions based on such confessions.<sup>32</sup> Concerns have also been expressed regarding conditions of inmates on death row and matters relating to executions.<sup>33</sup> Other issues raised included: the lack of substantive protection for women and children in domestic and penal circumstances; the right to work; the right to education; and migrants, refugees and asylum seekers. It is recommended that information previously requested be provided relating to non-refoulement and remedies for victims of sexual violence.

### Other relevant stakeholders

The stakeholder summary report is compiled from 23 stakeholder submissions and addressed many areas of concern. The report commences with the information that whilst a call for information was placed on the Ministry of Foreign Affairs web site in regard to the preparation of the State Report for the UPR, no consultations were organised. Continuing, the stakeholders note that there have been many introductions of

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<sup>24</sup> Core universal human rights treaties to which Japan is party: *International Convention on the Elimination of all forms of Racial Discrimination* (ICERD), *International Covenant on Economic, Social and Cultural Rights* (ICESCR), *International Covenant on Civil and Political Rights* (ICCPR), *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW), *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), *Convention on the Rights of the Child* (CRC), *Optional Protocol to the CRC on the involvement of children in armed conflict* (CRC-OP-AC), *Optional Protocol to the CRC on the sale of children* (CRC-OP-SC).

<sup>25</sup> CAT

<sup>26</sup> CAT, CEDAW, CERD

<sup>27</sup> CAT, CERD, CEDAW, CESC.

<sup>28</sup> CAT, CEDAW, CERD, CESC, CRC.

<sup>29</sup> Compilation report A/HRC/WG.6/2/JPN/2 available at

<sup>30</sup> CRC

<sup>31</sup> CERD, CESC, CEDAW, CRC, OP-CRC-AC, OP-CRC-SC. (During the presentation by the State it was announced that in April they submitted reports to CEDAW, CRC-OP-AC, CRC-OP-SC).

<sup>32</sup> CAT.

<sup>33</sup> High Commissioner for Human Rights

new legislation, however, very few are implemented in practice and this is exemplified in matters concerning trafficking. Whilst, the stakeholders note, the National Action Plan to Combat Trafficking in Persons was formulated in 2004 to protect victims of trafficking there is, in practice, no recognisable way to discern who are victims of trafficking, particularly in the sex industry. Further noted victims may be arrested and treated as illegal migrants and deported without redress or remedy.<sup>34</sup> In addressing the failure to implement international norms, laws and recommendations into domestic legislation the report demonstrates additional areas of concern. These include racial discrimination which, though prohibited in the Constitution, has no manner of redress for individuals or groups and lacks a framework remedying discrimination for children born out of wedlock as well as those belonging to minority groups.<sup>35</sup>

Several groups note that Japan has yet to establish a national human rights institution in accordance with the Paris Principles and further, the existing Human Rights Commission reports to the Ministry of Justice which undermines its authority to function as an independent body.<sup>36</sup> Additionally, according to the summary report, several organisations have requested that the Human Rights Council play an important role in calling on the Japanese Government to assume their legal responsibility and accept recommendations from the international community and the various human rights mechanisms in restoring justice to women enslaved during the Second World War. They also call for international technical support in promoting understanding of “descent-based discrimination” and “discrimination based on work and descent” and to provide such human rights education to judges and law-enforcement officials.

## Interactive dialogue<sup>37</sup>

### Presentation by the State

Japan’s delegation was headed by Ambassador in charge of human rights at the Ministry of Foreign Affairs of Japan Mr. Yoshitaka Akimoto and Ambassador Extraordinary and Plenipotentiary Permanent Representative Mr. Ichiro Fujisaki. In total 42 Delegations participated in the dialogue with responses provided by Japan on three occasions - two during breaks in the delegations comments, and a final summing up of the meeting.

