



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-fourth session

### Summary record of the 1513th (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Friday, 28 May 2010, at 10 a.m.

*Chairperson:* Mr. Zermatten (Vice-Chairperson)

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*The meeting was called to order at 10 a.m.*

**Consideration of reports of States parties** *(continued)*

*Third periodic report of Japan on its implementation of the Convention on the Rights of the Child (continued) (CRC/C/JPN/3; CRC/C/JPN/Q/3; CRC/C/JPN/Q/3/Add.1) and initial reports of Japan under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/JPN/1; CRC/C/OPSC/JPN/Q/1; CRC/C/OPSC/JPN/Q/1/Add.1) and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/JPN/1; CRC/C/OPAC/JPN/Q/1)*

*Initial report of Japan under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/JPN/1; CRC/C/OPSC/JPN/Q/1; CRC/C/OPSC/JPN/Q/1/Add.1)*

1. *At the invitation of the Chairman, the members of the delegation of Japan took places at the Committee table.*
2. **Mr. Koompraphant** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography), noting with satisfaction that, since the revision of the Immigration Control and Refugee Recognition Act, victims of trafficking, including those who had engaged in prostitution, were no longer expelled, asked whether other legal provisions had been adopted to incorporate the provisions of the Protocol into Japanese law.
3. The report under consideration (CRC/C/OPSC/JPN/1) provided little information about international or regional collaboration by the State party to combat prostitution and trafficking in children; and yet international partnerships were essential in order to confront those two evils, which were becoming more widespread as transnational organized crime increased.
4. A clarification of Japan's position on child pornography was required. The Committee needed to know whether the possession of paedophile pornography constituted a criminal offence in that country. The delegation might also indicate whether the State party had introduced social and educational preventive measures, particularly for communities of foreigners, as well as tools for the identification of victims and victim support programmes.
5. **Ms. El Ashmawy** welcomed the fact that 67 tour operators had signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, drawn up by the United Nations Children's Fund (UNICEF), and asked whether sex tourism was a large-scale phenomenon in Japan and whether, where appropriate, the Code of Conduct had been disseminated more widely among professionals in the sector concerned since the preparation of the report. She would like to know whether Japan planned to accede to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.
6. **Mr. Filali**, noting that the definitions of the offences covered by the Protocol were spread over various laws, asked whether the definitions of the sale of children and child pornography were taken verbatim from the Protocol. It was hard to follow the reasoning in paragraph 25 of the report (CRC/C/OPSC/JPN/1) explaining Japan's decision not to accede to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the obligations arising from article 3, paragraph 1 (a) (ii), and article 3, paragraph 5, of the Protocol; he would be grateful if the delegation would specify how the negotiations on the Protocol might have given cause for concern.

7. He would also welcome further information on participation by civil society in the current process of legislative reform intended to align domestic law with international law, as well as information on the budget allocated to activities to combat the crimes covered by the Protocol.

8. He would like to know whether Japan had the competence to prosecute any person on its territory who had committed acts prohibited by the Protocol, whatever the individual's nationality or the country in which the act had been committed, and whether Japan could accede to any request for the extradition of a perpetrator of such acts, whether or not the acts concerned were considered a criminal offence in both the countries concerned.

9. **The Chairperson** asked what action was taken to prevent the infliction of further trauma on child victims and witnesses; who led the investigation; and whether the persons concerned were trained specifically for work with children. He would also like to know whether recorded evidence was admissible.

10. In any event, children who engaged in prostitution should not be punished, but treated as victims of one of the worst forms of exploitation. Legal persons responsible for acts which came within the Committee's mandate (distribution of pornography, for example) should incur criminal as well as administrative penalties.

11. He was afraid that there was some confusion in Japanese law between trafficking in children and sale of children; in fact, the sale of a child — i.e. transferring a child to another person, without taking into account any commercial considerations — was an offence in its own right. The aim of the Hague Convention was precisely to prevent the treatment of children as objects that could be bought and sold, and ratifying that instrument would be a guarantee of better protection.

12. The Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was also of great interest to the Committee: since such offences did not respect continental borders, the Council of Europe had opened the Convention up for ratification by all countries, including those outside Europe. The Convention went even further than the Protocol.

13. The State party might indicate whether the child guidance centres, to which the delegation had made a number of references the day before, were different from the juvenile support centres mentioned in paragraph 70 of the report, and whether their work was confined to guidance and counselling or also involved protection. He would also like to know whether any coordination mechanism had been established.

