Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

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National Report

Human rights organs of the Ministry of Justice not only answer various inquiries through the Human Rights Counselling Offices, regarding human rights, but also work to relieve and prevent human rights violations such as abuse of children.

The Legal Research and Training Institute for the training of judges and legal apprentices contain lectures relating to human rights issues in its judges’ training curriculum. The lectures are given on such themes as human rights issues in criminal proceedings, women’s and children’s rights.

Japan is striving to raise human rights awareness through school education and social education. In school education, model regions are designated to promote comprehensive human rights education initiatives where schools, families and local communities are integrated (including the formulation of human rights education teaching plans and cooperation between related institutions and different types of schools), and model schools are designated to promote practical human rights education initiatives (including skills for teaching and practical teacher training). Practical studies on the methods for teaching human rights education are conducted by experts, and disseminated by the government. In terms of social education, model programs are being implemented on human rights issues taking into account the actual situation in various regions of the country.

Measures for Prevention of Child Abuse (Amendment of the Child Abuse Prevention Law and the Child Welfare Law) - In May 2007, the Child Abuse Prevention Law and the Child Welfare Law were revised from the perspective of further enforcing the safeguard against child abuse, to (1) strengthen inspections of premises which the prefectural governor allows the staff of Child Guidance Centres to enter locked premises upon the authorisation by a judge, for the purpose of ensuring the safety of children; (2) Tighten restrictions on meeting and communication by parents, legal guardians or any other person who has taken care of the child including the establishment of punishment for violating the approaching/prohibition order; (3) clarify the measures to be taken if the parents, legal guardians or any other person who has the care of the child does not follow guidance for the purpose of family reunification (effective as of April 2008).

Application of the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children -
Since the founding of the Act on the Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children in 1999 and the revision in 2004, this law stipulates penalties for child prostitution and the aiding or abetting of such prostitution, provision, production, possession with intent to provide, importing, or public display (including the use of computer systems) of child pornography, and trafficking in persons with intent to engage in child prostitution. This law also provides penalties for offences committed outside of Japan. In 2006, 2,229 cases of arrest by the application of these laws were reported.

Formulation of a National Youth Development Policy - In December 2003, the Government of Japan formulated the National Youth Development Policy at the Headquarters for Youth Development Promotion Headquarters, chaired by the Prime Minister, in order to indicate the future direction of the government’s basic principles and medium-and long-term measures regarding the development of youth and to comprehensively and effectively promote youth development measures in a wide range of areas including healthcare, welfare, education, labour, and delinquency. The government is promoting the measures based on this policy, giving consideration to promote respect for and protection of the rights of the youth as indicated in the Convention on the Rights of the Child. Four years have passed since the original policy, and to continue to promote the strengthening of its commitment for children, the government will
formulate the new policy later this year.

National Action Plan against Commercial Sexual Exploitation of Children - As follow-up to the Stockholm 1996 First World Congress against Commercial Sexual Exploitation of Children, in February 2001 the comprehensive National Action Plan against the Commercial Sexual Exploitation of Children was formulated to examine the actual state of commercial and sexual exploitation of children and investigate causes, prevent and crackdown on such acts and help the recovery and reintegration of victims. Based on this, the related ministries and agencies are making efforts to prevent crime including the commercial and sexual exploitation of children. In December of the same year, the Second World Congress against Commercial Sexual Exploitation of Children was held in Yokohama, and called on efforts in the international community to eliminate this problem. Government representatives from 136 countries (52 of cabinet level) attended the congress, along with 23 international organisations and 135 Japanese NGOs / 148 NGOs from outside Japan, 90 youths from inside and outside Japan, for a total of 3,000 participants, have made it one of the largest international congresses held in Japan. The Third Congress is to be held in Brazil in November this year, and Japan will review its action plan and reconfirm its initiatives in this area in preparation for the congress.