Mr Akimoto commenced by addressing the fact that Japan has ratified most major human rights instruments and fulfilled their obligations in this regard including in April submitting overdue reports on the Optional Protocol to the CRC on the involvement of children in armed conflict, the Optional Protocol to the CRC on the sale of children, prostitution and pornography and to CEDAW. Further, Japan has signed the *International Convention on the Rights of Persons with Disabilities* and the *International Convention on Enforced Disappearances* and is making every effort to ratify them. He continued by claiming that Japan’s respect for the values of the rule of law was reflected in the signing of the Rome Statute, accepting the competence of the International Criminal Court.

Japan noted the number of questions received from the rapporteurs and interest in certain issues from several states including the protection of women and children, the national human rights institution (NHRI), discrimination, penal reform and the death penalty. Mr Akimoto proceeded to outline initial responses to these issues. Concerning the Optional Protocol to CAT Mr Akimoto stated that the State has in place the

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<sup>34</sup> Asia-Japan Women’s Resource Centre (AJWRC)

<sup>35</sup> Japan Federation of Bar Associations (JFBA), Amnesty International (AI), Cultural Survival (CS).

<sup>36</sup> JFBA, Japan International Human Rights Network (JIHR NGO Network), AI, Human Rights Now/Asian Legal Resource Centre (HRN/ALRC)

<sup>37</sup> Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive username and password. Audiovisual archives of the meetings of the Working Group ‘webcast’ are available at [www.un.org/webcast/unhrc/index.asp](http://www.un.org/webcast/unhrc/index.asp).

domestic legislation to support it but needs to find a way to ensure implementation in practice.. Efforts are being made to improve the domestic situation through various means including education in schools and education within the judiciary.

Addressing concerns raised on the Bill for the establishment of a NHRI, the Minister noted that it is still under review due to the closure of the lower house but the Bill, when passed, would ensure independence from the Government.

On matters pertaining to racial discrimination, Mr Akimoto noted that Japan is party to ICERD and ICCPR, although in practice Japan is still struggling to recognise a society without ethnic or racial discrimination, however efforts are being made to raise public awareness on this. Mr Akimoto also stated that gender equality is seen as important and in December 2005 Japan introduced new policies to address this. He continued by stating that the policies seek to address the marriage system and the concept of family across all levels of society and are designed to implement concrete measures to eliminate discrimination against women. Further these policies ensure NGO involvement in forming a basic plan for gender equality with a basic plan for the future although it was unclear as to what the basic plan for the future is to entail.

Mr Akimoto proceeded to offer several responses on matters concerning the penal system. He stated there have been active moves to improve criminal legislature in regard to the treatment of detainees both sentenced and pre-sentenced and there has been a complaint mechanism developed as well as the introduction of a third party to investigate facilities under a new *Penal Activities Act*. Further, there is new legislation to address the treatment of detainees with respect to standards of living, clothing, food, hygiene and medical care, whilst issues concerning overcrowding are being addressed.

The response to questions that were raised about the disciplinary measures used in Japan, in particular calls to abolish the death penalty, was decisive. Whilst the State accepted that disciplinary measures need to be addressed, it also reasoned that "...the issue of the application of the death penalty should be studied carefully based on domestic public opinion, the crime situation, and the criminal policy of the country concerned...The death penalty system in Japan is an issue that should be studied carefully...while paying full attention to public opinion. The majority of Japanese people consider the death penalty to be unavoidable in cases of extremely vicious crimes, and in view of the current situation in which heinous crimes such as mass murder and abduction-murder continue to take place, the Government believes that the application of the death penalty is unavoidable in case of significantly serious heinous crimes, and therefore the abolition of the death penalty is inappropriate."<sup>38</sup> Continuing, Mr Akimoto stressed that the death penalty exists as a statutory penalty that is only handed down after very cautious trials, which avoids the risk of convicting an innocent person. In addition, he noted, a new 'saiban-in' legal system is to be introduced in 2009, where those members of the general public known as 'saiban-in' participate in the decision making process of applying the death penalty, although it was not clear how this new system would be facilitated, or how it would improve upon the existing system.

