

A dark green silhouette of the Japanese archipelago is positioned on the right side of the cover, set against a background of textured green paper. To the left of the map is a vertical strip of textured brown paper. The word 'JAPAN' is printed in large, white, bold, sans-serif capital letters on an orange rectangular background that overlaps the bottom of the brown strip and the top of the white area.

# JAPAN

**ECPAT**

## **COUNTRY OVERVIEW**

*A report on the scale, scope and context of  
the sexual exploitation of children*



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# Acronyms

<b>ACWC</b>	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
<b>APEC</b>	Asia-Pacific Economic Cooperation
<b>ASEAN</b>	Association of South East Asian Nations
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CEFM</b>	Child, Early and Forced Marriage
<b>CIA</b>	Central Intelligence Agency (USA)
<b>CRC</b>	Convention on the Rights of the Child / Committee on the Rights of the Child
<b>CSAM</b>	Child Sexual Abuse Material
<b>CSEC</b>	Commercial Sexual Exploitation of Children
<b>ECOSOC</b>	United Nations Economic and Social Council
<b>GDP</b>	Gross Domestic Product
<b>ICSE</b>	International Child Sexual Exploitation Database
<b>IHC</b>	Internet Hotline Centre
<b>ILO</b>	International Labour Organization
<b>NPA</b>	National Police Agency
<b>NGO</b>	Non-Governmental Organisation
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OPSC</b>	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
<b>SAIEVAC</b>	South Asia Initiative to End Violence Against Children
<b>SDGs</b>	Sustainable Development Goals
<b>SEC</b>	Sexual Exploitation of Children
<b>SECTT</b>	Sexual Exploitation of Children in Travel and Tourism
<b>UN</b>	United Nations
<b>UNICEF</b>	United Nations Children's Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UNWTO</b>	United Nations World Tourism Organization
<b>WHO</b>	World Health Organisation

# Preface

Over a decade since the publication of its first Country Monitoring Reports (CMRs) on Sexual Exploitation of Children, ECPAT International is sharpening its monitoring efforts in order to better address and represent the evolving incidence and existence of the sexual exploitation of children in the world today.

Recent years have seen some unprecedented opportunities that have embedded the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT International's decision to transform its Country Monitoring Reports into more concise and targeted ECPAT Country Overviews on SEC will ensure a more effective tool for advocacy at all levels and monitoring, including commitments made in the SDGs to end violence against children in all its different forms by 2030.

The report's structure aims at providing a comprehensive baseline of information on all manifestations of SEC in a country, and an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC. They also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on children's rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews

provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

The preparation of this report is based on a review of the literature available on sexual exploitation. Drafts are shared with ECPAT members, relevant organisations, partners and local experts working on the ground who review the content and supplement the information with other local sources and analysis.

ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

This particular report addresses the different forms of sexual exploitation of children in Japan. Children in Japan are vulnerable to various forms of sexual exploitation including exploitation in prostitution and online. Japan is also a key destination country for the trafficking of children for sexual purposes and there are cases of sexual exploitation of children in travel and tourism. While Japan has sustained its efforts to address these issues, it needs to improve children's access to justice and recovery system as well as promote children's participation. Of particular note is that, Japan has recently submitted a Voluntary National Review Report on its progress and implementation towards achieving the Sustainable Development Goals.



## Executive Summary

Japan is a constitutional monarchy with a parliamentary democracy and is geographically located in East Asia. 98.5% of its total population is ethnically Japanese. Children (persons under the age of eighteen) represent around 15% of its total population. Japan is the third largest economy in the world. While children are ensured high living standards, these may have deteriorated in numerous ways over time.

Japan is a highly consumer-driven society with a big gender gap, two factors that can lead to the sexual exploitation of children (SEC). While children are constantly affected by consumerism and the pressure to make money, a recent deterioration in the gap between the rich and poor has resulted in an increase in child poverty and in children falling victims to **sexual exploitation, notably through prostitution**. Unfortunately, despite its prevalence, since this business is in a grey area, accurate data are difficult to collect. Japan is also notorious for producing **child sexual abuse material (CSAM)**. This is particularly problematic as Japan is known as a global leader in the technology industry, which results in **online child sexual exploitation (OCSE)**. Moreover, Japan is considered a destination, source, and transit country for **sale and trafficking of children for sexual purposes**. Many trafficked children are forced into prostitution and production of CSAM. In line with such a trend, **sexual exploitation of children in travel and tourism (SECTT)** is a significant issue because Japanese nationals are one of the main sources of demand for SECTT in Asia. Lastly, Japanese legislation allows a girl child aged 16 to be married, which is considered child early and forced marriages (CEFM). Fortunately, the government is considering legislative changes to rectify this.

In its efforts to tackle SEC, the Japanese government enacted the **1999 Act on the Regulation and Punishment of Acts relating to Child Prostitution and Child Pornography, and for Protecting Children** (revised in 2014) which bans the simple possession of child sexual abuse material. The Act provides certain penalties for crimes of sexual exploitation of children. However, the law does not criminalise 'virtual' child abuse materials and does not penalise the viewing of CSAM. The government is also criticised for allowing many cases concerning child sexual exploitation to be suspended, and for allowing suspects not to be indicted. Furthermore, Japan does not have any explicit provisions criminalising the sexual exploitation of children in travel and tourism, although it has entered into extradition agreements with the US and South Korea. There is no double criminality requirement in the Japanese legal system.

In July 2017, Japan submitted a **Voluntary National Review Report** on its progress regarding its implementation of the **Sustainable Development Goals**.

At the regional level, Japan is not a member of the Association of Southeast Asian Nations (ASEAN), however, it has made efforts to enhance external relations as well as stability in the region. Since 2002, it has participated annually in the **Conference of Investigators on Commercial Sexual Exploitation of Children in Southeast Asia**. In 2016, it also attended the Sixth Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crimes. Furthermore, Japan has signed agreements with China, Hong Kong, and 27 countries within the European Union enhancing regional and international mutual legal assistance.

At the national level, the Cabinet Office of Japan established the **Headquarters for Youth Development** that is in charge of **coordinating** and designing both international and national policies on children and youth. It has adopted several national plans of action and strategies in an effort to fight SEC. In 2017, the Cabinet presented the **Basic Plan on Measures against Child Sexual Exploitation**; in 2016, the government adopted the **Third Comprehensive Measures to Eliminate Child Pornography**; and in 2014, it formulated the **Action Plan to Combat Trafficking in Persons**. However, there is no comprehensive body or mechanism responsible for dealing with SECTT.

In regards to **preventive measures**, it appears that the government has established several programmes and councils specifically concerning OCSE. The National Police Agency developed the **Child Pornography Advanced Searching System** and is closely working with the International Police's (Interpol's) Crimes Against Children Unit through the **International Child Sexual Exploitation Database**. The Ministry of Internal Affairs and Communications initiated the Study Group on Countermeasures against Illegal/Harmful Information on the Internet in 2005, and the **Council on Promotion of Measures to Eliminate Child Pornography** was established in 2010.

**Several domestic laws** such as the Civil Code, Civil Procedure Code, and the Administrative Case Litigation Act allow a child or his/her representative to proceed with litigation. Although

it is not enough, the Office of the Ombudsperson for Children's Rights may also provide legal support by investigating complaints. In addition, the Act on Measures Incidental to Criminal Proceedings for Protecting the Rights and Interests of Crime Victims introduces a court-appointed counsellor system. It is mandatory to **audio or video record** when interviewing a victimised child.

Unfortunately, it is alleged that the victims of child sexual exploitation are often treated as juvenile delinquents and stigmatised as a result. Correspondingly, there are only a few state-run recovery, rehabilitation and reintegration programmes in Japan. Mainly, some NGOs such as SACHICO and COLABO provide support to child victims. In terms of **access to compensation**, children in Japan are often not entitled to compensation. However, the National Police Agency will revise the victim benefit system starting in 2018 specifically to support victims under the age of eighteen.

**Child participation** has increased recently through municipal policies and public movements. The Cabinet Office of Japan recruits **youth reporters** to collect opinions for them to reflect on when planning and formulating policies. However, in 2016, the Special Rapporteur on the Sale of Children and Sexual Exploitation expressed her concern at the lack of involvement of children on the public policies that affect them. The lack of participation from child victims in particular, is striking.

# Introduction

## COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

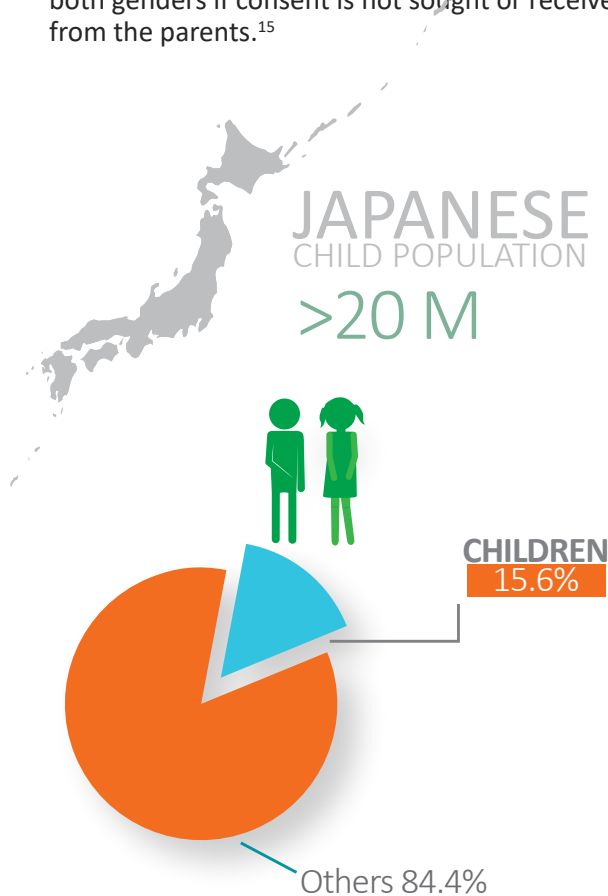
Japan is an East Asian country with a population of 126,451,398,<sup>1</sup> making it the tenth most populated country in the world. It is a parliamentary democracy with a symbolic emperor defined by the Constitution. Japan is a nearly homogeneous country in which 98.5% of the population is Japanese, and less than two per cent is Korean, Chinese or from other ethnic backgrounds.<sup>2</sup> Accordingly, its main language is Japanese. The main religions are Shintoism, Buddhism, and

Christianity.<sup>3</sup> The third strongest economy in the world by nominal GDP<sup>4</sup> Japan's GDP per capita reached US\$41,300 in 2016.<sup>5</sup> Japan is ranked 17<sup>th</sup> out of 188 countries according to the Human Development Index,<sup>6</sup> and 6<sup>th</sup> in terms of number of internet users.<sup>7</sup> Its massive economic development, as well as technological advancement, was boosted by numerous governmental welfare schemes along with universal healthcare, financial support, and compulsory free education.<sup>8</sup> Primary school enrolment rate reached 100% in 2016.<sup>9</sup>

The definition of a child, according to national legislation, is "a person under 18 years of age".<sup>10</sup> However, the age of majority is 20 years old.<sup>11</sup>

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- 1 US Central Intelligence Agency (2017), "The World Fact Book: Japan", accessed 13 September 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/ja.html>.
  - 2 *Ibid.*
  - 3 *Ibid.*
  - 4 World Bank Data (2016), "Gross Domestic Product 2016", accessed 3 January 2018, <http://databank.worldbank.org/data/download/GDP.pdf>. Also see, World Economic Forum (2017), "The world's 10 biggest economies in 2017", accessed 3 January 2018, <https://www.weforum.org/agenda/2017/03/worlds-biggest-economies-in-2017/>.
  - 5 *Ibid.*
  - 6 United Nations (2015), "Development Programme. Human Development Reports", accessed 13 September 2017, <http://hdr.undp.org/en/composite/HDI>.
  - 7 Internet World Stats (2017), Top 20 Countries with the Highest Number of Internet Users, Usage and Population Statistics, accessed 13 September 2017, <http://www.internetworldstats.com/top20.htm>.
  - 8 ECPAT International (2011), Global Monitoring - status of action against commercial sexual exploitation of children Japan, 2nd edition, p. 8, accessed 13 September 2017, [http://www.ecpat.org/wp-content/uploads/2016/04/a4a\\_v2\\_eap\\_japan.pdf](http://www.ecpat.org/wp-content/uploads/2016/04/a4a_v2_eap_japan.pdf).
  - 9 UNICEF (2017), "The State of the World's Children – Children in a Digital World", p. 155.
  - 10 The Child Welfare Act of Japan (1947), Article 4. The term "child" as used in this Act shall mean a person under 18 years of age, and children shall be classified into the following categories:
    - (i) Infant: Person under 1 year of age;
    - (ii) Toddler: Person of 1 year of age or more before the time of commencement of elementary school; and
    - (iii) Juvenile: Person under 18 years of age after the time of commencement of elementary school.
  - 11 The Civil Code of Japan (1896), Article 4. The age of majority is reached when a person has reached the age of 20. Given the fact that there is inconsistency in domestic legislations regarding the definition of a child (Child Welfare Act at 18, Civil Code at 20), it is to be noted that this will create a legal and social protection gap for young adults who are 18 or 19 years of age.

