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Written statement* submitted by the Istituto Internazionale Maria Ausiliatrice - IIMA, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Consideration of UPR Report for Japan

The Istituto Internazionale Maria Ausiliatrice (IIMA) welcomes the positive and constructive participation of Japan in the 2nd cycle of Universal Periodic Review (UPR).

We acknowledge the measures taken by the Government of Japan to improve the implementation of international treaties to which it is a party, including reform of the Civil Code, the adoption of the Child Welfare Act and other laws in 2011 aimed at preventing child abuse and ensuring that the best interests of children are adequately taken into account. Nevertheless, we note with concern that the actual national legislation does not fully implement the Convention on the Rights of the Child and a deficiency remains in the Japanese legal system with regard to children rights law.

Thus, we urge the Government of Japan to accept relevant recommendations¹ made by the UPR Working Group concerning the rights of children, especially those belonging to the most vulnerable sectors of the population, such as children living in the Fukushima area.

IIMA would like to express its views on three key human rights issues related to children's situation in Japan: (I) the Right to education, (II) Corporal punishment against children, (III) Human rights of the children of Fukushima.

The right to education

1. We regret that the right to education was not adequately addressed during the 2nd cycle of the UPR and that no recommendation concerning education was listed in the relevant UPR Working Group report. In fact, while acknowledging the high level of education of the Japanese population, with 100% enrolment in compulsory grades and zero illiteracy, we remain deeply concerned that other issues related to the right to education were neither mentioned nor addressed.

In particular, we remain concerned about the competitiveness of the educational system which remains very stressful at all levels of education and results in school absence, illness, and even suicide by students. Moreover, due to the high volume of assignments and exams, students do not have much free time to enjoy their right to rest and leisure, or to engage in play and recreational activities appropriate to their age. We also note that the educational system does not encourage creativity in its students or value their individual needs and talents. Furthermore, pressures and high expectations from teachers, strongly supported by parents and society as a whole, result in extra stress and frustration since students are unable to develop a clear understanding of their individual aspirations.

Furthermore, despite the statement made by the national delegation² regarding the Constitutional prohibition of direct or indirect discrimination, we note that children belonging to vulnerable groups (i.e. girls, ethnic minorities, children with disabilities) are still victims of discrimination, especially when entering postsecondary education.

¹ See Report of the Working Group on the Universal Periodic Review, UN Doc. A/HRC/22/14 of 14/12/2012, recommendations n. 147.78 (Slovenia), 147.79 (Uruguay) and 147.80 (Botswana) on equality and non-discrimination; 147.81 (Mexico) on universal birth registration; rec. 147.82 (Italy), 147.139 (Republic of Moldova), 147.140 (Algeria), 147.141 (Costa Rica) and 147.142 (Thailand), in relation to child pornography and prostitution.

² IDEM, page 5, para. 24.

2. We call on the Government of Japan to:
 - Undertake a comprehensive review of the educational system taking into consideration academic excellence, and children's individual development, with particular attention to the excessively competitive and stressful nature of all educational levels, which impact students' well-being;
 - Ensure the flexibility of school curricula, programs and teaching materials in order to encourage creativity, freedom, individual differences and to guarantee children's vision of the future;
 - Combat any form of discrimination against children belonging to vulnerable groups, including girls;
 - Increase support to vulnerable children and ensure that access to university and college entrance examinations is non-discriminatory;
 - Guarantee the children's right to rest, leisure and cultural activities and support initiatives which promote and facilitate children's play-time and other self-organized activities in public places, schools, children's institutions and at home.

Corporal punishment against children

1. Concerning corporal punishment, we acknowledge that Article 11 of Japan's School Education Law strictly prohibits corporal punishment and promotes positive and non-violent forms of discipline. In addition, we appreciate that the Ministry of Education has provided training sessions for teaching staff. IIMA remains concerned that the prohibition of corporal punishment is not effectively implemented by the State due to Article 822 of the Japanese Civil Code, which allows a person who exercises parental authority to discipline a child to the extent required according to his/her point of view. Furthermore, corporal punishment in family environments as well as in alternative care settings is allowed by the Civil Code. Similarly, the Child Abuse Prevention Law allows the use of appropriate discipline, being extremely ambiguous in relation to the admissibility of corporal punishment and other ill treatments.

2. We call on the Government of Japan to:
 - Revise the national legal system in relation to corporal punishment and all forms of degrading treatment against children and explicitly prohibit them in all settings by law, including home and alternative care settings;
 - Undertake awareness-raising campaigns to educate families, teachers, and other professionals working with and for children on alternative, non-violent forms of discipline.

Human rights of the children of Fukushima

1. In relation to human rights of children of Fukushima, we acknowledge the efforts of the Government of Japan to promote disaster reduction policies and to respect human rights during the reconstruction; nevertheless, we remain concerned about the existing gap between the International Atomic Energy Agency's nuclear safety standards, which are applied in all regions of the country, and the higher limit of the level of radiation allowed in Fukushima. Furthermore, we identify the lack of monitoring of radiation levels by government authorities in the Fukushima prefecture, especially in schools. This was evidenced by the fact that elementary and junior high schools in the Fukushima prefecture commenced the new semester on 5 April 2011 without proper decontamination and in spite of the greater health risks and vulnerability of children to radiation. Their exposure to

unhealthy levels of radiation places them at higher risk of cancer and other medical conditions, including death.

IIMA is concerned for the insufficiency of decontamination in children's schools, homes and playgrounds. In fact, measurements of radiation in Fukushima schools, carried out by parents, are so high that if the schools were governed by Japan's workplace laws, children would not even be permitted to enter the facilities.

Moreover, we are also concerned about the attitude of the Government of Japan in underestimating this serious situation, undertaking information campaigns devoted to reduce the concern about the radiation exposure of children and about the lack of appropriate monitoring of radiation levels in the Fukushima prefecture, especially in school.

We, therefore, believe that the actual situation constitutes a violation of children's right to survival and development,³ to achieve the highest attainable standard of health⁴ as well as their right to non-discrimination.⁵

2. We call on the Government of Japan to:

- Accept recommendation 147.155⁶ in order to fully protect children and other residents living in the area of Fukushima;
- Continue its effort to assure the respect of children and pregnant women's life through the extension of the IAEA's nuclear standards to the Fukushima prefecture, as currently applied in the rest of the country;
- Promote realistic studies on the impact of radiation, monitor radiation levels in schools and carry out proper decontamination with adequate financial and technical support.

³ Article 6 of CRC.

⁴ Article 24 of CRC.

⁵ Article 2 of CRC.

⁶ See Report of the Working Group on the Universal Periodic Review, UN Doc. A/HRC/22/14 of 14/12/2012, para 147.155, "Take all necessary measures to protect the right to health and life of residents living in the area of Fukushima from radioactive hazards and ensure that the Special Rapporteur on the Right to Health can meet with affected and evacuated people and civil society groups", (Austria).