Concerning participation of civil society it was stated that incorporating opinions of civil society is important and discussion meetings have taken place with NGOs and citizens in drafting reports for each committee. In addition to this, Mr Akimoto said that a public forum for UN reform has been held 6 times since 1995 with the Ministry of Foreign Affairs and NGOs, with information on the UPR posted on the Ministry's website calling for opinions and had responses from 11 NGOs and 214 citizens.

In closing Mr Akimoto stated that Japan recognises there is room for improvement and is making further efforts to improve their human rights system.

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<sup>38</sup> Opening statement of Japan, available on UPR extranet. Fill in the form at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive username and password.

Table on the interactive dialogue

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
Algeria			How does Japan propose to address the issue of visas for 'entertainment women'?	<p>Ensure the interrogation of detainees are systematically monitored and recorded and that the criminal procedure code is harmonised with Article 14 of CAT.</p> <p>Implement the calls of the HRC and CRC to establish NHRI in accordance with the Paris Principles.</p> <p>Review the land rights of indigenous peoples in accordance with the Declaration on Indigenous Peoples</p> <p>Harmonise and improve legal aid for immigrants.</p>		<p><b>Monitoring of interrogations:</b> The criminal procedure has an assumption of innocence. The statement of a suspect is very important and recording can sometimes hamper the relationship between interrogator and suspect and can sometimes stop them from telling the truth, so this is not done. Need to be very cautious and need accurate information so have introduced a system to record the document.</p> <p><b>Indigenous peoples:</b> Japan recognises there are those with distinct culture and language as stipulated in Article</p>

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
						27 of ICCPR and therefore promotes the enhancement of indigenous peoples and intends to extend co-operation in this area.
<b>Philippines</b>	Has strong commitment to human rights. Has done much to improve education on human rights. Applauded training of officials, and setting up of legal centres		Combat trafficking of women – even further enhance. What measures put in place to address the demand factor? Note Bill of leprosy. More on government strategies on migrants.	Continue to provide technical assistance to developing countries. Hope for speedy passage on NHRI. Further develop strategies on bullying in schools.		<b>Trafficking:</b> Japan has formulated an Action Plan in 2004. Penal code amended in 2005 which includes an article criminalising the buying and selling of human beings. There has also been provided an anonymous reporting line with full support and in trying to protect victims have published leaflets in 9 languages. If victims wish to be returned home they can and re-integrate into society. <b>Bullying in schools:</b>

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
						<p>Ministry of Justice has set up protection mechanisms. Human Rights organs provide counselling and there is a children's hotline with SOS cards distributed through schools.</p>
<b>DPRK</b>	<p>Demonstrated appreciation of report.</p>	<p>Sexual Violence against women needs to be addressed, including reports of 200,000 victims of military sexual slavery. Discrimination of Koreans exists in Japan, including forcing name changes and the lack of attendance in higher education institutions.</p>		<p>CEDAW in 2003 and 2007 and many states including the U.S. have called on Japan to address the problems of sexual slavery. This must be dealt with in Japan and other crimes in other countries such as the Republic of Korea.</p>		<p>There are still issues between Japan and DPRK. Suggested that both would waive property and claims that have arisen before 1945 and comprehensively resolve unfortunate outstanding issues of the past.</p> <p><b>Discrimination of Koreans:</b> legislation ensures there is no discrimination. Japan acceded to ICERD and fulfilled the Convention in good faith therefore there is no discrimination.</p>

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
						There is no law that forces name change after naturalisation. There is no discrimination among the different schools in Japan.
<b>Belgium</b>	Excellent report and presentation – strong commitment to human rights.	Death penalty and the new legal system in 2009. Considerable pressure to confess to crime. Forced confessions being made.	Is reform likely to reduce number of death penalties? What possibility for alternatives under the new system?	More systematic work to be done to bring attention to forced confessions. Review of criminal code should ensure that it is conformity with Article 15 of the ICCPR.	References of many treaty bodies to the application of the death penalty.	<b>Death Penalty:</b> During Japan’s first response to questions they announced that they would not repeat explanations already made in opening remarks. 3 <sup>rd</sup> response expanded on previous explanation; Statistics not available so cannot comment on any increase or decrease in executions since 1980. On the moratorium, Japan sees imprisonment without parole as also cruel and problematic. <b>High conviction</b>