Children represent 15.6% of the population (20,501,000).<sup>12</sup> The age of consent is 13 years old,<sup>13</sup> which is one of the lowest in the world. The age of marriage is 18 years for boys and 16 years for girls, with parental consent,<sup>14</sup> but raised to 20 years for both genders if consent is not sought or received from the parents.<sup>15</sup>



Consumerism may be one of the pull factors leading to the sexual exploitation of children.<sup>16</sup> Japanese children are engulfed in a highly consumer-driven society promoted by both the media and entertainment industries, which instils a desire for quick money-making mechanisms. In such an environment, prostitution is often seen as a lucrative option. In the case of JK-business,<sup>17</sup> girls are not warned ahead of time that they will be involved in prostitution, but are instead instructed to act as 'guides' or 'walking companions' to customers.<sup>18</sup>

The phenomenon of SEC in Japan looks very different from cases in economically developing countries where children are more likely forced into prostitution by third parties or for their own survival, although the reality and harmful impacts of SEC are the same.<sup>19</sup> Some Japanese children who engage in commercial sexual activities are from relatively comfortable economic backgrounds.<sup>20</sup> However, the poverty of children (temporarily or for longer periods of time) exists as does the gap between the rich and poor and this can also be a contributing factor. The latest figure for Japan's child poverty rate is 13.9% in 2015, and "one in seven children remains poor", according to a national survey conducted by the Japanese Welfare Ministry. This percentage is worse than the average of 36 OECD countries (13.3%).<sup>21</sup> Such a situation can make children more vulnerable and it becomes a key push factor with consumerism, drawing children to sexually self-exploitative behaviours.

12 UNICEF (2017), "The State of the World's Children Report – Children in a Digital World", accessed 3 January 2018, p. 175.

13 Penal Code of Japan (1907), Article 176. A person who, through assault or intimidation, forcibly commits an indecent act upon a male or female of not less than thirteen years of age shall be punished by imprisonment with work for not less than 6 months but not more than 10 years. The same shall apply to a person who commits an indecent act upon a male or female under thirteen years of age.

Article 177 A person who, through assault or intimidation, forcibly commits sexual intercourse with a female of not less than thirteen years of age commits the crime of rape and shall be punished by imprisonment with work for a definite term of not less than 3 years. The same shall apply to a person who commits sexual intercourse with a female under thirteen years of age.

14 The Civil Code of Japan (1896), Article 731. A man may not marry until the completion of his full eighteen years of age, nor a woman until the completion of her full sixteen years of age. According to the State Party Report (2017), para 27, p. 10, the government is considering legislative changes to the Civil Code to make the marriage age at 18 for both boys and girls.

15 The Civil Code of Japan (1896), Article 4.

16 UN Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation on her visit to Japan, 3 March 2016, A/HRC/31/58/Add.1, para 18, p. 6, accessed 13 September 2017, [http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/Download.px?SymbolNo=A%2fHRC%2f31%2f58%2fAdd.1&Lang=en](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/Download.px?SymbolNo=A%2fHRC%2f31%2f58%2fAdd.1&Lang=en).

17 The JK business refers to a variety of commercial activities carried-out by high school girls, including compensated dating. The word JK stands for "joshi kousei" (女子高生) translated as 'high school girls'. See e.g. UN Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation on her visit to Japan, 3 March 2016, A/HRC/31/58/Add.1, para 9, accessed 13 September 2017, [http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/Download.px?SymbolNo=A%2fHRC%2f31%2f58%2fAdd.1&Lang=en](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/Download.px?SymbolNo=A%2fHRC%2f31%2f58%2fAdd.1&Lang=en).

18 Information provided by ECPAT/STOP Japan, the ECPAT's Member Group in Japan.

19 ECPAT International (2011), Global Monitoring Report Japan, p. 9.

20 *Ibid.*

21 The Japan Times (2017), "Despite improvements, 1 in 7 Japanese children live in poor households: survey.", accessed 23 December 2017, <https://www.japantimes.co.jp/news/2017/06/27/national/social-issues/despite-improvements-1-7-japanese-children-live-poor-households-survey/#.Wj2jNFWWaM8>, accessed on 23 December 2017.



Since 93.5% of Japan's total population is located in urban areas,<sup>22</sup> where connection to the internet is easily available, almost all Japanese children have access to high-speed Internet.<sup>23</sup> According to the World Bank, there are approximately 130 mobile phones per 100 people.<sup>24</sup> This implies that Japanese children are likely to use mobile phones very often. As Japan has been and still is notorious for producing explicit anime – which is now more commonly available in digital form – and pornographic content,<sup>25</sup> children are likely to be more vulnerable to sexual exploitation through digital technology as such depictions can normalise the sexualisation of children. Furthermore, any person, including children, can easily access full series of online child sexual abuse materials, i.e. anime, via the Internet.<sup>26</sup>

Japan is well known for its advanced, mandatory and free education system. Having one of the highest performing education systems in the world is indeed a positive factor in terms of children's development. However, high levels of education have caused various social problems that may lead to the sexual exploitation of children. There is no doubt that a stressful and rigorous educational environment takes a heavy toll on children by pushing them to participate in ruthless competition, inflicting a duty of excellence, instigating peer pressure, and causing other psychological burdens. Under constant stress, children see few options as a means of escape.<sup>27</sup> Often those options include sexual violence

(*sukūru sekuhara*, or school sexual harassment both by teachers and among children themselves), bullying,<sup>28</sup> and suicide.<sup>29</sup>

Confucian influence, as well as a patriarchal society and conservatism may have aggravated the sexual exploitation of children, especially girls. In Japan, strict traditional gender roles are still in place. And recently the expectation is added to be *kawaii* just like the heroines in Anime. Kazue Muta, a professor of sociology and gender studies at Osaka University, argued that “Japan is a patriarchal society, and it has this mentality that the young and seemingly innocent are valuable and more alluring. However, many Japanese consider enjo kosai and JK business deviant, yet place the blame on girls. Many people see it as a problem with girls, not with men”.<sup>30</sup> Correspondingly, societal norms prevalent in Japan contribute to a code of silence surrounding the sexual exploitation of children. Strangely, such tabooed sexual exploitation encourages the Japanese sex industry. Indeed, the social insensitivity to sexual exploitation involving children is a major enabling factor for the underage sex industry in Japan.<sup>31</sup> While there are official statistics provided by the National Police Agency, giving an indication of the number of perpetrators, these statistics do not accurately portray the extent of the problem as they only account for successful prosecutions. They also do not include cases due to the remaining grey areas in the law that allow other instances of child sexual exploitation, such as child erotica (*chakuero*).<sup>32</sup>

22 Central Intelligence Agency US (2017) “The World Fact Book”.

23 Internet World Stats (2017), Asia Internet Stats, Usage and Population Statistics, accessed 13 September 2017, <http://www.internetworldstats.com/asia.htm#jp>.

24 World Bank (2016), “Mobile cellular subscriptions per 100 people”, accessed 2 October 2017, <https://data.worldbank.org/indicator/IT.CEL.SETS.P2?locations=JP>.

25 The Top Five of Anything (2017), The Top 5 Worst Countries for Internet Child Abuse Content, accessed 19 September 2017, <https://top5ofanything.com/list/133419b2/Worst-Countries-for-Internet-Child-Abuse-Content>.

26 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, p 5.

27 Steve Bossy (2000), “Academic Pressure and Impact on Japanese Students”, McGill Journal of Education, Vol 35, p 71, accessed 30 October 2017, [mje.mcgill.ca/article/download/8513/6446](http://mje.mcgill.ca/article/download/8513/6446)

28 Muthu, Rajendran (2006), Social Welfare in Japan: A Focus on Social Welfare Issues, Journal of Societal & Social Policy, p.2.

29 Rebecca Wright (2015). “Japan's worst day for teen suicides”, CNN News, accessed 14 September 2017, <http://edition.cnn.com/2015/09/01/asia/japan-teen-suicides/>

30 Iwao Sumiko (1993). The Japanese Woman: Traditional Image and Changing Reality, American Journal of Sociology, New York: Free Press, p 1122, accessed 5 October 2017, <http://www.journals.uchicago.edu/doi/pdfplus/10.1086/230393>.

31 Anna Fifield (2016), “For vulnerable school girls in Japan, a culture of ‘dates’ with older men”, The Washington Post, Asia and Pacific, accessed 14 September 2017, [https://www.washingtonpost.com/world/asia\\_pacific/for-vulnerable-high-school-girls-in-japan-a-culture-of-dates-with-older-men/2017/05/15/974146c4-035d-11e7-9d14-9724d48f5666\\_story.html?utm\\_term=.7a19fedc2f2a](https://www.washingtonpost.com/world/asia_pacific/for-vulnerable-high-school-girls-in-japan-a-culture-of-dates-with-older-men/2017/05/15/974146c4-035d-11e7-9d14-9724d48f5666_story.html?utm_term=.7a19fedc2f2a)

32 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 19, p. 6.

## The context of sexual exploitation in Japan

### EXPLOITATION OF CHILDREN IN PROSTITUTION<sup>33</sup>

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines ‘child prostitution’ as “the use of a child in sexual activities for remuneration or any other form of consideration”.<sup>34</sup>

Along with the particular combination of social norms that tolerate prostitution and easily available sources of explicit material, Japanese children are exposed to sexual exploitation in prostitution, a specific example being ‘compensated dating’ (*enjo kōsai*, 援助交際). This Japanese term refers to a practice where an older man offers money or luxurious gifts to a young girl or woman in return for companionship.<sup>35</sup> *Enjo kōsai* does not necessarily involve sexual acts with children under 18, however it is reported that often it does lead to some form of sexual contact or activity. It is reported that girls and boys as young as 12 may be involved.<sup>36</sup>

Another form of exploitation of children in prostitution in Japan is ‘high-school girl business’ (*joshi-kōsei* business, 女子高生business), often abbreviated as ‘JK Business’. It is often facilitated by commercial establishments, which connect girls from the age of 15 to 18 with older men. According to the media, one of the most well-known examples of this phenomenon is a ‘high-school girl walking date’ (*joshi-kōsei osanpo*, 女子高生お散歩). Reportedly, extra charges are paid if a man wants to take pictures and holds hands.<sup>37</sup> Sometimes customers may ask for photos and sexual relationships.<sup>38</sup> Furthermore, customers often try to negotiate with the girls for *enjo kōsai* during walks.<sup>39</sup> Other examples of the JK business are the ‘high-school girl photo session’ (*joshi-kōsei satsueikai*), where customers can take pictures or even videos of high school girls posing in different outfits, and ‘high-school girl reflexology’ (*joshi-kōsei rifure*), where customers can get massages from girls wearing their high school uniforms in private rooms.<sup>40</sup> Some of these establishments allow customers to conduct activities that often lead to sexual contact.<sup>41</sup> Japanese Police estimated that there are at least 50 establishments of this kind in the Tokyo metropolitan area alone.<sup>42</sup>

33 ECPAT prefers the term ‘exploitation of children in prostitution’ instead of ‘child prostitution’, in line with the recent, widely adopted Terminology Guidelines, accessed on 14 September 2017, <http://luxembourgguidelines.org/>.

34 UN General Assembly (2000), “Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography” (hereinafter OPSC), A/RES/54/263, 25 May 2000, entered into force on 18 January 2002, Article 2(b), accessed 15 March 2018, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>.

35 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 9, p. 4.

36 Sparrow, William (2008), “The Young Ones”, Asia Times, accessed 15 September 2017, <http://www.atimes.com/atimes/Japan/JE10Dh01.html>.

37 Takahashi, Amy (2014), “Tokyo cops crack down on teen prostitution in Akihabara before Olympics”, The Tokyo Reporter, accessed 15 September 2017, <http://www.tokyoreporter.com/2014/03/28/tokyo-cops-crack-down-on-teen-prostitution-in-akihabara-before-olympics/>.

38 The Japan Times (2013), “13 Girls held for Akihabara ‘JK osanpo’ escort services”, accessed 15 September 2017, <http://www.japantimes.co.jp/news/2013/12/17/national/crime-legal/13-girls-held-for-akihabara-jk-osanpo-escort-services/>.

39 Takahashi, Amy (2014), “Tokyo cops crack down on teen prostitution in Akihabara before Olympics”, The Tokyo Reporter.

40 Asahi Shimbun (2013), “Police struggling to close shops offering high school girls for walks/photos”, accessed 15 September 2017, [http://ajw.asahi.com/article/behind\\_news/social\\_affairs/AJ201312310070](http://ajw.asahi.com/article/behind_news/social_affairs/AJ201312310070)

41 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 9, p. 4.

42 The Japan Times (2017), “Tokyo’s new ‘JK’ ordinance take aim at schoolgirl exploitation”, accessed 15 September 2017, <https://www.japantimes.co.jp/news/2017/07/06/national/crime-legal/tokyos-new-jk-ordinance-takes-aim-schoolgirl-exploitation/#.WdWs9luCyCh>.

