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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Fifth periodic reports of States parties due in 2002

JAPAN* **

[20 December 2006]

* For the initial report submitted by the Government of Japan, see document CCPR/C/10/Add.1; for its consideration by the Committee, see document CCPR/C/SR.319, SR.320 and SR.324 and the *Official Records of the General Assembly, Thirty-seventh session, Supplement No. 40* (A/37/40), paras. 53-91. For the second periodic report, see document CCPR/C/42/Add.4 and Corr.1 and 2; for its consideration, documents CCPR/C/SR.827 to SR.831 and the *Official Records of the General Assembly, Forty-third session, Supplement No. 40* (A/43/40), paras. 582-633. For the third periodic report, see document CCPR/C/70/Add.1 and Corr.1 and 2; for its consideration, documents CCPR/C/SR.1277 to SR.1280 and the *Official Records of the General Assembly, Forty-ninth session, Supplement No. 40* (A/49/40), paras. 98-116. For the fourth periodic report, see document CCPR/C/115/Add.3; for its consideration, documents CCPR/C/SR.1714 to 1717 and CCPR/C/SR.1726-1727, as well as CCPR/C/79/Add.102 for the concluding observations of the Committee.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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All the information of this report is from July 1997 (after fourth periodic report) to March 2003 unless otherwise mentioned.

I. GENERAL COMMENTS

A. Institutional aspects of human rights protection in Japan

1. Overview

(a) The reports of the Council for the Promotion of Human Rights Protection and submission of the Human Rights Protection Bill

1. The Council for the Promotion of Human Rights Protection, which was established in the Ministry of Justice (MOJ) in March 1997 based on the Law for the promotion of measures for human rights protection passed in December 1996, submitted a report in July 1999 on basic matters concerning the promotion of measures for human rights education and encouragement, as well as reports on the framework of the human rights remedy system in May 2001 and on reform of the human rights volunteers system in December 2001. Based on these reports, in March 2002 the Government of Japan submitted to the Diet the human rights protection bill which has the objectives of carrying out fundamental reform of the existing human rights volunteers system and establishing a human rights committee, an entity independent of the Government, mandated to raise awareness regarding human rights and to promote the adoption of effective remedy to harm caused by human rights infringements. The bill was not passed, however, due to dissolution of the House of Representatives in October 2003. The Government will continue to review the bill. (This paragraph is a revision of paragraph 51 of HRI/CORE/1/Add.111.)

(b) Number of cases of human rights infringement investigated and resolved by the human rights organs (2000-2003)

2. The number of human rights infringement cases handled by the human rights organs under the MOJ was 17,391 in 2000; 17,780 in 2001; 18,323 in 2002; and 18,786 in 2003. The human rights organs under the MOJ aim to remedy and prevent harm from human rights infringement with respect to a variety of human rights issues through consultations on human rights and investigation and resolution of human rights infringement cases. The breakdown of cases handled by the human rights organs under the MOJ in 2003 is as follows:

- Violence and abuse (e.g.: violence by a person against his spouse, child abuse): 5,093 cases (27 per cent);
- Coercion and compulsion (e.g.: compelled divorce, harassment in the workplace): 4,632 cases (25 per cent);
- Safety of the residence and lifestyle (e.g.: disputes among neighbours concerning noise): 3,330 cases (18 per cent);
- Defamation and invasion of privacy: 1,267 cases (7 per cent).

2. Report on the "Framework of the Human Rights Remedy System" and report on the "Reform of the Human Rights Volunteers System"

(a) Report on the "Framework of the Human Rights Remedy System"

3. The Council for the Promotion of Human Rights Protection commenced a detailed investigation and discussion on the framework of the human rights remedy system in September 1999 and submitted its report in May 2001. This Council recommends that the human rights remedy system be primarily focused on non-judicial conflict resolution, which is simple, fast and easy to use, that makes flexible remedies possible, and considers the system as supplementing judicial remedy of the last-resort conflict resolution. The Council also recommends the following specific roles of the human rights remedy system: (a) comprehensive consultation and assistance for all forms of human rights infringement, (b) simple remedies utilizing methods such as guidance, and (c) more assertive remedies for people who would find it difficult to protect their rights themselves, such as victims of discrimination and abuse. The Council also indicates that it is necessary to put in place such systems as mediation, arbitration, recommendation, public disclosure and assistance for lawsuits, and suggests the need for a committee that is independent of the Government to carry out the remedies.

(b) Report on the "Reform of the Human Rights Volunteers System"

4. The Council for the Promotion of Human Rights Protection, after submitting its report on the "framework of the human rights remedy system" (see paragraph 3 above), continued to investigate and discuss the human rights volunteers system and submitted its report on the "reform of the human rights volunteers system" in December 2001. In this report, the Council reviews the system since its establishment 50 years ago and makes recommendations for a more effective system, including measures to secure suitable human rights protection volunteers and to revitalize the activities of human rights volunteers under the new human rights protection system led by a human rights committee (provisional name), which is independent of the Government.

3. Remedies for unfair treatment by the police or immigration authorities

(a) Remedy system for unfair treatment by officials exercising public authority

5. When officials exercising public authority intentionally or negligently in the course of their duties illegally cause harm to another person, it is possible to claim compensation for damages to national or local public organizations (State Redress Law, art. 1, para. 1); when the unfair treatment by the public official exercising public authority constitutes a crime, it is possible to file a complaint or accusation in accordance with the Code of Criminal Procedure (Code of Criminal Procedure, arts. 230, 231, and 239, para. 1).

(b) Systematic mechanism concerning treatment of detainees by the Immigration Bureau

6. In Japan, detainees who believe that their detention under deportation procedures or the issuance of a written deportation order is illegal are able to seek a court judgement concerning the legality of those acts, pursuant to the procedures provided for in the Protection of Personal

Liberty Act or the Administrative Case Litigation Law. They are also able to pursue criminal prosecution or to seek legal remedies through legal procedures such as national redress in response to illegal acts by the immigration officers.

7. In particular, concerning the treatment of detainees in the detention facilities of the Immigration Bureau, maximum consideration is given to the rights of the detainees, and the detainees are granted maximum liberty, subject to security requirements, as well as the full guarantee of their rights to communicate with the outside world, as stipulated in the laws and regulations. In addition, the Government has been making efforts to improve the treatment of detainees by adopting in September 1998 such measures as the amendment of the Regulations for the Treatment of Detainees, which is the legal basis for the treatment of detainees in detention facilities, and by adding new regulations designed to further ensure the fair treatment of detainees. For example, under article 2.2 of the revised Regulations for the Treatment of Detainees, the directors of the facility are requested to hear the opinions of the detainees concerning their treatment and to patrol the immigration detention facilities. In addition, based on the recommendations of the Human Rights Committee (hereafter "the Committee") from November 1998, a system for directly hearing the opinions of the detainees through opinion boxes placed in detention facilities was implemented in April 1999, and this system contributes to improvement of the treatment of detainees (CCPR/C/79/Add.102, para. 27 (e)).

8. In addition, in order to provide the better treatment that gives further consideration for the rights of the detainees, the Regulations were partially amended again in September 2001. Through this amendment, a complaint and objection submission system, which allows detainees who have a complaint about their treatment to submit such complaint to the director of their detention facility and in the end submit an objection to the Minister of Justice, has been introduced and implemented since November 2001.

9. In Japan, even though there is no specialized independent agency that can process complaints about inappropriate treatment by the Immigration Bureau, the Immigration Bureau has established effective systematic mechanisms as stated in paragraph 7 above, in order to ensure that its authority is not abused and the rights of individuals are respected.

10. Concerning the right to communicate with the people outside the detention facility, the Regulations for the Treatment of Detainees were amended in March 2003 and further consideration is being given to detainees' rights. Under the revised Regulations, detainees are able to have anyone they want visiting them during visiting hours and to freely phone - in the detention facilities which are so equipped - anyone they want within set hours without surveillance by immigration officers as long as the director of the immigration detention facility allows it.

B. The concept of "public welfare" in the Constitution of Japan

11. Concerning the concept of "public welfare" in the Constitution, as explained in previous reports (CCPR/C/115/Add.3, paras. 2-8 and annex I, and HRI/CORE/1/Add.111, paras. 64-68), human rights are not absolute and may be subject to restriction in their inherent nature so that

conflicting fundamental rights can be balanced and each individual's rights can be respected on an equal level. The concept of "public welfare" therefore cannot be used to restrict an individual's rights where there is no possibility of those rights interfering with the rights of other people.

12. Furthermore, as to whether laws and regulations restricting human rights can actually be justified as reasonable under the notion of "public welfare", court precedents permit relatively broad discretion to the legislature for laws and regulations restricting economic liberty, such as the freedom of business, whereas they use strict criteria and permit little discretion to the legislature when interpreting those laws and regulations restricting mental freedom.

13. Thus, the concept of "public welfare" has been defined by court precedents on the basis of the inherent nature of each right, and the restrictions on human rights provided for by the Constitution closely resemble the reasons for restrictions on human rights provided for in the Covenant. Therefore, there is no room for arbitrary use of the concept of "public welfare" by the State.

14. As a typical judicial precedent concerning inherent restrictions that coordinate fundamental human rights among different people, the Grand Bench of the Supreme Court passed a judgement on 11 June 1986, which is worth summarizing here. In a case where an "act of expression" such as speech or publication leads to damaging a person's reputation, there exists a conflict between the protection of the reputation of the individual as a personal right (Constitution, art. 13) and the guarantee of freedom of expression (Constitution, art. 21); and therefore balancing is required. It is necessary to carefully examine under which circumstances an act of expression can be restricted as harming a person's reputation in the context of the Constitution. The provision in article 21, paragraph 1, of the Constitution includes the concept that freedom of expression, in particular the freedom of expression concerning public matters, must be respected as a particularly important constitutional right. This is not a provision that guarantees freedom of all forms of expression without limitation; and, since an act of expression that harms the reputation of another person is an abuse of the freedom of expression, consequently such forms of expression may be subject to restriction. In the light of the above-mentioned concept included in the provisions of the Constitution, criminal or civil acts that are defamatory but concern facts that are of public interest are not illegal where the objective of the acts is exclusively in the public's interest and there is proof that the facts in question are true. Even if there is no proof that the facts are true, if the person who committed the acts had sufficient reason to believe that the facts were true, the acts should be regarded as non-intentional and non-negligent. In this way, protection of the reputation of the individual and the guarantee of freedom of expression are balanced. Prior restraints on acts of expression can only be allowed under strict and clear conditions in the light of article 21 of the Constitution, which guarantees freedom of expression and prohibits censorship.

C. The relationship between the Covenant and domestic laws including the Constitution of Japan

15. The relationship between the Covenant and domestic laws including the Constitution of Japan has been explained in the fourth periodic report (CCPR/C/115/Add.3, paras. 9-10 and annex II).

1. Judicial precedents providing an interpretation of the relationship between the Covenant and domestic laws

16. Precedents below are suits the plaintiff filed claiming that domestic laws, rules or administrative dispositions were in violation of the provisions of the Covenant. In no case has the Supreme Court found laws, rules or administrative dispositions to be in violation of the provisions of the Covenant:

- Supreme Court Petty Bench Judgement of 29 August 1997: The precedent which rejected the claim that official authorization of school textbooks based on the School Education Law is in violation of article 19 of the Covenant guaranteeing freedom of opinion and expression;

- Supreme Court Grand Bench Decision of 1 December 1998: The precedent which deemed that item 1, article 52 of the Court Organization Law which prohibits judges from conducting active political campaigns is intended to ensure the independence, neutrality and fairness of judges, and therefore, it is apparent that the article is not in violation of article 19 of the Covenant;

- Supreme Court Petty Bench Judgement of 13 June 2000: The precedent which deemed that the provision of article 39, paragraph 3, of the Code of Criminal Procedure is not in violation of article 14, paragraph 3 (*b*) and (*d*) of the Covenant;[1]

- Supreme Court Petty Bench Judgement of 25 September 2001: The precedent which deemed that the provisions of the Daily Life Protection Law which exclude illegal overstayers from protection cannot be interpreted to be in violation of the provisions of the Covenant.

D. Human rights education, encouragement, publicity

1. Report on the "Basic Matters Concerning the Overall Development of Educational and Promotional Measures to Enhance Public Understanding of the Concept of Respect for Human Rights"

17. The Council on the Promotion of Human Rights Protection held discussions on the referred questions regarding the "basic matters concerning the overall development of educational and

[1] Article 39, paragraph 3, of the Code of Criminal Procedure reads as follows: "A public prosecutor, a public prosecutor's assistant officer or a judicial police official (the word 'judicial police official' refers to both judicial police officers and judicial patrol officers. The same shall apply hereinafter) may, when necessary for investigation, designate the date, place and time of interview or delivery/receipt as stipulated in paragraph 1 only prior to the institution of prosecution. However, such designation shall not unduly restrict the rights of the suspect to prepare for defense."

promotional measures to enhance public understanding of the concept of respect for human rights", which were raised by the Ministers of Justice and Education and the Director General of the Management and Coordination Agency, following the Council's first meeting on 27 May 1997, and submitted a report on 29 July 1999.

18. Calling on the need to promote human rights education and encouragement in a comprehensive and effective manner with mutual coordination and cooperation among the implementing agencies involved, including the State, and based upon their roles, the Council proposes various measures to this end and requests that the Government promptly implement the required administrative and fiscal measures as necessary.

19. In receiving this report, the Minister of Justice made the following statement: "I intend to promptly implement the required administrative and fiscal measures to further enhance the policies concerning human rights encouragement while fully respecting this report." As a means to realizing the policies proposed in this report, approximately 3.51 billion yen was allocated in the fiscal year (hereafter to be referred to as FY) 2000 GOJ budget to policies on human rights encouragement. This was a threefold increase from the approximately 1.15 billion yen allocated in the previous FY, marking an increase of approximately 2.36 billion yen. The same budget allocated for FY2004 was approximately 4 billion yen.

2. Law for the Promotion of Human Rights Education and Human Rights Encouragement

20. Based on the ideas outlined in paragraph 18 of the report on the basic matters concerning the overall development of educational and promotional measures to enhance public understanding of the concept of respect for human rights by the Council on the Promotion of Human Rights Protection, the Law for the Promotion of Human Rights Education and Human Rights Encouragement (promulgated and entered into force on 6 December 2000, Law No. 147 of 2000) puts forth the fundamental principles and responsibility of the State, local authorities and the people concerning human rights education and encouragement, as well as stipulating the required measures such as establishment of a Basic Plan on Human Rights Education and Encouragement, and drawing up of annual reports, in order to promote further policies concerning human rights education and encouragement in light of the situation of human rights in Japan.

21. The Basic Plan on Human Rights Education and Human Rights Encouragement was established by a Cabinet decision based on the above Law in March 2002. The first annual report based on the Law was submitted to the Diet in March 2003, and the second report was submitted in March 2004. Subsequent annual reports are to be submitted to the Diet thereafter.

3. Measures for the United Nations Decade for Human Rights Education

22. As stated in the fourth periodic report, with regard to the measures for the United Nations Decade for Human Rights Education beginning 1995, the Cabinet decided in December 1995 to establish the Headquarters for the Promotion of the Action Plan for the United Nations Decade for Human Rights Education in order to have close coordination and cooperation among the

relevant authorities and to promote the unified measures. The relevant authorities then considered the measures to be implemented by Japan and in July 1997 compiled and made public the National Plan of Action for the United Nations Decade for Human Rights Education. Since then, the relevant government authorities have been promoting related measures in line with those identified in the National Plan of Action and have been compiling a progress report on the National Plan of Action since FY1998.

4. Human rights education for judges, public prosecutors, and administrators

(a) General public officials

23. With regard to administrators, the National Personnel Authority (NPA) has established a curriculum including human rights in all forms of training offered to national public officers and has been providing guidance to each office and ministry concerning the enhancement of human rights education in training therein.

24. As for local public officials, the Ministry of Internal Affairs and Communications (MIC) has been making efforts to enhance human rights education in all forms of training implemented at the Local Autonomy College and the Fire and Disaster Management College as well as in local authorities.

25. The MOJ, in line with the “National Plan of Action for the United Nations Decade for Human Rights Education” and the objectives of the “Basic Plan on Human Rights Education and Human Rights Encouragement”, holds training sessions twice a year for national public officers of central ministries and agencies in order to deepen their understanding and awareness regarding human rights issues. In addition, in order to enable public officers involved in the administration of human rights awareness-raising activities in prefectures and municipalities to acquire the knowledge necessary for them to become supervisors, the MOJ holds training sessions twice a year to foster their aptitude as supervisors.

(b) Police personnel

26. The police carry out tasks such as criminal investigations, which are deeply related with human rights. In the light of this, the “Rules Concerning Work Ethics and Service of Police Personnel” (National Public Safety Commission Rules (2000), No. 1) set forth the “fundamentals of work ethics” in which respect for human rights is provided as a major pillar, and place top priority on education concerning work ethics in police education. In such a manner, the National Police Agency has been actively implementing human rights education.

27. At police school, education concerning respect for human rights is being implemented for newly recruited police personnel and promoted police personnel through courses on work ethics and law, including the Constitution and the Code of Criminal Procedure. Educational programmes available for police personnel involved in criminal investigations, detentions, and measures for assistance to crime victims, etc. include specialized education offered at police schools of every level and education that makes use of various opportunities, including training sessions in workplaces such as police headquarters, police stations, etc. to enable police personnel to gain the knowledge and skills necessary to exercise their duties appropriately and in a way that respects the human rights of suspects, detainees, victims.

(c) Judges

28. With regard to the courts, taking into account the concluding observations of the Committee on the fourth periodic report (hereafter to be referred to as "concluding observations") (CCPR/C/79/Add.102), the courts are taking measures to provide judges with the concluding observations and general comments of the Committee.

29. With regard to the compulsory training undertaken by judges in accordance with their years of work experience, lectures on such themes as international human rights covenants, international human rights and foreign nationals' human rights are given, and reference is made to the concluding observations and general comments of the Committee. Further, the Government understands that those lectures on international human rights have been given to newly appointed judges as well.

30. All those who become judges, public prosecutors or private lawyers obtain their legal qualifications after receiving training at the Legal Research and Training Institute, and the Government understands that such training includes a curriculum on the two Covenants and the Committee.

(d) Public prosecutors

31. In order for public prosecutors to be able to carry out their tasks thoroughly respecting fundamental human rights, lectures on diverse human rights issues, including the human rights guaranteed under various human rights instruments, are given to public prosecutors after they have been appointed, on the occasion of their numerous training sessions. With respect to the daily tasks of public prosecutors, the Government is also making efforts to expand the understanding of public prosecutors concerning respect for human rights through guidance provided by their superiors.

(e) Correctional officers

32. With a view to developing respect for the human rights of inmates, training is provided to correctional officers in the various training programmes at the Training Institute for Correctional Personnel and its branches concerning the human rights of inmates based on the Constitution and the various human rights instruments while the intent and contents of the Constitution and human rights instruments are circulated and lectures are provided to deepen the understanding of correctional officers concerning the relationship between their tasks and these laws.

33. A total of eight Nagoya prison officers have been accused of using violence towards inmates and of using leather handcuffs (handcuffs consisting of a leather band attached to a cylindrical leather arm strap designed to bind the wrists together), causing serious injury to one inmate and the death of two others, and have been prosecuted on charges of causing death or injury through violence or cruelty by a special public official from November 2002 to March 2003 (for one of the officers a guilty verdict has been handed down at the court of first instance; the trials of the remaining seven officers are still pending). In the light of the

seriousness of the incident, as new human rights education, practical training on ways of executing one's duties is provided taking human rights into consideration based on human rights instruments, including the Covenant. In addition, the contents of human rights education have been enhanced and opportunities to attend lectures expanded, for example by introducing courses that consider human rights issues in correctional institutions from the perspective of social psychology. The Government is working to further enhance and strengthen the human rights education necessary for correctional officers to appropriately administer treatment to inmates.

(f) Immigration officials

34. For immigration officials, training concerning the rights of foreign nationals has been provided in various forms of personnel training. In such training, lectures on human rights conventions including the Covenant are held and contribute to further raising awareness of human rights among the immigration officials.

5. Dialogue with non-governmental organizations, public relations activities for the Covenant

(a) Dialogue with non-governmental organizations

35. The Government has engaged in a dialogue with non-governmental organizations (NGOs), etc. as needed concerning the Committee's concluding observations. Before and in drafting this report, the Ministry of Foreign Affairs invited public participation on its website and thereby listened to the views of a wide cross-section of society. In addition, it has held public hearings to listen to the views of NGOs and has exchanged views with NGOs. In Japan activities designed to promote respect for human rights are being actively carried out at the private sector level. NGOs frequently make policy suggestions and submit requests concerning current policies to the relevant bureaux of the Government. For its part, the Government is formulating policies taking into account these requests. Because these kinds of NGO activities contribute to the effective implementation of the Covenant and are extremely important, the Government intends to continue to cooperate with NGOs in order to further protect human rights in line with the object of the Covenant.

(b) Public relations activities regarding the Covenant

36. The relevant ministries and agencies shared the information contained in the fourth periodic report and the "concluding observations" and their provisional Japanese translations have been distributed to the Supreme Court, the House of Representatives, the Secretariat of the House of Councillors, and local authorities, as well as to any Diet members, private sector groups and individuals who requested them. The fourth periodic report and the "concluding observations" can be seen on the MOFA website along with their provisional Japanese translations and they are distributed as needed in response to requests from the press, among others.

II. INFORMATION CONCERNING THE APPLICATION OF ARTICLES 1 TO 27 OF THE COVENANT

Article 1

37. The right of all peoples to determine their own political future without any external interference has been respected by the international community. As stated in the previous reports, Japan has consistently recognized the right of all peoples to self-determination based on the Charter of the United Nations and this article as stated in previous reports.

Article 2

A. Concerns pertaining to foreign nationals

1. Issues related to foreign nationals living in Japan

(a) Abolition of the fingerprinting system

38. As stated in the fourth periodic report, under a law partially amending the Alien Registration Law that came into effect in 8 January 1993, fingerprinting was abolished for people residing in Japan with the status of "permanent resident" as provided for under the Immigration Control and Refugee Recognition Act (hereafter to be referred to as "permanent residents") and people with the status of "special permanent resident" as provided for under the Special Law Regarding Control of the Entry into, and Departure from, Japan of People who Renounced Their Japanese Nationality on the Basis of Peace Treaties with Japan (hereafter to be referred to as the "Immigration Special Law") (hereafter to be referred to as "special permanent residents"). Subsequently fingerprinting was also abolished for foreign nationals other than permanent residents and special permanent residents through a law partially amending the Alien Registration Law that was established on 13 August 1999 and entered into force on 1 April 2000.

(b) Acceptance of foreign workers

39. Concerning the acceptance of foreign nationals who wish to work in Japan, under the first and second editions of the Basic Plan for Immigration Control, the acceptance of foreign nationals has been carried out in line with the basic policy of appropriately reviewing the criteria for landing permission to reflect present needs in accordance with the times and changes in the society of Japan, and the Government has developed a system to accept foreign nationals which conforms to the "Eighth Employment Measures Basic Plan" specifying the Government's basic policies in this area, as mentioned in the fourth periodic report (para. 30).

40. In accordance with the subsequent basic policy of the Government in this area, as stated in the "Ninth Employment Measures Basic Plan" adopted by the Cabinet in August 1999, the Government aims to "more actively promote the acceptance of foreign workers in professional or technical fields from the standpoint of invigorating and internationalizing the country's economy and society" and considers that "concerning the acceptance of what are called unskilled workers, it can be expected to have a tremendous effect on the Japanese economy, society and national

life, beginning with problems related to the domestic labour market. In addition, it would have a significant impact on both the foreign workers themselves and their countries. Therefore, the Government must cope with this issue with thorough deliberation based on a consensus among the Japanese people". It is expected that the third edition of the Basic Plan for Immigration Control will be completed in March 2005.

41. The Government has implemented the following measures to facilitate the movements of business persons: abolition of the limitation of the five-year maximum period to stay in Japan under the status of residence of "Intra-company Transferee" in January 1998; extension of the maximum period of stay under the status of residence of "Intra-company Transferee" from one year to three years in October 1999; extension of the maximum period of validity of re-entry permits from one year to three years in February 2000; clarification of the interpretation of criteria for landing permission for the status of residence of "Investor/Business Manager" in December 2000 and review of the criteria for landing permission for IT engineers in December 2001.