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
						<p>rate: penal procedure is based on the strict enforcement and implementation of law so Japan does not consider the conviction rate to be abnormally high. There is a 3-tier system in place so there cannot be a miscarriage of justice regarding the death penalty as the system is a safe one.</p>
<p><b>Malaysia</b></p>	<p>Commended the clarity of the presentation and noted that the report was comprehensive with numerous achievements in the promotion of human rights including the promotion of education amongst civil servants and the public.</p>		<p>Is there only one detention facility for foreigners? Attempts to reduce prejudice against leprosy are appreciated but would appreciate more information on policy measures in this context. More information requested on providing disabled facilities throughout</p>			

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
			all aspects of society.			
<b>China</b>	Welcomed moves to promote and protect human rights, including the promotion of human rights education, and legal support and increasing the number of lawyers. Has adopted measures against child abuse and pornography, good improvement in employment and welfare, protection of vulnerable groups.	Racism and xenophobia		Racism and xenophobia – implement recommendations of treaty bodies and special procedures.	CEDAW, Special Rapporteur on violence against women and many NGOs regarding racial discrimination	<b>Children’s rights:</b> Punishment for child pornography includes any form of involvement in this activity in an Article introduced in 2004. It was due to be re-examined 3 years after enforcement and therefore is currently under discussion by the governing parties.
<b>Canada</b>	Commended Japan on its progress so far.	Japan offers no protection in the area of sexual orientation. There is a prevalent use of extended detention of arrested persons.		Needs to establish a NHRI in accordance with Paris Principles. Measures should be taken to prevent violence against women and children. An increase in international marriages and subsequent divorces		<b>Sexual Orientation:</b> Any violation of rights based on sexual orientation cannot be ignored. Appropriate settlements are provided and Japan takes appropriate responses to this issue. Gender

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				<p>has seen an increase in complex child custody cases and child abduction. Japan needs to address the prompt return of children to place of residence. Mechanisms are needed to protect those of differing sexual orientation and the extended use of detention. Stricter visa requirements, guidelines and mechanisms need to be implemented to prevent human trafficking.</p>		<p>identity disorder is intolerable and therefore diagnosis and treatment is well provided for.</p>
<b>Tunisia</b>	<p>Clear and exhaustive statement. Commends its efforts to strengthen and ensure that human rights are deeply ingrained in education and the training of civil</p>		<p>Further information on training developing countries in strengthening their protection of human rights.</p>			

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
	servants. Co-operation with developing countries – working in an exemplary way on economic and social rights abroad.					
UK	Grateful for answers provided and welcomed Japan's pledge to improve human rights standards and discrimination on vulnerable groups.	Noted progress on prisoner care but highlighted the concerns of treaty bodies and NGOs. Discrimination of minorities - notes concerns due to the information of treaty bodies and NGOs.		Strongly urged Japan to abolish the death penalty in line with the recent GA resolution on moratorium of death penalty. Recommended a review of the Daiyo Kangou system to ensure consistency with human rights law. Civil society needs to be included in follow up to UPR.		<b>Detainee welfare:</b> Domestic law and policy ensures due attention is paid to violence against detainees and any complaint of ill-treatment is filed against the Ministry of Justice. Medical services provided to inmates and detainees by doctors employed by the institution, if this is not sufficient they are transferred to hospital. Work is being done to improve the service whilst officers are provided with material to promote