Related to the above mentioned *enjo kōsai* and *joshi-kōsei* business, ‘telephone clubs’ (*terekura*), ‘match-making websites’ (*deai-kei*), and ‘dating-service cafés’ also provide services ranging from telephone sex to actual sexual activities. Flyers, coupons and newspapers advertising these services are easily found on the street or openly sold in convenience stores. Some services are known as ‘pro-escort services’, ‘massage with happy ending’, ‘delivery health’ (*deribarii herusu*, デリバリーヘルス), and ‘soapland’ (*sōpurando*, ソープランド) massage parlours. According to the U.S. State Department 2017 report on human trafficking, *enjo kosai* and so-called “JK business” are on-going means through which the sex trafficking of Japanese children is facilitated.<sup>43</sup>

Unfortunately, reliable statistics do not exist on any of these iterations of sexual exploitation in prostitution, for a variety of reasons, primarily due to the difficulty of collecting data.

## ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse material / exploitation material (CSAM/CSEM),<sup>44</sup> live streaming of child sexual abuse, online grooming of children for sexual purposes, and sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).<sup>45</sup> Article 2 (c) of the OPSC defines ‘child pornography’ as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.<sup>46</sup>

Along with Japan’s economic surge in the technology sector, Internet users have increased exponentially. An estimated 47 million Japanese people had access to the Internet in 2000, and as of 30 June 2017, 118 million people, or 94% of the total population, are using the Internet.<sup>47</sup> There is no comprehensive national analysis addressing correlation between the massive increase of Internet users and more cases of OCSE. However, it should be noted that a significant increase in the number of incidents concerning OCSE raises questions around increased exposure to risks online and the role of technology as an enhancing factor in CSAM/CSEM cases.

In 2014, the Police investigated 1,828 cases of ‘child pornography’ and identified 746 child victims. In 2015, it reported 1,938 investigations involving 1,483 offenders and 905 child victims,<sup>48</sup> 16% of whom were primary school age and younger.<sup>49</sup> In 2016, there were 2,097 cases involving 1,313 child victims.<sup>50</sup> In February 2017, the National Police Agency (NPA) arrested six men on charges related to CSAM, possessing more than 100,000 files depicting at least 168 boys, aged 4 to 13.<sup>51</sup> According to the NPA, the number of CSAM victims rose to 781 in the first half of 2017.<sup>52</sup>

As the above data shows, online child sexual exploitation is prevalent in Japan. Of more concern is that, due to the ubiquitous-ness of online child sexual abuse material, the materials produced in Japan may be distributed worldwide and viewed by a global audience. Produced items are available in a plethora of forms such as photos, live-streaming videos, *chaku-ero*, *manga*, *anime*, photo-books, magazines, DVDs, and games. Despite the fact that the Police have taken strict measures (see paragraphs below), CSAM are easily accessible.

43 US Department of State (2017), “Trafficking in Persons report”, p.227, accessed 15 March 2018, <https://www.state.gov/documents/organization/271339.pdf>.

44 ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines, 40.

45 ECPAT International, “Issues we work on”, accessed 11 September 2017, <http://www.ecpat.org/issues-we-work-on/ending-sexual-exploitation-of-children-online/>.

46 OPSC, Article 2(c).

47 Internet World Stats (2017), accessed 21 September 2017, <http://www.internetworldstats.com/stats3.htm#asia>.

48 US Department of State (2016), “Country Reports on Human Rights Practices for 2016: Japan”, p. 17, accessed 18 September 2017, <https://www.state.gov/documents/organization/265552.pdf>; The Cabinet of Japan (2016), “Third Comprehensive Measures to Eliminate Child Pornography”, p. 1, accessed 20 September 2017, [http://www.npa.go.jp/safetylife/syonen/no\\_cp/newsrelease/cp-measures3.pdf](http://www.npa.go.jp/safetylife/syonen/no_cp/newsrelease/cp-measures3.pdf).

49 ECPAT/STOP Japan (2017), “Situational Report of Child Sexual Exploitation in Japan. The challenging present conditions after the counter-measures taken for 20 years”, Information received from ECPAT/STOP Japan.

50 *Ibid.*

51 Reuters (2017), “Japan arrests six over child pornography, at least 168 boys abused: media”, accessed 19 September 2017, <https://www.reuters.com/article/us-japan-childporn/japan-arrests-six-over-child-pornography-at-least-168-boys-abused-media-idUSKBN15POUT?il=0>.

52 *Ibid.*

One of the many types of CSAM is known as *chaku-ero*, meaning sexual fetishes involving erotic outfits, clothing and costumes. Normally, it consists of materials that contain sexually exploitative representations of virtual children, typically primary school girls and boys in sexually provocative manners and poses.<sup>53</sup> Even though the materials clearly focus on and depict children's sexual parts, they are considered legal in Japan because the children are not naked.<sup>54</sup>

Other concerning trends in Japan are 'revenge porn' and 'sexual extortion'. 'Revenge porn' refers to posting/distributing sexually explicit videos/images of targeted individuals online, without consent, as a way of harassing, blackmailing, and/or defaming the victim publicly in order to get revenge.<sup>55</sup> 'Revenge porn' complaints totalled 1,063 in 2016, and 22.2% of cases involved minors under the age of 20.<sup>56</sup> 'Sexual extortion', also called 'sextortion', is the act of blackmailing a person with the help of self-generated images of that person, in order to extort sexual favours, money, or other benefits from her/him under the threat of sharing the material beyond their consent.<sup>57</sup>

Finally, Japan is undoubtedly the trademark country for *manga* and *anime*.<sup>58</sup> Various subgenres are highly sexually exploitative, notably '*H-manga*', '*lolicon/shotacon manga*', '*yaoi*' (boy's love), and '*yuri*' (girl's love). '*H-manga*' is a subgenre of general manga with 'H (エッチ)' meaning sexy, dirty, naughty, and lascivious behaviours. Sometimes it can stand for 'hentai', which means 'pervert' in Japanese. Where it does

not necessarily target young children, '*lolicon/shotacon manga*', '*yaoi*' and '*yuri*' do. '*Lolicon*' and '*shotacon*' are Japanese terms shortened from Lolita or Shotauro complex, meaning an attraction to prepubescent girls and boys, respectively. As both terms represent the Japanese trend of *kawaii* (cute), *ero-kawaii* (erotic cute), and *moe* (affection towards cute, young and helpless *anime* characters), '*lolicon*' and '*shotacon*' materials are popular among children and young adults, the primary targeted viewers.<sup>59</sup> Similar to '*yaoi*' and '*yuri*', they may involve prepubescent pairs having sexual homosexual relationships.<sup>60</sup> Pornographic forms typically depict intercourse between children, with teachers or much older family members, and even with strangers or classmates raping them.<sup>61</sup>

As the Special Rapporteur acknowledged during her country visit in 2015, the inherent difficulties balancing freedom of expression and the rights of the child,<sup>62</sup> many opponents of CSAM criminalisation contend that the criminalisation of materials violates the right to freedom of expression stipulated in the Constitution of Japan.<sup>63</sup> Opponents also strongly argue that 'visual depictions of non-existent persons'<sup>64</sup> do not harm real children and that there is no causal link established between CSAM and offences perpetrated against children.<sup>65</sup> However, regardless of the contested issue, these types of practices and materials can have harmful effects on children and can eventually promulgate the cognitive distortions of (potential) offenders.<sup>66</sup>

53 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 12 p. 5.

54 *Ibid.* para 13, p 5

55 *Ibid.* para 16, p. 5

56 The age of majority in Japan; Asahi Shimbun (2017), "Revenge porn complaints to police top 1,000 for second year". Accessed on 19 September 2017 from: <http://www.asahi.com/ajw/articles/AJ201704100017.html>.

57 Luxembourg Terminology Guidelines (2016), p 52, <http://luxembourgguidelines.org/>.

58 Inside Asia Tours, "Manga & Anime", Japanese Culture, Inside Japan Tours, accessed 10 November 2017, <https://www.insidejapantours.com/japanese-culture/manga-and-anime/>.

59 Tadao Takeuchi (2010), "Dissemination of Japanese Young Fashion and Culture to the World-Enjoyable Japanese Cute (Kawaii) Fashions Spreading to the World and its Meaning". *Sen-I Gakkaishi*, 66(7), p. 223–226.

60 Mark McLelland (2000), "Male Homosexuality in Modern Japan", p. 134-138, <https://www.routledge.com/Male-Homosexuality-in-Modern-Japan-Cultural-Myths-and-Social-Realities/McLelland/p/book/9780700714254>.

61 BBC News (2015), "Why hasn't Japan banned child-porn comics?", accessed 10 November 2017, <http://www.bbc.com/news/magazine-30698640>.

62 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 24, p. 7.

63 The Constitution of Japan (1946). Article 21 Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated, accessed 19 September 2017, [http://japan.kantei.go.jp/constitution\\_and\\_government\\_of\\_japan/constitution\\_e.html](http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html).

64 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 22, p. 7.

65 The Guardian (2015), "Japan urged to ban manga child abuse images", accessed 19 September 2017, <https://www.theguardian.com/world/2015/oct/27/japan-urged-to-ban-manga-child-abuse-images>.

66 UN General Assembly (2000), "United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime" (hereinafter Palermo Protocol), Res. 55/25 of 15 November 2000, Article 3 (a), accessed 15 March 2018, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.



## SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines ‘trafficking in persons’ as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.<sup>67</sup>

In case of child victims, Article 3 (c) of the Protocol specifies that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve any of the means stipulated in Article 3 (a).<sup>68</sup> In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the ‘sale of children’, defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.<sup>69</sup>

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, ‘sale of children’ is not identical to ‘trafficking’. The ‘sale of children’ always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, ‘sale of children’ is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the ‘sale of children’ can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.<sup>70</sup>

Japan is considered a destination, source, and transit country for human trafficking.<sup>71</sup> Victims are primarily trafficked from Asian countries, particularly the Philippines<sup>72</sup> and Thailand, as well as South America, Eastern Europe and Russia.<sup>73</sup> Japanese nationals, including children, are also trafficked within the country for prostitution and pornography.<sup>74</sup>

In 2015, the government investigated 728 cases of sexual exploitation of children in prostitution involving trafficking, prosecuted 495 people, and convicted 409 offenders.<sup>75</sup> The Cabinet reported, separately, that it had identified 50 victims, and that 25 victims were taken into protective custody, seven of whom were under the age of 18.<sup>76</sup> Despite the fact that 577 children were initially identified as victims of sexual exploitation in 2016,

67 Palermo Protocol, Article 3 (c).

68 OPSC, Article 2 (b).

69 Terminology Guidelines, 58.

70 Terminology Guidelines, 58.

71 US Department of State (2017), “*Trafficking in Persons Report 2017*”, accessed 20 September 2017, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226748.htm>.

72 *Ibid.*

73 *Ibid.*

74 *Ibid.*

75 *Ibid.*

76 Japan today (2015), “*Cabinet panel meets on human trafficking, forced prostitution*”, accessed 20 September 2017, <http://www.japantoday.com/category/crime/view/Cabinet-panel-meets-on-human-trafficking-forced-prostitution>.

the government only identified 10 child victims of trafficking for sexual purposes;<sup>77</sup> the police treated them as criminals, and they were never formally identified as trafficking victims.<sup>78</sup> Actual victims of human trafficking could number tens of thousands in Japan.<sup>79</sup>

Even though the Government of Japan does not fully meet the U.S. Department of State's minimum standards for the elimination of trafficking, it is said to be making significant efforts to do so, and has remained on Tier 2<sup>80</sup> for 16 consecutive years.<sup>81</sup>

## SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any "acts of sexual exploitation embedded in a context of travel, tourism, or both".<sup>82</sup> The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.<sup>83</sup>

Sexual exploitation in travel and tourism by Japanese nationals has reportedly increased in magnitude over recent decades.<sup>84</sup> This form of tourism was organised throughout East Asia, mainly in Korea, Taiwan, Thailand and the Philippines.<sup>85</sup> In Korea, trips were organised to party with *kisaengs*, Korean female artists who worked as entertainers. Some *kisaengs* were very young as they were most in demand at age 16 or 17.<sup>86</sup> By the end of the 1970s, more than 650,000 Japanese nationals travelled to Korea annually, 80% of them primarily focusing their trips on *kisaengs*.<sup>87</sup> It became so popular that a national airline, Japan Air Lines, recommend *kisaeng* parties to the tourists.<sup>88</sup>

Starting in the early 1980s, such tourism began to be seen as a negative activity and became the target of campaigns by women organizations such as Kyofukai and declined as a result.<sup>89</sup> Nonetheless, some Japanese citizens are still a significant source of demand for SECTT.<sup>90</sup> Considered wealthy, Japanese males are often the preferred customers for those being sexually exploited in prostitution and pornography.<sup>91</sup> Although it is reported that they travel to various Asian countries to sexually exploit children,<sup>92</sup> no reliable statistics currently exist. Recently, a 50-year-old Japanese man was arrested in Cebu, Philippines, for involving a 15-year-old girl in prostitution in 2017.<sup>93</sup>

77 US Department of State (2017), "Trafficking in Persons Report 2017", p. 226.

78 Japan today (2015), "Cabinet panel meets on human trafficking, forced prostitution"

79 *Ibid.*

80 The U.S. Department of State places each country in its reports onto one of four tiers, as mandated by the Trafficking Victims Protection Act of 2000 (TVPA). The analyses are based on the extent of governments' efforts measured against the TVPA's minimum standards for the elimination of human trafficking, which are generally consistent with the Palermo Protocol. Governments of countries that do not fully meet the TVPA's minimum standards but are making significant efforts to meet those standards are ranked Tier 2.