(c) The employment exchange system

42. The Employment Security Law provides that no one should be discriminated against in employment exchange, vocational guidance, or the like, by reason of nationality, etc. (art. 3). Foreign nationals qualified to work in Japan should, therefore, be able to receive the same employment placement as Japanese nationals do. The Public Employment Security Offices, however, may not accept recruitment or application for work if the recruitment or application in itself constitutes a violation (arts. 5.5 and 5.6). Accordingly, jobs that would violate the Immigration Control and Refugee Recognition Act are not offered.

43. In order to further develop the working environment of foreign workers, at the Employment Service Sections for Foreign Workers mentioned in the fourth periodic report, job counselling and employment exchange that meet the needs of foreign nationals are implemented through the provision of interpreting services. With regard to the Employment Service Centre for Foreigners mentioned in the fourth periodic report (para. 31), following its establishment in Tokyo in FY1993, another one was established in Osaka in FY1997.

44. The Government guides and assists employers as stated in the fourth periodic report (para. 31).

(d) Promotion of proper employment

45. With a view to preventing foreign nationals from working illegally and promoting proper employment, since FY1998, the Government has been holding the "Seminar for Promoting Proper Employment" for government officials from the countries of origin of foreign nationals, among others. The seminars provide information on related laws, ordinances, policy and systems of the Government concerning acceptance of foreign workers and labour-related laws and ordinances.

(e) Measures taken by the human rights organs under the Ministry of Justice to ensure the protection of the rights of foreign nationals

46. The human rights organs under the Ministry of Justice, intending to raise consciousness on respect for human rights, are actively taking steps in order to protect the rights of foreign nationals.

47. Specifically, the human rights organs under the Ministry of Justice adopted "Nurture Awareness for Human Rights in the Era of Internationalization" from FY1988 to FY2000 and "Respect the Human Rights of Foreign Nationals" from FY2001 as the slogans of Human Rights Week, and implemented awareness-raising activities all over Japan throughout the year, in particular during Human Rights Week. These activities include television and radio broadcasts, the placement of related articles in newspapers, weekly magazines and other publications, the holding of lectures, round-table talks and symposiums and the distribution of awareness-raising pamphlets.

48. As part of these awareness-raising activities, in FY2002 the human rights organs under the Ministry of Justice produced the human rights encouragement film *We Want to Live in this Town - Thinking about the Human Rights of Foreign Nationals* which had as its main theme awareness of discrimination towards foreign nationals, and the film has been shown at lectures and training sessions sponsored by human rights organs. It has been also rented out for free to people who wished to see it.

49. Concerning the various human rights issues involving foreign nationals, such as being refused rental of an apartment or being refused entry to a restaurant or a public bath on the grounds that they are foreign nationals, the MOJ is aiming to remedy and prevent harm caused by human rights infringements through human rights counselling, and through investigation and resolution of human rights infringement cases.

50. As human rights counselling for foreign nationals, the MOJ has established "Human Rights Counselling Centers for Foreign Nationals" in the Legal Affairs Bureaux in Tokyo, Osaka, Nagoya, Hiroshima, Fukuoka and Takamatsu and in the District Legal Affairs Bureaux in Kobe and Matsuyama, and has been responding to various human rights inquiries from foreign nationals.

2. Concerns pertaining to Korean residents in Japan

(a) Awareness-raising activities to eliminate prejudice and discrimination

51. The human rights organs under the MOJ, as one of their activities to protect the human rights of foreign nationals outlined in paragraphs 47 to 50 of the present report, are carrying out encouragement activities including activities to eliminate prejudice and discrimination against Korean residents in Japan.

52. The Democratic People's Republic of Korea formally admitted at the "Japan-North Korea Summit" in September 2002 that it had abducted Japanese nationals, and this and other developments brought harassment, intimidation and violence directed at Korean children

and students residing in Japan. In view of such, the human rights organs have carried out awareness-raising activities such as distributing pamphlets and leaflets and putting up posters, along commuting routes that are used by a large number of Korean children and students residing in Japan, and through these activities, have called on Korean children and students residing in Japan to consult with the human rights organs under the MOJ if they are targeted with harassment.

(b) Obligation to carry the Alien Registration Certificate

53. Under the amendment to the Alien Registration Law in 1999, the penal provisions for violating the obligation for special permanent residents to carry their alien registration certificate at all times were revised from a criminal penalty of "a fine not exceeding 200,000 yen" to an administrative penalty of "an administrative fine not exceeding 100,000 yen". The amended law entered into force on 1 April 2000.

54. Given the current situation in Japan in which there are a large number of foreign nationals who have entered or have been staying in Japan illegally, the GOJ considers it is meaningful to maintain the system of obligating foreign nationals to carry the alien registration certificate at all times, in order to verify whether or not a foreign national is a legitimate resident and to immediately confirm the identity and place of residence of the foreign national.

(c) Korean schools

55. Children of foreign nationals without Japanese nationality can receive all compulsory education at Japanese public schools free of charge if they wish so. If they do not wish to receive Japanese school education, they can receive education at foreign schools such as Korean schools, American schools, German schools, etc.

56. In September 1999, in order to systematically open the way for graduates of international schools, which adopt a different education system from that of Japanese schools, to proceed onto higher education in Japan in accordance with their individual academic abilities, the Government expanded the eligibility of foreigners to take the University Entrance Qualification Examination (from FY2005, the Upper Secondary School Equivalency Examination). In August 1999, the Government broadened the eligibility to apply for admission to graduate schools in Japan; accordingly, those who have been recognized, through each graduate school's examination of eligibility for applying for admission to graduate schools, as having equal or higher scholastic ability than graduates of universities of Japan, and those who are aged 22 years or above are eligible to apply for admission to the graduate school in Japan.

57. In September 2003, the GOJ broadened the eligibility to apply for admission to universities in Japan; accordingly, those who have been recognized, through each university's examination of eligibility for applying for admission to universities, as having equal or higher scholastic ability than graduates of upper secondary schools of Japan, and those who are aged 18 years or above are eligible to apply for admission to the university in Japan.

B. Measures regarding persons with disabilities

58. With the completion of “The New Long-Term Plan of Measures for Persons with Disabilities” and “The Plan for Persons with Disabilities”, both mentioned in the fourth periodic report (paras. 40-41), in December 2002 the GOJ formulated the “Basic Programme for Persons with Disabilities” and the “Five-Year Plan for Implementation of Priority Measures”. The “Basic Programme for Persons with Disabilities” inherits the principles of rehabilitation and normalization from “The New Long-Term Plan of Measures for Persons with Disabilities” and sets forth the fundamental direction to be taken over the 10-year period from FY2003 to FY2012 in order to further promote measures aimed at the participation and inclusion of persons with disabilities in society. The “Five-Year Plan for Implementation of Priority Measures” sets out the targets to be achieved, such as numerical targets, etc., for the measures to be implemented intensively during the first five-year period of the “Basic Programme for Persons with Disabilities” (2003-2007). Japan will make efforts to promote measures for persons with disabilities in the new century.

59. Concerning welfare services for persons with disabilities, in April 2003 the “measure-oriented system” under which the administration specifies the recipients of services and decides on the nature of services was reformed and the Government shifted to a new system for improving the services, namely the “assistance benefit supply system”. The assistance benefit supply system is a mechanism allowing the persons with disabilities themselves to freely select their service provider and utilize services on a contract basis and was established with the aims of respecting the self-determination of persons with disabilities and providing a user-friendly service.

60. Concerning measures for persons with mental disorders, in 1999 the Mental Health and Welfare Law was amended to further ensure medical care that considers the human rights of persons with mental disorders, including strengthening the functions of the Mental Health Review Tribunal established in the prefectures. Since April 2002, welfare measures for persons with mental disorders have been implemented primarily at the local level by municipalities which are close to residents. The Government is working to enhance welfare measures for persons with mental disorders.

61. Social participation by persons with disabilities in employment situations has been promoted based on the Fundamental Policies for Employment Measures for persons with disabilities (FY1998-FY2002), which outline the approach to the development of employment policies for persons with disabilities over the five years beginning in 1998, the year they were formulated. In 2003, based on the situation over the previous five years, new Fundamental Policies for Employment Measures for persons with disabilities were formulated. From the perspective of normalization, in May 2002 the “Law for Employment Promotion, etc., of Persons with Disabilities” was amended and the exclusion rate system, a measure that allows deviation from the obligation of employers to employ persons with disabilities, was decided to be gradually reduced with a view to eventual total abolition.

C. The first Optional Protocol to the Covenant

62. The Government considers the system of receiving communications from individuals or groups of individuals set forth in the Optional Protocol to the Covenant to be noteworthy from the viewpoint of effectively securing implementation of the Covenant. However, the Government is presently giving serious and careful consideration, while observing the system operate, whether or not to accede to the Optional Protocol, as concerns have been raised that this system may give rise to problems with respect to the Japanese judicial system, including the independence of the judiciary as guaranteed by the Constitution. Since December 1999 the Government has been examining individual specific cases raised in accordance with the first Optional Protocol and has been regularly holding study meetings attended by the concerned bureaux of the Ministries of Foreign Affaires and Justice to investigate the effects that introducing this system would have in Japan.

Article 3

A. Mechanisms for the promotion of the realization of a gender-equal society

63. With the reform of central ministries and agencies in January 2001, for the purpose of strengthening the functions of the Cabinet, the Cabinet Office was newly established with the prime minister as its head. At that time, the realization of a gender-equal society as one of the most important issues of the twenty-first century has led to the Council for Gender Equality and the Gender Equality Bureau to be newly established within the Cabinet Office and, accordingly, the mechanisms for the promotion of gender equality in Japan were greatly enhanced and strengthened (see annex I).

1. Establishment of the Council for Gender Equality

64. The Council for Gender Equality is headed by the Chief Cabinet Secretary and composed of 12 ministers and heads of agencies and 12 academic experts. The Council studies and deliberates the basic measures and policies and other important items concerning the promotion of the development of a gender-equal society, monitors the implementation of measures concerning the promotion of the development of a gender-equal society, and carries out studies on the effects of government measures on the development of a gender-equal society.

65. Currently there are five special committees established under the auspices of the Council for Gender Equality: the “Specialist Committee on Basic Issues”, the “Specialist Committee on Violence against Women”, the “Specialist Committee on Basic Plan for Gender Equality”, the “Specialist Committee on Declining Birthrate and Gender Equality”, and the “Specialist Committee on Monitoring and Gender Impact Assessment and evaluation”, and studies are being undertaken by each committee (see annex II). The “Specialist Committee on Support Measures for the Harmonization of Work and Child Raising” was also established but it has already completed its work. The “Specialist Committee on Monitoring and Handling Complaints” and the “Specialist Committee on Gender Impact Assessment and Evaluation” have been abolished with the establishment of the “Specialist Committee on Monitoring and Gender Impact Assessment and Evaluation”.

2. Establishment of the Gender Equality Bureau

66. The Gender Equality Bureau administers the planning and overall coordination of items related to basic policies to promote the development of a gender-equal society and the promotion of the Basic Plan for Gender Equality. It also functions as a secretariat for the Council for Gender Equality.

67. In addition, the Gender Equality Bureau coordinates with local governments and private bodies and works to gather momentum of the entire society so that a variety of efforts will be made on behalf of gender equality in all sectors and at all levels of society.

3. Minister of State for Gender Equality

68. For further effective and speedy policy coordination relating to gender equality, the Government has appointed a Minister of State for Gender Equality.

B. Basic law for a gender-equal society

69. The Constitution stipulates respect of the individual and equality between the sexes, and steady progress had been made through legislative efforts towards the realization of gender equality in line with developments in the international community. However, the necessity for a framework that comprehensively advances gender equality had also been pointed out. Thus, a decision to advance the consideration on a basic law to actualize and advance a gender-equal society was incorporated into the domestic action plan, the "Plan for Gender Equality 2000", formulated in December 1996. Accordingly, in November 1998, the former Council for Gender Equality submitted a "Proposal for a Basic Law Designed to Promote a Gender-equal Society", in which the establishment of such a law was proposed by clarifying its necessity, basic principles and contents. Based on this report, the Basic Law for a Gender-equal Society was promulgated and entered into force in June 1999.

70. The Basic Law for a Gender-equal Society lists the basic principles relating to the formation of a gender-equal society as follows: (1) respect for the human rights of women and men; (2) consideration of social systems or practices; (3) joint participation in planning and deciding policies, etc.; (4) managing both activities in family life and other activities; and (5) international cooperation. Based on these basic principles, the law sets forth the roles of the State, local governments, and citizens and underlines their respective responsibilities in the development of a gender-equal society. At the same time, as basic policies to promote the formation of a gender-equal society, the law stipulates that the GOJ is responsible for formulating the "Basic Plan for Gender Equality", which is the central framework for the comprehensive and systematic promotion of measures for the formation of a gender-equal society and also that prefectures are obliged to create their own plans, taking into account the GOJ's Basic Plan. In addition, the law stipulates that consideration towards the formation of a gender-equal society must be given when formulating policies and that the GOJ must handle complaints concerning the policies it implements and extend support to local governments and private bodies.

71. With the establishment of the Basic Law for a Gender-equal Society, in December 2000 the first plan based on the law, the "Basic Plan for Gender Equality", was approved by a Cabinet decision and currently related plans are being formulated in all the prefectures and cities designated by cabinet order.

72. At the time of the reform of central ministries and agencies in January 2001, provisions concerning the former Council for Gender Equality, contained in Chapter 3 of the basic law of 2000, were revised to apply to those of the new Council for Gender Equality which is the successor of the former Council.

C. Basic Plan for Gender Equality

73. In December 2000, the Government decided to adopt the Basic Plan for Gender Equality as the first plan under the Basic Law for a Gender-equal Society. The formulation of this basic plan was based upon the domestic action plan, "Plan for Gender Equality 2000", decided by the Headquarters for the Promotion of Gender Equality in December 1996, also taking into account the former Council for Gender Equality's reports "Basic Philosophy behind Formulation of a Basic Plan for Gender Equality" (September 2000) and "Basic Measures pertaining to Violence against Women" (July 2000). The outcome of the Special Session of the United Nations General Assembly "Women 2000: gender equality, development and peace for the twenty-first century" (June 2000) was also taken into consideration. During this formulation process of the plan, the Government also heard the opinions and requests from a wide range of people in all levels of society and made efforts to reflect them into the plan as much as possible.

74. In this plan, the following 11 priority objectives were set forth together with long-term policy directions until the year 2010 and concrete measures to be implemented by the end of FY2005 for each objective. Through increased cooperation with local governments and people from all levels of society, the Government will ensure the formation of a gender-equal society by steadily promoting measures listed in this plan, such as:

(1) Expanding women's participation in policy decision-making processes;

(2) Reviewing social systems and practices and raising awareness, from a gender-equal perspective;

(3) Securing equal opportunities and treatment in the field of employment;

(4) Establishing gender equality in agricultural, forestry and fishing villages;

(5) Supporting efforts of women and men to maintain both occupational and family or community life;

(6) Developing conditions that allow senior citizens to live with peace of mind;

(7) Eliminating all forms of violence against women;

(8) Supporting lifelong health for women;

(9) Respecting women's human rights in the media;

(10) Enrichment of education enables promotion of gender equality and diversity of choice;

(11) Contributing to the "equality, development and peace" of the global community.

75. In order to formulate a new plan succeeding to the current Basic Plan for Gender Equality which stipulates concrete measures to be implemented by FY2005, in July 2004 the Prime Minister made official inquiry to the Council for Gender Equality concerning the basic principles behind the formulation of a basic plan for gender equality by the Government, and in October 2004, the Specialist Committee on the Basic Plan for Gender Equality commenced studies on the issue (the part of the basic plan dealing with violence against women is being studied by the Specialist Committee on Violence against Women).

D. Women's participation in decision-making processes

76. Regarding the participation of women in the field of domestic politics in Japan, the number of female Diet members is shown in annex III to the present report and the types of official position in which women are employed in the Diet are shown in annex IV.

77. Furthermore, expanding the participation of women in policy decision-making processes in Japan is one of the priority objectives in the Basic Plan for Gender Equality. As pillars of this priority objective, the promotion of the participation of women as members of national advisory councils and committees, as well as the recruitment and promotion of female national public officers are being advocated.

78. Concerning the promotion of the participation of women as members of advisory councils, the Government pushed ahead with measures to achieve the immediate target of a 20 per cent participation rate as early as possible before the end of FY2000, based on a decision passed by the Headquarters for the Promotion of Gender Equality in May 1996: the target was reached a year ahead of the deadline with participation increasing to 20.4 per cent by March 2000. In August 2000, the Headquarters for the Promotion of Gender Equality passed a resolution "to achieve as early as possible before the end of FY2005, the international goal of 30 per cent representation set out in the Nairobi Forward-looking Strategies for the Advancement of Women"[2] as the immediate target for the promotion of female members in advisory councils. As of 30 September 2004, studies have shown that the proportion of female members in national advisory councils and committees was 28.2 per cent. Ministries and agencies are endeavouring to actively appoint women in order to achieve the international goal (see annexes V and VI).

[2] Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

79. In the 2000 report of its recommendations, the NPA expressed its intention to begin consideration on the formulation of guidelines for the systematic and steady promotion of policies to expand the recruitment and promotion of women by ministries and agencies. The Basic Plan for Gender Equality called for the NPA to formulate these guidelines as soon as possible. In May 2001 the "Guidelines concerning the enlargement of the recruitment and promotion of female national public officers" were formulated by the NPA and in response to these guidelines, the Headquarters for the Promotion of Gender Equality passed a decision on "Enlargement of the Recruitment and the Promotion of Female National Public Officers". Ministries and agencies are currently making efforts to enlarge recruitment and promotion of female national public officers in accordance with the guidelines and the decision (see annex VII for the ratio of women among national public officers in managerial positions). Also provisions for the active recruitment and promotion of women in the public sector were incorporated in the "Public Servant System Charter" approved in a Cabinet decision in December 2001.

80. Based on the "Report on Measures to Support Women's Challenges" decided by the Council for Gender Equality in April 2003, the Headquarters for the Promotion of Gender Equality passed a decision in June 2003, based on the Nairobi Forward-looking Strategies for the Advancement of Women and circumstances in various foreign countries, which stated that "we expect that by the year 2020 women will occupy at least 30 per cent of leadership positions in all sectors of society. To this end, the Government will lead the private sector in actively taking such measures as to appoint women, etc. and will encourage independent efforts to set numerical targets and deadlines to achieve those targets in each sector".

81. Based on the above "Measures to Support Women's Challenges" (Headquarters for the Promotion of Gender Equality resolution, June 2003), the Headquarters for the Promotion of Gender Equality passed a decision in April 2004 stating that "in order to further expand the recruitment and promotion of female national public officers, the Government as a whole will make comprehensive and systematic efforts, including establishing targets and determining specific measures to realize those targets". In response to this resolution of the Headquarters, an immediate target (by approximately 2010) of around 30 per cent as the proportion of women recruited through the National Public Service Level I Recruitment Examination for administrative service for the Government as a whole was set at the conference among human resource heads of ministries and agencies.

E. Employment measures

1. Employment situation

82. As of 2003, in Japan women accounted for approximately 40 per cent of all people in employment and they are playing a major role in the economy and society of Japan.

83. After the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (hereafter to be referred to as the "Equal Employment Opportunity Law") entered into force on 1 April 1986 followed by its amendment in 1997, companies have improved the management in conformity with the law and the law has been steadily

implemented within Japanese society. For example, looking at the situation of assignment, the number of companies that are "assigning both men and women to all workplaces" in all departments among all companies is now the highest.

84. The ratio of women in positions at the levels of chief, section manager and director overall remains low, but the ratio is increasing at all these levels (see annex VIII). When companies with few women in managerial positions were asked the reason, the most common reply, given by approximately 50 per cent of respondents, was that "the company has no women with the knowledge, experience, judgement and other ability required for the positions".

85. Concerning measures taken with the objective of eliminating de facto disparities arising between male and female workers caused by factors such as past employment customs, traditional views on the division of gender roles, etc., namely "active efforts by companies to promote the full utilization of the abilities of women (affirmative action)", approximately 40 per cent of companies state that they are already taking affirmative action or are planning to do so in the future.

2. Measures to promote compliance with the Equal Employment Opportunity Law

86. In 1997 the Equal Employment Opportunity Law was amended. The amended law stipulates the prohibition of discrimination against women in recruitment, hiring, posting and promotion, while this prohibition was not compulsory in the original law. In addition, a system to disclose the names of companies not following administrative guidance was established, and the mediation system has been improved. The amended law entered into force in April 1999. In particular, the amendment aiming to improve the mediation system to function more effectively made it possible for mediation to be initiated by only one of the party to a dispute. The amendment also prohibits retaliatory treatment by the employer on the grounds of the worker's application for mediation, in order to protect the worker who is in a weaker position than the employer and to make the system easy to use for workers.

87. The Equal Employment Department of the Prefectural Labour Bureau, which is the regional bureau of the Ministry of Health, Labour and Welfare (MHLW), is conducting public relations activities to raise awareness of the Equal Employment Opportunity Law and is providing corrective guidance to eradicate discriminatory treatment between men and women. The Equal Employment Department is also receiving approximately 20,000 consultations concerning the Equal Employment Opportunity Law per year, and quick resolution of individual disputes between female workers and employers over equal treatment between men and women is being provided through advice, guidance and recommendations from the Director-General of the Prefectural Labour Bureau and through the mediation of the Equal Opportunity Mediation Conference. The Government also gives guidance to companies that have introduced the employment management system differentiated by career courses. The advice is based on the "Matters to be Noted Regarding Employment Management Differentiated by Career Track, etc." established by the MHLW in June 2000 and is designed to enable companies to conduct their employment management in line with the Notice.

88. The Government is working to increase positive action efforts by providing advice and information to companies to enable them to make active efforts to eliminate the de facto disparities that arise between male and female workers, and cooperating with employers' associations to hold the "Positive Action Promotion Council" as a system to encourage companies to independently engage in positive actions.

89. The major reasons for the wage disparity between men and women are considered to be the differences in type and level of position between men and women and the fact that women work for a fewer continuous number of years than men. Therefore, the Government prohibits discrimination in posting and promotion by the Equal Employment Opportunity Law and is developing measures that aim to ensure equal treatment between men and women.

90. A research committee of experts has also conducted an analysis of the causes of the wage disparity between men and women, and studied the effects of the systems of companies regarding wage and conditions on the wage disparity between men and women and the current direction of efforts towards reducing the wage disparity, and compiled a report in November 2002. Based on the recommendations in this report, the Government has drawn up guidelines in order that management and labour could tackle eliminating the disparity voluntarily. The Government is currently striving to ensure that the guideline is widely used. In combination with this, the Government prepared a gender wage disparity report in order to regularly conduct follow-ups on the current state of the wage disparity and any progress in the reduction of the wage disparity.

3. Support for child-rearing and nursing care for family members

(a) Revisions of the Child Care and Family Care Leave Law

91. As the birth rate in Japan declines and society ages, enabling workers to easily balance occupational and family life is an extremely important issue in terms of increasing the welfare of workers and maintaining the vitality of the economy and society.

92. For this reason, in addition to the right to childcare leave for workers with children of less than 1 year of age recognized under the original law, beginning in April 1999 workers taking care of family members who are in need of care are recognized as having the right to take family care leave ("Law to Amend the Child Care Leave Law" (Law No. 107 of 1995); and workers raising preschool children or taking care of family members who are in need of care are recognized as having the right to have their late night work limited ("Law Concerning the Improvement of Ministry of Labour-Related Laws for the Securing, Etc., of Equal Opportunity and Treatment of Men and Women in Employment" (Law No. 92 of 1997)).

93. In order to develop an environment in which it is easy to obtain childcare leave, to return to the workplace afterwards and to ensure the time necessary for workers to continue working while engaged in child-rearing, a law revising the "Law Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave" was enacted in November 2001 and entered into full force in April 2002. The law

prohibits unfavourable treatment by reason of application for or receipt of childcare leave, etc., and recognizes the right to request exemptions from overtime work for workers raising preschool children or taking care of family members who are in need of care. The law was amended again in December 2004 in order to make the childcare leave system, etc. easier to use. The revision expanded the number of workers able to receive childcare leave and family care leave, extended the childcare leave period, relaxed limitations on the number of times family care leave can be taken, and established a system which enables workers to take leave for taking care of sick or injured children, etc.