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
						human rights protection measures. <b>Death Penalty:</b> See Belgium
<b>Luxembourg</b>		Death penalty – four men hanged last month. Very concerned by recent increase – 100 now on death row in Japan. Those who are sentenced are told only hours before and relatives only after the act. This is cruel and inhuman treatment.	What is needed to bring about moratorium? Does Japan intend to ratify the second Optional Protocol to ICCPR and the Optional Protocol to CAT?	Not to carry out the death penalty but apply moratorium towards abolishing the death penalty.		<b>Death Penalty:</b> Notification of execution is given on the same day as advanced notification would give greater psychological and emotional damage so the current system is reasonable.
<b>Portugal</b>	The report is complete and detailed. Welcomed Japan's accession to the ICC and Rome Statute.	46 individuals were sentenced to death in 2007 and 7 executed already this year.	How does Japan intend to follow the recommendation for the abolition of the death penalty by the Human Rights Committee? How has Japan taken CEDAW into account regarding stereotyping of the role of men and women in Japanese	Portugal attaches great importance to the abolition of the death penalty and if not to be abolished should be progressively restricted to the most heinous crimes. Recommends that Japan join the moratorium and that it signs the Optional		<b>Women's rights:</b> Amendments to the 2006 laws took effect in April last addressing women in the labour market and public life. Women's status in politics increasing. Equal opportunity law amendment of April last year. 2 <sup>nd</sup> basic plan for gender

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
			society with regard to labour, education and the political and public spheres?	Protocol of the ICCPR. Recommend repeal of discriminatory legislation against women.		equality can be expected to see an increase of female political participation up to 30% by 2010. 26 female parliamentarians were elected in 2007. There are now 43 female parliamentarians out of 241 seats which gives a rise from 13% to 17% in 2007. <b>Death Penalty:</b> See Belgium.
<b>Poland</b>	‘Profoundly informative presentation’.			Recommended that Japan share with others its very valuable experience combating human rights violations on the internet		
<b>Egypt</b>			Would appreciate more information on the views of the Government of Japan on development at national and international levels.			

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
<b>France</b>			Requested information on plans to remedy gap in remedies for racial discrimination.	Death penalty – should envisage implementing measures in accordance with General Assembly <i>Resolution 60/249</i> . Take measures concerning discrimination against women and raise the age of marriage to 18 for women. Find long lasting solution for women forced into prostitution after WWII.		<b>Death Penalty:</b> See Belgium.
<b>Albania</b>	Appreciated important contribution to the strengthening of the Human Rights Council. Commended efforts so far in improving the situation for those suffering leprosy.	The right to life is a fundamental right of each human being and many other States have completed the obligatory changes to ensure partial or total reduction of the death penalty.		Recommended the ratification of the <i>International Convention on Enforced Disappearances</i> as soon as possible. Encouraged a further move forward in improving the situation of those with leprosy.		<b>Death Penalty:</b> See Belgium.

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
				Recommended the ratification of the optional protocols to ICCPR, CAT and CEDAW. Urged priority status be given to the moratorium of the death penalty.		
<b>Slovenia</b>	Good report. Women enjoy good protection under equal opportunity law.	Civil code still contains old provisions that hold old notions about the role of women. No legislative recognition of conscientious objection (C.O.) to military service in Japan. Self defence force (SDF) is nominally civilian in nature and therefore there is no obstacle to the immediate resignation of any member who develops a C.O.	Gender equality bureau – taking what steps. What done to ensure gender element integrated in the UPR process. In light of the gradual change in the role of SDF we would appreciate clarification on procedures for the release of SDF personnel and if there will be specific provision of instances for conscientious objection?	Adapt law in line with non-discrimination. Systematically integrate gender perspective in UPR process, including follow-up.		<b>Gender issues:</b> see response to Canada.
<b>Mexico</b>	Valued the	History of Japan is	Information required	All discrimination		<b>Communication</b>

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	establishment of anti-discrimination legislation, in particular for leprosy.	used as a means of refusal to address the situations called for by the UN Rapporteur on racism.	on measures put in place in line with the principles and rights of the child and CEDAW. Need information on measures currently being applied in line with CEDAW – what is the minimum age for responsibility?	must stop. Increased harmonisation required – note the criminalisation of torture under CAT. Recommended entry into force of the NHRI; a moratorium on the death penalty; ratification of the optional protocols to CAT and CEDAW and Article 14 of ICERD accepting the competence of CERD to receive individual complaints.		<b>procedures:</b> Personal Communication Procedures are currently under discussion. No decision has been reached. <b>Death Penalty:</b> See Belgium.
<b>Netherlands</b>	Highlighted accession to Rome Statute of the ICC in 2007, showing firm commitment to international law.		Inform on how Japan will respond to the international community on military sexual slave practice in WWII? How will the new legal system ensure safeguards on fair trial? How will lay persons be trained?	Recommended that life sentences without parole should be added as a punishment for heinous crimes and the death penalty should be abolished. Adopt the Hague Convention on Child abduction of 1996.		<b>“Comfort women”:</b> Issues concerning the so-called “comfort women” of WWII: A statement was released in 1998 recognising the injury of dignity to the women of the camps. It included apologies and remorse and Japan maintains a