81 US Department of State (2017), "Trafficking in Persons Report 2017".

82 ECPAT International jointly with Defence for Children-ECPAT Netherlands (2016), "Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism" (hereinafter Global study on SECTT), accessed 15 March 2018, <http://globalstudysectt.org/global-report/>.

83 UNWTO (2017), "Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics", Article 5(3), UN Doc. A/RES/70/707 (XXII), accessed 9 November 2017 <http://cf.cdn.unwto.org/sites/all/files/docpdf/ares707xxiiiconventionontourismethics.pdf>.

84 Amanda Jones (2010), "Human Trafficking, the Japanese Commercial Sex Industry, and the Yakuza: Recommendations for the Japanese Government."

85 *Ibid.*

86 Ahn, Gil-Jeong (2000), "Lifestyle history of the Joseon period". ISBN 89-7196-701-3. p. 83.

87 Kaplan, David E. & Dubro, Alec (2003), "Yakuza: Japan's Criminal Underworld", University of California Press.

88 *Ibid.*

89 Amanda Jones (2010). "Human Trafficking, the Japanese Commercial Sex Industry, and the Yakuza: Recommendations for the Japanese Government." Also comments from ECPAT/STOP Japan.

90 US Department of State (2017), "Trafficking in Persons Report 2017".

91 ECPAT International (2016), "Global Study on Sexual Exploitation of Children in Travel and Tourism", Regional Report, East Asia, p. 32.

92 US Department of State (2017), "Trafficking in Persons Report 2017".

93 Mylen P. Manto (2017), "Japanese national arrested for child prostitution", The Freeman, accessed 22 September 2017, <http://www.philstar.com/cebu-news/2017/03/17/1682008/japanese-national-arrested-child-prostitution>.

These crimes may keep occurring due to the fact that Japan is not sufficiently committed to solving the problem.<sup>94</sup> A variety of reasons have been offered to explain the low number of cases, such as reluctance in reporting, unwillingness to investigate, leniency towards prosecution of SECTT crimes, and lack of knowledge and data.<sup>95</sup> The reasons behind this may include a general lack of adequate law, effective enforcement, resources, and mature legal systems.<sup>96</sup> Moreover, there are no available data and information on boy victims.

## CHILD, EARLY AND FORCED MARRIAGE (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define 'child marriage' as "a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent".<sup>97</sup> Some forms of child marriage are related to the sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.<sup>98</sup>

According to the Statistics Bureau of Japan, the average age of first marriage is now 31.1 for men and 29.4 for women in 2016 (compared to 25.9 for men and 23.0 for women in 1950).<sup>99</sup> This is mainly due to the fact that many young people work, and because societal and family pressure has decreased over the years.<sup>100</sup> Consequently, the annual number of marriages also showed a sharp drop. The government reported that nearly 1 in 4 men and 1 in 7 women remained single at the age of 50 in 2015.<sup>101</sup> This new phenomenon may help prevent child, early and forced marriage, but may hint at other problems scenarios such as the use of the commercial sex sector. Those alternative options, especially for some men, might involve the sexual exploitation of children through prostitution, video games and pornography. It is important to note however, that many married men are also counted amongst SEC offenders.<sup>102</sup>

Nevertheless, recent data on child, early and forced marriage could not be found, thus further research in Japan is needed, especially since legislation still allows a girl aged 16 to get married.

94 Svensson, Naomi L. (2006), "Extraterritorial Accountability: An Assessment of the Effectiveness of Child Sex Tourism Laws", *Loyola of Los Angeles International & Comparative Law Review*, p. 641, accessed 22 September 2017, <http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1611&context=ilr>.

95 *Ibid.*

96 *Ibid.*

97 Terminology Guidelines, 63.

98 ECPAT International and Plan International (2015), "Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage", accessed 15 March 2018, [HYPERLINK "http://www.ecpat.org/wp-content/uploads/legacy/Child%20Marriage\\_ENG.pdf"](http://www.ecpat.org/wp-content/uploads/legacy/Child%20Marriage_ENG.pdf)

99 Statistics Bureau of Japan (2017), *Statistical Handbook of Japan 2017*. Chapter 2 Population, accessed 21 September 2017, <http://www.stat.go.jp/english/data/handbook/pdf/2017all.pdf#page=23>.

100 Ministry of Education, Culture, Sports, Science and Technology (2014), *School Basic Survey*, Available at [http://www.mext.go.jp/en/news/topics/detail/\\_\\_\\_icsFiles/fieldfile/2015/09/03/1361507\\_1.pdf](http://www.mext.go.jp/en/news/topics/detail/___icsFiles/fieldfile/2015/09/03/1361507_1.pdf).

101 The Japan Times (2017), "1 in 4 men, 1 in 7 women in Japan still unmarried at age 50: report", accessed 21 September 2017, <https://www.japantimes.co.jp/news/2017/04/05/national/1-4-japanese-men-still-unmarried-age-50-report/#.WcOLCrijGCg>.

102 The Economist (2016), "Marriage in Japan – I don't", accessed 21 September 2017, <https://www.economist.com/news/asia/21706321-most-japanese-want-be-married-are-finding-it-hard-i-dont>.

## International, regional and national commitments and legislation on sexual exploitation of children

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

International Instruments		Date of ratification/accession
Convention on the Rights of the Child - 1989		22 April 1994
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000		24 January 2005
ILO Convention on the Worst Forms of Child Labour (No. 182) - 1999		18 June 2001
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – 2000 (supplementing the UN Convention against Transnational Organized Crime)		11 July 2017 (acceptance)
Regional Instruments		Date of ratification/accession
Council of Europe Convention on Cybercrime - 2001		3 July 2012
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	<p>2008 – 3rd periodic report submitted</p> <p>2001 – 2nd periodic report submitted</p> <p>1996 – initial report submitted</p>	<ul style="list-style-type: none"> <li>• “reconsider its position by raising the age of marriage to 18 years for both sexes;</li> <li>• include reproductive health education in the school curriculum including the prevention of teenage pregnancies and sexually transmitted infections;</li> <li>• strengthen efforts to investigate cases and prosecute perpetrators of child sexual exploitation and provide counselling and other recovery assistance to victims of sexual exploitation”.<sup>103</sup></li> </ul>



Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (OPSC review)	2008 – initial report submitted	<ul style="list-style-type: none"> <li>• “revise the Online Dating Site Regulation Law with a view to prohibiting the solicitation of child prostitution through all internet sites.</li> <li>• ensure, by appropriate amendments to its legislation, that all children who are victims of violations of the Optional Protocol be treated as victims, not offenders”.<sup>104</sup></li> </ul>
Human Rights Council – Working Group on the Universal Periodic Review	6 August 2012 18 April 2008	<ul style="list-style-type: none"> <li>• “adopt a plan of action to combat sexual exploitation of children, child pornography and prostitution and provide assistance to victims of sexual exploitation.</li> <li>• further increase efforts to prevent the sexual exploitation of children and to prosecute the authors of such acts.</li> <li>• take measures, at the national level, against the sexual exploitation of minors.</li> <li>• ensure provision and adequate and timely assistance, including judiciary assistance and interpreters, to victims of sexual exploitation, both women and children.”<sup>105</sup></li> </ul>

103 Committee on the Rights of the Child (2010), “Concluding Observations on the Report Submitted by Japan under Article 44 of the Convention”, accessed 18 October 2017, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fJPN%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fJPN%2fCO%2f3&Lang=en).

104 Committee on the Rights of the Child (2010), “Concluding Observations on the Report Submitted by Japan under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”, accessed 4 October 2017, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fJPN%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fJPN%2fCO%2f1&Lang=en).

105 Human Rights Council (2012), Universal Periodic Review, Report of the Working Group, accessed 4 October 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/187/52/PDF/G1218752.pdf?OpenElement>.

## INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitment	Start date
The 2030 Agenda for Sustainable Developments - SDGs Implementation Guiding Principles	2016
WePROTECT - an international movement dedicated to national and global action to end the sexual exploitation of children online.	2014
The World Congress against Sexual Exploitation of Children and Adolescents	2008
Regional commitments	
Commitment	Start date
Implementation Plan of the Vision Statement on ASEAN-Japan Friendship and Cooperation: Shared Vision, Shared Identity, Shared Future	2017
The Bali Process - a forum for policy dialogue, information sharing, and practical cooperation to help the region address people smuggling, trafficking in persons and related transnational crimes.	2002

Japan has shown commitment to international and regional frameworks on child protection by signing on to various conventions and by addressing the Sustainable Development Goals in different plans and agendas following the SDGs Implementation Guiding Principles. In an effort to be a leading advocate of the key phrase “no one will be left behind”, the Cabinet established the SDGs Promotion Headquarters, headed by the Prime Minister, in 2016.<sup>106</sup> Section 1 of the Guiding Principles addresses Target 1.2<sup>107</sup> through the Promotion of Child Poverty Countermeasures. Under section 7, Japan has focused on the components of Target 5.2<sup>108</sup> through the Third Comprehensive Measures to Eliminate Child Pornography by the NPA in 2016, and Target

8.7<sup>109</sup> is dealt with by the Action Plan to Combat Trafficking in Persons by the Cabinet Secretariat in 2014. Finally, Target 16.2<sup>110</sup> was addressed through the Child Abuse Prevention Measures, enacted by the Ministry of Health, Labour and Welfare in 2016.<sup>111</sup> The ‘Law to revise a part of the Child Welfare Law’ was enacted in April 2017 to further address Target 16.2 by strengthening the “functions of local authorities and child consultation centres as well as the foster parent system”. In April 2017, the Basic Plan on Measures against Child Sexual Exploitation, discussed in more detail below, was also formulated.<sup>112</sup> Although Japan still allows a girl child aged 16 to be married, there is no mention of Target 5.3,<sup>113</sup> which addresses child, early and forced marriage.

106 Ministry of Foreign Affairs of Japan (2016), The SDGs Implementation Guiding Principles, accessed 25 September 2017, <http://www.mofa.go.jp/files/000252819.pdf>.

107 Target 1.2: “By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions”.

108 Target 5.2: “Eliminate all forms of violence against all women and girls in public and private spheres, including trafficking and sexual and other types of exploitation”.

109 Target 8.7: “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms”.

110 Target 16.2: “End abuse, exploitation, trafficking and all forms of violence against and torture of children”.

111 Ministry of Foreign Affairs of Japan (2016). The SDGs Implementation Guiding Principles, p. 34-35.

112 Ministry of Foreign Affairs of Japan (2017), “Japan’s Voluntary National Review Report on the implementation of the Sustainable Development Goals”, SDGs Promotion Headquarters, accessed 14 November 2017, <http://www.mofa.go.jp/files/000287390.pdf>.

113 Target 5.3: “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations”.

Most importantly, the government of Japan submitted a voluntary national report in July 2017 with data regarding its progress on the implementation of the Sustainable Development Goals.

Furthermore, the network “Japan for Sustainability” was established by Japanese non-profit groups.<sup>114</sup> Recently, it conducted a voluntary national review in June 2017.<sup>115</sup> Thanks to the efforts of this network, the “Law to revise a part of the Child Welfare Act” entered into force in April 2017, and the “Basic Plan on Measures against Child Sexual Exploitation” was adopted in 2017.<sup>116</sup> According to the report, Japan has also made an effort to realise human security, particularly for children, women, etc.<sup>117</sup>

In 2012, Japan funded the re-launched International Child Sexual Exploitation Database (ICSE).<sup>118</sup> In 2015, using the ICSE database and cooperating with Interpol’s Crimes Against Children Unit,<sup>119</sup> the Juvenile Division of the NPA arrested

the ringleader of a child sexual abuse network. After being charged with exploitation of children in prostitution and forced indecency, the ringleader was sentenced to eight years in prison.<sup>120</sup> As of

2017, the ICSE database had assisted in identifying 10,000 child abuse victims, and continues to identify victims.<sup>121</sup>

## NATIONAL LEGISLATION

### Exploitation of children in prostitution

Japan’s legal instruments regarding the exploitation of children in prostitution seem to comply with international standards. The primary piece of legislation is the 1999 Act on the Regulation and Punishment of Acts relating to Child Prostitution and Child Pornography, and for Protecting Children, and its 2014 amendments. According to Article 2 of the Act, ‘child prostitution’<sup>122</sup> is “the act of performing sexual intercourse or similar acts, such as the touching of genital organs, in return for giving or promising to give remuneration to the child, the person who acts as an intermediary or a person responsible for protecting the child, including a parent, a guardian, or a person who takes care of or supervises the child”.<sup>123</sup> Under Article 4, a person who engages in ‘child prostitution’ may be imprisoned and required to engage in manual labour for up to five years or fined up to three million yen (approximately US\$30,000).<sup>124</sup> In cases of facilitation or solicitation of prostitution of a child, a person may be imprisoned and required to engage in hard labour for up to five years or fined up to five million yen (approximately US\$50,000).<sup>125</sup> The Act also penalises persons who engage in the business of facilitating or soliciting ‘child prostitution’, with imprisonment, including hard labour, for up to seven years and a fine of up to 10 million yen (approximately US\$100,000).<sup>126</sup>



114 Japan for Sustainability. More information at: <https://www.japanfs.org/en/projects/sdgs/index.html>.

115 Division for Sustainable Development (2017), “Japan’s Voluntary National Review 2017”, accessed 25 September 2017, <https://sustainabledevelopment.un.org/memberstates/japan>.