94. The Government is comprehensively and systematically promoting measures to support the balancing of occupational life and family life of workers. These measures include the development of an environment in which workers may more easily obtain childcare leave and family care leave and return to work, the development of an environment in which workers may more easily continue working while engaged in childcare or nursing care, among others.

95. The results of a survey conducted in 2002 ("Basic Survey of Employment Management of Women (FY2002))", MHLW for which approximately 10,000 companies throughout Japan were surveyed) showed that 64 per cent of women who had given birth obtained childcare leave and 0.33 per cent of men whose spouses had given birth obtained childcare leave. Women make up 98.1 per cent of all workers obtaining childcare leave in comparison to men who make up 1.9 per cent. The survey also showed that 0.08 per cent of female workers obtained family care leave and 0.03 per cent of male workers obtained family care leave. Women make up 66.2 per cent of all workers obtaining family care leave in comparison to men who make up 33.8 per cent.

(b) Support measures for balancing work and child-raising

96. Support for managing life at work and child-raising has been an important and urgent issue for the development of a gender-equal society in Japan. Therefore, in January 2001, the "Specialist Committee on Support Measures for the Harmonization of Work and Child Raising" was established under the Council for Gender Equality. Based on the report from this specialist committee, the "Comments on the Policies on Support Measures for Balancing Work and Child-Raising" were decided by the Council for Gender Equality. Based on the Comments, the "Policy on Support Measures for Balancing Work and Child Raising" was approved by the Cabinet. This policy provides numerical targets and deadline for measures including a strategy for no children on the waiting lists to be accepted into day-care centres and for the establishment of after-school measures for children.

97. The strategy for no children on the waiting lists to be accepted into day-care centres and the establishment of after-school measures for children have been incorporated into both the "Reform Work Schedule", which indicates the direction of Japanese structural reforms, and the "Front-Loaded Reform Programme" included therein, which contains measures requiring implementation with particular urgency.

F. Protection from violence

1. The Law for the Prevention of Spousal Violence and the Protection of Victims

98. In order to prevent spousal violence and realize human rights protection and gender equality, in April 2001 the Law for the Prevention of Spousal Violence and the Protection of Victims (hereafter to be referred to as the "Spousal Violence Prevention Law") was enacted and entered into force on 13 October of that year. (The part of the law concerning Spousal Violence Counselling and Support Centres entered into force on 1 April 2002.)

99. The law was amended in May 2004 (the amendment entered into force on 2 December 2004). The contents of the revisions include: (1) an expansion of the definition of "spousal violence"; (2) an expansion of the protection order system; (3) opening of Spousal Violence Counselling and Support Centres in municipalities; (4) clarification of support to ensure the independence of victims; (5) support from police commissioners; (6) appropriate and prompt handling of complaints; and (7) measures for foreign nationals and people with disabilities. The amendment also incorporates provisions for the "Basic Policies Concerning Measures for the Prevention of Spousal Violence and Protection of Victims" ("Basic Policies") established by the Prime Minister and other ministers and the "Basic Plans Concerning Implementation of Measures for the Prevention of Spousal Violence and Protection of Victims" ("Basic Plans") established by each prefecture in line with the Basic Policies. Based on the amendment, the Cabinet Office, the National Police Agency, the Ministry of Justice and MHLW - as well as the presiding ministries and agencies, in consultation with administrative agencies concerned, the MIC, the MEXT, and the Ministry of Land, Infrastructure and Transport (MLIT) - made concerted efforts to formulate integrated government Basic Policies and published these policies in *Kanpo*, the official government gazette on 2 December 2004, the day the amendment entered into force, and notified all the prefectures of the policies. With respect to measures against spousal violence, the Basic Policies outline the basic understanding of the measures and basic policies for their implementation. The prefectures are expected to formulate promptly Basic Plans in line with these policies.

100. This is the first legislation in Japan to comprehensively address the issue of spousal violence. It sets out the role of Spousal Violence Counselling and Support Centres that provide victims with consultations, counselling, temporary protection and various kinds of information. The law also has provisions on protection orders to be issued by the court against the perpetrator at the petition of the victims, in cases where there is a major risk that further spousal violence may threaten the life of the victims or cause them grievous harm. Two kinds of protection orders are provided under the law: the "Order to Prohibit Approach", which prohibits the perpetrator from approaching the victim for a six-month period; and the "Order to Vacate" which requires the perpetrator to vacate the domicile that the spouse shares as the main home with the victim for a two-month period. Individuals who violate these protection orders shall be subject to imprisonment with work of up to one year or a fine of not more than 1 million yen. By the end of March 2004 (approximately two years and six months after the law entered into force) a total of 3,069 protection orders had been issued.

101. The law also includes the provision for notification by those who detect cases of spousal violence, training and education for relevant officials, education and enlightenment to deepen people's understanding of the issue, promotion of study and research and support to private bodies.

2. Related measures

(a) Crackdowns

102. The police, based on the special nature of spousal violence, are promoting appropriate measures tailored to each case, policies for victims related to protection orders and strict crackdowns for violations of protection orders.

103. Cases of violence or sexual abuse committed within the family are not exempt from application of such criminal offences as murder, causing death by bodily injury, bodily injury, physical violence, detention and confinement, forcible obscenity and rape. By properly applying the penal provisions for these offences and the offences under the Spousal Violence Prevention Law, investigation and disposition of the case as well as appropriate sentencing of the case are ensured.

(b) Government measures

104. The Government, based on the "Basic Plan for Gender Equality", is promoting a wide range of measures concerning violence against women, including violence by husbands or partners. The Specialist Committee on Violence against Women (see paragraph 65 above) undertook studies on smooth enforcement of the Spousal Violence Prevention Law, and after receiving the report of the specialist committee, the Council for Gender Equality provided, in October 2001 and April 2002, their views to the ministries and agencies concerned towards the smooth enforcement of the law. The Specialist Committee compiled a report entitled "Implementation Status and Other Matters Concerning the Spousal Violence Prevention Law" in June 2003, which followed up on the situation regarding consultations at Spousal Violence Counselling and Support Centres, temporary protection, the issuance of protection orders, etc. for more than a year after the law had entered into force, and outlined points of issue concerning revisions to the law. The report was used as a reference when the revisions to the law were examined at the House of Councillors.

105. The principal measures taken by the Cabinet Office are as follows:

(a) Implementation of training and creation of training materials for relevant officials;

(b) Implementation of "Campaign for Eliminating Violence Against Women" and holding of symposiums as a part of this Action;

(c) Creation of publicity videos and promotion of education and enlightenment activities through various media including newspapers and television;

(d) Implementation of surveys on the current state of spousal violence;

(e) Provision of information through the Internet.

In addition, with the enforcement of the revised Spousal Violence Prevention Law on 2 December 2004, the Cabinet Office has been holding seminars on the Basic Policies based on the revised law for the officials in charge in this field in the prefectures issuing related notifications, and carrying out publicity activities concerning the revised law.

(c) Training for public prosecutors, judges and other officers

106. The Ministry of Justice, in order to protect properly victims of crimes, including female victims of spousal violence, is implementing lectures and talks with themes such as consideration for female victims and placing emphasis on the significance of the Spousal Violence Prevention Law in all forms of training for public prosecutors and other officers.

107. With regard to the courts, the Government understands that the courts provide judges and other officers with training which includes lectures and other talks on such issues as the significance of the Spousal Violence Prevention Law.

(d) Spousal Violence Counselling and Support Centres

108. With the entry into force of the Spousal Violence Prevention Law, Women's Consulting Offices took on the main function of Spousal Violence Counselling and Support Centres to prevent spousal violence and protect victims. Because article 3 of the law states that temporary protection shall be provided by Women's Consulting Offices themselves or shall be entrusted to parties meeting criteria established by the Minister of Health, Labour and Welfare, these criteria are made public and a system for the entrusting of temporary protection to private shelters and other facilities has been established. Article 3 also provides for the protection of family members accompanying the victim. Therefore, under this system, appropriate protection, tailored to the circumstances of the victims and the accompanying family members, who are being pursued by their spouses, is provided to the victims.

109. It is necessary to provide prompt responses to urgent consultations from victims regardless of when the spousal violence occurs, thus, telephone counsellors are being deployed and consultation functions are thereby being strengthened in order to be able to answer request for consultation at night and on holidays when the Women's Consulting Offices are closed. Furthermore, because it has been indicated that victims locked into a cycle of violence suffer not only physical harm but also mental breakdown and other forms of psychological harm, psychologists are deployed to temporary protection shelters and women's protection facilities in order to support the psychological recovery of victims. Meanwhile, with a view to preventing secondary harm, specialized training sessions are provided to employees of Women's Counselling Offices, etc., and coordination between Women's Consulting Offices and concerned organizations are being promoted.

3. Protection for women subject to trafficking and slavery-like practices

110. Some of the foreign women working at the entertainment businesses sector in Japan owe heavy debt to brokers who helped them enter the country and find work. Taking advantage of those debts, there are cases where the brokers compel the foreign women to engage in forms of sexual exploitation, including forced prostitution. With regard to those cases, related laws and ordinances, such as the Immigration Control and Refugee Recognition Act, the Anti-Prostitution Law and the Law Concerning Regulation and Rationalization of Work of Entertainment-Related Establishments, are applied to actively crack down on these cases. Since female victims sometimes seek protection from their embassies in Japan, cooperation with the authorities concerned are conducted in order to gather related information.

111. Some foreign nationals who enter Japan with the status of "Entertainer" are victims of human trafficking. One major cause appears to be that although the foreign national has entered Japan with an entertainer's certificate issued by the foreign government, the foreign national does not actually possess the necessary skills to perform as an entertainer but is working in the entertainment establishment. Therefore, it has been decided to abolish the provision in the guidelines for the resident status of "Entertainer" that allows foreign nationals possessing qualifications certified by the national government or the local authorities of foreign countries, or certified by public or private organizations, to enter Japan. (This amendment entered into force on 15 March 2005.)

112. In February 2005 the Government sought the approval of the Diet for accession to the Protocol on Trafficking in Persons of the United Nations Convention against Transnational Organized Crime, and to that end submitted bills to amend existing laws to the Diet.

4. Law for punishing acts related to child prostitution and child pornography, and for protecting children

113. The "Law for Punishing Acts Related to Child Prostitution and Child Pornography and for Protecting Children" (Law Banning Child Prostitution and Child Pornography) was promulgated in May 1999 and entered into force in November 1999. The law prescribes punishments for persons engaging in or brokering child prostitution; selling child pornography; trafficking children for the purpose of child prostitution where children (boys and girls) are defined as persons under the age of 18. Details on the accession to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the domestic laws implementing this Optional Protocol are referred to in paragraphs 342 and 343 below.

5. Protection of victims of sex crimes in criminal proceedings

114. Some of the sex crimes such as indecent assault or rape are crimes that cannot be prosecuted in the absence of a complaint from the victim. Formerly, victims could not file a complaint concerning such crimes after six months had passed from the date on which the identity of the offender was known to the victim. Reflecting the fact that it is sometimes difficult for the victim to decide in a short period of time whether or not to file a complaint, due to the psychological shock caused by the crime and the particular nature of the relationship between

the victim and the perpetrator, under a partial amendment of the Code of Criminal Procedure in May 2000, this provision was revised; and the time limit for filing a complaint for certain sex crimes such as indecent assault or rape was abolished (Code of Criminal Procedure, art. 235, para. 1, proviso).

115. The police are taking various measures in order to ease the psychological burden on the victims and to promote fair and intensive investigations of sex crimes through appropriate handling of the case from the point of view of the victims:

(a) Establishment of a sex-crimes investigation unit and designation of female police officers as investigators of sex crimes to handle the questioning of victims about the circumstances of the crime, gathering of evidence, receipt of items of evidence, accompanying the victim to the hospital;

(b) Establishment of telephone counselling and counselling centres concerning sex crimes;

(c) Equipment of kits necessary for the gathering of evidence for sex crimes and a change of clothes in case the clothes of the victim are to be collected as evidence; and

(d) Strengthened cooperation with obstetricians and gynaecologists to enable prompt and appropriate physical examination, treatment and gathering of evidence.

In investigations and trials of cases of child prostitution, consideration is being paid to the rights and characteristics of the child victims, in accordance with article 12 of the Law Banning Child Prostitution and Child Pornography.

6. The Law proscribing stalking and assisting victims

116. In recent years, the number of cases consulted to the prefectural police on incidents where the victim is being stalked by someone has rapidly increased. Those acts of stalking, such as maliciously pursuing someone or repeatedly making silent phone calls have become a social problem. Some of these cases develop into serious crimes such as murder and, therefore, in order to prevent such dangers from occurring, a study was undertaken on countermeasures, including legislative measures, to regulate acts that could not be handled by existing penal laws such as the Penal Code and the Minor Offences Law. As a result, the “Law proscribing stalking and assisting victims” was approved on 18 May 2000 and entered into force on 24 November 2000. The objectives of the law are to prevent harm to the body, freedom and reputation of individuals and to contribute to the safety and peace of the daily lives of citizens. “Pursuing” is defined as physically following the person, demanding a relationship, making silent phone calls, saying things that damage a person’s reputation or cause them sexual shame and other acts to “satisfy love or other feelings of ardour towards the person”, or to “express resentment resulting from failure to satisfy these feelings”, and “stalking” is defined as the recurrent and persistent act of pursuing the person. The law provides criminal punishments for “stalking” and provides for the police to warn, restrict and implement other measures against individuals who are conducting the act of pursuing. The law also provides for police to offer support to victims of stalking in order to prevent harm.

117. The police are also promoting strict crackdowns on stalking and are promoting support for victims, crime prevention measures, as well as publicity and awareness-raising activities.

Table 1

Actual application of the Law proscribing stalking and assisting victims (24 November 2000-31 December 2003)

Warnings	3 122
Provisional orders	None
Prohibition orders, etc.	94
Support	2 332
Number of clearances	-
Stalking crime	508
Violations of orders	26

7. Activities to protect the rights of women

118. The tendency to view the roles of men and women as being fixed is still deeply entrenched in society and this is a factor leading to various kinds of gender-based discrimination in the home and workplace. In addition, violence by husbands or partners and sexual harassment are also major problems with respect to women's rights.

119. The human rights organs under the MOJ, in order to promote the protection of women's rights and to empower the status of women, have adopted "Raise the Status of Women" as the slogan of Human Rights Week each year since 1975 and have been implementing awareness-raising activities all over Japan throughout the year, in particular during Human Rights Week. These activities have as their theme the issue of the rights of women and include the holding of lectures and round-table talks, television and radio broadcasts, publicity through newspapers and magazines, and the creation and distribution of posters and leaflets for each event.

120. The human rights organs under the MOJ have been aiming to remedy and prevent harm from human rights infringements with respect to a range of human rights issues faced by women, such as violence by husbands and partners, sexual harassment in the workplace and other places and acts of stalking, through human rights counselling and investigation and resolution of human rights infringement cases.

121. Owing to the fact that human rights counselling is effective in remedying the harm caused by human rights infringements, the human rights organs under the MOJ are currently working to enhance the human rights counselling system. In July 2000, a telephone line specifically for counselling, the "Women's Rights Hotline", was established in the headquarters of 50 legal affairs bureaus or district legal affairs bureaus throughout Japan and the organization for counselling concerning human rights issues of women was reinforced. In the operation of the hotline, as far as possible, female human rights volunteers, female employees of legal affairs bureaus and women's rights experts serve as counsellors and efforts are being made to build a counselling system that is easier for women to utilize. In 2003 the hotline was used approximately 29,000 times.

122. When the human rights organs under the MOJ receive information through human rights counselling or notifications that violence towards a woman is being assaulted, they investigate it as a human rights infringement case and if the investigation shows that an act of violence is being committed or that the victim is continuously at the risk of the acts of violence, they take appropriate relief measures depending on the needs of the case, and they urge the perpetrator and the persons concerned to have respect for human rights in order to stop the violent acts and prevent reoccurrence.

123. With the Spousal Violence Prevention Law entering into force in October 2001, the human rights organs under the MOJ have been further strengthening their cooperation with concerned institutions, such as spousal violence counselling and support centres, and are working to remedy harm from spousal violence and to prevent its occurrence.

Article 4

124. In Japan, in case of emergency, measures would be taken that are consistent with the Constitution as well as the Covenant.

125. In order to ensure the peace and independence of Japan and the security of the country and its people, the Law concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack (hereafter to be referred to as the "Armed Attack Response Law") was enacted in June 2003. The objective of the law is to prepare the nation to respond to armed attacks (situation of armed attack or situation where an armed attack is anticipated) by determining basic principles and basic items such as the respective responsibilities of the national and local governments, etc. In order to protect the lives, bodies and assets of people in a situation of armed attack and to minimize the impact of the armed attack on the living conditions and economic well-being of the people, the Law concerning the Measures for Protection of the Civilian Population in Armed Attack Situations (hereafter to be referred to as the "Civilian Protection Law") was also established in June 2004 and entered into force on 17 September 2004. The objective of the law is, in combination with the Armed Attack Response Law, to develop a comprehensive nationwide system for response to an armed attack by determining the measures concerning the respective responsibilities of the national and local governments, etc., cooperation by the people and evacuation of residents, measures to assist refugees, and measures to respond to the damage caused by an armed attack.

126. The Armed Attack Response Law contains provisions stipulating that in response to a situation of armed attack, the freedoms and rights of the people guaranteed under the Constitution must be respected; that if restrictions are placed on these rights, those restrictions must be limited to the minimum degree necessary to respond to the situation of armed attack in question and they must be implemented through fair and appropriate procedures; that in this case the provisions in article 14 (equality under the law), article 18 (freedom from bondage and involuntary servitude), article 19 (freedom of thought and conscience), and article 21 (freedom of assembly, association and speech, secrecy of communication) of the Constitution and other regulations concerning basic human rights shall be respected to the fullest extent possible.

Article 5

127. As stated in the fourth periodic report (CCPR/C/115/Add.3, para. 60).

Article 6

A. The issue of the death penalty: circumstances under which the death penalty is applied

128. In Japan, the application of the death penalty is limited to 18 crimes (see paragraph 129 below. While this is one more than the 17 crimes stated in the fourth periodic report, this is not because the death penalty is being newly applied to a crime which was not subject to it before. It was determined that cases where the act constituting the murder in question was carried out as a group activity through a plan contrived to carry it out, the minimum sentence for imprisonment for a limited period would be raised and that the death penalty, life imprisonment or imprisonment for five years or more would be imposed for the crime of murder, which was already subject to the death penalty.) For all of these crimes, except for incitement of foreign aggression, life imprisonment or imprisonment for a limited period with or without work is provided as an optional punishment. Hence, in the Japanese legal system, the death penalty is applied only to particularly serious crimes (murder or intentional acts involving serious risk of injury to human life). Moreover, in concrete cases, the death penalty is applied very strictly and carefully in accordance with the judgement delivered on 8 July 1983 by the Second Petty Bench of the Supreme Court, which states:

> "The death penalty can be applied only when the criminal's responsibility is extremely grave and the maximum penalty is unavoidable from the viewpoint of balance between the crime and the punishment as well as that of general prevention, taking into account the circumstances, such as the nature, motive and mode of the crime, especially the persistence and cruelty of the means of killing, the seriousness of the consequences, especially the number of victims killed, the feelings of the bereaved, social effects, the age and previous convictions of the offender, and the circumstances after commitment of the crime."

A total of 20 persons were sentenced to death in the five-year period between 1999 and 2003. All of them committed brutal murder or murder on the occasion of robbery. There were no cases in which the killing of people was not involved.

129. The following list sets out the 18 crimes subject to the death penalty:

(1) Ringleadership of insurrection (Penal Code, art. 77, para. 1, Item 1);

(2) Inducement of foreign aggression (Penal Code, art. 81);

(3) Assistance to enemy (Penal Code, art. 82);

(4) Arson to inhabited structure, etc. (Penal Code, art. 108);

(5) Destruction by explosives (Penal Code, art. 117, para. 1, art. 108);

(6) Damage to inhabited structure, etc. by inundation (Penal Code, art. 119);

(7) Overturn of a railroad train etc. resulting in death (Penal Code, art. 126, para. 3);

(8) Manslaughter caused by endangerment of traffic (Penal Code, art. 127, art. 126, para. 3);

(9) Addition of poisonous material into water main resulting in death (Penal Code, art. 146 latter part);

(10) Murder (Penal Code, art. 199);

(11) Robbery resulting in death (including murder on the occasion of the robbery) (Penal Code, art. 240 latter part);

(12) Rape on the occasion of robbery resulting in death (Penal Code, art. 241 latter part);

(13) Illegal use of explosives (Explosives Control Act, art. 1);

(14) Duel and Murder (Law Concerning Duel Crime, art. 3; Penal Code, art. 199);

(15) Manslaughter by causing aircraft crash, etc. (Law Concerning the Punishments for Acts to Cause Aviation Danger, art. 2, para. 3);

(16) Manslaughter caused by seizure of aircraft, etc. (Law for Punishing the Seizure of Aircraft and Other Related Crimes, art. 2);

(17) Murder of hostages (Law Concerning the Punishment of Compulsion and Other Related Acts Committed by Those Having Taken Hostages, art. 4, para. 1);

(18) Organized murder (Law Concerning Punishment of Organized Crime, Control of Crime Proceeds and Other Matters, art. 3, para. 1, Item 3, para. 2; Penal Code, art. 199);

B. The views of the Government on the abolishment of the death penalty

130. The Government believes that whether to retain or abolish the death penalty should be determined individually by each country, taking into account the public sentiments, crime trends, criminal policies and other relevant factors. As far as Japan is concerned, whether to retain or abolish the death penalty is an issue of particular importance which relates to the core of the criminal justice system and deserves careful examination from various perspectives, including that of the achievement of social justice, with sufficient attention being paid to public opinion. In Japan, considering, inter alia, that the majority of the public believes the death penalty to be inevitable for extremely heinous and atrocious crimes (the latest survey was conducted in

September 1999) and since such heinous crimes as murder and death on the occasion of robbery resulting in multiple deaths are still being committed, the Government's view is that imposing the death penalty on those who have committed extremely heinous crimes and whose criminal responsibility is extremely grave cannot be avoided, and that abolishing the death penalty is not appropriate.

131. For the above reasons, careful examination is necessary concerning whether or not to accede to the Second Optional Protocol to the Covenant. Further, with regard to life imprisonment without the possibility of parole, which is sometimes proposed as a substitute for the death penalty, additional views have been expressed that this punishment is problematic in terms of criminal policy and that the personality of the inmate may be completely destroyed through the lifelong confinement. The Government believes that this issue must be carefully examined from various perspectives.

C. Treatment of inmates on death row

(a) Grounds for detention and general treatment of inmates on death row

132. Inmates whose death penalty has become final are detained in detention houses until the time of execution. They mostly receive the same treatment as unsentenced inmates. For example, they are not obliged to work and they are allowed to buy food and drink at their own expense. In order to contribute to their emotional stability, inmates on death row are able to receive religious services and counselling services from chaplains and other voluntary prison visitors at their request.

(b) Communication with the outside by inmates on death row

133. The Prison Law provides that the warden of each detention house shall consider each case taking into account the purpose of detention in order to decide whether the inmate on death row may receive visitors or correspond with those outside the prison (art. 45, para. 1 and art. 46, para. 1 of the Prison Law). Inmates on death row are placed in an extreme position in that they are waiting for execution of the death penalty. Therefore, there is a strong need for them to be kept securely in custody. It is easy to imagine that inmates on death row will feel extreme anxiety and anguish because of the nature of their detention, and therefore the warden of the detention house has the authority to impose some restrictions on them in order to protect the mental stability of the inmates. However, except for these rare cases, inmates on death row are allowed to meet and correspond with their families, defence counsel and other appropriate persons. In addition, when a decision is made for commencement of retrial of the case by the courts, inmates sentenced to death are allowed to see defence counsel or potential defence counsel without the presence of prison officers.

134. The treatment of communications for persons sentenced to the death penalty has been considered in Japanese civil lawsuits as well, to be rational, lawful, and not in violation of the Covenant (see the opinion of the Supreme Court on 26 February 1999).

(c) Notification to the inmates on death row and family members of the execution

135. The date of execution is notified to the inmate on death row on the day of the execution. One of the reasons for this is the belief that notifying the inmate on a day that precedes the date of execution will have significant impact on the emotional state of the inmate, making it difficult for the inmate to maintain a calm state of mind.