Volunteers for Children’s Rights Protection - Children’s rights have become a major social issue, covering such points as bullying in schools, physical punishment and parental abuse. The Ministry of Justice has developed systems for protecting children and has set up, from 1994, Volunteers for Children’s Rights Protection, appointed from human rights volunteers, effectively handle problems with expertise involving children’s rights, as well as working to gather information to help solve these problems.

Consultations on Human Rights - The human rights organs of the Ministry of Justice provide counselling for children’s rights through human rights counselling offices and the Children’s Rights Hotline, as well as offering counselling with the Children’s Rights SOS Letter-cards distributed to all elementary and lower secondary schools students in the country. Through this counselling, in cases where children’s rights may have been violated through bullying, physical punishment or abuse, the government seeks to prevent and relieve human rights violations through implementing appropriate measures in line with the situation and after investigation of the actual facts. There were 13,000 cases of human rights counselling involving the Children’s Rights Hotline in 2006.

Human Rights Promotion Activities Focused on Children - The human rights organs of the Ministry of Justice, as part of promotion activities to spread respect for human rights, conduct promotion activities in schools. As an example, since 1982 the Human Rights Flower Campaign to foster respect and consideration for life through raising flowers has been in place in elementary schools. The National Human Rights Essay Contest For Junior High School Students is held each year, with about 840,000 entries in 2007. Legal Affairs Bureaus and District Legal Affairs Bureaus staff visit schools with human rights volunteers as part of the Human Rights Class which provides opportunities for children to think about issues such as bullying. This is an excellent chance for elementary and lower secondary school children to learn the value and necessity of respect for human rights.

The Services and Support for Persons with Disabilities Act provides necessary welfare services such as work support for persons and children with disabilities, regardless of the nature of that disability, to enable them to be active and independent in the community. Various views were aired regarding this law, and urgent measures were taken over the last two years to firmly establish this law in place.

Special needs education is education for students with disabilities aiming at the full development of their capacities, independence and social participation. To meet their individual educational needs, special needs education is carried out in various forms, including in resource rooms*, and special classes (both taking place in regular schools), and in special schools named “Schools for Special Needs Education”. Home Tutoring Education is also available for students who have difficulty in attending school due to their disability. Learning is supported at the higher education stage by requiring all national, public and private universities to take into account the needs of students with disabilities and by offering support for students’ living after their admission. Educational opportunities for persons with disabilities are further provided through distance education involving TV and radio programs broadcast, for example, by the Open University of Japan.

*resource rooms: rooms where special instruction is given to children with disabilities who are enrolled in regular classes.

The Constitution of Japan states that “All Japanese people are equal under the law” (Art. 14), and that “All Japanese people shall have the right to receive an equal education correspondent to their ability, as provided by law.” (Art. 26) In the Basic Act on Education, these Constitutional stipulations are key fundamental concepts which must be taken into consideration in the implementation of education. The law prescribes the securing of equal opportunities for education and the prohibition of discrimination in education (Art. 4 Section 1), prescribes support from the government and local public entities for the education of persons with disabilities (Art. 4 Section 2), and provides for measures to allow those facing economic difficulties to attend school (Art. 4 Section 3). Compulsory education in Japan involves six years of elementary education and three years of lower secondary school education. Compulsory education in public schools is free of charge, and 99.7 per cent of those of eligible for compulsory education are in primary or lower secondary schools (as of 2007). Upper secondary education and higher education is open to all and opportunities for such education have resulted in advancement rates of 97.7 per cent and 76.3 per cent respectively.

Those foreigners who wish to attend public schools for compulsory education may do so free of charge, including the free supply of textbooks and school expense subsidies, thus guaranteeing the same educational opportunities as for Japanese citizens. Further review is being made of comprehensive policies for the education for foreign children in Japan to allow placement in schools with teachers able to teach Japanese, the distribution of a guidebook on schooling for parents, and meetings with knowledgeable persons.