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						<p>consistent position in dealing with reparations through all relevant treaties and agreements. All reparations have been legally settled with countries party to these treaties. Discussions on what could be done resulted in the development of the Asian Women's Fund in 1995 to which the Government contributed 4 billion yen. A letter from the Prime Minister through this fund was sent to each of the women. The sympathy of the Japanese is extended through the fund and Japan is ready to have dialogue with each treaty body on this issue.</p>

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
						<b>Death Penalty: See Belgium.</b>
<b>Brazil</b>	Welcomed the important steps Japan has taken and recognised the adoption of legal and regulatory framework . Noted contribution to 3 <sup>rd</sup> World Congress on the sexual exploitation of children.		What are the main steps in fulfilling the rights of the child and women? What are the rights for migrants? What is being done to combat racism? What is being done to combat torture? Require further comments on the death penalty.	Proposes that Japan considers adhering to the complaint procedures of human rights conventions and signs the OPCAT.		<b>Complaints procedures:</b> See Mexico. <b>Death Penalty:</b> see Belgium. <b>Migrants:</b> There is an act preventing domestic violence, even those involved who are in violation of immigration law are offered equal treatment before the law. Civil issues concerning domestic violence can be handled by the immigration bureau, offering many solutions including change of citizenship.
<b>Islamic Republic of Iran</b>		Share concerns with Special Rapporteurs and treaty bodies on matters including racism and	What concrete measures to tackle these problems?	Adopt as a measure of urgency a law against racism and set up an agency to investigate the problem.	Treaty Bodies and Special Rapporteurs on racism and other issues listed	<b>Child pornography:</b> see response to China.

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
		xenophobia, cross border trafficking, violence against women and girls, resistance of deeply rooted notions of the values of women, child prostitution and pornography, lack of independence of judiciary, death in prisons and practice of torture, and continued gender-based violence against women in custody.				
<b>United States</b>	Japan demonstrates a commitment to human rights.		Requested that Japan expand on procedures in place for the protection of those in immigration detention centres. Would Japan allow external monitors?	Recommended that Japan allow external monitors in immigration detention centres.		<b>Detention facilities:</b> There is no discrimination between Japanese and foreign detainees, nothing done to lead to coerced or compelled confession.
<b>Germany</b>	Very informative report – good work of Japan in the	CERD concern on lack of attention to minority women in	What follow-up to these requests for additional	Hoped that establishment of complaints	CERD CAT	<b>Monitoring of interrogations:</b> See Algeria

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	Human Rights Council.	Japan, including access to education, health, social welfare and exposure to violence, (including in their own community). CAT – prolonged detention of arrested persons, restricted access to lawyers and non-recording of interrogations.	information on minority women?	mechanisms would effectively improve issues related to prolonged detention and methods of interrogation.		
<b>Republic of Korea</b>	Japan has achieved a high level of human rights enjoyment. Note ratification of ILO conventions and various other mechanisms. Commended development in international human rights and welcomed pledge to continue.	Special Rapporteur on violence against women, CAT and CEDAW have all expressed concerns on the issues surrounding the treatment of women during 2 <sup>nd</sup> World War. This has not been adequately addressed.		Called for a response and urged elaboration of plans for resolving the issues of the women held during 2 <sup>nd</sup> World War. Recommended that education be a key step towards creating a society free from discrimination. Further work in the area of discrimination recorded by the Special Rapporteur on racism, discrimination and xenophobia		<b>“Comfort Women”:</b> Response to issues surrounding the Women of World War II: See the Netherlands. <b>History text books:</b> Japan has adopted a system of authorisation for text books. Books are written and edited in the private sector and the Ministry then decides if they are appropriate for use in schools.