136. Article 74 of the Prison Law and article 178 of the Prison Law Enforcement Regulations provide that the inmate's relatives should be notified of his/her death after execution of the death penalty and that the body or ashes should be handed over to the family or relatives upon their request. Except for the above provisions, there are no other legal provisions concerning notification to the family of the inmate on death row. No outside persons, including family members, are to be notified in advance of the date of execution. The reasons for this include the following: the family may experience unnecessary mental anguish if they are notified of the date of execution beforehand; and if the inmate on death row learns of his/her date of execution during a meeting with family members who have been notified, as in the case where the inmate is directly notified, there will be a significant impact on the emotional state of the inmate, making it difficult for the inmate to maintain a calm state of mind.

137. The detention facility verifies beforehand the wishes of the inmates on death row concerning succession of his/her estate, donation of his/her body to a medical institution - issues which must be arranged by the inmate with his/her family in advance - and instructs the inmate to complete the necessary arrangements during visits and through other communication with his/her family.

Article 7

138. In the Japanese legal system torture is strictly prohibited. With a view to making further efforts to prohibit torture, etc., within Japan and to promoting the guarantee of human rights under an international framework, Japan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 29 June 1999.

Article 8

139. With a view to promoting international efforts to ensure the prohibition and elimination of the worst forms of child labour, Japan acceded to the International Labour Organization (ILO) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182) on 18 June 2001.

Article 9

A. Legal framework

1. Involuntary hospitalization, etc., under the Mental Health and Welfare Law

140. In 1999 the Mental Health and Welfare Law was amended, and measures were taken to ensure appropriate mental health care that takes into account the human rights of the persons with mental disorders:

(a) In order to strengthen the functions of the Mental Health Review Tribunal, its authority to conduct surveys was expanded to issue orders to submit records and summons to appear before the board, in addition to hearing the opinions of relevant parties;

(b) The work of the Mental Health Review Tribunal would be carried out at the Mental Health and Welfare Centre, a separated body from the offices of local public government;

(c) If the treatment for the inpatient at the mental hospital at which a designated psychiatrist works is recognized by the designated psychiatrist to be severely inappropriate, the latter shall make efforts to ensure that the measures necessary to improve the treatment are taken;

(d) In order to ensure that patients who lack the capacity to make an informed decision about their treatment are admitted for medical care and are protected with the consent of their families or guardians in an appropriate manner, etc., the requirements for patients subject to involuntary and voluntary admission were clearly delineated and admission with the consent of the patient was established as the basic rule of admission;

(e) The provisional admission system was abolished;

(f) In order to strengthen supervision of mental hospitals, the enforcement of punishments was provided for, in the event that the hospital does not comply with the orders to improve its level of mental health care, including enforcement of orders placing restrictions on medical treatment for inpatients patients, etc.

141. In 2002 the results of examination by the Mental Health Review Tribunal taken under the system established by the amendment to the law were as follows:

Periodic report:

- Continued involuntary admission unnecessary: 5;

- Continued admission for medical care and protection inappropriate: 12;

Request for release:

- Admission inappropriate: 109;

Request for improved treatment:

- Treatment inappropriate: 17.

142. The established period of examination by the Mental Health Review Tribunal, which is in principle within one month, is anew being enforced.

2. Medical treatment under the Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases under the Condition of Insanity

143. The Law Concerning Medical Treatment and Observation of Persons Who Have Committed Acts Very Damaging to Others While in a Mentally Abnormal State (hereafter to be referred to as the "Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases under the Condition of Insanity") was established and promulgated in July 2003. The purpose of the law is to improve the medical condition of people who have committed acts seriously damaging third persons while in a mentally abnormal state and to prevent reoccurrence of similar acts resulting from the offender's illness, by carrying out continuous and proper medical treatment and observation and guidance necessary to ensure such treatment, and by providing for the procedures for determining appropriate treatment for such offenders, thereby promoting the offender's social rehabilitation. The major part of the law is to take effect on a date determined by a cabinet order within two years of the date of promulgation of the law.

144. The Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases under the Condition of Insanity provides that a joint panel of a judge and a mental health reviewer (psychiatrist) is to make a decision, through consensus, on the measures to be taken for a person concerned, including admission, outpatient visits and other measures.

145. Under articles 92 and 93 of the Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases under the Condition of Insanity, the rights of patients admitted in designated inpatient hospitals (hereafter to be referred to as "admitted patients") are to be taken into consideration as follows:

(a) Administrators of designated inpatient hospitals cannot implement restrictions on admitted patients' actions that are specified by the Minister of Health, Labour and Welfare after listening to the opinions of the Social Security Council. These restrictions include restrictions on sending and receiving correspondence, restrictions on meeting with lawyers and the employees of administrative institutions, and other restrictions on actions;

(b) Isolation of the patient and other restrictions cannot be applied to actions specified by the Minister of Health, Labour and Welfare after listening to the opinions of the Social Security Council unless a designated psychiatrist working at the designated inpatient hospital in question determines that such restrictions are necessary;

(c) In addition, the Minister of Health, Labour and Welfare can determine the necessary standards concerning the treatment of admitted patients, and if such standards have been determined, the administrators of designated inpatient hospitals must comply with them.

146. The Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases under the Condition of Insanity ensures appropriate treatment through the following provisions (arts. 95-98):

(a) Admitted patients or their guardians may ask the Minister of Health, Labour and Welfare to order administrators of designated inpatient hospitals to take measures necessary to improve the treatment of the admitted patient in question. The Minister of Health, Labour and

Welfare, receiving such request, shall ask the Social Security Council to conduct an examination of the request. When the Minister concludes that the measures are necessary based on such examination, the Minister of Health, Labour and Welfare shall order the administrator of the designated inpatient hospital to take measures to improve the treatment of the patient;

(b) The Minister of Health, Labour and Welfare may, when it is considered to be necessary, make a request to the administrator of a designated inpatient hospital for a report concerning treatment of admitted patients and may, if it is considered that the treatment of the admitted patient does not conform to the standards determined by the Minister, order the administrators to take necessary measures to improve treatment.

3. Abolition of the Communicable Disease Prevention Law and the Establishment of the Law concerning the Prevention of Infectious Diseases and Medical Care for Patients Suffering Infectious Diseases

147. Under the Communicable Disease Prevention Law, prefectural governors were able to take measures including isolation of patients or restriction or prohibition of assembly, if deemed necessary to prevent the spread of a communicable disease.

148. The Communicable Disease Prevention Law was abolished in 1999 and the Law concerning the Prevention of Infectious Diseases and Medical Care for Patients Suffering Infectious Diseases (hereafter to be referred to as the “Infectious Disease Law”) was newly approved and entered into force. Based on the fundamental review on previous policies related to the prevention of infectious disease and respect for human rights, the new legislation is provided to promote comprehensive policies concerning the prevention of infectious diseases except for tuberculosis control, and medical care for patients suffering from infectious diseases.

149. For this reason, the Infectious Disease Law does not contain any clauses that permit the isolation of patients or the restriction or prohibition of assembly. The Law requires due process to implement isolation, which is limited to the minimum required for the prevention of spread of infection to others.

4. Law Concerning Payment of Compensation, etc., to Inmates of Hansen’s Disease Sanatoria

150. In April 1996 the “Law to Abolish Hansen’s Disease Prevention Law” entered into force and the “Hansen’s Disease Prevention Law”, which had formed the basis of previous Japanese policies towards inmates of Hansen’s disease sanatoria, etc., was abolished.

151. Subsequently, inmates of Hansen’s disease sanatoria, etc., filed lawsuits to demand compensation from the state in Kumamoto, Tokyo and Okayama for the human rights infringements they have suffered including discrimination and prejudice as a result of the isolation policy based on the Hansen’s Disease Prevention Law, etc., and in May 2001 the Kumamoto District Court delivered a judgement in favour of the plaintiffs.

152. The Government decided not to appeal the judgement and made an announcement to that effect in the “Statement by Prime Minister Junichiro Koizumi Concerning the Swift and

Comprehensive Solution of the Hansen's Disease Issue" approved in a Cabinet Decision on 25 May 2001. The Diet passed the "Resolution Concerning the Hansen's Disease Issue", and based on this, carried out legislative measures to restore the honour and dignity of Hansen's disease patients and former patients and enhance their welfare. On 22 June 2001 the "Law Concerning Payment of Compensation, etc., to Inmates of Hansen's Disease Sanatoria" was promulgated and entered into force.

153. The Government intends to provide appropriate compensation based on this law, take measures to restore the honour and dignity of inmates of Hansen's disease sanatoria, etc., and promote their welfare through the implementation of enlightenment projects utilizing media including newspapers, television, and continue making utmost efforts towards a swift and comprehensive resolution of the Hansen's disease issue.

B. Detention of suspects

1. Detention period

154. The maximum detention period of suspects in Japan is 22 or 23 days, as stated in the fourth periodic report (paras. 74-78). Under the procedural requirements applicable for the detention period of suspects, in principle, a judicial police official cannot arrest a suspect unless a judge has issued an arrest warrant upon the finding of probable cause to suspect that the suspect has committed a crime (Code of Criminal Procedure, art. 199). As an exception to this rule, a flagrant offender may be arrested without an arrest warrant (Code of Criminal Procedure, art. 213). An arrest is also allowed when a judicial police official has sufficient reason to believe that the suspect has committed a crime that is punishable by the death penalty, life imprisonment, or imprisonment for a maximum period of three years or more, under such exigent circumstances that obtaining an arrest warrant from a judge would be impossible, by informing the suspect of the reason for the arrest. In such cases, however, the official who has made the arrest must immediately go through the process of obtaining an arrest warrant from a judge, and if such an arrest warrant is not issued, the suspect must be released immediately (Code of Criminal Procedure, art. 210). When a judicial police official has arrested a suspect, the official must inform the suspect of his right to appoint a lawyer and give him an opportunity for explanation. If the official then believes that detention of the suspect is not necessary, the official must release the suspect immediately. If the official believes that detention of the suspect is necessary the official must refer the suspect to a public prosecutor within 48 hours of the arrest (Code of Criminal Procedure, art. 203, para. 1). The public prosecutor, after receiving the suspect, must give the suspect an opportunity for explanation and if the prosecutor then believes that detention is not necessary, the prosecutor shall release the suspect immediately. If the prosecutor believes that detention is necessary, the prosecutor shall request a judge for detention of the suspect within 24 hours of receiving the suspect (Code of Criminal Procedure, art. 205, para. 1). A judge may detain a suspect only if the grounds for detention and other requirements are satisfied. The detention period is 10 days. A judge can extend the custody period, on a public prosecutor's request, upon finding circumstances that justify such extension, but the extension period may not exceed 10 days (Code of Criminal Procedure, art. 208, paras. 1-2). As described above detention of suspects in Japan requires strict judicial review and is sufficiently overseen by the judiciary.

155. The investigation conducted during the detention period of the suspect includes not only matters concerning the facts of the crime itself, but also the circumstances surrounding the crime. Moreover, strict prosecution criteria are adopted under which public prosecutors only prosecute cases in which they are convinced a judgement of guilty will be pronounced and they have sufficient reason to believe that bringing a public prosecution is appropriate. Therefore, investigating authorities in Japan gather evidence thoroughly and carefully during the detention period of suspects. Accordingly, the detention period of suspects in Japan is reasonable because it appropriately balances the needs of the investigation or of public interest with guarantee of the rights of the suspect.

2. Interviews

156. The criminal proceedings in Japan are to achieve harmonization of the needs of guaranteeing the rights of the suspect or the defendant on the one hand and of pursuing the truth on the other. The legal regulations governing investigation of suspects have to be considered in light of the overall framework of criminal proceedings.

(a) Appropriateness of interview procedures

157. The Code of Criminal Procedure (art. 198, para. 1, main text) provides that, when deemed necessary for a criminal investigation, a public prosecutor, a public prosecutor's assistant officer or a judicial police official may ask any suspect to appear in their offices for an interview. Interviews of suspects are conducted based on this provision. Except when the suspect is already under arrest or detention, the suspect may refuse to appear and may withdraw at any time during the interview (proviso clause in the same paragraph).

158. The Constitution provides that "no person shall be compelled to testify against himself/herself" (art. 38, para. 1). The Code of Criminal Procedure gives the suspect the right to refuse testimony and provides that, at the time of the interview, the suspect shall be notified in advance that he/she is not required to make a statement against his/her own will (art. 198, para. 2).

159. During an investigation, the statement of the suspect may be recorded in a written statement. The suspect should be allowed to peruse the statement or to have it read to him/her for verification, and when he/she makes a motion for any addition or deletion or alteration, his/her remarks should be added in the statement (Code of Criminal Procedure, art. 198, paras. 3-4). When the suspect affirms that the contents of the written statement are correct, he/she may be asked to sign and seal it although the suspect may refuse to do so (art. 198, para. 5). A written statement which has neither a signature nor a personal seal is not admissible as evidence unless the relevant party consents to its admission into evidence (arts. 322, para. 1, and 326).

160. The public prosecutors offices and the police carry out guidance and supervision on compliance with these provisions on interviews. If violation of these provisions is found, strict disciplinary measures are imposed on the relevant officials.

161. Clearly, such interview methods as coercion, torture, and intimidation are not permitted. Interviews conducted in such a manner that would cast doubts on the voluntary nature of the testimony of the suspect are not permitted either. The Code of Criminal Procedure stipulates that

any confession obtained through coercion, torture or intimidation; or made after unduly prolonged detention or confinement; or which is suspected of not having been made voluntarily shall not be used as evidence (art. 319, para. 1). Furthermore, it provides that any deposition or written statement, including admission of facts adverse to the defendant's interests, which may not have been made voluntarily shall not be used as evidence (art. 322, para. 1). If a dispute arises in a public trial concerning the voluntary nature or reliability of the testimony, the public prosecutor bears the burden of proof as to these issues, and the determination of these issues is left to the court.

162. The Constitution stipulates that no person shall be convicted or punished in cases where the only proof against him/her is his/her own confession (art. 38, para. 3). Based on this the Code of Criminal Procedure provides that regardless of whether or not the defendant makes a confession in a public trial, if that confession (including the self-acknowledgment that one is guilty of the crime one is being prosecuted for) is the only proof against him/her then he/she shall not be found guilty (art. 319, paras. 2-3). Therefore, regardless of whether or not the defendant makes a confession in a public trial, the facts of the crime shall only be admitted after examination of the evidence, including the questioning of witnesses and investigation of the material evidence.

163. In this manner, the appropriateness of interview procedures and the rights of the suspects are guaranteed not only under these specific procedures but also under the rules of evidence.

164. Moreover, acts of coercion, torture or intimidation in interviews are subject under the Penal Code to criminal prosecution for the crime of abuse of authority by a special public official (art. 194) and the crime of violence or cruelty by a special public official (art. 195).

(b) Time and length of interviews

165. Since the progress of the investigations is unforeseen and cases are diverse, it is difficult to establish regulations to regulate the time and length of interviews. Currently due consideration is being given to ensure that an excessive burden is not placed on the suspect. For these reasons, the Government's view is that it is not necessary to establish legal regulations concerning the time and length of interviews.

(c) Presence of defence counsel at the interviews

166. Concerning the presence of defence counsel at the interviews of the suspect, the rights of the suspect are sufficiently protected by existing legal guarantees, including the right to consult either in person or through correspondence with defence counsel, without being overseen by any officials. Furthermore, meticulous investigations, including interviews of the suspect, and subsequent strict screening in the initial stages in which the public prosecutor decides whether or not to prosecute the suspect, are at the crux of Japan's criminal justice system. In addition, pretrial detention of the suspect is subject to strict judicial review under the warrant requirement, and even this is limited to a maximum period of 23 days. Granting the defence counsel the right to be present at the interviews in the initial investigation stages would have an adverse effect on the investigation process as a whole, and in particular the truth-seeking function of the investigation. For these reasons, the presence of defence counsel at the interviews is not allowed in Japan.

(d) Recording of interviews using electrical equipment

167. Recording of interviews by audio, video or other electrical equipment is not conducted in Japan. In Japan, in order to seek the truth of a criminal case, detailed questioning is carried out built upon the trust and rapport between the investigator and the suspect. Making an audio or video recording of this process would not only make the building of rapport more difficult with all communication between the investigator and the suspect being monitored, but would also expend significant time and cost in playing and transcribing such records, and therefore in view of such problems recordings are not made.

168. Nonetheless, ensuring the appropriateness of interviews of the suspect is an extremely important issue, and therefore Japan has been paying due consideration to this matter. The Programme for Promoting Justice System Reform approved in a Cabinet decision on 19 March 2002 states that "in order to ensure the appropriateness of the interviews of suspects, a system is to be introduced that makes it compulsory to make a written record of the process and conditions for each interview". Based on this, a system making it compulsory to create and store a written record of items related to the process and conditions of the interview is introduced, such as the length of the interview of the suspect being detained, whether or not a deposition has been made and other related matters. The new system has been in operation since April 2004.

3. Public defender system for suspects

169. In May 2004 a law to introduce a public defender system for suspects was approved.

C. Detention in the immigration facilities

170. In general, the treatment of foreign nationals in the deportation procedures related to article 9 of the Covenant is as follows (see annex IX):

(a) Detention in the process of the Japanese deportation procedures is stipulated in chapter 5 of the Immigration Control and Refugee Recognition Act. If, as the result of an investigation into the violation conducted by an immigration control officer, reasonable grounds are found to suspect that a foreign national falls under any one of the items of article 24 of the Act which stipulates the reasons for deportation, the immigration control officer is to apply to the supervising immigration inspector of the office for the issuance of a written detention order. The supervising immigration inspector is to judge whether or not there are reasonable grounds to suspect the foreign national falls under the reasons for deportation and then issue the written detention order;

(b) Under the Immigration Control and Refugee Recognition Act, in addition to the items concerning the identity of the suspect foreign national, a summary of the suspected offence and the place of detention and other related details must be given in the written detention order. In addition, the Act clearly states that when executing the written detention order, it must be shown to the suspect in question;

(c) Since the deportation procedures of Japan are separate from and independent of the criminal proceedings and a foreign national detained under the deportation procedures is not equivalent to “a person arrested or detained on criminal charges”, article 9 of the Covenant does not apply to a detainee under the deportation procedures. Under the Immigration Control and Refugee Recognition Act, when an immigration control officer has detained a suspect with a written detention order he must deliver the suspect to an immigration inspector together with the evidence within 48 hours. Then, an immigration inspector must promptly examine whether or not the suspect falls under a person to be deported. When the immigration inspector finds, as the result of the examination, that the suspect does not fall under a person to be deported, he/she must release the person concerned without delay. Even in cases where, as the result of the examination, the immigration inspector finds that the suspect falls under a person to be deported, the suspect has the right to request a hearing with a special inquiry officer. If the special inquiry officer finds, as the result of the hearing, that the findings of the immigration inspector are not supported by factual evidence, he/she must immediately release the person concerned. Moreover, under the Immigration Control and Refugee Recognition Act, if the suspect does not accept the findings of the special inquiry officer, the suspect can file an objection with the Minister of Justice (which includes the director-generals of the regional immigration bureaus who are entrusted with the authority of the Minister of Justice, hereinafter the same will apply). When the Minister of Justice decides that an objection filed by a suspect is with reason, the suspect must be released immediately. Under the deportation procedures of Japan, the entire process of the procedures, in principle, must be followed with the person held in detention. However, if it is deemed necessary for a detainee to be released from detention in consideration of his/her circumstances, the director of the immigration detention facility or the supervising immigration inspector may accord provisional release to the detainee, ex officio, or through application by persons related to the detainee such as a proxy, relative or others, with conditions as may be deemed necessary, such as the duty of appearing at a summons. In such cases, the deportation procedures for the suspect are continued without detention. An application for provisional release can be applied for at any time during the detention under a written detention order or written deportation order;

(d) In Japan, detainees who believe that their detention under the deportation procedures or the issuance of a written deportation order is illegal can seek a court judgement concerning such legality pursuant to the procedures provided for in the Protection of Personal Liberty Act or the Administrative Case Litigation Law;

(e) Under the legal system of Japan, it is possible to make a claim for compensation for illegal detention under the National Redress Law.

1. Detention period

171. The deportation procedures of Japan, in principle, are followed with the person held in detention. However, when it becomes necessary to release a detainee, who has been detained under a written detention order or a written deportation order, from detention in full consideration of circumstances such as the need for humanitarian consideration provisional release may be accorded to the detainee ex officio or upon application.

172. In principle, the period of detention determined by the written detention order shall be within 30 days. However, if a supervising immigration inspector finds that there are unavoidable circumstances, he/she may extend such period for only a further 30 days (Immigration Control and Refugee Recognition Act, art. 41). Foreign nationals who have been issued a written deportation order should be promptly deported from Japan, but in cases where they cannot be deported from Japan immediately they can be held in detention until such time as deportation becomes possible (Immigration Control and Refugee Recognition Act, art. 52, para. 5). No limit to such detention period is stipulated in the law but priority is given to deporting foreign nationals from Japan as soon as possible and arbitrary postponement of deportation is not permitted.

2. Treatment of detainees (including consideration for female detainees)

173. Concerning the treatment of detainees held in the detention facilities of the Immigration Bureau, under the provisions of article 61.7 of the Immigration Control and Refugee Recognition Act, detainees shall be given the maximum liberty possible to the extent that it does not interfere with the security requirements of the detention facility. Under the mandate set out in paragraph 6 of the same article, specific details concerning the treatment of detainees are regulated under the Regulations for the Treatment of Detainees (Ordinance of the Ministry of Justice), determined with the objective of respecting the human rights of detainees and providing them with appropriate treatment.

174. Detainees are permitted to send and receive correspondence, meet with relatives, friends, defence counsel and others, purchase goods, and engage in religious activities such as worship, and the facilities strive to ensure opportunities to engage in physical exercise. Furthermore, meals are provided taking into account the customs, traditions, and religions of the detainees while nutritionists calculate the calories in meals to ensure the meals have a good nutritional balance. Every effort to manage the health of detainees is made, for example, necessary medical care by doctors and, in some detention facilities, counselling by clinical psychologists are provided at government expense. Hygiene standards are maintained and bathrooms, living quarters and bedding are also given sufficient consideration.

175. In addition, in recent years, treatment which provides further consideration for the rights of the detainees has been practised. For example, the Regulations for the Treatment of Detainees were partially amended and since April 1999 a system for directly hearing the opinions of the detainees through the opinion boxes placed in the immigration detention facilities has been implemented, which contributes to improvement in the treatment of detainees. In September 2001, the Regulations for the Treatment of Detainees were partially amended again and a new complaint and objection submission system was introduced, which allows detainees who have a complaint about their treatment to submit that complaint to the director of their detention facility, and to submit an objection ultimately to the Minister of Justice. The Regulations for the Treatment of Detainees were further amended in March 2003 and under the revised Regulations detainees are able to have anyone they want visit them during visiting hours and, in some well-equipped detention facilities, are able to freely phone anyone they want without being observed by an immigration officer, if the director of the immigration detention facility deems that it is not necessary for an immigration control officer to be present.

176. The appropriate and fair treatment of detainees has also been enhanced by providing thorough supervision and guidance to the officials of detention facilities, and training programmes on laws and regulations and practical training in the security and treatment of detainees to the immigration control officers whose work involves the security and treatment of detainees.

177. Female detainees are also given special consideration. In the immigration detention centres which have established detention areas specifically for female detainees and in the Tokyo Regional Immigration Bureau, all aspects related to the treatment of female detainees are handled by female immigration control officers. In other regional immigration bureaus, physical examinations, clothing inspections and supervision of bathing of female detainees are carried out by female immigration control officers. If no female immigration control officer is available, the director of the regional immigration bureau designates female officials other than immigration control officers to carry out these tasks. Other treatment of female detainees is also handled by female immigration control officers to the greatest extent possible.

D. Habeas corpus law

178. The habeas corpus system is positioned as an exceptional remedy method with the objective of promptly and simply restoring the personal liberty of someone who has had it unreasonably taken away. Rule 4 of the Habeas Corpus Rules (Supreme Court Rule No. 22 of 1948) makes clear the intent of article 2 of the Habeas Corpus Law stipulating the necessary conditions when applying for remedy based on the principle of the habeas corpus system.

179. The concluding observations of the Committee on the fourth periodic report were distributed to the Supreme Court, and the Government understands that the Supreme Court will continue to carefully study whether or not to repeal the provisions of rule 4 of the Habeas Corpus Rules as the Committee recommended (CCPR/C/79/Add.102, para. 24), in line with the intent of the Habeas Corpus Law and taking into account the rule's consistency with other systems protecting personal liberty.