Also, in order for foreigners to be able to receive the same residential services as members of Japanese society, allowing them to cope with life in Japan, a Program to Accelerate Foreigners’ Adaptation to the Life Environment in Japan was formed in 2007. This is a program that contains the establishment of language classes for foreigners of Japanese descent, training Japanese language teachers,
While noting the State’s efforts to reform the education system and bring it into greater conformity with the Convention, CRC was concerned that children under the age of 18 required parental consent for medical treatment and counselling. Disorders among adolescents, the rise in sexually transmitted diseases among youth and about drug abuse among adolescents. It was also concerned about the prevalence of mental and emotional problems among children and about the treatment of children with problematic behaviour which was lowered from 16 to 14 years, and about pre-trial detention, which was increased from four to eight weeks. It was also concerned that domestic legislation does not fully reflect the principles and provisions of the Convention, and that while the Convention can be invoked directly by the Courts, in practice this does not occur.

CEDAW and CRC in 2003, while noting with satisfaction the submission of the Human Rights Protection Bill to the Diet in 2002, expressed concern about the independence of the human rights commission, which would be placed under the Ministry of Justice, and recommended that the commission be established in accordance with the Paris Principles.

CRC appreciated the formulation of the National Youth Development Policy (2003) but remained concerned that it is not a comprehensive plan of action and that the participation of children and civil society in its elaboration and implementation has been insufficient. CRC recommended that the State strengthen this Policy to ensure that it is rights-based and covers all areas of the Convention.

To implement the World Programme for Human Rights Education (2005-ongoing) Japan assigned departments in the Ministry of Education to coordinate related initiatives. Concerning human rights education and training, CAT recommended, inter alia, that all categories of law enforcement personnel, as well as judges and immigration officials should be regularly trained in the human rights implications of their work, with a particular focus on torture and the rights of children and women.

CEDAW, the HR Committee and CRC expressed concern that the Civil Code still contains discriminatory provisions including with respect to the minimum age for marriage.

CRC, HR Committee, CESC and CEDAW also raised issues relating to discrimination against children born out of wedlock. The CRC recommended that the State amend its legislation in order to eliminate any discrimination against children born out of wedlock, inter alia, with regard to inheritance and nationality.

CEDAW in 2001 expressed concern about reports of violent actions against Koreans, mainly students and children and the Government provided information, inter alia, on various measures taken to address violence against Korean students.

In 2007, the CAT expressed concern, as highlighted also by UNHCR, of continued allegations of gender-based violence and abuse against women and children in custody, including acts of sexual violence by law enforcement personnel. In addition, it was concerned that cross-border trafficking in persons continues to be a serious problem in the State, facilitated by the extensive use of entertainment visas issued by the Government, and that support measures for identified victims remain inadequate, leading to victims being treated as illegal immigrants and deported without redress or remedy. Concern was also expressed over the lack of effective measures to prevent and prosecute violence perpetrated against women and girls by military personnel, including victims of foreign military personnel stationed on military bases.

CAT is concerned at the restrictive scope of the State legislation covering rape. CEDAW is also concerned that incest is not defined explicitly as a crime under the Penal Code and urged the State to include incest as a specific crime. CEDAW was further concerned about the prevalence of violence against women and girls and about women's apparent reluctance to seek assistance from existing public institutions.

In 2004, the CRC was concerned, inter alia, that there have been reports of the practice of "enjo kosai", or "compensated dating" and that the minimum age of sexual consent (13 years) is too low. It recommended that the State, inter alia, amend legislation on sexual exploitation and raise the minimum age of sexual consent. CRC welcomed measures undertaken to improve reporting and investigation of child abuse, but was concerned that the number of cases prosecuted is still low and that recovery and counselling services for victims remain insufficient. The CRC also noted with concern that corporal punishment, although legally prohibited in schools, continues to be widely practised. It recommended the State to, inter alia, prohibit corporal punishment in institutions and in the home; and promote positive, non-violent forms of discipline.