*The meeting was suspended at 10.30 a.m. and resumed at 10.40 a.m.*

14. **Ms. Shino** (Japan) said that domestic law had been amended on several occasions and that the authorities were currently examining with great attention the content of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and were seriously considering acceding to it.

15. Japan's international collaboration in that area was increasing, particularly under the Bali Process on people smuggling, trafficking in persons and related transnational crime and with the International Organization for Migration; in particular, Japan financed initiatives for assistance to victims and victim return. The Inter-Ministerial Liaison Committee regarding measures to combat trafficking in persons had organized a conference attended by 128 participants from 46 countries and representatives from six intergovernmental organizations and three NGOs.

16. **Ms. Shinozaki** (Japan) added that the police authorities had participated in the subregional conferences held almost every year since 2002 in South-East Asia in order to

facilitate and improve cooperation in police inquiries. They wished to intensify still further their cooperation with the International Criminal Police Organization (Interpol) and with China and the Republic of Korea.

17. **Mr. Otani** (Japan) said that his country had established extraterritorial competence and had already issued convictions for acts committed in other countries.

18. **Ms. Horii** (Japan) said that sexual offences committed by Japanese nationals in other countries were covered by articles 34 and 60 of the Child Protection Act. Extradition treaties had been concluded with a number of countries; even if there were no extradition treaty, it was still possible to obtain the extradition of a Japanese national, provided that the principle of double jeopardy was respected. The conviction of a Japanese national in another country for specific acts did not prevent the further prosecution of the individual in Japan in respect of the same acts.

19. **The Chairperson** asked whether Japan could prosecute a foreign national resident on its territory who had committed an offence in another country, and whether the prosecution of an individual in a case of that type would not necessarily involve double jeopardy.

20. **Mr. Otani** (Japan) replied that, in such a case, the individual would be prosecuted under the law of the country where the offence had been committed, but that the Japanese Criminal Code provided for the possibility of holding the individual accountable for his/her acts before the Japanese courts as well.

21. Child victims might be questioned by police officers or court officials, who were specially trained in the procedures concerned. During questioning, due account was taken of the child's sensibilities, and steps were taken to ensure that the questioning took place in a comforting atmosphere. The child could be accompanied by parents or guardian.

22. **Ms. Shinozaki** (Japan) said that the National Police Agency was studying the possibility of introducing methods of interviewing children based on a scientific approach inspired by European practices. At present, it was not possible to record a child's testimony on video, since that was incompatible with one of the principles of the Constitution and such a recording would not be admissible as evidence before a court.

23. **The Chairperson** asked whether the child could be accompanied by a specialist lawyer during questioning. What was the maximum number of sessions of questioning to which a child could be subjected?

24. **Ms. Shinozaki** (Japan) said that there was no legal limit on the number of questioning sessions, but that the police and the courts knew that repeated questioning risked damaging a child victim's psychological well-being, particularly in cases of sexual abuse. The presence of a lawyer was not customary, but parents were generally present, especially if the child was very young.

25. **Mr. Yamaguchi** (Japan) explained that investigating magistrates underwent special training, with great emphasis on the principles of human rights and the appropriate treatment of women and children.

26. **Ms. Shinozaki** (Japan) said that the juvenile support centres, which were affiliated to the police, took in children experiencing problems and the victims of ill-treatment. The staff of the centres were trained in child psychology and listening techniques and could refer a child to a child guidance centre, if that was in the child's best interests.

27. **Ms. El Ashmawy** asked whether Japan had introduced computer technology so that the IP addresses of persons visiting child pornography websites could be tracked and recorded.