Article 10

A. Legal framework

180. Since the fourth periodic report was submitted, the Government has maintained the existing legal systems which have been operating through the same frameworks as before.

181. With a view to contributing to the promotion of the social rehabilitation of Japanese sentenced inmates serving their sentence in foreign countries and foreign sentenced inmates serving their sentence in Japan by giving such inmates the opportunity to serve their sentence in their countries of origin, and contributing to the development of international cooperation in the criminal field by realizing improved operation of Japan's judicial system, in February 2003 Japan acceded to the Convention on the Transfer of Sentenced Persons of the Council of Europe and in June 2003, both the Convention and the Law on the Transnational Transfer of Sentenced Persons entered into force in Japan.

B. The right to consultations with defence counsel in criminal custodial facilities

182. The right to consultations is guaranteed by article 39, paragraph 1, of the Code of Criminal Procedure, in accordance with the intent of article 34 of the Constitution. This right is sufficiently respected as a right of suspects and defence counsels (and those who are to serve as defence counsel) in the actual criminal investigation stage. However, this right is not an absolute one and can be restricted if its restriction is compatible with the spirit of the Constitution.

183. Consultations with defence counsel may be restricted, either (a) by exercising the designation of consultations in accordance with article 39, paragraph 3, of the Code of Criminal Procedure, or (b) based on the administrative needs of the facility in which the suspect is detained.

1. Consultation designations in accordance with article 39, paragraph 3, of the Code of Criminal Procedure

184. When necessary for the investigation, a public prosecutor, public prosecutor's assistant or judicial police officer may designate a date, place, and time of consultations, in accordance with the provision of article 39, paragraph 3, of the Code of Criminal Procedure, which states that the public prosecutor, a public prosecutor's assistant and judicial police officer may, when it is necessary for the investigation, designate the date, place and time of consultations and delivery or receipt of things mentioned in paragraph 1 only prior to the institution of prosecution. The said paragraph stipulates, however, that such designation does not unreasonably restrict his/her rights for the defence.

185. The above-mentioned provision was established to keep a balance between the rights to defence of a suspect and the requirements of the investigation. The Supreme Court adopted a decision on 10 July 1978 stating that the designation of a consultation date, time and the like by investigating institutions was an exceptional measure which was unavoidable under certain circumstances, and when the defence counsel and the like sought consultations with a suspect, he/she should, in principle, be granted the opportunity to have such consultation at any time. If such consultation would substantially hinder the investigation - if the suspect is being interviewed by an investigator, or if the presence of the suspect is required during an inspection of the crime scene, observation and so on - the public prosecutor and the like should, after conferring with the defence counsel and the like, designate a date and time for the consultation so as to permit the suspect to meet with the defence counsel as soon as possible. The Supreme Court further stated in two decisions adopted on 10 and 31 May 1991, respectively, that the "substantial hindrance of the investigation" mentioned above should be considered to include not only the questioning of the suspect by the prosecutor or the requirement that the suspect be present during an inspection or observation of the crime scene and so on, but also the fact that the consultation with the defence counsel might disrupt an already scheduled interview of the concerned suspect.

186. Moreover, sufficient consideration is made in the actual exercise of these provisions to ensure that the suspect's right to defence is not unduly restricted. When a public prosecutor foresees the possibility of designating a consultation, he/she is expected to send a notice in

advance to the head of the custodial facility informing him/her of that possibility. In many instances, however, the defence counsel discusses the date, time and so on of consultations with the public prosecutor by telephone and other means of communication and, accordingly, the consultation is duly conducted. If the defence counsel visits the facility directly and seeks consultation with the suspect concerning the case in respect of which the above-mentioned notice has been made, an official of the facility contacts the public prosecutor and the latter decides whether the designation of such consultations is necessary, in accordance with the intent of the foregoing decisions of the Supreme Court. If the public prosecutor does not designate a consultation or designates only the time of the consultation, the defence counsel is allowed to consult with the suspect immediately.

187. A suspect and the like may appeal to the court if he/she is dissatisfied with the designation of the consultation date, time and so on of a consultation designated by a public prosecutor and the like.

188. Concerning the constitutionality of article 39, paragraph 3, main text, of the Code of Criminal Procedure, which provides for the right to designate the date, place and time of consultations, on 24 March 1999 the judges of the Grand Bench of the Supreme Court gave a unanimous ruling to the effect that this provision is not in violation of the former part of article 34, article 37, paragraph 3, or article 38, paragraph 1, of the Constitution.

2. Administrative requirements of the facility

189. With regard to the rejection of a request for consultation attributed to the administrative needs of the detention facility, as described in the third and fourth periodic reports, consultations at midnight, for example, may be rejected unless it is an emergency. This kind of rejection is deemed reasonable owing to the limited human and material resources of the facilities.

190. Article 122 of the Prison Law Enforcement Regulations limits consultations to the regular working hours of penal facilities, and thus recognizes the restriction of consultations with defence counsel based on the administrative needs of these facilities. However, if there is an emergency on days other than regular work days, consultations are permitted under certain conditions in consideration of the importance of such consultations with defence counsel on trial proceedings.

191. Furthermore, in view of the importance of the right to consultations between detainees and defence counsels, etc., police custodial facilities generally accept consideration whenever possible on non-working days and during hours outside the regular working hours of the facility.

C. Treatment in correctional institutions

1. Treatment of sentenced inmates

192. The number of inmates detained in the penal institutions of Japan was 45,525 as of the end of 1993 but had reached 73,734 by the end of 2003, an increase of approximately 62 per cent over that 10-year period. Moreover, the occupation rate of the penal institutions was 71 per cent

as of the end of 1993, but had reached 105.8 per cent by the end of 2003. In particular, the number of sentenced inmates as of the end of 2003 had reached 61,534, equivalent to an occupation rate of 116.6 per cent. Consequently, 58 of the 67 prisons nationwide are exceeding their capacity and 17 of these have an occupation rate exceeding 120 per cent.

193. In addition to this serious issue of overcrowding resulting from the rapid increase in the number of inmates, a high proportion of the sentenced inmates are those who are difficult to manage such as persons involved with organized crime groups and persons convicted for drug offences, and the number of foreign sentenced inmates with different languages, customs and traditions is also increasing.

194. On the other hand, even though the number of officers of penal institutions (personnel capacity) was 17,025 as of the end of FY1993 and had increased by 94 to 17,119 by the end of FY2003, the number of inmates per officer (number of inmates at the end of the year/number of officers at the end of the FY) increased from approximately 2.6 to approximately 4.2 over this 10-year period. A marked increase in the burden rate on officers has been recognized and, therefore, the Government is endeavouring to reduce this burden rate by increasing the number of officers by a total of at least 500 during 2004 and 2005.

195. The Correction Bureau of the Ministry of Justice and one of Japan's human rights NGOs, the Japan Federation of Bar Associations held a study meeting in June 2000 to discuss the treatment of sentenced inmates and have exchanged opinions on a number of occasions since then. In November 2003, their exchanges of opinion concerning all items originally on the agenda were completed.

(a) Classified treatment system

196. In order to achieve the rehabilitation and social reintegration of sentenced inmates, it is necessary to provide treatment tailored to the personal characteristics of the individual inmates, as well as taking into account various environmental and social issues. Scientific studies to clarify the problem areas experienced by individual inmates are called classification examinations. Based on the results of these examinations, a plan for the treatment of the sentenced inmates is drawn up, the inmates are divided into groups to enable effective implementation of the plan, and effective treatment is carried out tailored to the needs of each group, which is called classified treatment. This "classified treatment system" forms the foundation of the treatment of sentenced inmates in Japan.

197. Specifically, when inmates whose sentence has been newly finalized enter a penal institution, a classification examination is carried out. Based on the results of this examination, the allocation category (the category level which will be used as the standard for demarcating the institution in which the inmate will be detained and the section within that institution) and the treatment category (the category level which will be used as the standard for demarcating the priority policies for treatment of the inmate) are determined, and the specific institution in which they will be detained is decided.

(b) Prison work

198. Prison work is a correctional programme important to the correction and social rehabilitation of sentenced inmates. By placing sentenced inmates in a well-ordered work life, the programme helps them keep their bodies and minds in good health, nurtures a work spirit, promotes a disciplined way of life, and raises an awareness of their individual roles and responsibilities within a communal living environment. At the same time, the programme aims at promoting their social rehabilitation by providing them with vocational knowledge and skills.

199. In particular, the vocational training offered as one of the forms of prison work is implemented with the objective of enabling sentenced inmates to acquire the knowledge and skills necessary for work as well as licences and other special qualifications useful for obtaining work after leaving prison. Vocational training is offered in areas such as welding, electrical engineering, automobile mechanic work, information processing, construction machinery, and nursing services. In FY2003, a total of 1,876 inmates completed vocational training.

200. As a result of this vocational training, sentenced inmates have been acquiring licences or other qualifications as welders, electrical engineers, hairdressers, beauticians, information processing technicians and home-care nurses. These licences and qualifications have been very useful for the social rehabilitation of the sentenced inmates. A total of 2,214 sentenced inmates acquired licences or other qualifications of these kinds in FY2003.

201. The standards of the working conditions for prison work must, in principle, be fair and appropriate in the light of those of society at large. Working hours, in principle, are 8 hours per day, for a total of 40 hours per week, and inmates do not have to work on Saturdays, Sundays, public holidays or during the end of year break. In prisons, measures are taken to prevent accidents in all areas of prison work, in line with the “Prison Work Safety and Health Management Guidelines” which conform to the Industrial Safety and Health Law for private companies regulated by the MHLW. As a result, the rate of accidents in Japanese prisons is lower than that in private sector factories. Sentenced inmates are prohibited from chatting during work hours and this measure is a minimum restriction, which is necessary to ensure safety on the job. Conversation necessary to the work is, however, permitted, and talking is not prohibited during breaks.

202. Approximately 90 per cent of the inmates sentenced to imprisonment without work, who have no obligation to perform any specific work, voluntarily perform the same type of work as inmates sentenced to imprisonment with work. This shows that prison work is not carried out under hard conditions.

(c) Life counselling

203. Club activities, counselling, lectures and recreational activities are provided to sentenced inmates to help them foster their physical and mental health, cultivate a spirit of respect for laws, acquire the knowledge and attitude necessary to lead a sound social life, and acquire a richer intellectual, moral and aesthetic appreciation.

204. Moreover, attention is being paid to the behavioural aspects of crime and sentenced inmates are being categorized. For example, life counselling, including education for drug offenders on the harm caused by narcotics and guidance to encourage breaking away from organized crime groups (various special group programmes), are provided and, in recent times, education which takes the point of view of victims into account has been enhanced in particular.

(i) Education for drug offenders on the harm caused by narcotics

205. Penal institutions provide sentenced inmates whose crimes are related to stimulants and other drugs with education on the physical and social harm caused by such drugs and guidance aimed at arousing a spirit of respect for laws. For example, penal institutions are endeavouring to enhance the effectiveness of such guidance by placing offenders convicted of selling drugs and drug users in separate groups and using treatment techniques such as lectures, group discussions and counselling.

(ii) Education for alcoholics on the harm caused by alcohol

206. Penal institutions provide guidance to sentenced inmates who became alcoholics through excessive drinking of alcohol or prolonged drinking and who, as a direct or indirect result, committed crimes. They use methods such as counselling and group discussions to educate inmates on the harm caused by drinking alcohol and to arouse in them a desire to reform and rehabilitate themselves.

(iii) Guidance for breaking away from organized crime groups

207. Separation from organized crime groups is indispensable for rehabilitation of sentenced inmates affiliated with organized crime groups. Therefore, through the entire duration of their imprisonment from entry until release, all penal institutions provide such inmates with individual counselling and guidance to enable them to break away from the related organized crime group, and actively help such inmates find jobs.

(iv) Education on taking the point of view of the victim into account

208. In order to enable sentenced inmates to understand the situation victims have been placed in and their emotional state, and to cultivate a sense of remorse, penal institutions provide guidance using a variety of treatment techniques, such as group discussions and audio-visual materials, and also invite external experts with sufficient knowledge and understanding of victims as teachers to give lectures to groups and meet with inmates to provide them with individual guidance.

(d) Compulsory education

209. A considerable number of sentenced inmates have not completed compulsory education or have insufficient scholastic abilities despite their completion of compulsory education. Such inmates are provided with supplemental education in basic academic subjects. Those who have not completed compulsory education may also take, within the penal institution, the junior high

school equivalency examination for exemption from enrolment in school. Furthermore, with the cooperation of local public high schools, some penal institutions have also established opportunities for inmates to take high school correspondence courses.

(e) Other educational activities

210. Penal institutions carry out correspondence education, guidance from cooperators from outside the institution, guidance prior to release, and provide education to sentenced juvenile inmates tailored to their individual characteristics.

(i) Guidance from cooperators from outside the institution

211. Cooperators from outside the institution, such as volunteer visitors for inmates, offer advice and guidance to sentenced inmates on an individual basis concerning problems related to their rehabilitation, methods for solving problems and other matters. These volunteers, in principle, continue to provide such guidance as necessary until the inmate is released from the institution. This programme is often effective since these volunteers from the private sector, who are enthusiastic and possess rich life experiences, make a deep impression on the inmates and boost their desire for reform.

(ii) Guidance prior to release

212. For smooth social rehabilitation of sentenced inmates, it is necessary to minimize, to the greatest extent possible, the gap between life within the penal institution and life in society after release. For this reason, penal institutions provide sentenced inmates whose date of release is approaching with intensive counselling for a fixed period, to prepare them for release. Specifically, penal institutions provide sentenced inmates with knowledge and information on gaining employment after their social rehabilitation, life and work experiences in general society, and information concerning the probation system and other rehabilitative services. They also make necessary arrangements for the inmates to return to their homes and find methods of earning a livelihood.

(f) Treatment of sentenced juvenile inmates

213. Sentenced juvenile inmates are detained in penal institutions which have been established especially for juveniles, such as juvenile prisons or special areas which have been established within penal institutions, and thereby, are separated from adult sentenced inmates. Taking into account the characteristics of juvenile inmates, their treatment is based on two fundamental principles: “individualization of treatment” and “diversification of treatment content and methods”. The first of these is achieved through the formulation of individual treatment plans and the adoption of a system of individual supervision. The second principle is achieved through such means as provision of individual guidance through meetings with individual sentenced inmates, provision of various special group programmes using a variety of treatment techniques, and measures to encourage juvenile inmates to undertake vocational training. Juvenile inmates aged 14 or over but under 16 detained in juvenile training schools are not required to work, even if they were sentenced to imprisonment with work, but are to receive correctional education.

(g) Communication with people outside the institution

214. It is necessary to provide correctional treatment to sentenced inmates tailored to their individual behavioural patterns and dispositions in an environment in which attention is paid to maintaining relationships with good external people who will contribute to the reform and rehabilitation of the inmates, cutting off interaction with people who will have a negative influence on their reform and rehabilitation. Therefore, in principle, communication by inmates with people outside the institution is limited to that with their relatives. Communication with people outside the institution other than relatives is permitted after taking into consideration the specific needs of individual cases.

2. The life of inmates in the penal institutions

(a) Clothing and bedding

215. Clothing and bedding, such as room clothes, working clothes, underwear, mattresses, blankets and quilts, are lent to sentenced inmates. Unsentenced inmates generally wear their own clothing. If they are unable to do so, however, these items are lent to them.

(b) Meals

216. All inmates are, in principle, provided with meals by the Government from which they can acquire the necessary caloric energy to maintain their health and physical strength, according to their sex, age and type of work assignment by the Government. Unsentenced inmates, however, may, at their own expense, obtain food from outside the institution if they so desire. Since meals provided to inmates are important in maintaining their health, consistent efforts have been made to improve the menus of penal institutions. A review of the menus was undertaken in 1995 to study the ways of further improving the diet of penal institutions. With a view to preventing obesity and lifestyle related diseases, the number of calories in the staple food such as rice and bread is being reduced in stages while the number of calories in main dishes and side dishes is being increased. At the same time, the standard servings of nutrients (protein, vitamins, etc.) are being improved.

(c) Hygiene and medical care

(i) Bathing

217. Inmates may take a bath twice a week (three times in the summer). The bathing time is 15 minutes (20 minutes for females) on average. During the summer, some institutions allow inmates time to wipe down their bodies or take a shower after work each day.

(ii) Exercise

218. Since physical exercise is vital in maintaining the health of the inmates, optimum measures are taken in this regard on all but bathing days. If the weather permits, penal institutions allow outdoor exercise, but on rainy days they provide indoor exercise.

(iii) Physical examinations

219. With regard to physical examinations, periodical physical examinations and measures against lifestyle related diseases are, as in society at large, conducted routinely.

(iv) Medical care

220. Medical care is provided to inmates of penal institutions by doctors and other medical specialists assigned to the premises. When an inmate has a medical condition that is difficult to treat in a general penal institution and which requires specialized medical care, or when the inmate has a medical condition requiring long-term treatment, he/she is sent to an institution with a high concentration of advanced medical equipment and medical specialists, which is called a medical centre or to a medical prison where he/she can receive adequate medical treatment. Some medical prisons have been designated as hospitals in conformity with the Medical Service Law. If proper medical treatment is difficult within the penal institution, either in terms of personnel or equipment, the institution provides appropriate medical care to inmates by such means as having them examined by outside medical specialists, admitting them to outside hospitals and other measures. In addition, as stated below, one of the major items in the improvement of prison administration and management is the enhancement of medical care in penal institutions (see paragraphs 232-235 below). Currently studies are under way looking at ways to enhance medical care even further.

(d) Discipline and order

221. Discipline and order within penal institutions must be maintained strictly in order to maintain a proper environment for the treatment of inmates and a safe and peaceful communal life. The Standard Minimum Rules for the Treatment of Prisoners also regulate that “discipline and order shall be maintained with firmness”. Discipline and order within penal institutions should be “securely” and “unwaveringly” maintained.

222. However, discipline and order in penal institutions should not be strictly maintained without reason. Therefore the Government takes every opportunity to check that the contents of rules in place within penal institutions for the maintenance of discipline and order do not exceed the degree that is judged reasonably necessary in order to achieve their objectives. Efforts are made to manage discipline and order appropriately, for example by amending rules which are deemed to be less necessary in the current security environment to bring them within the necessary range.

(e) Disciplinary punishment

223. In order to appropriately manage a large number of inmates as a group and to ensure their custody by preventing acts like escape, and in order to achieve the objectives of detention in line with the legal position of inmates, it is necessary to appropriately maintain discipline and order within the penal institutions. For this reason, acts that are prohibited within the penal institution are determined in the “Regulations for Inmates”. Inmates who have committed violations of these regulations are subject to disciplinary punishment, provided that penal institutions have

notified inmates of these regulations in advance and have taken sufficient care to ensure that inmates are familiar with these regulations. In this way, penal institutions have established systems to prevent the occurrence of prohibited acts and to maintain discipline and order within the institution.

224. Disciplinary punishment types include reprimands, prohibition of reading books and looking at pictures for up to three months, partial or total curtailment of the calculated amount of remuneration and disciplinary solitary confinement for up to two months. Disciplinary solitary confinement involves confining the inmate to a solitary confinement cell which has the same layout as a standard cell, separating the inmate from other inmates, compelling the inmate to sit in the cell, giving the inmate the opportunity to reflect on his/her behaviour, and encouraging the inmate to feel contrition. It is currently the harshest disciplinary punishment actually imposed. When imposing disciplinary solitary confinement, the inmate is given a physical examination by a medical doctor beforehand, and the disciplinary punishment cannot be implemented unless the doctor certifies that it will not damage the inmate's health. During the period of disciplinary solitary confinement, further physical examinations are carried out by a doctor and when there are special circumstances that will damage the health of the inmate, the solitary confinement is suspended. In these ways, due care is being taken to ensure that the health of the inmates is not damaged.

225. The disciplinary punishment procedure in penal institutions conforms to instructions from the Minister of Justice. After informing the suspect of a breach of discipline of the offence he/she is charged with, the authorities ascertain the facts through questioning of the aforementioned suspect on the facts, sequence of events and other matters pertaining to the circumstances of the case, through reports from the officers of the penal institution, and through questioning of other inmates who witnessed the act. Subsequently, the suspect is made to appear before the disciplinary punishment council composed of executive officers of the penal institution in question, is informed of the acts suspected to be in breach of discipline and is given an opportunity to plead his/her case. The executive officer who has the role of assisting the suspect in question states his/her case on behalf of the suspect in question, and the disciplinary punishment council decides its opinion taking into account the contents of these statements regarding the suspect's case, whether or not the breach of discipline took place, and if so, the motivation, contents and circumstances of any such act, the behaviour and progress of treatment of the suspect in question and the security situation in the penal institution in question. The disciplinary punishment council's opinion is reported to the warden of the penal institution and the warden of the penal institution decides, taking into account the opinion of the disciplinary punishment council and giving comprehensive consideration to the various circumstances pertaining to the case, whether or not to impose a disciplinary punishment and, if a disciplinary punishment is to be imposed, the contents of the disciplinary punishment. In this way, appropriate management of disciplinary punishment procedures that guarantees fairness is ensured.

(f) Confinement in protection cells and use of restraining devices

226. In cases where the inmate is likely to escape, become violent or commit suicide, in cases where the inmate disregards suppression and shouts or makes a lot of noise, or in cases where

the inmate may repeatedly display abnormal behaviour such as making his own cell dirty and it is deemed inappropriate to confine the inmate in question in an ordinary cell, the inmate may be confined in a protection cell (a solitary confinement cell with facilities and a design suitable for the pacification and protection of inmates which have been instituted for this purpose). In cases where the inmate may possibly escape, become violent or commit suicide, restraining devices (handcuffs) are sometimes used. Protection cells, in order to achieve their objective, are designed with soundproofing and strength in structure, contain no equipment, tools or sharp objects that could easily be used to commit suicide and have walls and floors made of soft materials. Confinement in a protection cell is one form of solitary confinement in cases where separation from other inmates is necessary based on laws and ordinances. Confinement in these protection cells or the use of restraining devices is based on related laws and ordinances, and directives have heretofore stipulated that use of these approaches must not exceed limits judged to be reasonably necessary to achieve their objectives in light of the situation at hand. In order to realize the prompt release of inmates under restraining devices or those confined in protection cells, officers must urge inmates to take the necessary steps and make sure that doctors assess the physical and mental condition of inmates, and if necessary, have them undergo a physical examination.

227. Leather handcuffs, which were used as one of the restraining devices (handcuffs composed of a leather band and cylindrical leather bracelets attached to the band to fix both wrists), were abolished on 1 October 2003 in consideration of the case that, as mentioned before, prison officers of Nagoya Prison were prosecuted for “causing death or injury through violence or cruelty by a special public official” on the suspicion that they seriously injured or caused the death of inmates by tightening leather handcuffs and using other force. Instead of leather handcuffs, new handcuffs which restrain only the wrists without being fastened to the stomach have been introduced. Therefore, the new handcuffs ensure a higher degree of safety when compared to the old ones in that they do not restrain body parts other than the wrists. In addition, in order to ensure appropriate and safe use of the new handcuffs, clear guidelines are provided and training and workshops for prison officers are undertaken to reinforce proper implementation. The guidelines indicate that prison officers are authorized to use the new handcuffs on inmates only if solitary confinement is not enough to prevent inmates from committing violence or suicide, and that officers should not use the new handcuffs in a way that will cause harm to the inmates.

(g) Objection submission system

228. There is a petition system which allows inmates in penal institutions who are dissatisfied with the action of the institution to petition the Minister of Justice or an official from the Ministry who is visiting the institution for an inspection and who has received such order from the Minister of Justice (Prison Law, art. 7). The petition system covers objections across the full spectrum of treatment in penal institutions and objections are to be made in writing to the Minister of Justice or in writing or verbally to a public official visiting the institution for an inspection. The right to make an objection anonymously is guaranteed for inmates (Prison Law Enforcement Regulations, art. 4, para. 2, and art. 6). Concerning petitions to the Minister of Justice, after the Minister has examined the petition, in principle the Correction Bureau does a detailed study of the contents of the objection but, depending on the contents of the objection,

and based on instructions from the Minister, the Human Rights Bureau may conduct an investigation, in order to review operations and thereby, increase their effectiveness. Upon verifying the facts based on the investigation and after giving sufficient consideration, the petition will be processed and the petitioner will be notified of the result. If during then it is determined that officers have treated inmates in an inappropriate way, the officers in question will be subject to disciplinary action or criminal prosecution.

