

Human Rights Council

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**Joint Stakeholders' Submission on:
Human Rights Situation in Japan**

Submitted by:

Franciscans International (FI)

and

Congregation of Our Lady of Charity of the Good Shepherd

(NGOs in Consultative Status with ECOSOC)

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I. Introduction

1. This stakeholders' report is a joint submission of Franciscans International (FI) and the Congregation of Our Lady of Charity of the Good Shepherd. The report highlights concerns related to **migrant workers, foreigners/foreign residents, asylum seekers and refugees, violence against women with specific focus on “comfort women”, children’s rights and statelessness**. We acknowledge the many positive measures taken by the Government of Japan since the first review and its openness to engage various stakeholders; however, there are still gaps to be addressed.

2. FI is a faith-based International Non Governmental Organization (INGO) with General Consultative Status with the United Nations Economic and Social Council (ECOSOC). It was founded in 1982 to bring to the UN the concerns of the most vulnerable. The Congregation of Our Lady of Charity of the Good Shepherd became affiliated with the United Nations as a Non Governmental Organization (NGO) in consultative status with ECOSOC in November 1996.

II. Migrant Workers

Background

3. Japan faces a declining birthrate and an aging population. The percentage of the population between 15 and 64 years old in 2010 was 63%, while those over 65 years old account for 23% of the population.ⁱ Therefore, the labour shortage is a serious concern, in particular in the small and medium-sized businesses where the work is *difficult, dangerous and dirty*. In Japanese this is called *Kitsui, Kiken, and Kitanai* or the 3-K's. Normally, young Japanese will not do such work, and as a consequence cheaper labour from overseas has come to play a very significant role in the economy. In general, the migrant workers support Japanese industry at the very bottom of the system; their wages have been kept very low, and they are forced to work at night and overtime performing heavy and tiring jobs. Under the “Trainee System” programmes, trainees from overseas usually obtain three-year visas and work for a minimum wage which falls below the established “Labour Standards Law.” The present situation leaves migrant workers vulnerable to exploitation.

Current Challenges

4. In 2008, the Government of Japan accepted the UPR recommendation to consider ratifying the UN Convention on the protection of the rights of all migrant workers (recommendation n. 1)ⁱⁱ. However, there has been no significant progress towards its ratification.

5. The process of obtaining a working visa to enter Japan is quite difficult. At present, the majority of these visas are issued to people of Japanese origin, mainly coming from Latin America and the remaining are issued to technical trainees, artists and students. Consequently, the Japanese labour market lacks a supply of workers for the low-skilled jobs which the majority of young Japanese refuse. Some measures have been put in place to make working visas more easily attainable, especially for nurses and other health professionals. As a result of this policy, many workers first enter the country with a tourist visa and then continue to stay in the country and work illegally.

6. The Government of Japan has set the ambitious goal of reducing by half the number of illegal migrant workers in the country, by the next ten years. However, illegal migrants are still arrested and sent to immigration centers.

7. We recommend the Government of Japan to:

1. *Ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;*
2. *Adopt and implement a comprehensive policy to address the situation of undocumented migrant workers;*

3. *Refrain from using detention as the method to address the situation of undocumented migrant workers and explore alternative methods, in coordination with all relevant stakeholders;*
4. *Implement the recommendations made by the UN Special Rapporteur on the human rights of migrants in 2010.*

III. Foreign Residents, Asylum Seekers, and Refugees

Background

8. During the 2008 UPR, the Government of Japan agreed to harmonize its procedure for the granting of asylum status also in compliance with the Convention against Torture and other relevant human rights instruments, and to provide state legal aid for migrants who need it (recommendation 20).ⁱⁱⁱ In light of this, we commend the progress achieved by the Government of Japan in instituting a system for refugees to file objections, following the principle of *non-refoulement* and not deporting those who are applying for recognition of refugee status and the review of the rejected cases as mentioned in its mid-term report.^{iv}

9. The Government of Japan was also recommended to abolish the system which calls upon citizens to anonymously denounce migrants suspected of being in an irregular situation (recommendation 23).^v The Government of Japan did not accept this specific recommendation and stated that the system in place is necessary for the enforcement of immigration laws.