116 Division for Sustainable Development (2017), “Japan’s Voluntary National Review 2017”, p 45, accessed 6 October 2017, <https://sustainabledevelopment.un.org/content/documents/16445JapanVNR2017.pdf>.

117 *Ibid.* p 21

118 ICSE, See more information at: <https://www.interpol.int/Crime-areas/Crimes-against-children/Victim-identification>.

119 Interpol’s Crimes Against Children (CAC). See more information at: <https://www.interpol.int/Crime-areas/Crimes-against-children/Crimes-against-children>.

120 Interpol (2017), “Japan child sex abuse network ringleader identified via INTERPOL is jailed”, accessed 25 September 2017, <https://www.interpol.int/en/News-and-media/News/2017/N2017-017/>.

121 *Ibid.*

122 In line with the recently widely adopted Terminology Guidelines for the protection of children from sexual exploitation and sexual abuse, ECPAT International prefers the terms ‘exploitation of children in prostitution’ but in a legal context still uses ‘child prostitution’ as per the relevant international legal instruments.

123 The Act on Punishing Acts related to Child Prostitution and Child Pornography, and on Protecting Children (1999), Article 2

124 *Ibid.*, Article 4.

125 *Ibid.*, Articles 5 and 6.

126 *Ibid.*

Despite the fact that Japan has provided punishment commensurate with the crime, in line with their obligations under the OPSC, the level of successful prosecution in Japan is low.<sup>127</sup> According to the data reported by the government, the police identified 462 victims of exploitation in prostitution, and 3,913 individuals were investigated for violation of the Act in 2013. Out of those investigated, only 297 were convicted, 567 cases were dropped, and the remaining cases were suspended.<sup>128</sup> In 2016, the Special Rapporteur expressed her concern that a lot of cases were being suspended,<sup>129</sup> in response to which, the Japanese government submitted an explanation, asserting that the act of suspending the execution of sentences does not equate impunity.<sup>130</sup> Depending on how the system is used however, there are still implications for impunity. Therefore, appropriate measures should be taken to ensure that those guilty of such crimes are prevented from having their sentences suspended.

The Penal Code of Japan also contains provisions related to the exploitation of children in prostitution under Chapter XXII, which covers Crimes of Obscenity, Rape and Bigamy through article 177 on rape, article 176 on forced indecency or assault, and article 178 on quasi forced indecency and quasi rape.<sup>131</sup> Recently in 2017, the government has amended the Penal Code to charge harsher punishment for sex offenders. It is worth noting that the revision on the provision of rape was expanded to be gender neutral where previously it was only applied to women and girls.<sup>132</sup> The Child Welfare Act (1947) further prohibits obscene acts committed against a

child by any person.<sup>133</sup>

Other laws concerning the sexual exploitation of children in prostitution are the Prostitution Prevention Law (1956), and the Act on Control and Improvement of Amusement and Entertainment Businesses (1948). Article 3 of the Anti-Prostitution Law, a person should not engage in prostitution, and Article 7 penalises forced prostitution, including by threat or the use of violence and inducing a person into prostitution by deception, embarrassment, or taking advantage of influence through kinship.<sup>134</sup> The Amusement and Entertainment Businesses Act prohibits these businesses from hiring persons under the age of 18 for work lasting from 10:00pm until sunrise, and forbids employing persons under 18 in sex-related businesses.<sup>135</sup> However, the Act does not apply to 'dating-service cafés'.<sup>136</sup> A few local governments have applied laws to prohibit children from entering such establishments.<sup>137</sup>

Although it is not specific to child victims of sexual exploitation in prostitution, the Employment Security Act may provide protection. Under Article 63, it is a crime for a person to cause another to engage in employment by "means of violence, intimidation, confinement or other unjust restraint on mental or physical freedom", or to recruit a person for "work harmful to public health or morals". These crimes are sentenced with up to 10 years of imprisonment or a fine less than three million yen (approximately US\$26,000).<sup>138</sup> Similarly, Article 5 of the Labour Standards Act also prohibits forced labour by stipulating that "an employer shall not force workers to work against their will by

127 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Article 3.

128 US Department of State (2014), "Trafficking in Persons Report 2014", accessed 15 September 2017, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226748.htm>.

129 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 41, p. 12.

130 Human Rights Council (2016), "Comments by the Government of Japan on the report of the Special Rapporteur regarding her mission to Japan", A/HRC/31/58/Add.3, para 22, p. 7, accessed 15 September 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/03/PDF/G1604403.pdf?OpenElement>.

131 The Penal Code of Japan (1907), Articles 175-178, accessed 15 September 2017, <http://www.japaneselawtranslation.go.jp/law/l/?ft=2&re=02&dn=1&yo=penal+code&x=0&y=0&ky=&page=1>.

132 The Japan Times (2017), "Japan's expanded sex crime laws go into effect", accessed 3 January 2018, <https://www.japantimes.co.jp/news/2017/07/13/national/crime-legal/japans-expanded-sex-crime-laws-go-effect/#.WkxqDVWwCh>.

133 The Child Welfare Act (1947), Article 34, accessed 15 September 2017, [http://www.japaneselawtranslation.go.jp/law/detail\\_main?id=11&vm=2](http://www.japaneselawtranslation.go.jp/law/detail_main?id=11&vm=2).

134 Prostitution Prevention Law (1956), Article 7.

135 Committee on the Rights of the Child (2008), "Consideration of reports submitted by States parties under article 44 of the Convention: Third periodic report of States parties due in 2006", (hereinafter State Party Report) accessed 16 September 2017, <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-JPN3.doc>.

136 Women Sphere (2008), "Dating Cafes in Japan fostering child prostitution", accessed 16 September 2017, <http://womensphere.wordpress.com/2008/10/28/dating-cafes-in-japan-fostering-child-prostitution/>.

137 *Ibid.*

138 The Employment Security Act (1947), Chapter 5 Penal Provisions. Article 63, accessed 21 September 2017, [http://www.japaneselawtranslation.go.jp/law/detail\\_main?id=10&vm=2](http://www.japaneselawtranslation.go.jp/law/detail_main?id=10&vm=2).



means of violence, intimidation, imprisonment, or any other unfair restraint on the mental or physical freedom of the workers".<sup>139</sup> Both provisions may apply if a child was forcibly trafficked or hired into the sex industry. Articles 56-64 provide further protections for minors: Article 56 prohibits children under 15 years from working; and Article 61 prohibits the hiring of a person under 18 years of age for work done during the night, but males over 16 years of age can be hired.<sup>140</sup>

Efforts should be made at the national level to amend legislation that is not in line with international standards to fully protect children from and prevent sexual exploitation in prostitution. One such effort is the petition submitted to the government in October 2015, by ECPAT/STOP Japan, along with 10 other organisations, demanding law revisions "as not to tolerate making children into sexual objects".<sup>141</sup>

### Online child sexual exploitation (OCSE)

Japanese national legal instruments as well as local ordinances are not enough to prevent **online child sexual exploitation** crimes for several reasons. Japan enacted the Law on Punishing Acts related to Child Prostitution and Child Pornography, and for Protecting Children on 26 May 1999. Article 7 penalises the production, transport, import and export of 'child pornography'.<sup>142</sup> The 2015 revision of Article 7 specifies that 'possession' shall incur imprisonment with labour for a maximum of three years or a fine of maximum three million yen (approximately US\$39,000). The amended act establishes an even stricter penalty for the production or distribution of child sexual abuse material, with a maximum imprisonment of five years and a fine of up to five million yen (approximately US\$50,000).<sup>143</sup>

Although welcoming the amendment as a positive change, the Special Rapporteur contended that the Act still contains a loophole that allows exploitation because it does not criminalise 'virtual' child abuse materials such as *manga*, *anime*, cartoons, comics, and video games.<sup>144</sup> Furthermore, even though the law punishes the downloading of CSAM, she criticised it for not punishing the viewing of CSAM.<sup>145</sup> Therefore, the Act is not in line with the Council of Europe's Convention on Cybercrime, which Japan ratified in 2012.

In this regard, the Tokyo District Court applied the Child Pornography Act in 2016, to rule that "the composite photographs, pseudo pornography or collage created by using multiple pictures also even if they synthesized a picture of a naked body of a child named B on the face of child A, as long as the child actually exists, the image is a depiction of the appearance of a 'real' child B, and should be interpreted as 'child pornography'".<sup>146</sup> Even though the case detail is confined to a specific condition, it implies that virtual images may be interpreted as CSAM.

Moreover, the Tokyo Metropolitan Assembly in December 2017 unanimously agreed to amend the Ordinance regarding the Healthy Development of Youths (Ordinance Juvenile Protection) to prohibit and criminalise the "act of asking children under the age of 18 for 'selfie' images", including of a pornographic nature. According to the Ordinance, such an offence shall be fined up to 300,000 yen (approximately \$2,664).<sup>147</sup> The revision will come to effect in February 2018.

There are several other relevant legal instruments in Japan. As previously mentioned, child obscenity is regulated by both the Penal Code of Japan,<sup>148</sup> and the Child Welfare Act.<sup>149</sup> Furthermore, Japan

139 The Labour Standards Act (1995), Chapter 1 General Provisions. Article 5, accessed 21 September 2017, <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/27776/64846/E95JPN01.htm>.

140 *Ibid.*

141 ECPAT/STOP Japan (2015), "Petition for Law Revisions So as Not to Tolerate Making Children into Sexual Objects", Information received from ECPAT/STOP Japan. Available in both English and Japanese.

142 The Act on Punishing Acts related to Child Prostitution and Child Pornography, and on Protecting Children (1999).

143 *Ibid.*

144 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 23, p 7

145 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 14, p. 5.

146 Westlaw Japan (2016), accessed 19 September 2017, <https://www.westlawjapan.com/column-law/2016/161128/> (available in Japanese).

147 The Mainichi (2017), "Metro Tokyo gov't to penalize solicitation of selfies from children under 18", accessed 3 January 2018, <http://mainichi.jp/english/articles/20171216/p2a/00m/0na/016000c>.

148 Government of Japan, Penal code, Article 175

149 Government of Japan, Child Welfare Act, Article 34.

enacted the Act on Prevention of Damage by Provision of Private Sexual Image Record in 2014, banning ‘revenge porn’. Under Article 3, it is a criminal act to upload sexual images of another person without the person’s approval. The new Act allows Internet service providers to delete suspected images without the uploader’s consent. Offenders may be sentenced to a maximum of three years imprisonment or a fine up to 500,000 yen (approximately US\$4,500).<sup>150</sup> The Cabinet Office of the Government also formulated the Act on Development of an Environment that Provides Safe and Secure Internet Use for Young People, which provides protection for safe and secure internet use. Article 2 defines ‘obscene depiction of sexual conduct or genitals’ as content that is harmful to young people. Furthermore, the Act stipulates the responsibilities<sup>151</sup> of the State, local public entities,<sup>152</sup> business operators,<sup>153</sup> and guardians<sup>154</sup> to keep children safe.

### Sale and trafficking of children for sexual purposes

Previously, Japan’s legal instruments addressing the problems of **sale and trafficking of children** or sexual purposes had severe defects. However, these gaps have been partially addressed by various amendments in recent years, and by the 2017 ratification of United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

According to Article 226 of the Penal Code of Japan, “a person who kidnaps another by force or enticement for the purpose of transporting

another from one country to another country shall be punished by imprisonment with work for a definite term of not less than two years”.<sup>155</sup> Article 226-2 also sentences “a person who buys or sells another by imprisonment with work for not less than three months but not more than five years”. When the acts involve a minor, the imprisonment rises to a maximum of seven years. In the cases where the acts are for the purpose of “profit or indecency”, the article prescribes up to 10 years’ imprisonment.<sup>156</sup> The delivery of kidnapped persons is also penalised under article 227.<sup>157</sup>

The Child Welfare Act offers broader protection, penalising a person who commits an obscene act against a child, delivers a child to another knowing that the other is likely to cause the child to commit such an act, or keeps a child with the intent of causing a child to commit an act harmful to the child.<sup>158</sup> The Law on the Regulation and Punishment of Acts related to Child Prostitution and Child Pornography, and for Protecting Children, contains more specific provisions regarding trafficking in children for the purpose of exploitation in prostitution. In accordance with Article 8, buying or selling a child for the purpose of sexual intercourse or producing child sexual abuse material is prohibited, and offenders shall be sentenced to a maximum imprisonment with labour of 10 years.<sup>159</sup> Moreover, any Japanese nationals transporting a child out of the country, who has been abducted, kidnapped, sold or bought in a foreign country, are liable to punishment for a minimum of two years.<sup>160</sup> Attempts to commit any of these crimes are also punishable.<sup>161</sup>

150 The Act on Prevention of Damage by Provision of Private Sexual Image Recording, accessed 19 September 2017, [http://www.shugiin.go.jp/internet/itdb\\_gian.nsf/html/gian/honbun/houan/g18701017.htm](http://www.shugiin.go.jp/internet/itdb_gian.nsf/html/gian/honbun/houan/g18701017.htm) (available in Japanese).