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
				against minorities, including Koreans. It is important that factual and accurate accounts of history are taught in schools for future international relations.		
<b>Latvia</b>	Appreciates efforts to promote and protect human rights internationally and nationally, including gender equality efforts, and willingness to cooperate with special procedures of the Council, of whom a number have visited in recent years.		Willingness to extend standing invitation to all special procedures in the future?			
<b>Turkey</b>	Pleased to see that vulnerable groups are protected including children and persons with disabilities. Gender equality has added considerably	Japan's current position on the death penalty.	Corporal punishment of children – is there a plan to extend legislation on this matter?	Recommended further steps taken for counselling victims of discriminatory practices and further legal moves to protect the elderly.		<b>Corporal Punishment:</b> No situation allows for corporal punishment in schools by teachers and principles, if

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
	to human rights enjoyment in Japan.					done they are reprimanded through proper procedures. Promoting non-violent solutions.
<b>Guatemala</b>	Efforts in relation to human rights education included for state officials, in schools and in local communities, efforts to promote culture of indigenous peoples. Welcomed establishment of human rights offices for foreign nationals.	Racism and xenophobia is a problem.		Recommended that Japan introduce a definition of discrimination in national law. <i>Apply Declaration on the Rights of Indigenous Peoples.</i>	Special Rapporteur on racism – criticism of plan for persons to anonymously draw attention to individual immigrants on the web, which may encourage incitement.	
<b>Switzerland</b>	Japan has taken specific steps to protect human rights in Japan.	Stance on death penalty is of concern.	Requested information on steps being taken to respond to international concern over the death penalty?	Recommended that Japan join the moratorium and abolish the death penalty.		<b>Death Penalty:</b> See Belgium
<b>Bangladesh</b>	Informative report created in full consultation. Commitment to human rights well demonstrated.	Japanese idea of the right to development not necessarily in accordance with the <i>UN Declaration on the Right to</i>		Continue to provide funding. Extend support to global effort to realise right to development as provided in the <i>UN</i>		

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	Generous support to OHCHR. Largest donor in absolute terms to developing countries.	<i>Development.</i>		<i>Declaration.</i>		
<b>Ukraine</b>	Noted that Japan is one of the largest donors for development. Satisfaction of achievement in the area of children. Impressed by the increasing of individual awareness.		Are all categories of law enforcement personnel incorporated in training?			
<b>Azerbaijan</b>	Recent efforts to combat trafficking of persons, domestic abuse and exploitation of children, the rights of disabled persons (especially the employment quota system), the forthcoming establishment of the NHRI.		Party to almost all treaties except the CMW, why not so far and when may it do so? Views on recommendations of some treaty bodies on amending laws as they effect women. Will Japan implement recommendations regarding changing the law on children			

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			born out of wedlock?			
<b>Jordan</b>	The steps taken have contributed to the welfare of people and a democratic society. National report highlights plans implemented and problems encountered in promoting human rights.		Wished to know the problems encountered by the Government in protecting those from trafficking.			<b>Trafficking:</b> See Philippines.
<b>Italy</b>	High degree of commitment and transparency in UPR process.	Corporal punishment still widely practised despite its legal prohibition.	More information on reform of the prison law and how Japan has responded to CAT recommendations.	Recommended that Japan respect international standards of the rights of those facing the death penalty, progressively restrict its use and establish the moratorium with a view to abolition	HRC CRC The HRC, Special Rapporteur on extrajudicial executions and the High Commissioner for Human Rights, in 2007, concerning persons on death row.	<b>Corporal punishment:</b> See Turkey <b>Death Penalty:</b> See Belgium.
<b>Argentina</b>				Recommended and pleased to know that Japan is close to ratifying the <i>Convention on Enforced Disappearances</i> .		