Current Challenges

10. Government policies have often been used to exclude refugees and immigrants. The police crackdown on migrants without proper documentation is comprehensive and thorough. Foreigners who are in violation of the “*Emigration and Immigration Management and Refugee Recognition Law*,” are arrested. Those who refuse to return to their home country are sent to one of the three detention centers within Japan. Here, authorized personnel and NGOs interview detainees, offer legal support, provide mental health care, and continue to build a network of support for the detainees. Thank to these activities, the actual conditions and inhumane treatment inside the detention camps has gradually come to light. Discrimination and prejudice against immigrants in Japan are reinforced by the mass media, which sometimes use provocative headlines such as “*Increased Crime by Foreigners*”.

11. One clear example of the government’s policy is the *Hotline Programme*. On 16 February 2004, the Immigration Bureau of the Ministry of Justice unveiled a website and a hotline seeking citizens’ cooperation for “*receiving report on [sic] illegal stay foreigner*”. Japanese immigration authorities work with the police to investigate those who have been reported. This system, called *Daiyo Kangoku* allows the police to detain suspects without charges, access to legal counsel or telephone calls for up to 23 days. In October 2006, the foreigner report hotline’s operating hours were extended to include Saturday, Sunday and national holidays.

12. We recommend the Government of Japan to:

1. *Develop and adopt adequate measures, in collaboration with the UNHCR and Civil Society Organizations, to guarantee that all asylum applications are evaluated on an equal basis;*
2. *Discontinue the use of Hotline Programme against migrants, foreigners, asylum seekers and refugees, which is inciting racial discrimination and xenophobia;*
3. *Include the children of foreigners, migrants, asylum seekers, and refugees into the medium and long-term measures for the development of the youth, together with healthcare, welfare, education, labour, and delinquency in compliance with the provisions of the Convention on the Rights of the Child.*

IV. Violence against Women

Background

13. During the 2008 UPR, the Government of Japan reported that it had addressed the issue of “comfort women”, that is East Asian women who were forced to be sexual slaves for Japanese military during the Second World War. However, this issue is still actual in particular for the victims who believe that the Government of Japan has not adequately addressed it, according to the international human rights principles.

14. With regards to domestic violence, during the UPR 2008 the Government of Japan explained that it enacted the Act on the Prevention of Spousal Violence and the Protection of Victims in 2001, with the objective to develop systems for notification, consultation, protection, and support for self-reliance concerning spousal violence. This act was further revised in 2004 and 2007. Based on this Act, the Prefectures have established their own basic plans and authorized appropriate facilities within their jurisdiction to function as Spousal Violence Counseling and Support Centers, dealing with information provision, counseling, and protection against spousal violence.

Current Challenges

15. During its first UPR, the Government of Japan was recommended to take concrete measures to address, once and for all, the issue of “comfort women.” In response, the Government of Japan considered the issue as closed. This is in contradiction with the view of the victims, survivors, and their families which, on the contrary, consider the matter far from settled. In its UPR mid-term report, the Government of Japan disregards this issue and does not make any reference to the issue of “comfort women”.

16. Despite the progress made, domestic violence continues to take place in Japan. Women are two times vulnerable in the case of mixed marriages between Japanese men and non-Japanese women. The cultural barriers continue to dissuade the non-Japanese women from openly bringing up this issues and denouncing their abusers. In this regard, we regret that no information was given by the Government of Japan on the implementation of the accepted recommendation n. 8, concerning the problems faced by minority women in Japan.

17. We recommend the Government of Japan to:

- 1. Apologize and provide adequate compensation for all victims and survivors of “comfort women”;*
- 2. Implement adequate policies and measures in order to raise awareness on the issue of “comfort women” among youth, as part of the Japanese commitments towards peace and reconciliation;*
- 3. Include records of the crimes perpetrated against “comfort women” in the Japanese history texts;*
- 4. Bring the perpetrators of domestic violence to justice and provide redress and protection for the victims;*
- 5. Adopt a policy to raise awareness on domestic violence, which include information in foreign languages for the non-Japanese victims.*

IV. Death Penalty

Background

18. Japan is one of the 23 countries which have not abolished death penalty.^{vi} During the 2008 UPR, the Government of Japan has refused to abolish death penalty or even to consider a moratorium on the executions or.^{vii} Accordingly, between 2008 and 2012, Japan executed 27 inmates. We deeply regret the decision of Justice Minister, Mr. Toshio Ogawa, to give consent for the execution of Tomoyuki Furusawa, Yasauki Uwabe and Yatsutoshi Matsuda on 29 March 2012. This decision is shocking,

especially after almost two years which passed without executions. More than 100 persons are currently in the death row and waiting to be executed.