151 The Act on Development of an Environment that Provides Safe and Secure Internet Use for Young People (2008), Articles 4, 5, and 6, accessed 20 September 2017, <http://www8.cao.go.jp/youth/youth-harm/law/pdf/english.pdf>.

152 *Ibid.* The State and local public entities shall have the responsibility of formulating and implementing measures for providing safe and secure Internet use for young people.

153 *Ibid.* Persons engaged in businesses related to Internet use by young people shall endeavour, in accordance with the characteristics of their businesses, to take measures for reducing the chances of young people viewing content harmful to young people via the Internet as much as possible, and to take measures for contributing to young people’s acquisition of skills for the appropriate utilization of the Internet.

154 *Ibid.* Guardians, recognizing that content harmful to young people is distributed extensively on the Internet, shall endeavour to gain an appropriate understanding of the status of Internet use by the young people under their custody in accordance with their educational policy and the young people’s developmental stage, as well as manage Internet use by young people appropriately through utilization of software for filtering content harmful to young people and other methods, and promote young people’s acquisition of skills for the appropriate utilization of the Internet.

155 The Penal Code of Japan (1907), Article 226.

156 *Ibid.* Article 226-2.

157 *Ibid.* Article 227.

158 The Child Welfare Act (1947), Section 6 Miscellaneous Provisions Article 34.

159 The Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children (1999), Article 8.

160 *Ibid.*

161 *Ibid.*

The Immigration Control and Refugee Recognition Act does address trafficking in persons, including persons under the age of 18. Contrary to the Palermo Protocol, the Act does not provide protection specifically based on exploitation; however, it does offer some protections for the victims of crimes listed under Article 2-2, by stipulating that the victim should not be denied permission to remain in Japan on the basis of having engaged in prostitution.<sup>162</sup>

Various other instruments in Japan attempt to deter trafficking in persons. The Law on Control and Improvement of Amusement Business prohibits a person who had been convicted on charges of human trafficking from engaging in a sexual entertainment business.<sup>163</sup> The Ministry of Justice enacted stricter mandatory criteria<sup>164</sup> on the ‘entertainment visa’ since a large number of people, including children, enter Japan on such visas and eventually become the victims of sex trafficking.<sup>165</sup>

### Sexual exploitation of children in travel and tourism (SECTT)

Japanese law does not include a provision that criminalises the sexual exploitation of children in travel and tourism. However, the Travel Agency Act may provide some protection. Article 13 (3) stipulates that “travel agents are prohibited

from getting involved in their tourists’ conduct which violate the local laws or ordinances of their destinations”.<sup>166</sup> Thus, travel agents may not participate in SEC, if the local laws prohibit it. This provision becomes very relevant because the sexual exploitation of children abroad generally involves tour operators, travel agents, hotels, airlines, etc.<sup>167</sup>

### Child, early and forced marriages (CEFM)

The main legal framework on the legal age of marriage is the Civil Code of Japan. According to Article 731, a boy aged 18 and a girl aged 16 may enter into marriage,<sup>168</sup> with both parents’ consent, unless the parent is unknown, dead, or unable to consent for any reason.<sup>169</sup> Furthermore, if a person was married under the age of 18 or 16, they may not have the marriage rescinded on the basis of age once they reach the age of 18 or 16, unless they make the request within 3 months of reaching that age. Unfortunately, if minors enter into marriage, they are deemed to have attained majority.<sup>170</sup> If the marriage was completed over the age of 18 or 16, it may not be rescinded on the basis of age.<sup>171</sup>

Japan has neither signed nor ratified the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.<sup>172</sup>

162 The Immigration Control and Refugee Recognition Act (2015), Chapter 1 General provisions Article 2-2 Status of Residence and Period of Stay, accessed 21 September 2017, <http://www.immi-moj.go.jp/english/newimmiaact/pdf/RefugeeRecognitionAct01.pdf>.

163 Tomoya Kamino (2007), Gender and Law in Japan, “Chapter 4 Japanese law and policy against human trafficking, Sendai: Tohoku Daigaku Shuppankai”, p. 90, accessed 21 September 2017, <http://www2.odn.ne.jp/kamino/NewFiles/humantrafficking2.pdf>. The Public Safety Commission also prohibits people from engaging in sexual business within 5 years of the end of a suspension of the execution of a sentence in charges of human trafficking.

164 The Immigration Office does not admit ‘entertainers’ into Japan if the employers and full-time workers of the enterprise contracting with ‘entertainers’ contain the following: a person engaging in illegal employment, a person submitting a false application for a foreigner to gain permission of landing within 5 years, a person who has received penalty or is within five years of the end of a suspension of the execution of sentence, charged of a crime from articles 74 to 74-8 of the Immigration Control and Refugee Recognition Act or from articles 6 to 13 of the Anti-Prostitution Law, or a person who is a member of a crime syndicate or is within 5 years of dropping out of a crime syndicate.

165 Immigration Office of Ministry of Justice (2005), About the Revision of Standards of Landing Permission related to Visa of Entertainers”, accessed 21 September 2017, <http://english.visajapan.jp/kougoyo.html>.

166 Travel Agency Act (1952), Article 13.

167 ECPAT International (1998), Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism “Background and Implementation Examples”, p. 3 accessed 22 September 2017, [https://www.unicef.org/lac/code\\_of\\_conduct.pdf](https://www.unicef.org/lac/code_of_conduct.pdf).

168 Civil Code of Japan (1896), Article 731 Marriageable Age, accessed 22 September 2017, [http://www.japaneselawtranslation.go.jp/law/detail\\_main?re=2&vm=04&id=2058](http://www.japaneselawtranslation.go.jp/law/detail_main?re=2&vm=04&id=2058).

169 Civil Code of Japan (1896), Article 737 (1) and (2).

170 Civil Code of Japan (1896), Article 753.

171 Civil Code of Japan (1896), Article 745 (1) – (2).

172 United Nations Treaty Collection (2017), accessed 22 September 2017, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVI-3&chapter=16&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVI-3&chapter=16&lang=en).

## Extraterritorial jurisdiction and extradition law

Pursuant to Article 3 of the Penal Code of Japan, Japanese nationals are prohibited from engaging in child sexual exploitation outside the territory of Japan.<sup>173</sup> Non-nationals may also be penalised if they committed crimes against Japanese nationals, specifically those involving forced indecency, rape, kidnapping of minors and/or for profits, buying and selling of human beings, and any attempts thereof.<sup>174</sup> According to the Criminal Procedure Code, prosecutors have discretion in deciding whether to initiate cases. However, if a case involves a child victim, it requires justification for the decision.<sup>175</sup>

According to the Act on the Regulation and Punishment of Activities Relating to Child Prostitution and Child Pornography, and the

Protection of Children, crimes relating to child sexual exploitation in prostitution, OCSE, and trafficking in children for the purpose of sexual activities committed by Japanese nationals while abroad are still subject to Japanese law, and may be prosecuted in Japan unless they are extradited to the other countries.<sup>176</sup> This law is also applicable to non-nationals residing in Japan.<sup>177</sup> Unfortunately, it seems that enforcement of this law is weak and somewhat lenient toward Japanese nationals.<sup>178</sup>

There is no provision of double criminality<sup>179</sup> in the Japanese legal system. The Law of Extradition does not require a Japanese fugitive who has allegedly committed crimes to be extradited to stand trial, unless there are extradition agreements in place.<sup>180</sup> For countries, with whom Japan has no extradition agreement, the authorities may consider the OPSC a legal basis for extradition.<sup>181</sup>

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173 Penal Code of Japan (1907), Article 3 Crimes Committed by Japanese Nationals outside Japan.

174 Penal Code of Japan (1907), Article 3-2 Crimes Committed by Non-Japanese Nationals outside Japan. The Code shall apply for the following crimes: forcible indecency, forcible indecency causing death or injury, rape, quasi forcible indecency, quasi rape, gang rape; attempts, homicide, injury, injury causing death, capture, confinement, unlawful capture or confinement causing death or injury, kidnapping of minors, kidnapping for profit, kidnapping for ransom, kidnapping for transportation out of a country, buying or selling of human beings, transportation of kidnapped persons out of a country, delivery of kidnapped persons; attempts, constructive robbery, robbery through causing unconsciousness, death or injury on the occasion of robbery, rape on the scene of robbery; attempts, and causing death thereby.

175 ECPAT International (2008), "Extraterritorial Laws. Why they are not really working and how they can be strengthened", p. 12.

176 The Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children (1999), Article 10.

177 *Ibid.*

178 ECPAT International (2016), "Global Study on Sexual Exploitation of Children in Travel and Tourism: Regional Report, East Asia", p 17.

179 A double criminality requirement means that the relevant act is punishable in both the country where it was originally committed and also in Japan.

180 The Law of Extradition (1953), Article 2 Restrictions on extradition, accessed 22 September 2017 <http://www.oecd.org/site/adboecdanti-corruptioninitiative/39360681.pdf>.

181 OPSC Article 5(2).

## National response to the sexual exploitation of children

### COORDINATION AND COOPERATION

The Headquarters for Youth Development under the Cabinet Office of the Government is in charge of coordinating and designing both international and national policies on children and youth. The Ministry of Health, Labour and Welfare is in charge of monitoring the implementation of laws and policies, including those affecting children. The Ministry of Education, Culture, Sports, Science and Technology conducts awareness-raising campaigns and initiatives as well as training activities.<sup>182</sup>

It is to be noted that even though a number of government bodies implement policies regarding children's rights, the lack of effective coordination among them hinders their full capacity.<sup>183</sup>

In the hope of realising, "Japan, the Safest Country in the World", before the start of the Tokyo 2020 Olympics, Japan is making significant efforts to eradicate SEC. In March 2016, the Cabinet approved a thorough "Basic Plan on Measures against Child Sexual Exploitation", which was

presented in April 2017. The plan incorporated measures stipulated in the Third Comprehensive Measures to Eliminate Child Pornography, adopted with the objective of preventing harm caused by Internet-related offences, preventing distribution and access, and cracking down on CSAM-related crimes.<sup>184</sup> The Basic Plan also includes new measures,<sup>185</sup> which focus on enhancing public awareness, preventing the occurrence, protecting child victims, supporting children and families, training officials, cracking down on offences, and rehabilitating offenders.<sup>186</sup>

Other actions include formulating the Third Basic Plan for the Development of an Environment that Provides Safe and Secure Internet Use for Young People.<sup>187</sup> In 2016, the Cabinet Office further conducted the Fact-finding Survey on Internet Use Environment of Young People, which studied how children and young people, and their guardians, use the Internet.<sup>188</sup> Recently, a conference and study group based on the Plan were held in September 2017.<sup>189</sup>

182 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 30, p 9.

183 State Party Report (2010), para 11.

184 The Government of Japan (2016), "The Third Comprehensive Measures to Eliminate Child Pornography", accessed 20 September 2017, [http://www.npa.go.jp/safetylife/syonen/no\\_cp/newsrelease/cp-measures3.pdf](http://www.npa.go.jp/safetylife/syonen/no_cp/newsrelease/cp-measures3.pdf).

185 The Cabinet of Japan (2016). The Basic Plan on Measures against Child Sexual Exploitation. Available at: [http://www.npa.go.jp/safetylife/syonen/no\\_cp/newsrelease/basic\\_plan.pdf](http://www.npa.go.jp/safetylife/syonen/no_cp/newsrelease/basic_plan.pdf).

186 *Ibid.* Concrete measures include: (a) holding public-private conferences and seminars, (b) publishing 'Overseas Security Answer Book', (c) implementing trainings for people working in the education fields, (d) conducting various campaigns, (e) strengthening international collaboration for a better investigation, (f) enhancing the support for victims of sexual crimes and violence, (g) strengthening of strict punishment, and (h) providing capacity building or care programme concerning sexually victimised children.

187 The Cabinet Office of Japan (2015). "The Third Basic Plan for the Development of an Environment that Provides Safe and Secure Internet Use for Young People" accessed 20 September 2017, [http://www8.cao.go.jp/youth/youth-harm/suisin/pdf/dai3ji\\_keikaku\\_eng.pdf](http://www8.cao.go.jp/youth/youth-harm/suisin/pdf/dai3ji_keikaku_eng.pdf).

188 The Cabinet Office of the Government. "Fact-finding Survey on Internet Use Environment of Young People", p. 41, accessed 20 September 2017, <http://www8.cao.go.jp/youth/english/whitepaper/2016/pdf/chapter4.pdf>.

189 The Cabinet Office of Japan (2017), A study group on development of youth internet environment, accessed 6 October 2017, [http://www8.cao.go.jp/youth/kankyoi/internet\\_torikumi/kaigi.html#toc36](http://www8.cao.go.jp/youth/kankyoi/internet_torikumi/kaigi.html#toc36). PDF file is also available in Japanese, <http://www8.cao.go.jp/youth/youth-harm/kentokai/36/pdf/annai.pdf>.