28. **Mr. Otani** (Japan) said that the child pornography Act clearly defined the concept, provided for penalties and incorporated provisions of the Optional Protocol. The sale and distribution of pornographic materials harmful to young people (such as certain *mangas*, or cartoons) were strictly regulated.
29. **Mr. Koompraphant** asked whether the mere possession of pornography was a crime.
30. **Ms. Shinozaki** (Japan) said that the mere possession of such material for strictly private use, as opposed to its distribution or sale, was not illegal. The national police authorities did not have any technology for tracking IP addresses, but private entities passed on to police any suspect information about possession of child pornography.
31. **Ms. Shino** (Japan) said that the Action Plan to Combat Trafficking in Persons, which had been revised in 2009, focused on the prevention and eradication of trafficking and on the protection of victims. An Inter-Ministerial Liaison Committee had been set up to coordinate the activities of the various ministries involved in implementing the plan.
32. **Mr. Koompraphant** asked whether children who had witnessed acts punishable under the Protocol were obliged to testify in the presence of the accused. He would like more information about the duties and qualifications of the staff of the child guidance centres.
33. **Mr. Otani** (Japan) said that a child was not obliged to testify in the presence of the accused and that special equipment, such as screens, was provided in court or police premises in order to prevent such a situation. A child could be questioned in a separate room, or filmed.
34. **Ms. Horii** (Japan) explained that the staff of the child guidance centres varied according to the size of the centre, but consisted of specialized social workers, child psychologists and other specialists. The centres employed a total of 8,804 people, including 2,430 child specialists.
35. **Mr. Koompraphant** asked whether some child guidance centres specialized in the care of victims of trafficking.
36. **Ms. Horii** (Japan) said that there was only one type of child guidance centre, which did take in child victims of trafficking.
37. **Ms. Shino** (Japan) said that the juvenile support centres, which were affiliated to the police force, examined the situation of the minors sent to them with a view to transferring them to a guidance centre or a foster home which would look after them for a longer period. The support centres did not have the facilities required to house and care for minors over a long period.
38. **The Chairperson** asked whether child victims of prostitution could be convicted.
39. **Mr. Otani** (Japan) said that, in Japan, a child or woman who had been coerced into prostitution was never penalized. In prostitution cases, it was adults who were penalized, not children, except in certain cases where there was complicity in prostitution.
40. **Mr. Koompraphant** urged the State party to issue a law which explicitly protected child prostitutes, who should be considered only as victims who required protection. Consent to prostitution should not be considered as a relevant factor in a case involving a minor.

*Initial report of Japan under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/JPN/1/; CRC/C/OPAC/JPN/Q/1)*

41. **Mr. Pollar** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether civil society organizations had contributed to the drafting of the initial report, whether Japan had adopted a law making it illegal to recruit or involve children in armed conflict, and whether the country had established its extraterritorial competence for crimes committed by or against any person of Japanese nationality, including through multilateral or bilateral extradition agreements.

42. He would like to know how Japan coordinated its implementation of the Protocol and whether it intended to review the declaration it had made when it had ratified the Protocol, stating that the Japanese Government did not recruit persons aged under 18 years to its Self-Defence Forces, with the exception of pupils undergoing training in a school belonging to the Self-Defence Forces, for whom the minimum age of recruitment was 15 years. It would be useful to know whether military schools could be inspected for the purposes of determining the living conditions of the officer cadets.

43. The delegation might also indicate whether military personnel were given human rights training in general and training in the rights of the child in particular, whether Japan had data about the children on its territory who might have been recruited into or involved in hostilities and whether immigration officials were trained so that they could identify such children more effectively. Since there was no conscription in Japan, it would also be useful to know more about the recruitment and selection procedure undergone by persons joining the Army.

44. **Mr. Krappmann** (Country Rapporteur) asked whether the cost of education or other factors might have an influence on a person's decision to embark upon a military career, which raised the issue of the social origin of the recruits.

45. **Ms. Maurás Pérez** asked whether training in human rights and the rights of the child was provided in military academies and the army, particularly in the case of Japanese soldiers sent to serve in United Nations peacekeeping operations.

46. **The Chairperson** noting that, under article 8 of the Rome Statute of the International Criminal Court, which Japan had ratified, conscripting or enlisting children under the age of 15 years into the national armed forces or using them to participate actively in hostilities constituted a war crime, asked whether the Criminal Code penalized the enlistment of children under the age of 15 years. He would also like to know whether Japan had a law which allowed it to ensure that no weapons were exported to countries of concern where children might be involved in armed conflict.

*The meeting was suspended at noon and resumed at 12.10 p.m.*

47. **Ms. Shino** (Japan) said that, under the Child Protection Act, the enlistment and use of children in armed conflict was a criminal offence. Japan had established extraterritorial competence for the crimes of enlistment and involvement of children in hostilities committed by or against a person of Japanese nationality. In accordance with its obligations under the Rome Statute, Japan was prepared to extradite the presumed perpetrator of any of the crimes listed in article 8 of the Rome Statute to face prosecution by the International Criminal Court.

48. **Mr. Mori** (Japan) confirmed that there was no conscription in Japan and that forced recruitment was forbidden by law; enlistment was, therefore, voluntary. Foreign nationals could not be uniformed members of the Self-Defence Forces.