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<b>Russian Federation</b>		<p>A number of treaty bodies and special procedures have expressed concern over the lack of definition of the concept of discrimination. Still discriminatory treatment of women in the minimum age of marriage and period after divorce for remarriage. Foreign women face domestic violence and they do not seek help or file for divorce. Special Rapporteur on racism noted the serious problem of racism – manifestations are social and economic in nature, in access to housing, marriage, pensions coverage. National minorities are virtually absent</p>	<p>What efforts were being made in relation to discrimination against women? How are the rights of married foreign women being protected?</p>			

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
		from State institutions.				
<b>Qatar</b>			Non-adoption of NHRI – what was being done to put this into place?	Recommended that NHRI be adopted in line with Paris Principles.		
<b>Sri Lanka</b>	Report is self-evident in its achievements. (paras 19-21) – Leadership in leprosy affected person’s rights and non-discrimination, including setting up of goodwill ambassador. The National Youth Development Policy chaired by the Prime Minister is crucial to promote rights of youth.		More information on youth policy and how it intends to develop it this year.			<b>Children’s rights:</b> Acknowledged that the National Youth Policy is essential for the protection of the rights of the child in all areas. Japan is making every effort for the implementation of legislation and measures.
<b>Mauritania</b>	Satisfaction expressed at consultations in preparation of reports. Commended work on those with special needs, women and children.		Additional information required for measures taken to protect the rights of elderly workers.			

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<b>Romania</b>	Comprehensive presentation, informative report and open attitude to UPR. Acknowledged efforts made to continue to improve human rights situation, including trafficking and gender equality.		Sought further information on support that victims of violence receive, regardless of nationality. What measures to better implement the <i>Equal Employment Opportunity Act</i> , including in relation to sexual harassment?			
<b>Slovakia</b>		More focus on issues of status of refugees and asylum seekers. In 2007 CAT, in concluding observations, wished to ensure that where there are substantial grounds for deportation Japan must ensure the subject would not be subject to torture on return.		Recommended the development of a refugee examination councillor system and an independent body to examine asylum applications.		<b>Refugee Convention and non-refoulement:</b> A system of councillors composed of experts from academia and the NGO community has been established so fairness is ensured.
<b>Vietnam</b>	Took note of the active involvement on civil society in the		More detailed information in relation to the			

Country	Positive comments	Critical comments	Questions	Recommendations (incl questions as recommendations)	References to State report/ UN compilation/ OHCHR summary	Replies by the State under review
	drafting of the UPR report. Has applied best practice in relation to the treatment of older persons in its aging society.		treatment of older persons as examples of best practice.			
<b>Pakistan</b>	Acknowledged measures already taken.		Would like to learn plans for integration from a gender perspective.			
<b>Peru</b>	Japanese migration to Peru has reversed and relations are historically strong. Good input to the Indigenous Declaration process.	Does have challenges – has not acceded to the Migrants Convention.	What measures to promote the <i>Declaration on Indigenous Peoples</i> ?	Ratify the Migrant Workers Convention.		

**Adoption of the report [14<sup>th</sup> May 2008, 12:30pm]**

Permanent Representative of France to the United Nations, Mr Jean-Baptiste Mattei, introduced the report on behalf of the troika (France, Indonesia, Djibouti) and paid tribute to Japan for its strong commitment throughout the exercise and for its transparency and cooperation. France also thanked the Secretariat for the rapid preparation of the report, which contains 26 recommendations.<sup>39</sup> The report provides that the ‘response of Japan to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session.’<sup>40</sup>

Japan assured the Working Group that it would remain open to, and willing to participate in, dialogue with stakeholders and will continue its active engagement in the UPR with the ‘hope that it will serve effectively the improvement of the human right situation in every corner of the world’.

The Chair proposed the adoption of the report, with two weeks to make editorial changes. The report was duly adopted.

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<sup>39</sup> A/HRC/WG.6/2/L.10, available at the UPR extranet. Fill in the form at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive username and password.

<sup>40</sup> *Ibid.*, para. 61.

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