There have been several working groups established to eliminate CSAM-related information online. The Ministry of Internal Affairs and Communications initiated the Study Group on Countermeasures against Illegal/Harmful Information on the Internet in 2005, which compiled its findings as a report and developed Guidelines Concerning Countermeasures against Illegal/Harmful Information on the Internet, to help judge the illegality of the information collected.<sup>190</sup> In 2010, the Council on Promotion of Measures to Eliminate Child Pornography was established. It is comprised of government bodies and various other private sectors, and hosts annual assemblies and conferences. In November 2016, during the annual general assembly, it recognised the need to promote expanded collaboration through information exchanges regarding child sexual exploitation.<sup>191</sup>

Moreover, The National Police Agency established the Child Pornography Advanced Searching System (CPASS),<sup>192</sup> which is a central database of images that assists with CSAM investigations by employing visual recognition techniques. The police also provides statistical data related to the exploitation of children in prostitution and child sexual abuse images, such as the number of identified victims.<sup>193</sup>

It appears that Japan has developed several national plans and policies in order to combat trafficking in persons, such as the 2014 Action Plan to Combat Trafficking in Persons. Under this Action Plan, the government declared a 'zero tolerance policy' towards perpetrators of exploitation of children in prostitution and CSAM related crimes. However, the Committee on the Rights of the Child criticised the lack of information on the relationship between the Plan and its impact. The Committee also expressed concern that the plan is silent on resource allocation for each activity.

It also recommended that Japan clarify specific, time-bound and measurable goals.<sup>194</sup> As a result, the Cabinet convened a special panel in 2015 to discuss human trafficking, forced prostitution and other crimes, publishing a report on measures and statistics.<sup>195</sup>

Unfortunately, the government has yet to establish a responsible and comprehensive body or mechanism to collect data and to coordinate on the issue of SECTT.<sup>196</sup>

## PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

Looking at the current phenomenon in Japan, the scale of offenders and victims of child sexual exploitation appears high. To eradicate the issue, Japan has still implemented several preventive measures.

The Ministry of Internal Affairs and Communications participated in the Eighth Meeting of the Council Working Group on Child Online Protection in February 2014.<sup>197</sup> Furthermore, the Ministry supported the establishment of the Internet Content Safety Association<sup>198</sup> and the Safer Internet Association,<sup>199</sup> both of which initiated prevention programmes and supported the business sector in eliminating CSAM. Established in 2011, the Internet Content Safety Association's current members include Internet service providers, mobile network operators, search engine operators and filtering service providers.<sup>200</sup> In 2015, using information provided by the NPA and the Internet Hotline Centre, the Association blocked 201 domain names and 1,006 Internet addresses.<sup>201</sup> Established

190 The Ministry of Internal Affairs and Communications (2006), "Efforts to Support Industry-wide Voluntary Countermeasures against Illegal/Harmful Information on the Internet", Press Release-Telecom, accessed 20 September 2017, [http://www.soumu.go.jp/main\\_sosiki/joho\\_tsusin/eng/Releases/Telecommunications/news061127\\_3.html](http://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/Releases/Telecommunications/news061127_3.html).

191 State Party Report (2017), para 22, p. 8-9.

192 State Party Report (2017), para 184, p. 46.

193 State Party Report (2008), para 544, p. 110, and para 559, p. 113.

194 Committee on the Rights of the Child (2010), Concluding Observations Japan, para 19, 20 and 49.

195 Japan Today (2015), "Cabinet panel meets on human trafficking, forced prostitution", accessed 21 September 2017, <http://www.japantoday.com/category/crime/view/Cabinet-panel-meets-on-human-trafficking-forced-prostitution>.

196 ECPAT International (2016), Global Study, p. 41.

197 International Telecommunication Union (2014), "Eighth Meeting of the Council Working Group on Child Online Protection", accessed 13 October 2017, <http://www.itu.int/en/council/cwg-cop/Pages/eighth.aspx>.

198 Internet Content Safety Association, <http://www.netsafety.or.jp/>.

199 Safer Internet Association. <https://www.saferinternet.or.jp/english/>, [www.safe-line.jp](http://www.safe-line.jp).

200 Internet Content Safety Association. Member list. <http://www.netsafety.or.jp/about/003.html>.

201 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 43, p. 12.

with a similar purpose in 2013, the Safer Internet Association accepts complaints from the public and reports them to the providers for removal. According to the Association's statistics in 2016, 49,368 reports were received: 58% of the materials contained obscene information, 33% were CSAM, and 7% were 'revenge porn'. Of the 31,222 pieces of information classified as illegal and/or harmful, they managed to remove 30,281 pieces, or 97%.<sup>202</sup> Similarly, the Internet Hotline Centre (IHC)- established in 2006 and managed by the Internet Association Japan until 2016 and then by SIA (Safer Internet Association) - assesses the reports received and forwards them to the police. It may also request the removal of illegal and harmful contents by Internet service providers. As of 2016, the Centre had received 227,667 reports.<sup>203</sup> If the consumer of child abuse material is located outside Japan, the case is then referred to the State concerned.<sup>204</sup> The CSAM report is sent to the relevant country through the INHOPE network of which IHC is a member.<sup>205</sup>

Moreover, the Cabinet Office displayed informational posters on trafficking in persons in airports and harbour facilities in order to reduce Japanese demand.<sup>206</sup> In addition, the Ministry of Foreign Affairs produced booklets to raise awareness about the punishment of offenses related to the exploitation of children in prostitution and possession of CSAM committed outside of Japan.<sup>207</sup>

There have been some efforts to engage with the private sector. Peace Boat,<sup>208</sup> a Japanese NGO, carried out activities through peace voyages. Japan Grace Co., Ltd.,<sup>209</sup> which manages and administers the voyages, is a signatory to the Code,<sup>210</sup> and a member of the Code Promotion Committee in Japan.<sup>211</sup> In 2014, the voyage headed to Morocco

to provide education for children who have faced sexual exploitation.<sup>212</sup> In 2015, it harboured in Viet Nam to provide vocational training for abandoned, abused and exploited street children.<sup>213</sup> In 2016, it took part in Guatemala to provide medical and psychological support for children who were kidnapped for sexual exploitation and also for those who have escaped prostitution.<sup>214</sup> In 2018, it will harbour in Bangkok to learn about the conditions and the measures put in place to combat the sexual exploitation and trafficking of adults and children.<sup>215</sup>

The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism was first adopted in Japan in 2005 by a number of local organisations and companies. As of 2017, The Code has two members based in Japan and 12 members that conduct operations in the country.<sup>216</sup>

## CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

### National complaint mechanisms

If a child believes that his/her rights were violated, a case can be brought in accordance with the Civil Procedure Code, or a request made for a judicial review under the Administrative Case Litigation Act. According to the Civil Code, a person, including a child and his or her representative, is entitled to bring a civil suit for damages caused by a violation of a child's rights.<sup>217</sup> The Administrative Case Act guarantees that a child, regardless of their age, can proceed with litigation; whereas, any

202 Safer Internet Association Statistics (2016), accessed 20 September 2017, <https://www.safe-line.jp/statistics/>.

203 Internet Hotline Centre Statistics (2016), accessed 9 October 2017, <http://www.internethotline.jp/pdf/statistics/2016.pdf>.

204 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 47, p 13.

205 Information provided by ECPAT/STOP Japan, the ECPAT's Member Group in Japan.

206 Measures to Combat Trafficking in Persons (2016), p. 16.

207 *Ibid.*

208 A Japanese NGO, with special consultative status with the UN Economic and Social Council (ECOSOC). More information about the organization accessible at: [www.peaceboat.org](http://www.peaceboat.org).

209 A travel agency in Japan. More information available at: <http://www.japangrace.com/>.

210 More information about the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism is available at: <http://www.thecode.org/>.

211 *Ibid.*

212 Peace Boat (2014), "Street Children in Morocco – A helping hand for youth victims of poverty, abuse, and a failed system", accessed 13 October 2017, <http://peaceboat.org/english/index.php?page=view&nr=386&type=20&menu=64>.

213 Peace Boat (2015), "Da Nang, Viet Nam: Learning about the realities of street children", accessed 13 October 2017, <http://peaceboat.org/english/index.php?page=view&nr=499&type=20&menu=64>.

214 Peace Boat (2016), "Puerto Quetzal, Guatemala: Homestay with Mayan women and their families", accessed 13 October 2017, <http://peaceboat.org/english/index.php?page=view&nr=545&type=20&menu=64>.

215 Information provided by ECPAT/STOP Japan, the ECPAT's Member Group in Japan.

216 The Code (n.d.), "Members of the Code", accessed 14 March 2018, <http://www.thecode.org/who-have-signed/>

217 The Civil Code of Japan (1896), Article 709.

civil action has to be made by a person who has attained 20 years of age.<sup>218</sup> In such cases, minors may be represented by persons with statutory agent.<sup>219</sup> In cases where an agent is not available or is unable to represent, the court judge may appoint a special agent.<sup>220</sup> Under the Domestic Relations Case Procedure Act, children with sufficient mental capacity may perform procedural acts themselves. Moreover, the family court must respect the best interest of the child.<sup>221</sup>

As of 2017, there are 10 city-based Ombudspersons for Children in Japan.<sup>222</sup> The Office of the Ombudsperson addresses children's rights violations and helps children by investigating complaints. Although there were only a few complaints relating to the sexual exploitation of children, the Ombudsperson of Kawanishi City has asserted that the Office struggles to tackle the issue because they lack specialised staff members to treat SEC specific cases.<sup>223</sup> The Special Rapporteur is also concerned that the Ombudspersons at the municipal level cannot handle complaints at the national level.<sup>224</sup>

2017



there are  
**10 CITY-BASED OMBUDSPERSONS**  
for Children

The Carillon Children Centre in Japan also provides legal support for proceeding with a complaint. When a child contacts the Centre through a helpline, a lawyer conducts a verification process. Upon arrival at the centre, a child receives a consultation and an interview with specialists to proceed with the case. If the case requires a criminal charge, it is referred to the police.<sup>225</sup> Apart from domestic mechanisms, children can also submit a complaint to the regional and international institutions when all the domestic mechanisms are exhausted.

### Child-sensitive justice

Although it is not specific in terms of victims of SEC, the Civil Procedure Code may provide legal support to children. In cases where a person lacks the financial resources or would suffer substantial detrimental effect by paying the necessary expenses for a legal suit, the court may grant an order for judicial financial aid.<sup>226</sup> If the costs are not covered by the Act, then the Japan Legal Support Centre established in 2006 under the Comprehensive Legal Support Act (2004), may provide funding for the cases. In addition, the Act on Measures Incidental to Criminal Proceedings for Protecting the Rights and Interests of Crime Victims introduced a court-appointed counsellor system for the victims in trials, and provided certain expenses for the victims.<sup>227</sup> Victims who suffered serious crimes as 'intentional murder or injury' 'forced obscenity' 'forced sexual intercourse' 'arrest and confinement' 'kidnapping' 'trafficking in persons' may be granted a restitution order ("meaning to order the accused to compensate for the damages").<sup>228</sup>

The recent amendment of Criminal Procedure Code in 2016 introduced witness examination through video links and non-disclosure of the information methods.<sup>229</sup> When interviewing the victimised child, audio or video recording is necessary.<sup>230</sup>

218 The Civil Procedure Code of Japan (1996), Articles 28 and 31; The Civil Code of Japan (1896), Article 4.

219 The Civil Code of Japan (1896), Article 5.

220 *Ibid.* Article 35.

221 The Domestic Relations Case Procedure Act (2011), Articles 65, 118, 151(2) and 168(3).

222 CRIN (2017), "Global List of National Human Rights Institutions Specifically for Children", accessed 13 October 2017, <https://www.crin.org/en/library/publications/global-list-national-human-rights-institutions-specifically-children>.

223 *Ibid.* Also, the information is provided by ECPAT/STOP Japan, the ECPAT's Member Group in Japan.

224 CRIN (2017), "Global List of National Human Rights Institutions Specifically for Children", accessed 13 October 2017, <https://www.crin.org/en/library/publications/global-list-national-human-rights-institutions-specifically-children>.

225 Human Rights Council (2016), Report of the Special rapporteur on the sale of children and sexual exploitation, para 57, p. 15.

226 The Civil Procedure Code (1966), Article 82 (1).

227 State Party Report (2017), para 197, p. 49.

228 The Act on Measures Incidental to Criminal Proceedings for Protecting the Rights and Interests of Crime Victims (2000), Article 17 (1) (ii) (c), accessed 30 October 2017, [http://www.japaneselawtranslation.go.jp/law/detail\\_main?re=&vm=2&id=2728](http://www.japaneselawtranslation.go.jp/law/detail_main?re=&vm=2&id=2728).

229 State Party Report (2017), para 197, p. 49.

230 *Ibid.* para 196, p. 48.