49. The army and military academies provided regular training on human rights, humanitarian law and peacekeeping operations, but that training did not deal specifically with the Optional Protocol. There was no provision for inspection of military academies by third parties in order to monitor the students' living conditions, but there was no reason why such inspections should not take place. Japan did not possess data about the social origin of cadet officers or the economic situation of the cadets' parents, but various types of grants and allowances for low-income families meant that cadets did not have to worry about paying fees.

50. **The Chairperson** said that he had read that, as part of its fight against terrorism, Japan had authorized the export to certain countries of state-of-the-art arms-manufacturing technology, and asked how the Government could be sure that those exports were not intended for countries of concern, where children were involved in armed conflict.

51. **Ms. Shino** (Japan) pointed out that, because some items of technology were so sophisticated, it was sometimes difficult to decide which ones might be used for manufacturing weapons, but emphasized that Japanese legislation governing foreign trade provided for export controls and that very strict rules were observed in respect of exports.

52. **Mr. Mori** (Japan) added that Japan authorized the export of military technology to the United States of America as part of its alliance with that country, which was the only exception to the ban on arms exports.

53. **Ms. Shino** (Japan) said that the preparation of Japan's report to the Committee had been the occasion for four sessions of dialogue with NGOs and a symposium with NGOs organized by the Ministry of Foreign Affairs in March 2010.

54. **Mr. Pollar** noted that immigration officials did not collect information showing the number of child refugees or indicating whether any of them had been involved in armed conflict, although data collection was a requirement under the Protocol. It was also necessary to collect data indicating whether the refugees required medical or psychological care.

55. **Ms. Shino** (Japan) replied that asylum-seekers received the psychological or physical care they needed while their cases were being considered.

56. **The Chairperson** noted with concern that Japanese legislation did not specifically penalize child recruitment. Although the State party had stressed the fact that the article of the Penal Code dealing with unlawful capture and confinement could be used for that purpose, all States parties were obliged under the Convention to define "recruitment of children" in detail and declare it an offence, because some complex situations justified such precision in the law: for example, if a foreign security firm recruited a Japanese national aged 17 to fight in Iraq, the minor was not being unlawfully captured or confined. Japan should ensure that the provisions of its Penal Code covered all possible offences. In view of the provisions of the Rome Statute, it was essential for Japanese legislation explicitly to declare the recruitment of children under 15 years of age to be a crime against humanity.

57. **Ms. Shino** (Japan) said that more information would be provided about the questions which members had asked earlier.

58. **Mr. Yamaguchi** (Japan) said that the Japanese Civil Code authorized a person with parental authority to exercise discipline, if necessary and appropriate, to guide a child and put him/her back on the right path – a practice which should be clearly distinguished from corporal punishment.

59. **The Chairperson** recalled that, according to the Committee's general comment No. 8, the use of physical force intended to cause some degree of pain or discomfort constituted corporal punishment and noted that the Japanese law on the prevention of violence against

children prohibited the use of force sufficient to produce visible physical injury to the child's body, or likely to produce such injury.

60. **Ms. Shino** (Japan) specified that "discipline" was defined by the end result and "corporal punishment" by the act which had been committed.

61. **Mr. Yamaguchi** (Japan) explained that the gap between the minimum age of consent to marriage for men (18 years) and that for women (16 years), laid down in the Civil Code, was due to differences in physical development and was not considered a violation of the spirit of the Convention, even though there were differences of opinion on the subject. In 1996, the Legislative Council of the Ministry of Justice had recommended that the age of marriage should be raised to 18 years for women as well, and draft legislation to that effect would shortly be submitted to the Japanese Parliament.

62. **Mr. Krappmann** said that he was still concerned by some issues related to the well-being of Japanese children, particularly the problem of loneliness and lack of self-esteem. It was essential to ensure appropriate support for the family in order to make it a secure base for the development of children.

63. He regretted that the concepts of guidance and orientation were used in the State party's report to describe the relationship between adults and children, and wondered whether it was not the adults who should be subject to orientation, since children expressed or showed in their behaviour what was wrong in a family or social environment.

64. In its conclusions, the Committee would pay particular attention to children living in poverty; children with disabilities, who should be better integrated; children born out of wedlock; foreign children, some of whom had lived in Japan for a very long time; refugee children; and children in conflict with the law. New solutions might perhaps be found when the ministry of children and the family had been set up.

65. **Mr. Ueda** (Japan) recalled that, since the submission of the previous periodic report, Japan had undergone great changes, including a new Government. Various difficulties persisted in the field of children's rights, but the country would continue its efforts to improve the situation of children and defend their rights more effectively, in particular by ensuring better cooperation between the Government and civil society.

*The meeting rose at 1 p.m.*