229. A system which grants interviews with the warden of the penal institution has also been established. Under this system, the warden shall grant interviews to inmates who wish to seek remedies or advice concerning their treatment by officers of the institution or their personal affairs (Prison Law Enforcement Regulations, art. 9).

230. Additionally, inmates can file an objection with investigating institutions using the methods of filing a criminal charge or declaring a human rights violation, and can seek a prompt and fair study of their treatment. It is also possible for inmates to bring a civil suit or administrative suit.

231. As stated in paragraphs 232 to 235 below, review of the objection submission system is one of the major items for improving prison administration and management. The Government has received the recommendations of the Correctional Administration Reform Council and is currently conducting studies on reform measures.

- Prison Law, article 7: If an inmate is dissatisfied with an action of the prison, he/she may petition to the Minister of Justice or a public official visiting the prison for inspection, in accordance with the provisions of a Ministry of Justice ordinance;

- Prison Law Enforcement Regulations, article 9: The warden shall grant interviews to the inmates who request to make statements of their complaints concerning the treatment in the prison or their personal affairs. In case an inmate has notified beforehand of making a statement of his/her complaints mentioned in the preceding paragraph, his/her name shall be entered in the interview record and after having an interview with him/her in order of entry, the warden shall write the outline of his/her opinion given to the inmate in the interview record.

3. Improvement of prison administration and management

232. Concerning improvement of prison administration and management, the Government has been taking necessary measures, such as a review of the rules within penal institutions, taking into consideration the efforts aimed at amending the Prison Law and the items of concern that arose during the consideration of the fourth periodic report. While such measures are being undertaken, as stated above, there have been intensive debates at the Diet and on other occasions on how prison administration and management should be reformed, which were prompted by the trial of the Nagoya prison officers charged with causing death or injury through violence or cruelty by a special public official. In the light of these debates, the Ministry of Justice is currently formulating new prison administration and management improvement policies.

233. The major measures taken to improve prison administration and management to date include, as stated above, enhancing human rights training for officers working in penal institutions, ending the use of leather handcuffs and introducing new restraining devices that take the safety of the inmate into due account, and reviewing the method of processing petitions from inmates to the Minister of Justice.

234. Moreover, in order to study the improvement of prison administration and management from a wide range of perspectives, the Government launched the Correctional Administration Reform Council comprised of private sector experts from a variety of fields. The Council ascertained the state of prison administration and management by conducting hearings with NGOs and other organizations and questionnaires to sentenced inmates and prison officers and held debates on various issues including: (a) treatment in prisons including systems for discipline and punishment; (b) securing of transparency through public disclosure of information and the objection submission system; and (c) medical care and organizational structure such as improving the standard of medical care and improving the working environment of officers. In December 2003 the Council released its recommendation report entitled “Prisons that gain the understanding and support of the citizens”. The report contained a number of recommendations concerning the fundamental direction of correctional administration reform. The goals of these recommendations were to (a) respect the humanity of sentenced inmates and aim for genuine improvement, reform and social rehabilitation; (b) reduce the excessive burden on prison officers; and (c) realize prison administration that is open to the public inspection. Specifically, the recommendations of the report include:

(a) A review of the approach to discipline in prisons;

(b) The development of a system to provide human rights remedies;

(c) Raising the standards of correctional medical care;

(d) The increase of communication with the outside world;

(e) The clarification of the official authority of the officers;

(f) The establishment of the Penal Institutions Inspection Committee (provisional name);

(g) The promotion of public disclosure of information and cooperation with regional communities.

235. The MOJ, based on the above recommendations from the Correctional Administration Reform Council, has launched the Correctional Administration Reform Promotion Committee in order to steadily realize correctional administration reform and the Ministry as a whole is currently making great efforts to promote reform. The Ministry has already begun work on policies that can be implemented immediately, such as review of the rules in penal institutions and review of the specifications of protection cells, and such measures as recording on video all cases of protection cell confinement with the footage being stored for a certain length of time,

and regularly disclosing information related to the treatment of sentenced inmates. Furthermore, the Ministry is continuing its efforts to amend the Prison Law (established in 1908), the most important issue in the realization of correctional administration reform.

D. So-called "substitute prisons"

1. Police detention system

236. In Japan there are approximately 1,300 police custodial facilities. The facility detains suspects arrested in accordance with the Code of Criminal Procedure, as well as unsentenced inmates detained by a detention warrant issued by a judge in accordance with the Code of Criminal Procedure. In 2003 approximately 190,000 suspects were detained in custodial facilities. Except when the arrested person is released, the suspect is brought before a judge pursuant to a request for detention from a public prosecutor, and the judge decides whether the detainee should be held in custody or not.

237. As regards the place of detention, the Code of Criminal Procedure (art. 64, para. 1) provides that suspects should be detained in prison. The Prison Law stipulates that the police custodial facility may be substituted for a prison (art. 1, para. 3). This system of using the police custodial facility as the place of detention instead of a prison is called the "substitute prison system". The place of detention, whether it is to be a house of detention or a police custodial facility, is not regulated by the Code of Criminal Procedure. Instead, the judge determines the place of detention upon request by a public prosecutor by taking into consideration the various circumstances of each case (Code of Criminal Procedure, art. 64, para. 1).

2. Life in police custodial facilities

238. Aspects of life for detainees in police custodial facilities are described in concrete terms below. The human rights of detainees are sufficiently guaranteed and they are treated in compliance with the purpose of the Standard Minimum Rules for the Treatment of Prisoners. Efforts are constantly made to improve and enhance both the facilities and the equipment of the custodial facilities to make the living environment more comfortable. Moreover, efforts are made continuously to further enhance measures to protect the human rights of detainees through improvements in food and the promotion of treatment respectful of the special needs of foreign detainees and female detainees.

(a) Design of the custodial facilities

239. Rooms are designed in such a way as to protect the privacy and human rights of the detainees. For example, the front of the room is covered by an opaque board so that prison guards cannot constantly view the detainees and the toilet in the room is a cubicle surrounded by walls with a cover to prevent odours. Considering the Japanese custom of sitting directly on tatami mats (Japanese style mats), the floor of the cell is covered with a carpet or tatami mat so that detainees are able to continue this same lifestyle even in their detention rooms. In order to provide proper treatment to detainees, standards are in place to ensure that detention rooms have the same amount of space as cells in correctional institutions.

240. In order to maintain the health of detainees and improve their treatment, installation of the following items is being promoted for all custodial facilities nationwide: fully automatic washing machines, clothes dryers, futon dryers, humidifiers, showers, refrigerators and hand disinfectors to prevent the spread of infectious diseases. Custodial facilities take measures to ensure adequate ventilation and natural light, and a comfortable temperature is maintained 24 hours a day through the use of heaters and air conditioners.

(b) Behaviour during detention

241. The detainee's behaviour is not restricted in his/her room, as long as it does not hinder the peace of other detainees or is directed against the purpose of his/her detention. Resting or lying down outside regular sleeping hours is permitted.

(c) Maintaining the health of detainees

242. About 30 minutes are earmarked each day to maintain the health of detainees by enabling them to exercise in an outdoor exercise area adjacent to their custodial facilities. The exercise area is no less than 10 square meters in size, open to sunlight and fresh air. Exercise time may be extended to more than one hour at the detainee's request.

243. Room lights are dimmed during regular sleeping hours so as not to hinder sleep.

244. Efforts are made to conduct interviews during regular working hours (normally from 8.30 a.m. to 5.15 p.m.). Even when interviewing is conducted outside regular working hours, if such interviewing continues past the set hour for going to sleep (usually around 9 p.m.), as regulated in the custodial facility's time schedule, the custodial section will request the investigating section to terminate the questioning. Moreover, if the detainee is delayed in going to sleep because of interviewing, compensatory measures, such as delaying wake-up time the following morning, are taken to ensure that the person has adequate sleeping time.

245. Doctors employed part-time by the police perform health examinations of detainees twice each month. In the event that the detainee is injured or ill, available medicines are administered and the detainee is examined without delay by a doctor, paid for with public funds. If a detainee wishes to be examined by a doctor of his/her choice at his/her own expense, regular visits on an outpatient basis are allowed. All possible measures are taken to ensure that the health of detainees is not harmed as a result of their detention in police custodial facilities.

246. Meals are provided three times a day. Meals are checked regularly by qualified dieticians to ensure that they are sufficient in light of the standard living situation and so on, and a good nutritional balance is maintained. Detainees are also allowed to purchase from the outside, at their own expense, meals or goods such as bread, fruit, candy, milk products and so on. They may also receive such goods from outside.

(d) Purchase of daily necessities

247. Food, clothing and other daily necessities may be purchased at the detainee's own expense, or it may be sent to him/her.

(e) Consultations and correspondence

248. Guaranteed are, in principle, consultations with a defence counsel and the like and the delivery of letters to and from them. Visits and correspondence with family members and other persons are also guaranteed as a general rule, except when the court imposes restrictions to achieve the purposes of detention.

249. Rooms for meetings are provided to enable the detainee to meet comfortably with multiple defence counsels or family members, and measures are taken to ensure that conversation during consultations cannot be heard outside the room. These measures are taken to better guarantee the detainee's right to secrecy between himself/herself and his/her defence counsel.

(f) Reading of newspapers and books

250. Detainees are permitted, free of charge, to read daily newspapers and books, which are kept on the premises. They may also listen to the news, music programmes and the like on the radio during set hours each day, for example, during meals.

251. Every fiscal year, new copies of the *Roppo Zensho* (compendium of laws), which contains international rules including the Covenant, are purchased and kept at the custodial facilities and efforts are thereby being made to take into consideration the exercise of the right to defence by the detainees.

(g) Physical searches and examinations for injuries and illnesses

252. Within the limits necessary to ensure the safety of the detainees and maintain order within custodial facilities, officials in charge of detention carry out physical checks of detainees when they arrive for detention and whenever they leave or enter the facility. Verbal and visual confirmation is made of the detainee's health condition in addition to confirming that the detainee does not have in his/her possession any weapon or dangerous object. The necessary measures are taken, such as having the detainee examined by a physician, if the detainee states that he/she has an illness or injury, or when there is the possibility of him/her having an illness or injury.

(h) Treatment of detainees of foreign nationality

253. In order to provide appropriate treatment to detainees of foreign nationality, work is in progress to equip custodial facilities with a CD-ROM-based "detention procedure notification device" capable of providing abundant sample sentences in both oral and written form in 14 different languages (English, Mandarin Chinese, Cantonese Chinese, Thai, Tagalog, Urdu, Spanish, Persian, Korean, Malay, Bengali, Russian, Vietnamese and Burmese). Custodial facilities are also giving due consideration to the customs of foreign detainees with respect to diet, religious activities and other factors to the greatest extent possible. Based on article 36, paragraph 1 (b) of the Vienna Convention on Consular Relations, in cases where a foreign national is under arrest, in prison, custody or detention, the competent authorities in Japan will inform the consular post of the sending State, the country the detainee is a national of, if he/she so requests.

Treatment of female detainees

254. Adequate consideration is given to the treatment of female detainees to meet their special needs, although no formal distinctions are made between males and females relative to the fundamental conditions of their treatment while in the police custodial facility. Female detainees are kept separate from male detainees, and neither group can see the other. Measures are also taken so that males and females do not encounter each other during exercise, or when entering or leaving the facility. Physical searches of female detainees and monitoring of their baths are conducted only by female police officers or female officials. Consideration is also given to the treatment of female detainees to enable them to use cosmetics such as lotions, creams, hair dressing and combs, hair brushes in washrooms and so on, as may be necessary for their personal grooming. Waste baskets and so on are provided to allow the detainees to directly dispose of any used sanitary napkins.

255. Since it is desirable for female detainees to be provided the treatment by female police officers, the Government is advancing the placement of female police officers who are on duty at all times and the establishment of custodial facilities exclusively for females. To date 43 female-only custodial facilities have been established.

256. Finally, juvenile detainees are detained in separated areas so that they will not be negatively influenced by adult detainees, and in the same way as for female detainees, measures are also taken so that juvenile and adult detainees cannot see each other and do not encounter each other during exercise, or when entering or leaving the facility.

3. Separation of investigation and detention

257. There is a strict separation between the police section in charge of the treatment of detainees and the section in charge of criminal investigations. This is necessary to guarantee the human rights of detainees. The treatment of detainees is carried out solely according to the responsibility and judgement of personnel from the detention section, and it is prohibited for investigators to enter police custodial facilities and interfere in the treatment of detained suspects. The interview of suspects is conducted in interview rooms outside the detention facilities.

258. The section in charge of the treatment of detainees falls under the command of the chief detention officer of the administrative section which is not in charge of investigations. The section is overseen by the Detention Administration Division of the Police Headquarters and the Detention Administrative Officer of the National Police Agency.

259. The specific measures to separate investigation and detention are outlined below. The official in charge of detention administration at the National Police Agency and his/her staff, make nationwide regular visits to police custodial facilities to make sure that rules are thoroughly enforced. If a police officer should do anything improper in violation of the following policies, severe punishment is meted out.

(a) Notification at the start of detention

260. New detainees are informed at the start of their detention that the treatment of detainees is carried out completely by those in charge of detention tasks.

(b) Checks upon entering and leaving the custodial facility

261. When the detainee is to be taken out of the custodial facility as required for the investigation, the chief investigator, after actually checking the necessity of each case, makes a written request to the chief detention officer and then the transfer is made with the approval of the chief detention officer. Each responsible official in charge of the investigation and of the detention checks to ensure that an investigator does not do anything improper, such as interfere in the treatment of the detainee. The time of departure and entry are recorded in the ledger prepared by the detention staff on all detainees. Due to the rigid checks carried out by the detention section, it is impossible for an investigator to arbitrarily take a detainee out of the custodial facility. This record may be submitted in court if deemed necessary and reasonable in light of the proceedings of the trial.

(c) Preservation of daily routine

262. Efforts are made to preserve the detainee's regular daily routine. The chief detention officer may, when necessary, request the chief investigator to suspend the interview or other investigative activities in order to avoid hindering the daily routine in terms of eating, sleeping and other activities.

(d) Provision of meals

263. Meals are one of the most important aspects in the treatment of suspects. Investigators are not allowed to make them have meals in interview rooms.

(e) Visits and items sent to detainees

264. The handling of visits and receipt of items from outside the facility is the work of the detention section. Therefore, even if a request regarding those matters is made to an investigator, the request will not be handled by the investigator, and the detention section will invariably take immediate charge of such matters.

(f) Physical searches of detainees, searches of their belongings, and storage of belongings

265. Physical searches of detainees, searches of their belongings, as well as the storage thereof, are carried out under the responsibility of the chief detention officer. It is not permitted for an investigator to attend such searches or to store such possessions.

(g) Transfer of detainees

266. Transfers of the detainee from the police custodial facility to the public prosecutor's office for the prosecutor's investigations, or from the police custodial facility to a medical facility for

medical treatment are conducted under the responsibility of the chief detention officer. In principle, the detainee should be escorted by an employee of the administrative section who primarily deals with the detention section, not an employee of the investigating section.

4. Education for employees in charge of detention work

(a) Education for high-level officials at prefectural police headquarters

267. At the National Police Agency, education concerning the administration and management of appropriate detention work taking the Covenant into consideration is provided over a period of approximately 10 days to high-level officials at prefectural police headquarters, who are responsible for general supervision of employees in charge of detention work in police stations.

(b) Education for employees in charge of detention work

268. Prefectural police provide education concerning appropriate treatment of detainees, taking the Covenant into consideration, over a period of approximately 10 days to employees in charge of detention work in police stations, who rank below assistant police inspector.

Article 11

269. As stated in the fourth periodic report (CCPR/C/115/Add.3, para. 144).

Article 12

A. The system of re-entry permission provided for in the Immigration Control and Refugee Recognition Act

270. A foreign national who has been granted re-entry permission is not required to possess a visa when seeking to land in Japan (Immigration Control and Refugee Recognition Act, art. 6, para. 1, provisory clause). Furthermore, even though it is necessary for such foreign national to have his/her passport endorsed by a stamp of permission for landing, it is not necessary for the status of residence and period of stay to be newly determined by the immigration inspector (art. 9, para. 3, provisory clause), in which case the previous status of residence and period of stay for such foreign national deemed to have been maintained after his/her re-entry into Japan. However, re-entry permission does not guarantee that permission for landing will be actually granted. Even if a foreign national has been granted re-entry permission, except for special permanent residents, the foreign national shall not be given permission for landing when he/she has fallen under any of the categories to be denied permission for landing while outside of Japan (art. 5).

271. With regard to special permanent residents, in order to take into consideration their historical backgrounds and to further stabilize their legal status in Japan, a few special cases are stipulated under the Immigration Special Law. Concerning re-entry permission: (a) when a special permanent resident receives re-entry permission and lands in Japan, no examination will be made of whether there are any circumstances requiring a denial of landing and if the special permanent resident meets the condition of holding a valid passport, he/she will be able to receive

a landing permission stamp from the immigration inspector (Immigration Special Law, art. 7); and (b) the general period of validity for re-entry permission is three years but for special permanent residents it is four years (Immigration Special Law, art. 10, para. 1). Furthermore, article 10, paragraph 2, of the Immigration Special Law stipulates that the Minister of Justice must respect the intent of the Immigration Special Law to contribute to the stability of the lives of special permanent residents in Japan.

B. Present-day policies of Japan on refugees

272. Japan's refugee recognition system was established on 1 January 1982 and has been operating since then but the conditions affecting Japan's refugee recognition system have changed substantially as a result of changes in the international climate in recent years.

273. In order to appropriately respond to these changes, the Government reviewed its refugee recognition system and submitted the Law for Partial Amendment of the Immigration Control and Refugee Recognition Act (hereafter to be referred to as the "Amended Immigration Control and Refugee Recognition Act") to the 159th Diet Session, which was passed on 27 May 2004. The law includes the establishment of a system for permitting provisional stay, the stabilization of the legal status of foreign nationals who have been recognized as refugees, and a review of the objection submission system.

274. The Amended Immigration Control and Refugee Recognition Act was promulgated on 2 June 2004, and it is to enter into force on a date determined by a cabinet order within one year of the date of promulgation of the law. The newly established system for permitting provisional stay was put in place to stabilize the legal status of illegal foreign residents who have filed an application for recognition of refugee status. Under this system, the Minister of Justice will grant permission for provisional stay to foreign nationals, who satisfy certain requirements such as (a) they filed an application for recognition of refugee status within six months from the date they landed in Japan; (b) they entered Japan directly from a territory where they had a well-founded fear of being persecuted; and (c) they have not been sentenced, after entering Japan, to imprisonment with or without work for a crime stipulated in the Penal Code or other laws. In such cases the procedures for compulsory deportation will be suspended and the procedures for recognition of refugee status will take precedence and be carried out.

275. Moreover, in order to realize early stabilization of the legal status of foreign nationals who have been recognized as refugees, the status of residence of "Long Term Resident" will be granted to those who came to Japan directly from a territory where they were likely to be persecuted, made an application for recognition as a refugee in Japan without delay, thus, are considered to be especially in need of protection, and if they satisfy certain other requirements.

1. Refugees as defined in the "Convention relating to the Status of Refugees" and the "Protocol relating to the Status of Refugees"

276. As of the end of 2003, Japan has recognized 315 foreign nationals as refugees among 3,118 applicants applied for refugee status, while 402 applicants withdrew and 2,230 applicants denied.

2. Refugees from Indochina

277. Concerning refugees from Indochina, the Government had accepted Vietnamese nationals living in Viet Nam who wished to enter Japan in order to reunite with their families based on the "Memorandum of Understanding on an Orderly Departure Programme" concluded between the Office of the United Nations High Commissioner for Refugees and the Government of Viet Nam on 30 May 1979, however, acceptance of applications to bring families over from Viet Nam was duly ended on the end of March 2004 under a Cabinet approval dated 14 March 2003.

278. As of the end of 2003, the total number of refugees from Indochina who were granted long-term residency in Japan was 11,087.

3. Law concerning the measures for protection of the civilian population in armed attack situations

279. The Civilian Protection Law (details in paragraph 125 above) contains the provisions regarding the measures national and local governments should take to evacuate residents in order to protect their lives, bodies and assets from an armed attack in armed attack situations. While some of these provisions restrict the movement of people, they were established into law as necessary and essential measures for protecting the lives, bodies and assets of people in times of national emergency, including armed attack situations.

Article 13

280. Deportation of foreign nationals from Japan is implemented in accordance with the Immigration Control and Refugee Recognition Act, which stipulates the grounds and procedures for deportation (see annex IX).

281. The Immigration Control and Refugee Recognition Act clearly established the ground for deportation. The procedures under the Act aim at confirming whether a suspected ground for deportation in fact exists, while simultaneously allowing the suspect to present his/her objections. More precisely, a foreigner who has been found liable for deportation by an Immigration Inspector on one or several grounds established in the Act, may request an oral hearing before a Special Inquiry Officer if he/she objects to the Immigration Inspector's finding. Furthermore, if the foreigner objects to the Special Inquiry Officer's decision that a ground for deportation does not exist, he/she may file an appeal with the Minister of Justice requesting a final decision by the Minister of Justice.

282. These procedures, which are often called "preliminary procedures", take place before a final decision on deportation is taken. No actual deportation is carried out during these procedures. In addition to full protection provided by this three-stage preliminary procedure, the foreigner whose deportation has finally been decided under the above-mentioned procedure, may seek judicial relief under Japan's judicial system to contest an administrative decision.

283. Moreover, the above-mentioned oral hearings offer the suspect opportunities to present his/her opinions or introduce exculpatory arguments and evidence. The suspect may appoint an attorney and receive his/her assistance.

284. Although there are no clearly-stated provisions in the Immigration Control and Refugee Recognition Act concerning the use of language interpreters in carrying out the deportation procedures, the Immigration Bureau is fostering officers to gain suitable language proficiency through language training, and the officers provide interpretation if their language proficiency is sufficient. In cases where the foreign national can only understand a particular minority language and it is deemed difficult for officers of the Immigration Bureau to do the interpreting, the Bureau employs external interpreters in carrying out the deportation procedures.

285. The foreign nationals are subject to the deportation procedures in such a way that sufficiently respects their human rights. When drawing up a deposition or other statements, after making a record of the testimony, the testimony is read out loud to the foreign national through an interpreter and the foreign national himself/herself verifies that there are no errors in the deposition.

A. System for appeal against denial of permission for extension of period of stay or change of status of residence

286. When permission for extension of the period of stay or change of the status of residence is denied, the reasons for the denial are written, as specific as possible, in the Denial of Permission Notification Letter and the applicant himself/herself is notified. In cases where during the period of stay there has been a change or improvement with respect to the points that constituted the reason for denial of permission, it is possible to reapply. As a means of lodging an objection to the denial of permission, the foreign national can file a suit in court seeking to have the decision overturned.

B. Immigration administration not subject to the administrative procedure law

287. The Administrative Procedure Law provides that the provisions of chapters 2-4 of the law shall not apply to the “dispositions and administrative guidance concerning entry and departure of foreign nationals, recognition of refugees, and naturalization” (art. 3, para. 1, item 10). This provision is included because there is a distinctive procedure tailored to the special nature of the rights possessed by people subject to the dispositions stipulated in item 10. However, as stated in the fourth periodic report, the foreign nationals in question are given an opportunity to present their opinions and explanations or to introduce exculpatory arguments and evidence and therefore, as mentioned above, dispositions are carried out using fair procedures through such means as notifying foreign nationals of the grounds for the disposition.

Article 14

A. Legal framework

1. Amendment of the Code of Civil Procedure

288. Concerning the proceedings for civil law suits, as stated in the fourth periodic report, a new Code of Civil Procedure was approved in June 1996 and entered into force from January 1998. The major points of reform in the new code were: (a) improvement of procedures for

consolidating points of contention and evidence; (b) expansion of proceedings for gathering evidence; (c) creation of small-claims suit proceedings; and (d) improvement of the system of appealing to the Supreme Court.

289. Subsequently the Code of Civil Procedure was amended again in June 2001 in order to further expand evidence-gathering procedures, in July 2003 in order to enhance and speed up civil trials to make them easier for people to utilize, and in December 2004 in order to make it possible for a suit to be filed online.

2. Amendment of the Juvenile Law

290. The procedure in juvenile cases is as stated in the part on article 14.4 of the second periodic report (CCPR/C/42/Add.4). Japan's Juvenile Law firmly adheres to the basic policy of fostering the sound development of juveniles.