The NGO Committee expressed its concern that existing legal instruments, including the Online Dating Sites Regulation Act, take a punitive approach against children who offer themselves for prostitution.<sup>231</sup> If children are punished as juvenile delinquents and stigmatised, they suffer further trauma or damage, and lose the opportunity to get proper protection.<sup>232</sup> Regarding the Special Rapporteur's concern that child victims of sexual exploitation are often stigmatised as juvenile delinquents,<sup>233</sup> Article 13 of the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children may provide protection. It stipulates that "if a child is involved in child prostitution or trafficked for the purpose of child prostitution, written articles, photographs or broadcast programs which allow the child to be identified from their contents, such as the name, age, occupation, name of the school, residence, appearance or other details, shall not appear in newspapers or other publications or be broadcast".<sup>234</sup> Thus, such provision may prevent children from potential stigmatisation by prohibiting publication of any information that may identify them.

### Access to recovery and reintegration

The Basic Act on Crime Victims has provisions regarding measures to support victims, but unfortunately, it does not specifically address child victims of sexual exploitation.<sup>235</sup>

The Sexual Assault Crisis Healing Intervention Centre of Osaka (SACHICO) opened in 2010 to provide immediate support to girl and women victims of sexual assault. According to SACHICO, sexual assault includes massage, sexual intercourse, sexual exposure, and pornography. The Centre provides psychological support with

a 24-hour hotline and permanent staff, including emergency obstetrics and gynaecological medical staff, and a network of counsellors, lawyers, case workers, psychiatrists, paediatricians, forensic scientists, police officers, and women's and children's consultation centres.<sup>236</sup>

Another example of support given to the victims of sexual abuse and exploitation is organised by COLABO.<sup>237</sup> The organisation provides counselling, consultation, night patrols, and temporary shelter. Many of the victims assisted by the organisation were victims of the JK business and prostitution.<sup>238</sup>

The Ministry of Justice of Japan established a toll-free counselling service Children's Rights Hotline, which provides information concerning sexual exploitation to school aged children.<sup>239</sup> Further, when there is a suspected case of human rights violation involving children, the necessary protective services are provided by Child Guidance Offices<sup>240</sup> in collaboration with other institutions at the Regional Council for Children in Need of Protection. They provide temporary custody for child victims of sexual crimes, assist with medical care, offer counselling, and report the case to the police, depending on the situation.<sup>241</sup> However, it has been reported that child victims, after being taken into protective custody by the police, are referred to Child Consultation Centres, but receive little care afterwards. Mid and long-term care systems for recovery and rehabilitation are yet to be set up.<sup>242</sup>

### Access to compensation

There is no specific or explicit provision regarding access to compensation for victims of SEC. Yet, various legal provisions in Japan may permit compensation to a victim. Several provisions

231 Committee on the Rights of the Child (2010), NGO Report on the Convention on the Rights of the Child: The Implementation of the Convention in Japan and the problems of the Japan's Third Periodic Report, accessed 26 September 2017, [https://www.crin.org/en/docs/CRC\\_3rd\\_Japan\\_NGO\\_Report\\_revised\\_summary.pdf](https://www.crin.org/en/docs/CRC_3rd_Japan_NGO_Report_revised_summary.pdf).

232 ECPAT/STOP Japan (2015), "The necessity of providing care for children who fall victim to obscene acts", Information received from ECPAT/STOP Japan.

233 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 49, p. 13.

234 The Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children (1999), Article 13.

235 ECPAT/STOP Japan (2015), "The necessity of providing care for children who fall victim to obscene acts".

236 SACHICO, More information available at: <http://www.sachico.jp/> (only in Japanese).

237 COLABO. More information at: <https://www.colabo-official.net/english/>.

238 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 65, p. 15.

239 The Basic Plan on Measures against Child Sexual Exploitation (2017), p. 17.

240 Tokyo Child Guidance Office, more information at, <http://www.fukushihoken.metro.tokyo.jp/jicen/english.html>.

241 The Basic Plan on Measures against Child Sexual Exploitation (2017), p. 18.

242 ECPAT/STOP Japan (2017), "Situational Report of Child Sexual Exploitation in Japan. The challenging present conditions after the counter-measures taken for 20 years".

under the Code of Civil Procedure of Japan deal with compensation for legal expenses. Myriad provisions in the Civil Code of Japan provide compensation for the various damages done to a victim. If a child victim requests compensation from the offender, the Japan Legal Support Centre provides an advance payment.<sup>243</sup> However, there are several requirements for a victim to claim financial compensation : a report needs to be submitted to the police; the victim must have been a legal resident of Japan at the time of the crime; dependents of deceased victims can also apply if they legally reside in Japan; and the filing period takes place “within 2 years from the day the applicant reports the crime and 7 years from the day the crime is committed”.<sup>244</sup>

The unfortunate reality of compensation is that perpetrators often try to get out of the situation

by paying compensation to the victims. In such cases, victimised children are compelled to accept inappropriate and unsatisfactory offers.<sup>245</sup>

Based on a proposal finalized by the expert committee of the NPA in July 2017, the government will start to improve the benefit system for crime victims in 2018. The improvement will target specific support for victims under the age of 18.<sup>246</sup> For instance, families with children under eight will receive benefits considering the remaining years until the children reach 18 years of age.<sup>247</sup> The proposal allows children under 18 to be eligible for benefits even if they were affected by crimes against their family members. This revision will significantly improve children’s rights to compensation, because currently there are cases when children are not entitled to compensation.<sup>248</sup>

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243 State Party Report (2017), para 201, p. 50.

244 Directory of International (2005), “*Crime Victim Compensation Programmes*”, accessed 26 September 2017, [https://www.ncjrs.gov/ovc\\_archives/reports/intdir2005/japan.html](https://www.ncjrs.gov/ovc_archives/reports/intdir2005/japan.html).

245 ECPAT/STOP Japan (2015), “*The necessity of providing care for children who fall victim to obscene acts*”.

246 The Japan Times (2017), “NPA to beef up crime victim compensation programme in 2018”, accessed 26 September 2017, <https://www.japantimes.co.jp/news/2017/07/14/national/npa-beef-crime-victim-compensation-program-2018/#.WcoZ17Kg-Cg>.

247 Information provided by ECPAT/STOP Japan, ECPAT’s Member Group in Japan.

248 *Ibid.*



## Child, Victim and Survivor Participation

Since celebrating the 20<sup>th</sup> anniversary of the ratification of the CRC in 2014 in Japan, children's participation has significantly grown throughout the country. The main contributing factors are municipal policies that changed accordingly with the CRC, and a greater public participation movement in society.

The 2016 amendment to the Child Welfare Act stipulates that the views of children and families must be heard.<sup>249</sup> The Act on Promotion of Development and Support for Children and Young People stipulates that the opinions of the general public, including children and young people, are needed to implement the measures that affect the development of children. In doing so, the Cabinet Office recruits 'youth reporters' to collect opinions for them to reflect on when planning and formulating policies.<sup>250</sup>

However, as conservative ideas are still prominent in Japanese society, the delay in implementation is conspicuous. The Special Rapporteur expressed her concern at the lack of involvement of children in the public policies that affect them.<sup>251</sup>

Struggles in implementing CRC articles 12 and 13 has resulted in a progressive citizen movement,

which has pushed the government to protect the rights enshrined in the CRC. As such, many local governments experimented with new policies and practices focusing on children's participation.<sup>252</sup> Local initiatives towards children's participation targeted Japanese schools, particularly school curricula, student councils, associations, and programmes, including organising meetings with children.<sup>253</sup> Municipal ordinances established child committees, which opened up opportunities for children to freely express their political views.<sup>254</sup> However, the CRC Committee complained that the standards in the framework are too limited in scope, and lack a rights-based plan and comprehensive actions.<sup>255</sup> At the civil society level, there have been various initiatives to promote children's participation. To promote awareness about the living conditions of SEC victims and survivors, COLABO and its youth group Tsubomi, together with supporting NGOs, have organised panel-exhibitions featuring narratives and testimonies of child victims in Japan, since 2016, with the self-given title: "We were prostituted".<sup>256</sup>

All in all, Japan lacks comprehensive initiatives and strategies regarding child victims' or survivors' participation, particularly the child victims or survivors of sexual exploitation.

249 The Child Welfare Act (1947), Article 2 and Article 8.

250 State Party Report (2017), para 36, p. 12.

251 Human Rights Council (2016), Report of the Special Rapporteur on the sale of children and sexual exploitation, para 62, p. 17.

252 Isami, Kinoshita (2007), "Children's Participation in Japan: An Overview of Municipal Strategies and Citizen Movements", Children, Youth, and Environments, p. 14, accessed 26 September 2017, <https://www.hurights.or.jp/archives/asia-pacific/section1/3%20Japanese%20Movements%20on%20Children%E2%80%99s%20Participation.pdf>.

253 *Ibid.*

254 *Ibid.*

255 Committee on the Rights of the Child (2010), Concluding Observations, accessed 26 September 2017, <http://www2.ohchr.org/english/bodies/crc/crcs54.htm>.

256 Information provided by ECPAT/STOP Japan, ECPAT's Member Group in Japan.

## Recommendations for Action

### INTERNATIONAL AND REGIONAL LEGISLATION, COMMITMENTS AND COORDINATION TO ENDING SEC

- Accede to the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.
- Accede to the Convention on Consent to Marriage, Minimum Age for Marriage and registration of Marriages.
- Ratify the UNWTO Framework Convention on Tourism Ethics, and encourage travel agents and tourism agencies to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

### NATIONAL RESPONSE TO SEC'S MANIFESTATIONS

- Approve the 2014 Human Rights Protection Bill, and establish national human rights institutions in compliance with the Paris Principles.
- Contribute to the establishment of an institution that actively combats OCSE-related crimes with the involvement of the business sector through transnational cooperation such as Asia Pacific Financial Coalition against Child Pornography and Virtual Global Taskforce (VGT), etc.
- Amend the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children to criminalise the virtual depiction of children (virtual images or videos of children posing or engaging in sexual manners and activities), and knowingly accessing and viewing OCSE through the use of internet technology.
- Make it mandatory for Internet service providers to report and delete CSAM, and penalise those who knowingly upload CSAM.
- Amend the Immigration Control and Refugee Recognition Act to conform with the definition of 'trafficking in persons' found in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- Increase the age of sexual consent, which is currently set at 13 as well as the age of consent for marriage of girls from 16 to 18 years of age.
- Strengthen law enforcement relating to commercial activities that facilitate or lead to sexual exploitation, especially *enjo kosai*, JK businesses, dating cafés and massage parlours.
- Strengthen the investigation and prosecution of online sexual exploitation of children to ensure the accountability of offenders.
- Ensure the effective prosecution, conviction and sentencing of SEC-related crimes to avoid the suspension of sentences leading to impunity.
- Take the proactive-measures against repeat offending including a tracking system for the convicted offenders.
- Resource, fund and implement the policies under the Basic Plan with the comprehensive body (NPA) appointed in 2016, responsible for coordinating and monitoring all aspects of manifestations of SEC, which are currently prevalent and widespread in the country on Measures against Child Sexual Exploitation.
- Develop national plans, policies and programmes to better address trafficking in children for sexual purposes.

- Enhance awareness raising campaigns, educational programmes, and training of officials to reduce demand for sex services from children, specifically targeting Japanese nationals in the country and Japanese nationals traveling abroad.
- Establish more child-friendly reporting, complaint, and referral mechanisms such as an Ombudsperson for Children's Rights throughout all prefectures in the country.

## ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

- Develop national victim identification procedures to clearly identify child victims of sexual exploitation.
- Establish more specialised support centres for child victims of sexual exploitation, with particular consideration to the rights and best interests of children.
- Ensure assistance and protection for foreign child victims of trafficking with formal victim identification procedures and counselling in various languages so that they are not deported back to dangerous environments.
- Establish comprehensive child-support centres for their long-term care, rehabilitation, and reintegration into society.
- Establish a coordinating body that is responsible for the evaluation and monitoring of child-support centres.
- Consider establishing a juvenile court with child-friendly justice proceedings, instead of referring cases to the family and criminal courts.
- Systematically develop capacity building programmes on child-sensitive approaches to train and educate personnel, police staff, law enforcement agencies, judicial institutions, child-care centres, and other relevant child support organisations so that they can proactively and appropriately assist child victims of sexual exploitation.

- Improve access to compensation for child victims of sexual exploitation by systematically informing the public about the various possibilities for compensation.

## CHILD, VICTIM AND SURVIVOR PARTICIPATION

- Avoid tokenistic approaches in programmes for child participation by mainstreaming and institutionalising relevant agendas.
- Design and implement a strategy that encourages child and youth participation in decision-making processes that impact them.
- Strengthen its existing child participation plans to be comprehensive and geared towards the future, rather than having ad hoc plans, and also ensure that children's views and opinions are given due weight.

## RESEARCH NEEDS AND AGENDA

- Carry out empirical research on the root causes of push and pull factors as well as the scope, forms and impact of SEC, using up-to-date data.
- Address factors leading to national demand by conducting comprehensive research on perpetrators.
- Strengthen its data collection methods pertaining to SEC-related crimes to identify the exact scale and numbers of cases, so that statistics can be used for better policy formulation.
- Conduct an analysis on preventive measures to effectively reduce potential SEC-related crimes and vulnerability of children.
- Develop school curricula that include awareness-raising courses on the impact of sexual exploitation of children as well as how to protect themselves.



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