19. Executions in Japan are conducted in secret. The prisoner is informed only few hours before execution. The procedure and method of execution are not revealed to the public and nor the family which is informed only when the execution has been carried out. This kind of situations has been qualified as a very specific type of psychological torture.

Current Challenges

20. We express our deep concern on the systematic refusal of the recommendation on the abolition of death penalty. Despite the strong views of other UN members and of the civil society organizations, the Japanese delegation publicly stated that respecting the right to life of the death-row inmates is “inappropriate.”^{viii}

21. In 2012, the Government of Japan released data which indicates that 85, 6 % respondents support the death penalty. A similar poll organized by the Government in 2004, showed 84 % supports. It shows that the public support to death penalty has increased. This shows the urgency to continue to inform the public of both sides of the debate on the death penalty. There is the need for education and dialogue between the Government of Japan, the law makers and civil society.

22. We recommend the Government of Japan to:

1. *Review the legislation on death penalty with the view to issue a moratorium on death sentences;*
2. *Sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Right on the abolition of death penalty;*
3. *Sign and ratify the Optional Protocol to the Convention against Torture with the view to include the definition of torture in the Japanese Penal Code;*
4. *Begin a nationwide dialogue about the death penalty with the aim to engage various stakeholders, including academic, family of victims, and civil society groups, in the campaign for the abolition.*

IV. Statelessness and Stateless People

23. With the increase of migration, the number of mixed marriages between couples from different nationalities is also raising in Japan. The situation is problematic when considering that in Japan a woman has to prove the paternity of her child before the birth and the father has to consent. In this way, only man are allowed to decide about the nationality of the child. Children born out of wedlock from a Japanese man and a non-Japanese woman also suffer from societal discrimination, as well as children belonging to ethnic minorities children of non-Japanese nationality, children of migrant workers, refugee children and children with disabilities.^{ix} In 2011, the Committee on the Rights of the Child recommended that Japan revise the nationality and other related laws and regulations to conform to Article 7 of the Convention on the Rights of the Child to avoid statelessness for children born in Japan.

24. Considering this alarming situation, the Government of Japan needs to address the legal and factual status of stateless persons living in Japan, in order to comply with the international recognized standards.

25. We recommend the Government of Japan to:

1. *Ratify the UN Convention Relating to the Status of Stateless persons (1954) and the UN Convention on the Reduction of Statelessness (1961);*
2. *Amend the existing citizenship laws so as to comply with the international human rights standard;*

3. *Review the existing laws on marriage and migration so as to comply with the provisions of Convention on the Rights of the Child (CRC) and the International Convention on the Elimination of Discrimination against Women (CEDAW);*
4. *Remove from the whole Japanese legislation any discrimination perpetrated against children and pertaining to inheritance and nationality, especially for those born out of mixed-marriages with one Japanese parent.*

ⁱ <http://www.stat.go.jp/english/data/nenkan/1431-02.htm>

ⁱⁱ See A/HRC/8/44, para 60, sub section 1.

ⁱⁱⁱ See A/HRC/8/44, para 60, sub section 20.

^{iv} The Government of Japan: Mid-term progress report by Japan on its implementation of UPR recommendations made in May 2008, March 2011

^v See A/HRC/8/44, para 60, sub section 23.

^{vi} Japan voted against the UN General Assembly Resolution 65/206 on the establishment of a moratorium on executions with a view to abolishing the death penalty.

^{vii} See A/HRC/8/44/Add.1 para 2(e)

^{viii} See A/HRC/8/44, para 9.

^{ix} See CRC/C/JPN/CO/3, para 33