291. In November 2000 the Juvenile Law was partially amended. In the light of the disturbing trend in juvenile crimes, such as the frequent occurrence of serious crimes by juveniles, it was decided that in a case where a deliberate criminal act committed by a juvenile aged 16 or over causes the death of a victim, in principle, the juvenile is to be subject to criminal disposition rather than protective measures (Juvenile Law, art. 20, para. 2). This was done to cultivate the awareness of social norms in juveniles, make juveniles and their guardians aware of their responsibilities as members of the community and thus foster the sound development of juveniles, by making clear the principle that even a juvenile will be subject to criminal disposition for the extremely immoral act against social norms of taking an irreplaceable human life with a deliberate criminal act.

292. In order for the family courts to provide appropriate treatment to juveniles, and thereby ensure the trust of the people towards this process, it is first of all important that the facts of the case are established fairly. Therefore legislation to make the fact-finding processes fairer was approved. For example, in juvenile protection cases, a panel consisting of three judges may be employed (Court Organization Law, art. 31.4, para. 2). Moreover in certain cases the public prosecutor can participate in the fact-finding process of the family court (Juvenile Law, art. 22.2) and in such case, if the juvenile does not have an attendant who is a lawyer, the family court must appoint a lawyer as an attendant for the juvenile (Juvenile Law, art. 22.3, para. 1).

3. Adoption of the Civil Legal Aid Law

293. Under the Civil Legal Aid Law adopted in April 2000, the contents of civil legal aid services and the responsibilities of the national Government, bar associations and other organizations with respect to those services are made clear in the law. Civil legal aid services are provided through a system under which public-service corporations providing such services can be designated (designated corporation system).

294. The system for civil legal aid services is significant in intending to substantially guarantee the "right of access to the courts" as stipulated in article 32 of the Constitution of Japan. It is an aid system that temporarily provides legal counselling and covers lawyer's fees for those (including foreign nationals legally residing in Japan) who are unable to consult with a lawyer or pursue a civil law suit due to their limited financial means.

295. In principle, disbursements must be repaid in full. However, in cases involving circumstances such as the inability to acquire payment of money or other assets from the other party, repayment can be deferred temporarily or excused. The main body for implementing legal aid activities in Japan is the Japan Legal Aid Association (JLAA), which was designated as such by the provisions of article 5 of the Civil Legal Aid Law. The Government endeavours to ensure the appropriate administration of legal aid services by providing subsidies to designated corporations and overseeing their operations.

296. The number of cases in which people receive assistance through civil legal aid (excluding legal counselling) is increasing every year. In FY2003, there were 42,997 such cases.

B. Disclosure of evidence to the defence counsel

297. In cases where a public prosecutor intends to question witnesses, expert witnesses, interpreters or translators in court, that public prosecutor must give the defendant and the defence counsel an opportunity to know the names and addresses of those witnesses in advance. In cases where a public prosecutor intends to submit evidential documents or articles of evidence for examination in court, that public prosecutor must give the defendant and the defence counsel an opportunity to peruse them in advance of the court procedures. In addition to this, the court, based on its authority to preside over a lawsuit, can order disclosure of evidence possessed by the public prosecutor. Actually, the public prosecutor examines whether or not disclosure of evidence is necessary, and the timing and extent of such disclosure in light of the facts of the case and, when appropriate, discloses evidence deemed to be reasonably necessary for the defence of the defendant. If there is a difference of opinion between the public prosecutor and the defence counsel, the matter is to be decided by the court.

298. In this way the opportunity for the defendant and the defence counsel to receive disclosure of the evidence necessary to prepare for trial is already guaranteed, but in May 2004 the Law for Partial Amendment of the Code of Criminal Procedure was approved, as a policy to enhance and speed up criminal trials by expanding the disclosure of evidence by the public prosecutor. The law aims to enable sufficient consolidation of the points of contention, and to allow the defendant to make sufficient preparations for his/her defence by establishing pretrial procedures to consolidate the points of contention and evidence for the case prior to the first trial date. Concerning evidence that the public prosecutor intends to submit for examination in court (hereafter to be referred to as “evidence submitted by the public prosecutor”), the amendment law states that in cases where a public prosecutor intends to question witnesses that public prosecutor must give the defendant and the defence counsel the opportunity to know the names and addresses of the witnesses, and the opportunity to peruse and make a copy of the written testimony of the witnesses, that makes their intended court testimony clear (in the case of the defendant, only the opportunity to peruse the written testimony). In cases where a public prosecutor intends to submit evidential documents or articles for evidence in court, that prosecutor must provide an opportunity to the defendant and the defence counsel to peruse and make copies of that evidence. The same is true for the evidence other than evidence submitted by the public prosecutor to the court, when it is deemed appropriate to be disclosed after weighing the necessity for disclosure and the harm caused by disclosure of evidence of a certain type

important for determining the probative force of evidence already submitted by the public prosecutor, and evidence related to assertions made evident by the defendant and the defence counsel. Furthermore, if contention arises between the public prosecutor and the defence over the necessity for the disclosure of evidence, a neutral and fair court will arbitrate the matter.

299. The investigation records of criminal cases include a multitude of documents gathered as a result of wide-ranging investigative activities. The records include not only documents that have no bearing on the points of contention of the case but also documents that could damage the privacy or reputation of the people involved and make it impossible to gain their cooperation in future investigations if such evidence were to be disclosed. For this reason, it is not appropriate to impose a general obligation on prosecutors to disclose evidence other than evidence they plan to submit in the trial or to grant a general right for disclosure of evidence to the defence.

Article 15

300. As stated in previous reports.

Article 16

301. As stated in previous reports.

Article 17

A. Protection of personal information

1. Enactment of the Act on the Protection of Personal Information and four relevant laws

302. As a systematic foundation that allows everyone to enjoy the benefits of a highly information-communications society with a sense of security, the Act on the Protection of Personal Information, which includes stipulation of the Basic Philosophy for protection of personal information in the public and private sectors, and four relevant laws were approved in May 2003.

2. Others

303. Under the amendment to the Employment Security Law of July 1999, Public Employment Security Offices, employment agencies, etc. should collect, store and use the personal information of those seeking jobs, workers, etc. only within the scope necessary to achieve the goals of their services and should take the measures necessary in order to appropriately control that personal information (Employment Security Law, art. 5-4).

304. In accordance with the law, guidelines have been established to ensure proper treatment concerning the handling of the personal information of those seeking jobs, etc. by employment agencies, etc. The guidelines stipulate that personal information must be collected with legal and fair methods.

305. Since there is a significant risk that illegal background checks carried out by credit agencies would encourage discrimination with respect to marriage, dating and gaining employment, in cases where a human rights infringement has been confirmed the human rights organs under the MOJ carry out an appropriate response based on the facts of the case. For example, they instruct and urge the perpetrator and the persons concerned to have respect for human rights.

B. Compensation for eugenic sterilization operations

306. Until the amendment of 1996, it was stipulated under the former Eugenic Protection Law (Law No. 156 of 1948) that eugenic sterilization operations without their consent should be performed on people with genetic mental illnesses and other diseases for whom the operations were deemed necessary in the public interest, after undergoing a strict procedure of investigation by a prefectural eugenic protection commission, a second investigation by the Council on Public Health and any court appeals made by the person him/herself.

307. The Eugenic Protection Law was amended by the Law to Partially Amend the Eugenic Protection Law (Law No. 105 of 1996), and such provisions concerning eugenic operations without the patient's consent were deleted. However, there was no provision for retrospective compensation for operations legally performed based on the former Eugenic Protection Law before it was amended.

308. Even under the former Eugenic Protection Law prior to its amendment by the Law to Partially Amend the Eugenic Protection Law, hysterectomies were not permitted as a eugenic surgical procedure regardless of whether or not the patient consented. In addition, under the post-amendment Maternal Protection Law, performing both sterilization operations by reasons of disabilities of the patient and sterilization operations without the consent of the patient are not permitted.

Article 18

309. As stated in previous reports.

Article 19

A. Restrictions on freedom of expression

1. Textbook authorization

310. Japan follows the textbook authorization system under the School Education Law for textbooks which serve as the principal teaching materials in courses taught in elementary, junior high and high schools. Under this system the Minister of Education, Culture, Sports, Science and Technology examines textbooks which have been written and edited in the private sector and decides whether they are appropriate as textbooks. Those which are deemed acceptable are to be used as textbooks.

311. The demands to guarantee the right of nationals to receive an education at elementary, junior high and high school levels are as follows:

(a) The maintenance and enhancement of education levels nationwide;

(b) The guarantee of equal opportunity in education;

(c) The maintenance of appropriate educational content; and

(d) The guarantee of neutrality in education.

312. The textbook authorization is carried out to meet these requirements. It merely prohibits the publication of textbooks as primary teaching materials if such books contain material which is recognized to be inappropriate. Since the textbook authorization does not interfere in any way with the publication of books for general use, such restriction on the freedom of expression is within the limits of rationality and necessity. This line of thinking was also apparent in the decision handed down by the Supreme Court on 16 March 1993 and has also been supported in subsequent court decisions.

2. Restrictions on mass media (freedom of reporting)

(a) Broadcast

313. As stated in the fourth periodic report.

(b) Newspapers

314. There exist no laws regulating newspaper reporting. Newspaper companies in Japan have established the Newspaper Ethics Code themselves, and this Code is used as the guidelines for fulfilling the social responsibility of newspaper companies.

315. If media reporting is to have correct content, the freedom of gathering materials should be guaranteed. But in some cases, data-gathering activities are contrary to the interests of a third party or with public interest. Judicial precedent (Supreme Court Petty Bench Judgement of 31 May 1978) clearly states the limit of data-gathering activities as follows: “Needless to say, even the press has no privilege to violate unreasonably the rights and freedoms of others in the course of data-gathering activities. The news-gathering activities take a form not approved in the light of the spirit of the entire legal system and social concepts not only when the means and methods of these activities involve bribes, intimidation, compulsion or any other act violating general penal criminal laws and ordinances, but also in the cases in which these activities greatly injure the personality of any individual. Such cases must be regarded as beyond the scope of reasonable data-gathering activities and as illegal.”

B. Protection of the rights of crime victims

1. Crime victim protection

316. In order to protect crime victims, Japan established the “Law for Partial Amendment of the Code of Criminal Procedure and the Law for the Inquest of Prosecution” and the

"Law Concerning Measures Accompanying Criminal Proceedings to Protect Crime Victims" in May 2000. These laws provide protection for victims in trials by introducing:

(a) A system of allowing witnesses such as victims of sexual crimes or juveniles to be accompanied by an appropriate person during his testimony in court to reduce his unease and anxiety (Code of Criminal Procedure, art. 157.2);

(b) A system of allowing a screen to be set up between the witness and the defendant or the witness and the spectators when the victim is giving testimony (Code of Criminal Procedure, art. 157.3);

(c) A system of video links by which the witness is allowed to be in a separate room and is questioned through a TV monitor (Code of Criminal Procedure, art. 157.4).

When the victim or, in cases where the victim has been killed, the victim's spouse or other related person requests to observe the trial procedures, the presiding judge of a criminal trial will give proper consideration to the request so that the person who made the request can observe the procedures to the greatest extent possible (Law Concerning Measures Accompanying Criminal Proceedings to Protect Crime Victims, art. 2). If the victim (hereinafter "victim" is to include the spouse and related persons) makes a request to peruse or copy the records of the trial, a court with a criminal case pending can allow him/her to do so if it believes there are legitimate grounds and deems it to be appropriate (ibid., art. 3).

317. In juvenile protection cases also, provisions concerning witness questioning in court in the Code of Criminal Procedure are applied to witness questioning in the family courts, as long as they do not conflict with the nature of juvenile protection cases (Juvenile Law, art. 14, para. 2), and systems (a) through (c) above which have been introduced in the same way as for criminal cases. In addition, in the November 2000 partial amendment to the Juvenile Law, if the victim makes a request to peruse or copy the records of the case, the court can allow him/her to do so if it believes there are legitimate grounds and deems it to be appropriate, after taking into consideration circumstances such as the effect on the sound development of the juvenile (Juvenile Law, art. 5.2).

2. Victims notification system

318. Since April 1999 public prosecutors' offices throughout Japan have been operating the victims notification system, under which crime victims are notified of the results of investigations of cases and the results of criminal trials.

319. Moreover, in order to respond to the general demand of victims to receive information concerning the release of sentenced inmates, a system was introduced in March 2001 under which public prosecutors' offices notify victims, prior to the sentenced inmate's release, of the planned month and year of release of the inmate at the completion of his sentence and, after the sentenced inmate's release, of the day, month and year of release.

320. With the objective of preventing the victim from suffering further harm at the hands of the same criminal and of protecting the victim, the MOJ has been closely cooperating with the police

since October 2001 to take measures to prevent reoccurrence of harm to the victim. A system was introduced under which the public prosecutors' offices notify victims of the planned release of the sentenced inmate, the planned date of release, and the place where the released inmate plans to live in order to avoid additional harm. This is to be realized through a system in which penal institutions and regional parole boards notify the police, when the police have made an enquiry or when it is deemed to be necessary, of the planned release of the sentenced inmate, the planned date of release and the place where the released inmate plans to live, as well as through measures to ensure the victim can avoid coming into contact with the offender.

321. Under the November 2000 partial amendment to the Juvenile Law, in juvenile protection cases in which a final verdict has been delivered, the family court is to notify the victim of the trial verdict if the victim requests such notification, excluding cases where it is deemed unreasonable to do so because there is a risk that the sound development of the juvenile could be hindered (Juvenile Law, art. 31.2).

3. Disclosure of the records of non-prosecution cases to the victim

322. In principle, the records of non-prosecution cases are not made public. But in cases where the records are deemed necessary in order for the victims to exercise their right to claim compensation for damages through civil litigation and other rights, a flexible approach is taken towards the victims' requests to know the record by providing it for the victims on the condition that the record constitutes objective evidence and no substitute exists.

323. Under the Benefits System for Crime Victims, the Government provides benefits (three types: "Survivor Benefit", "Severe Injury and Disease Benefit", and "Disability Benefit") as lump-sum payments for the survivors of victims who were killed or for victims who suffered severe injury, or disease or who is still suffering disability, resulting from criminal acts which take a person's life or harm his/her body.

324. An indiscriminate bombing attack by an extremist group in 1974 led to growing public calls for remedies for victims of these kinds of bombing incidents or assaults by "random killer" and the above Benefits System was established in response. The Crime Victims Benefit Payment Law, which this system is provided for, entered into force in January 1981. Subsequently with the public becoming more aware of the tragic situation victims are placed in due to the occurrence of a number of indiscriminate violent crimes such as the sarin gas subway attack in 1995, a social movement calling for further support for victims, such as an expansion of the benefits system, rapidly gained momentum. Based on these developments, the scope and amount of benefits were expanded from July 2001 under the amended Crime Victims Benefit Payment Law (promulgated in April 2001).

325. The police have a close relationship with crime victims in the sense that they receive crime reports and investigate the crime. Besides, crime victims have great expectations that the police will help them recover and reduce the harm resulting from the crime and prevent themselves from being harmed again by the same perpetrator. Taking the needs of crime victims into consideration, the police are endeavouring to promote a variety of policies, including the System for Designating Victim Support Personnel and a system of consultation and counselling.

Moreover, because many crime victims are keenly interested in information such as the progress of the investigation, the punishment meted out to the suspect, the police have introduced the System for Contacting Victims and provide information concerning the cases for victims.

326. In addition to this, the police have been taking measures, such as crime prevention guidance and warning measures, in order to prevent victims from suffering further injury at the hands of the same offender, and the police are strengthening their measures to prevent the reoccurrence of harm. In August 2001, the police formulated the Outline for the Prevention of Repeated Victimization which includes the designation of victims for whom it is necessary to take continuous measures to prevent reoccurrence of harm as eligible for measures to prevent reoccurrence of harm and included strengthened cooperation with law enforcement agencies.

Article 20

327. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence would be punished in accordance with following legislation; if the advocacy includes contents damaging to the honour or credibility of a specific individual or group, the Penal Code as defamation (art. 230), insult (art. 231) or damage to credit, obstruction of business (art. 233) would be applied, and if the advocacy includes contents that are threatening to specific individuals, the Penal Code as intimidation (art. 222), and the Law Concerning Punishment of Physical Violence and Others as collective intimidation (art. 1) and habitual intimidation (art. 1.3) would be applied. Instigation and assistance for such acts are also subject to punishment under the Penal Code (arts. 61 and 62 respectively).

328. The human rights organs under the MOJ believe that the dissemination of discriminatory expression, such as discriminatory graffiti and discriminatory writings, and acts that infringe on the privacy of individuals or groups through abuse or slander are issues that cannot be ignored and have been making active efforts to eliminate these practices, including by endeavouring to encourage the concept of respect for human rights through various opportunities. When such incidents are detected, the human rights organs under the MOJ work to prevent or remedy the harm caused by the human rights infringement, including by endeavouring to identify the perpetrator and if the perpetrator has been identified take measures to instruct and encourage him/her.

329. In recent years, the dissemination of discriminatory expression on the Internet has become a serious issue. The human rights organs under the MOJ believe, from the perspective of human rights protection, that this is an issue that cannot be ignored and when specific incidents have been detected, they make requests to the Internet bulletin board administrator to delete the discriminatory contents and take the various measures stated above in accordance with the circumstances of the incident, while giving sufficient consideration to the right to freedom of expression.

Article 21

330. Refer to paragraphs 147 to 149 above for details concerning the abolition of the Communicable Disease Prevention Law.

Article 22

A. Labour unions

1. Number of labour union members and unionization rate

331. As of 30 June 2003, the number of labour union members stood at 10,531,000 persons. The rate of labour union members to all employees is estimated to be 19.6 per cent.

2. Remedies by Labour Relations Commission

332. As stated in the fourth periodic report (CCPR/C/115/Add.3, paras. 186-189).

3. Allegation of unfair labour practices (issue of wearing armbands)

333. The issue of wearing armbands is related to the examination procedure for unfair labour practices, a quasi-judicial procedure, and it is the view of the GOJ to respect how the Central Labour Relations Commission, an independent administrative commission, handles the issue at its sole discretion. The Central Labour Relations Commission holds the views as follows:

(a) It has been the policy of the Central Labour Relations Commission not to authorize the wearing of armbands by the party concerned or by observers in order to maintain the order of hearings and assure fair proceedings, based on the Chairman's authority to command the examination. This policy is based on grounds that: (1) "The examination will be conducted under the command of the Chairman", (paragraph 3, article 33 of the former Labour Relations Commission Rules; paragraph 2, article 35 of the current Rules); and (2) "the Chairman, in order to assure a fair hearing, may give the necessary instructions to the party concerned, relevant people, and observers", (article 40, paragraph 12, of the former Labour Relations Commission Rules; provisions for the same intent are in article 41, paragraph 7, of the current Rules.);

(b) In Japan, the Central Labour Relations Commission, as a quasi-judicial institution, has the authority and duty to maintain the order of hearings, in the same way judicial institutions have in maintaining court order, and this is specified in the amendment to the law made in 2004 (Trade Union Law (Law No. 174 of 1949)). Article 27, paragraph 11 of the law stipulates that the Commission may order the withdrawal of those who interfere with the hearings, and take other necessary measures to maintain the order of hearings;

(c) Accordingly, the Central Labour Relations Commission has not authorized the wearing of armbands at hearings not for the reason that the wearing of armbands indicates workers' membership in a trade union, but for all intents and purposes, to maintain the order of hearings and assure fair proceedings;

(d) The Central Labour Relations Commission considers the holding of hearings as a priority, and with the cooperation of relevant people and adhering to the above-mentioned policy, the Commission, since April 2000, has never refused a hearing, as a matter of fact, for the reason that workers wore armbands.

B. Declaration of interpretation

334. Since its establishment, the fire service of Japan had been a part of the police organization until it was separated in 1948, although the nature and content of its duties and authority did not fundamentally change. Under the current legal system, therefore, it has been assigned with objectives and duties similar to those of the police, namely protecting the lives, bodies and assets of the people and maintaining public security and order, as well as with wide-ranging enforcement authority similar to the police for carrying out its work duties. Its actual activities require strictly disciplined and controlled, prompt and bold squad activities just as the activities of the police do. In this reason, the GOJ interprets the term "police" in article 9 of ILO Convention No. 87 (Convention concerning Freedom of Association and Protection of the Right to Organize) as including the fire service.

335. This point was subjected to examination twice by the Committee on Freedom of Association of the ILO Governing Body, and on both these occasions the committee concluded that there was no problem with the interpretation of the fire service of Japan as "a type of public service belonging to the category of police" when applying the convention and that there was no need for further deliberation in the ILO (Report No. 12 of 1954, paras. 33-36, Report No. 54 of 1961, paras. 93 and 94). Domestically also, the same opinion was reached in the convention subcommittee of the Advisory Council on Labour Issues comprising representatives from Government, management and labour in 1958. Based on these, Japan ratified ILO Convention No. 87 in 1965.

336. Based on this understanding, the Government issued a declaration of interpretation in 1978 which stated that the expression "members of the police" in article 22, paragraph 2, of the Covenant includes the fire service of Japan and acceded to the Covenant. Concerned parties held a series of vigorous discussions concerning the issue of the right of fire service employees to organize, and as a result, in 1995 an agreement was reached to introduce a new mechanism, Fire Service Employees Committees, as a measure to resolve the issue through national consensus. On 20 October 1995 the Bill to Partially Amend the Fire Defence Organization Law passed the Diet with the unanimous support of the ruling and opposition parties and the law entered into force on 1 October 1996. The law established fire service employees committees in each fire defence headquarters, among other measures. This system, with the participation of fire service employees, carries out improvements to the working conditions in each fire defence headquarters in which fire service employees currently work and deal with such issues as concerning individual working conditions. At the June 1995 International Labour Conference, the ILO Conference Committee on the Application of Conventions and Recommendations adopted a report which expressed satisfaction with and welcomed this measure to resolve the issue.

337. The Government intends to continue to cooperate with concerned parties including labour organizations and fire defence headquarters and endeavour to ensure that this system operates smoothly and is firmly established. In light of the above views reached at the time Japan concluded the Covenant and subsequent developments, the Government believes it is not necessary to modify the declaration of interpretation stating that the expression "members of the police" in article 22, paragraph 2, of the Covenant includes the fire service of Japan.

Article 23

338. Article 733 of the Civil Code, which provides that a woman may not remarry for the period after divorce, is intended to prevent confusion arising over the paternity of children born when a woman remarries immediately after divorce or annulment of marriage. From the standpoint of stabilizing the father-child relationship, this provision is considered to be reasonable.

339. Article 731 of the Civil Code provides that the minimum age for marriage is 18 years of age for males, and 16 years of age for females. As a family formed by marriage is the fundamental unit of society, this provision is intended to prevent marriage by young persons who have not yet reached physical or mental maturity. Since it is widely known that there are differences in the degree of physical and mental development between males and females, the setting of a different minimum age for marriage for males and females is considered to be reasonable.

340. However, if there are changes in the social conditions affecting the above marriage system, it is, needless to say, necessary to modify the system for adaptation may arise. From this perspective, since January 1991 the Legislative Council of the MOJ, an advisory council to the Minister of Justice, has been reviewing the regulations pertaining to the marriage system in the Civil Code. In February 1996 it submitted a report “Outline of the Bill for Partial Amendments to the Civil Code” to the minister. The major points for amendments provided for in this report regarding marriage and divorce are as is stated in the fourth periodic report.

341. The opinions of the general public are still greatly divided concerning these proposed amendments. Judging from the results of the “public opinion poll on the Family Law” conducted in June 1996, it is difficult to say that the proposed amendments to the Civil Code have received majority support even now and the Government is still in the process of keeping the trend of public opinions under close watch. On the other hand, on the matter of surnames assumed by married couples in which a couple shall, upon agreement at the time of marriage, assume the surname of either the husband or the wife under the current law, public acceptance of the new proposed system is apparently increasing, as shown in the “public opinion poll on the introduction of a system to allow married couples to assume separate surnames” conducted in May 2001, in which, 42.1 per cent of respondents said they did not mind if such a system was introduced. Under the proposed amendments, a couple may, upon agreement at the time of marriage, assume the surname of either the husband or the wife, or separately retain the surnames they had prior to their marriage.