While noting the reform of the juvenile justice law, CRC in 2004 was concerned, inter alia, with regard to the minimum age of responsibility which was lowered from 16 to 14 years, and about pre-trial detention, which was increased from four to eight weeks. It was also concerned that an increasing number of juveniles were tried as adults and sentenced to detention and that juveniles may be sentenced to life imprisonment. Finally, it was concerned at reports that children exhibiting problematic behaviour, such as frequenting places of dubious reputation, tended to be treated as juvenile offenders. The Committee recommended that the State, inter alia, provide legal assistance to children in conflict with the law throughout the legal proceedings, and ensure that children with problematic behaviour were not treated as criminals.

The CRC raised concerns about adolescent health and youth suicides. It was concerned about the prevalence of mental and emotional disorders among adolescents, the rise in sexually transmitted diseases among youth and about drug abuse among adolescents. It was also concerned that children under the age of 18 required parental consent for medical treatment and counselling.

While noting the State’s efforts to reform the education system and bring it into greater conformity with the Convention, CRC was
concerned that its excessively competitive nature had a negative effect on children’s health, that excessive competition for entry into high education meant that public school education must be supplemented by private tutoring, which was not affordable for children from poorer families, and that children of minorities had very limited opportunities for education in their own language. Similar concerns were raised by CESCR in 2001. CRC recommended, inter alia, the development of measures, to effectively address problems and conflicts in schools, including bullying. CRC was also concerned that children with disabilities, including mental disabilities, remained disadvantaged in the enjoyment of their rights, and were not fully integrated into the education system as well as other recreational or cultural activities.

CRC in 2004 noted with appreciation that Japan is the largest donor of official development assistance in absolute figures and that a considerable amount of that assistance is allocated to social development.

Summary of Stakeholders' Information

The JIHR NGO Network indicated that there is no framework to provide remedies for discrimination experienced by children born out of wedlock. The New Japan Women’s Association (NJWA) 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. 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.

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. GIEACPC recommended that Japan introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including the home.

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.

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 emphasised. 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.

Cultural Survival (CS) reported that Ainu children face discrimination in school and the Ainu language has not been incorporated in the educational curriculum.

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.

Final Report

- Japan stated that it regards the Hague Convention on the Civil Aspects of International Child Abduction and the Convention on Jurisdiction, Applicable Law, Recognition, and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children as effective tools for children’s rights and welfare, and will continue to study the possible conclusion of the two conventions by giving due consideration to, inter alia, the current social system, and the cultural situation of Japan.

- On the question of the marriageable age in Japan, it was explained that in February 1996, the Legislative Council of the Minister of Justice submitted an outline of a Bill to Revise Part of the Civil Code suggesting that the marriageable age should be 18 years for both men and women. Japan stated that this issue constitutes an important subject involving the marriage system and the concept of a family and since there were various opinions across all levels of civil society, close attention was being paid to trends in public opinion.

(ii) Interactive Dialogue with the State under Review

- Algeria recommended that Japan implement the calls by, inter alia, the Committee on the Rights of the Child to establish human rights institutions in accordance with the Paris Principles as soon as possible.
- Algeria also asked for information on how Japan proposes to address the issue of violence against women and girls.

- Philippines encouraged Japan to further develop appropriate strategies and programmes to counter the negative effects of ‘ijime’ or bullying in schools.

- China welcomed the implementation of comprehensive legal support and awareness activities, including on child abuse and child pornography.

- Referring to reports indicating, inter alia, a high prevalence of gender-based violence and child abuse, Canada recommended that Japan continue to take measures to reduce the incidence of violence against women and children, inter alia, by ensuring that law enforcement officials receive human rights training, and funding recovery and counselling centres for victims of violence.

- Canada referred to studies showing that an increase in international marriages has resulted in an increase in complex divorce and custody cases and noted that there is no formal mechanism to deal with international child custody cases. It recommended that Japan develop a mechanism to ensure the prompt return of children who have been wrongfully removed from or prevented from returning to their habitual place of residence, and also examine the possibility of acceding to the 1980 Hague Convention on Civil Aspects of International Child Abduction.

- While recognizing measures already taken by Japan, Canada recommended that it continue its efforts to combat trafficking in persons with a special emphasis on women and children.

- With regard to measures to prevent trafficking in persons, Japan provided information, inter alia, on special provisions enabling victims of trafficking to stabilise their legal status, and that they are provided with medical treatment. An anonymous reporting line was established in 2007 to assist victims, and leaflets with information are published in nine languages. If victims wish to return to their home countries, Japan closely coordinates with interested agencies to support this and with other countries on these issues.

- The Ministry of Justice has developed protection systems to address the issue of bullying in schools, including the establishment of the Children’s Rights Hotline and the circulation of Children’s Rights SOS lettercards to all elementary and secondary schools. The Ministry of Education, Culture, Sports, Science and Technology is promoting the activities of the local schools and the boards of education through such activities as the provision of guidance and seminars, organizing model programmes to solve problems of bullying and violence at school, and supporting the school counselling system.

- Japan noted that various foreigners’ schools, including Korean schools, are accepted as miscellaneous schools by the prefectures and that there is no discrimination between other miscellaneous schools and Korean schools.

- With respect to the international standards concerning the rights of the child and women, Mexico would appreciate information on measures that may currently be applied concerning civil rights and protection against violence and trafficking and the necessary support for these victims.

- The Netherlands recommended that Japan adhere to the 1980 Hague Convention of Civil Aspects of International Child Abduction.

- Brazil thanked Japan for its full support and participation in the Third World Congress Against Sexual Exploitation of Children and Adolescents, to be held in Rio de Janeiro in November 2008. While recognizing measures taken by Japan in various other fields of human rights, it asked Japan about the main concrete steps taken in the promotion and the fulfilment of the rights of the child and of women.

- Turkey noted the high legal standards in Japan for the protection of vulnerable groups, in particular children, elderly and the people with disabilities. It noted that there are specific legal provisions aimed to protect the children from abuse, prostitution and child pornography and encouraged Japan to take further steps related to recovery and counselling services for victims.

- Regarding corporal punishment of children, it noted that the existing law does not cover punishment at home and wished to learn whether there is any plan to extend the scope of the concerned legislation.

- Ukraine noted with satisfaction the measures regarding the rights of the child and encouraged Japan to continue its efforts in this area.

- Azerbaijan asked for Japan’s views on implementing the recommendation of the Committee on the Rights of the Child to amend its legislation to eliminate any discrimination against children born out of wedlock.

- Following the interventions, Japan noted significant changes including in the social environment, and that child prostitution, child pornography and child abuse are becoming more serious and referred to measures taken in order to address such changes, inter alia, to recent legislation passed on these issues.

- Jordan commended Japan on the effort to establish a legal and institutional framework for the promotion of human rights and asked about the challenges that it faces in protecting the victims of trafficking.

- Italy noted that corporal punishment, although legally prohibited in schools, continues to be widely practiced and asked what measures had been taken to address the concerns expressed by the Committee on the Rights of the Child in this regard and recommended that Japan expressly prohibit all forms of corporal punishment of children and promote positive and non-violent forms of discipline.

- Japan informed that corporal punishment by teachers and principals is prohibited in the School Education Law and also that it promotes non-violent measures based on trust between the teachers and students. In the case that corporal punishment is actually carried out by school teachers, they are reprimanded through the appropriate procedures.
Conclusion and Recommendations

In the course of the discussion, the following recommendations were made to Japan:

- Consider ratifying/Ratify the Hague Convention on Civil Aspects of International Child Abduction, 1980 (Canada, Netherlands);

- Encourage the continued taking of measures relating to discrimination against women in particular to raise the age of marriage to 18 for women as for men (France);

- Continue to take measures to reduce the incidence of violence against women and children, inter alia, by ensuring that law enforcement officials receive human rights training, and to fund recovery and counselling centres for victims of violence (Canada);

- Continue the efforts to combat trafficking in persons with a special emphasis on women and children (Canada);

- Develop a mechanism to ensure the prompt return of children who have been wrongly removed from or prevented from returning to their habitual place of residence (Canada);

- Prohibit expressly all forms of corporal punishment of children and promote positive and non-violent forms of discipline (Italy);