Article 24

A. Overview

1. Optional Protocols to the Convention on the Rights of the Child

342. Japan acceded to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in January 2005. In acceding to the Protocol, the Law Banning Child Prostitution and Child Pornography was amended to strengthen penalties for child pornography and child prostitution, and the Child Welfare Law was also amended to establish penalties for trafficking of children committed overseas.

343. Japan acceded to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in August 2004.

2. International efforts

344. In December 2001, Japan, the United Nations Children's Fund (UNICEF), ECPAT International, an international NGO, and the NGO Group for the Convention on the Rights of the Child jointly organized and held the "Second World Congress against the Commercial Sexual Exploitation of Children" in Yokohama. A total of 3,050 persons, including children and representatives of Governments of 136 countries, 148 overseas NGOs, 135 Japanese NGOs, 23 international agencies and so on, attended. On the final day of the congress the "Yokohama Global Commitment 2001" was adopted, which calls for the promotion of measures by the international community towards the eradication of the trafficking of children for the purposes of child prostitution, child pornography and sexual exploitation.

345. In February 2003, as follow up to the World Congress, Japan and UNICEF jointly hosted the "International Symposium on Trafficking of Children" in Tokyo. Twelve representatives of NGOs in seven countries in the South-East Asia region that are making efforts to solve the issue of trafficking of children, and UNICEF officials from the field office of the region attended the symposium. At the four sessions of the symposium ("Preventive Measures", "Protection and Rehabilitation for Victims", "Repatriation and Reintegration of Victims into Society", and "Legal Actions: Prosecution, etc.") reports were presented on the current situation and vigorous discussions were held. In addition, a total of 188 persons from various organs such as Japanese NGOs, the academic community, the diplomatic corps and international organizations attended the symposium and participated in question and answer sessions and general discussions.

346. In order to strengthen measures to deal with increasingly internationalized child prostitution and child pornography offences, the GOJ is promoting enforcement of regulations towards such offences through application of the penal provisions for overseas crime established in the Law Banning Child Prostitution and Child Pornography. Since 2002, the Government has been participating in the International Child Sexual Exploitation Database project of the G-8 Rome/Lyon Group and also holding the "International Symposium on Measures to Prevent the Commercial and Sexual Exploitation of Children in Southeast Asia" on an annual basis in order to increase its cooperation with the investigation agencies of various countries and NGOs.

B. Right to acquire a nationality

347. With respect to the acquisition of nationality by birth, the Nationality Law of Japan provides that a child shall acquire Japanese nationality if, at the time of his/her birth, the father or the mother is a Japanese national (Nationality Law, art. 2, item 1) and as long as the parent-child relationship is recognized under the law, a child can acquire Japanese nationality regardless of whether he/she is legitimate or not, and therefore there is no discrimination.

C. Protection of children

1. Detention of children in the immigration facilities

348. Deportation procedures of Japan are carried out by placing suspects in custody, even for minors. However, the execution of written detention orders and written deportation orders is made with sufficient consideration for the need to guarantee human rights. For example, in cases where there is a need for humanitarian consideration in light of the age, health conditions and other circumstances of the detainee, the director of an immigration centre or the supervising immigration inspector can permit provisional release ex officio or based on a request.

349. In particular, concerning minors subject to deportation procedures, the Government has been, in line with the intent of the Convention on the Rights of the Child, balancing humanitarian considerations and the need to ensure that compulsory deportation is realized, and therefore flexibly operating the provisional release system to minimize the amount of time children spend in detention as well as providing appropriate treatment to children in detention bearing in mind what is in their best interests. When minors are placed in detention, in principle, if protection or nursing care is deemed necessary they are detained in the same room as their parent whether they are the same sex as that of parent or not. However, the GOJ is endeavouring that minors are detained in rooms separate from adult detainees, other than the parents, to the greatest extent possible given the administrative and operational capabilities of the facility and also giving due consideration to ensure that minors who are not detained in the same room as their parents have opportunities to meet with their parents as much as is feasibly possible without impairing the security of the facility.

2. Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children

350. The Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children (Law Banning Child Prostitution and Child Pornography) entered into force in November 1999 with the objective of protecting the rights of children by prescribing punishment for acts related to child prostitution and child pornography, and by establishing measures for the protection of children who have suffered physically and/or mentally from the said acts, in light of the seriousness of the human rights infringements children incur as a result of sexual exploitation and sexual abuse (refer to the Law Banning Child Prostitution and Child Pornography, article 1).

351. Moreover, based on international trends concerning the protection of the rights of the child (Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; Convention on Cybercrime), and in order to further promote the protection of the rights of the child, in July 2004 the law amending the Law Banning Child Prostitution and Child Pornography entered into force. The revised law raised the statutory penalty for the crime of brokering child prostitution, and criminalized the provision of images of child pornography through the Internet, and the provision of child pornography to a specified, small number of people.

352. The prevention and eradication of the sexual exploitation of children, represented by child prostitution and child pornography cases, has become an important issue internationally. The police are actively promoting enforcement of regulations towards the sexual exploitation of children based on the Law Banning Child Prostitution and Child Pornography (see annex X), and are making efforts to strengthen organization for crackdowns, to implement publicity and enlightenment activities concerning the prevention of the sexual exploitation of children and the content of the law through various forms of media, and to protect child victims. The police are promoting publicity and enlightenment activities concerning the situation of crimes using Internet dating services (meet-a-mate sites), telephone clubs, etc., which are often hotbeds for child prostitution offences, so that children will not fall victim to these kinds of offences. In 2003 the "Law Concerning the Regulation of Acts Inducing Children Using the Internet Dating Services and Other Matters" entered into force and the police are promoting crackdowns on the use of so-called Internet dating services to invite children to have a sexual relationship or to offer payment for companionship. With respect to child victims, the police are endeavouring to lighten the psychological burden on child victims, by, for example, putting female police officers in charge of questioning child victims about the situation, and police personnel such as juvenile guidance officials, etc. are playing a central role in ongoing support for child victims, including counselling.

3. Child abuse

(a) Child Abuse Prevention Law and Amendment to the Child Welfare Law

353. After the "Child Abuse Prevention Law" entered into force in November 2000, the Government has been undertaking full-fledged steps to prevent child abuse. In order to further enhance and strengthen these measures, two legal systems were reviewed in 2004. First, regarding the amended Child Abuse Prevention Law enacted in April 2004 and entered into force in October 2004, the major revisions made to the law are as follows: (a) review of the definition of child abuse; (b) revisions to the responsibility of national and local governments; (c) expansion of duty to report child abuses; (d) requests for assistance, etc. to police commissioner; (e) establishment of regulations restricting visitations and communication; and (f) establishment of rules concerning support for abused children, etc. to help them catch up academically, and support for when the children go on to higher schooling or begin working.

354. As for the amended Child Welfare Law, it was enacted in November 2004, promulgated in December 2004 and then sequentially entered into force. Major revisions made to the law are as follows:

(a) On enhancing the system pertaining to child counselling, the revised law clarified the role of municipalities in regards to child counselling, gave greater priority to responding to difficult cases requiring substantial expertise and providing logistic support to municipalities in terms of the role of Child Guidance Centres, enabled local governments to establish a council (network) that exchanges information concerning children in need of protection and holds discussions on assisting these children, and established necessary provisions concerning the council's operations;

(b) On conducting reviews of children's welfare centres, foster parents, etc., the age requirement for children to be accepted into welfare centres was reviewed, and the rights of foster parents concerning children's aftercare after he/she leaves the centre and the custody, education and disciplinary action of the children were ascertained;

(c) Judicial involvement concerning children requiring protection was reviewed, and regarding the measures Child Guidance Centres take to give guidance to guardians, a measure that introduces a system enabling the involvement of the Family Court among other measures was implemented.

(b) Current situation of child abuse

355. However, the number of child abuse cases handled by Child Guidance Centres nationwide has more than doubled from 11,631 in FY1999, immediately before the Child Abuse Prevention Law entered into force, to 26,569 in FY2003. The number of cases that are difficult to handle, such as cases in which the prefecture petitions the Family Court to have a child enter a facility against the wishes of the child's parents, are increasing.

356. Because there are many aspects that underlie child abuse, in order to prevent child abuse and encourage the sound physical and psychological growth and independence of all children it is essential to provide seamless and comprehensive support from prevention of occurrence to early detection/early response and protection/support/aftercare, and to build a cooperation structure with not only people involved in welfare, but also with concerned organizations in the regions such as organizations in the fields of medical care, health, education, police, etc. So the GOJ is currently promoting the establishment of an abuse prevention network in municipalities, which will be most accessible to the people residing in those areas.

(c) Enforcement

357. Violence towards children can be subject to punishment in accordance with the penal provisions of violence, bodily injury and abandonment by a person responsible for protective custody or care, under the Penal Code. In cases with particularly grave outcomes, such as the death of the child victim, it is possible for heavy penalties to be imposed on charges of murder or causing death through bodily injury. Penal regulations for acts that infringe sexual freedom include the crimes of indecent assault and rape under the Penal Code, the crime of brokering child prostitution under the Law Banning Child Prostitution and Child Pornography and the crime of forcing a child to have sexual intercourse under the Child Welfare Law. In cases where abuse of a child is subject to these penal regulations, investigations are conducted appropriately and penalties are imposed, based on the facts of the case.

358. The laws and ordinances providing for punishment of child abuse are as follows:

- Murder (death penalty or life imprisonment, or imprisonment with work for five years or more, Penal Code, article 199);

- Causing death by bodily injury (imprisonment with work for three years or more, Penal Code, article 205);

- Bodily injury (imprisonment with work of up to 15 years, or a fine of up to 500,000 yen, Penal Code, article 204);

- Abandonment by a person responsible for protection; etc (imprisonment with work of a duration of between three months and five years, Penal Code, article 218);

- Causing death or bodily injury by negligence in the engagement of social activity, etc. (imprisonment with or without work of up to five years, or a fine of up to 500,000 yen, Penal Code, article 211, latter part);

- Rape (imprisonment with or without work for three years or more, Penal Code, article 177);

- Forcible obscenity (imprisonment with work of a duration of between 6 months and 10 years, Penal Code, article 176);

- Repeated bodily injury (imprisonment with work of a duration of between 1 year and 15 years, Law Concerning Punishment for Physical Violence and Others, article 1, paragraph 3);

- Brokering child prostitution (imprisonment with work of up to three years, or a fine of up to 3 million yen, Law Banning Child Prostitution and Child Pornography, article 5, paragraph 1);

- Brokering prostitution (imprisonment with work of up to two years, or a fine of up to 50,000 yen, Prostitution Prevention Law, article 6, paragraph 1);

- Forcing a child to have sexual intercourse (imprisonment with work of up to 10 years, or a fine of up to 500,000 yen, Child Welfare Law, article 60, paragraph 1. An amendment to this law has been established under which the statutory penalty in this clause will become “imprisonment with work of up to 10 years, or a fine of up to 3,000,000 yen or both” (16 July 2003, Law No. 121). The amended law will enter into force on 1 April 2005).

(d) Efforts by the MHLW

(i) Prevention of child abuse

359. The MHLW is making efforts to reduce the anxieties of child-rearing and isolation of parents from the local community including by providing parents rearing children with opportunities for social interaction and places to get together or by expanding the regional child-rearing support centres at day-care centres. The Ministry is working to enhance maternal and child heath-care activities by providing enhanced psychological counselling and group counselling for parents with anxieties concerning childcare, etc. at the time of the physical examinations given to children aged 18 months and 3 years. The Ministry is also working on publicity and enlightenment activities utilizing a variety of media including public relations magazines and posters.

(ii) Early detection and early response

360. In order to strengthen the system of Child Guidance Centres, the MHLW is making efforts to increase the number of child welfare officers that can provide counselling, etc. to children and families, assign volunteers able to deal with child abuse, expand the abuse prevention network in municipalities so that concerned agencies in the regions can work together to deal with this issue, and increase the number of children and families supporting centres.

(iii) Protection, support and aftercare

361. In order to develop and enhance the readiness of children's foster care to accept children and to enhance guidance systems for children, guardians, etc., the MHLW is assigning employees responsible for psychotherapy and employees for meeting the individual needs of victims of child abuse. In addition, it is strengthening counselling for guardians at Child Guidance Centres with the cooperation of local psychiatrists, utilizing for example specialized foster parents possessing specialized support skills, among other endeavours.

(iv) Future efforts

362. The future direction of specific efforts to prevent child abuse is as follows. The MHLW intends to continue to enhance its policies in this area with the following points:

(a) Provide seamless support from prevention of occurrence of abuse to establishing the independence of children who have suffered abuse;

(b) Shift from standby support to an active approach for families needing support;

(c) Provide family support that includes parents with the aim of reunifying families and restoring and strengthening the ability of families to provide a good upbringing;

(d) Strengthen efforts by municipalities, e.g. the abuse network.

(e) Efforts by the police

363. Because it is important to detect cases of child abuse in the early stage, the police are endeavouring to discover child abuse cases through various opportunities that arise in the course of their police activities, such as street guidance, counselling for juveniles and handling of emergency cases. When a child is found to be a victim of abuse, the police promptly notify a Child Guidance Centre and if the child abuse case constitutes a crime, the police endeavour to mount an appropriate investigation with a view to protecting the child.

(f) Efforts by human rights organs

364. The human rights organs under the MOJ are of the belief that child abuse is a serious human rights issue and therefore they are making assertive efforts to eradicate it. Specifically, they are endeavouring to achieve early detection of human rights infringements against children, including child abuse, by establishing a telephone counselling hotline called "Children's Rights

Hotline" and "Counselling Rooms for Children", primarily staffed by approximately 700 "Volunteers for Children's Rights Protection" appointed from human rights volunteers. When a case of child abuse is detected, they coordinate and cooperate with concerned organizations, such as child guidance centres, and work to resolve the case. If necessary, they investigate the case as a human rights infringement case and urge the perpetrator and the persons concerned to have respect for human rights.

365. With the entry into force of the "Child Abuse Prevention Law" in November 2000, the human rights organs under the MOJ have further strengthened their coordination with concerned agencies, such as child guidance centres, and are endeavouring to provide remedies to victims.

366. The number of child abuse cases handled by the human rights organs under the MOJ as human rights infringement cases was 634 in 2000, 644 in 2001, 558 in 2002, and 529 in 2003.

4. Prohibition of corporal punishment

367. Corporal punishment is strictly prohibited under article 11 of the School Education Law. The MEXT gives instructions to education-related institutions to realize the principle of this law through various opportunities.

368. If the human rights organs under the MOJ receive reports or information concerning corporal punishment through human rights counselling via "Children's Rights Hotline", or information from newspapers, the human rights organs will investigate the people involved in the case with a view to preventing or remedying harm caused by human rights infringements against children. Based on the results of the investigation, they will take suitable measures such as raising the awareness of the teacher who carried out the corporal punishment and the principal of the teacher's school on the concept of respect for human rights or requesting them to take measures to prevent the reoccurrence of such acts. Furthermore, they have been carrying out human rights encouragement activities in cooperation with schools and local communities. In 2000, 2001, 2002 and 2003, corporal punishment cases numbered 236, 252, 236 and 275, respectively.

Article 25

369. As stated in previous reports.

Article 26

A. Treatment of a child born out of wedlock

1. Share in succession of a child born out of wedlock

370. The provision of Japan's Civil Code (art. 900, item 4, proviso) which stipulates that the statutory share in succession of a child born out of wedlock shall be one half of that of a child born in wedlock is a reasonable provision established with the objective of protecting families comprised of a married husband and wife and their children. However, as stated in the fourth periodic report (CCPR/C/115/Add.3, paras. 199-201), it is necessary to undertake a review of the system in accordance with changing social circumstances affecting inheritance.

2. Recording in the family register

371. Concerning the difference in how children born in wedlock and children born out of wedlock are recorded in the family register, the difference in the family register reflects the distinction provided in the Civil Code for the purpose of recording and authenticating family lineages. Therefore, it cannot be claimed that it is unreasonable discrimination.

372. However, concerning the way to record the parent-child relationship in the family register, the Tokyo District Court indicated in a decision handed down on 2 March 2004 (Tokyo District Court Case No. 26105 (wa) of 1999) that distinguishing between children born in or out of wedlock in the family register with regard to their relationship with their parents would infringe the right to privacy.

373. Considering this decision and the demands from the public to reform the method to record the parent-child relationship, Regulations for Enforcement of the Family Registration Law were partially amended through Ministry of Justice Ordinance No. 76 of 1 November 2004, under which the relationship of children born out of wedlock to their parents will be recorded in the family register in the same way as children born in wedlock. Concerning existent entries in the family register, the parties concerned may now apply to have them modified.

B. The *Dowa* problem

374. The Constitution of Japan guarantees equality under the law for the people of Japan and no discrimination against *Dowa* district residents exists under the laws of Japan.

375. With a view to prompt resolution of the *Dowa* problem, the Government has been implementing special policies limited to *Dowa* districts and residents thereof, based on three Special Measures Laws since 1964. These special policies have been implemented taking into account the intents of the 1965 report of the *Dowa* Policy Council, a national body set up to deliberate on the *Dowa* problem, with the objectives of rapidly improving the poor economic conditions and inferior living environment of *Dowa* districts through measures carried out promptly and over a limited time frame. Through promotion of these measures, the Government is aiming to resolve the *Dowa* problem, or in other words, to eliminate *buraku* discrimination (see annex XI).

376. As a result of the efforts of the national Government and local authorities over many years, large improvements, including those in the living environment, have been realized, rectifying the gap that had existed in various aspects, and the conditions in *Dowa* districts have largely improved. The fact-finding surveys carried out in *Dowa* districts by the former Management and Coordination Agency in FY1993 (attached document 12) revealed, concerning the situation of the housing environment, that the average number of rooms per house within *Dowa* districts was higher than the national average, and that the share of municipal roads developed within *Dowa* districts was higher than for municipalities overall. Moreover marriages between *Dowa* district residents and non-*Dowa* district residents make up the majority of marriages among young people, so it seems that discriminatory attitudes are also steadily disappearing.

377. Taking into account these circumstances, with the expiration of the Law regarding the Special Fiscal Measures of the Government for Regional Improvement Projects on 31 March 2002, it was decided to end special policies to resolve the *Dowa* problem.

Article 27

A. Policies related to the promotion of Ainu culture

378. The Law for the Promotion of the Ainu Culture and for the Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture entered into force in July 1997. Its objective is to build a society in which the racial pride of the Ainu people is respected and have the Ainu culture and traditions contribute to the development of a diverse culture in Japan. The Government is currently taking measures based on this law.

379. The GOJ provides the necessary subsidies to the Foundation for Research and Promotion of Ainu Culture, the central body responsible for implementing the measures based on the law, and is endeavouring to enhance such measures and ensure the necessary budget for those measures.

380. The measures are being implemented based on the four focal points below. Efforts are being made to preserve and promote Ainu culture through these kinds of projects, and gradually, Ainu traditions and the Ainu culture are increasingly becoming known among the public at large. Moreover with the enactment of the law, public interest in Ainu culture and traditions has increased and as a result, activities related to Ainu culture and traditions have been gradually spreading. These activities include the holding of symposiums and the opening of research institutes, reference libraries by a variety of organizations. The four focal points are:

- Promotion of comprehensive and practical research on the Ainu: Subsidies for comprehensive studies related to Ainu;

- Promotion of the Ainu language: Ainu language radio courses, holding of Ainu language speech contests, etc.;

- Promotion of the Ainu culture: Holding of Ainu handicraft exhibitions, holding of Ainu cultural festivals, etc.;

- Dissemination of knowledge about Ainu traditions: Creation of supplementary readers for elementary and lower secondary school students, holding of dissemination and enlightenment lecture presentations, etc.

B. Policies related to improving the standard of living of the Ainu people in Hokkaido (former name: Hokkaido Utari measures)

381. According to the “Survey on the Hokkaido *Utari* Living Conditions” conducted by the Prefectural Government of Hokkaido in 1999, compared to the situation at the time of the previous survey in 1993, the living standard of Ainu people has been steadily improving, but

the gap with the living standard of the general public in Hokkaido has not completely narrowed. For this reason, the Prefectural Government of Hokkaido has been implementing new measures, the "Policies for Promoting an Improved Living Standard for the Ainu People", since FY2002 as a replacement for the "Fourth Hokkaido *Utari* Welfare Measures", which came to an end in FY2001.

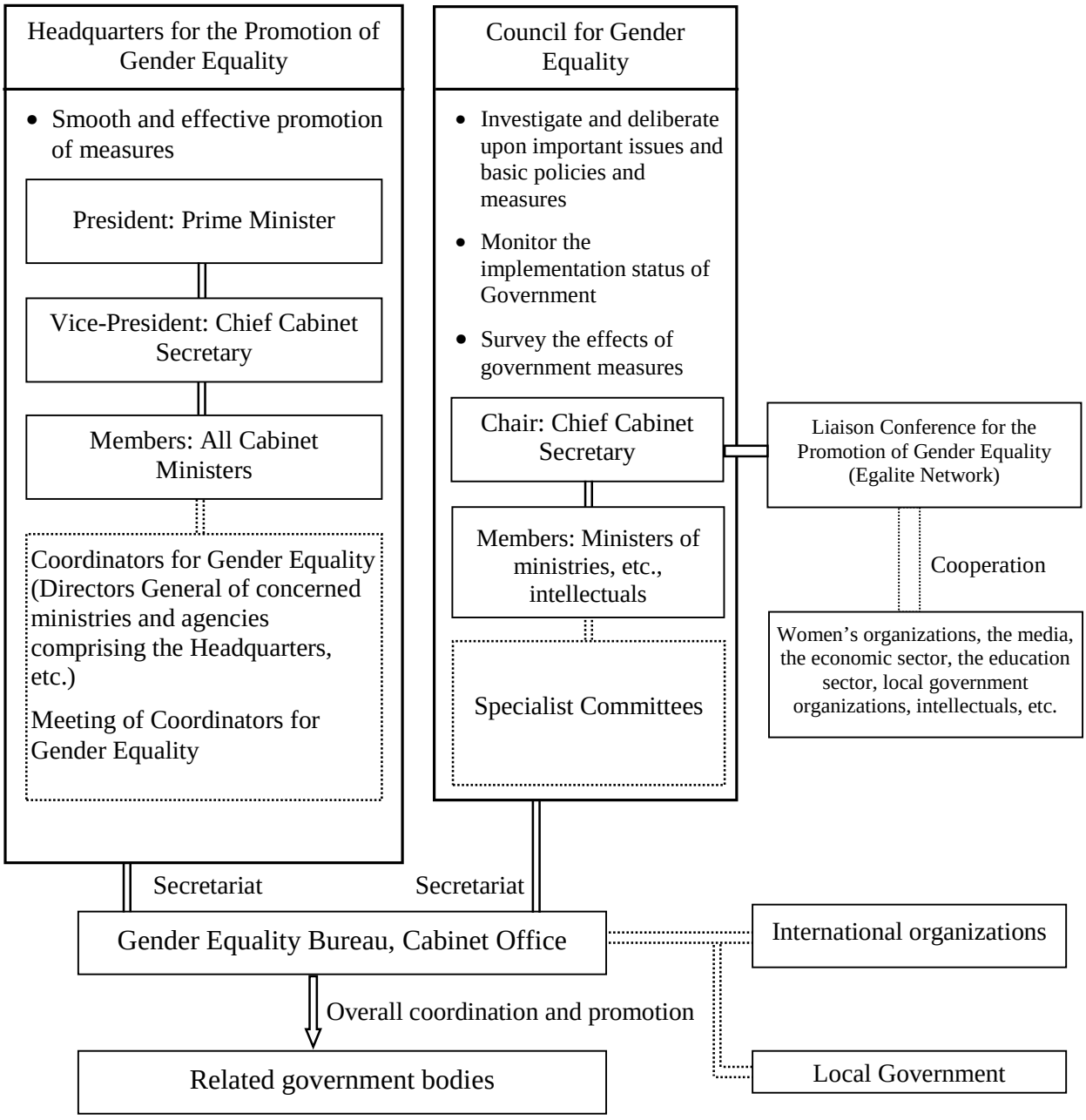
382. As stated in the fourth periodic report (CCPR/C/115/Add.3, paras. 208-209), the Government continues to offer its cooperation in the above measures being promoted by the Prefectural Government of Hokkaido, and it is working to enhance the related budgets so that these measures may be promoted smoothly.

383. The major projects under these measures are as follows:

- Projects to promote receiving higher education in secondary schools, etc.;
- Projects to develop facilities to improve the region;
- Relief projects for agriculture, forestry and fisheries;
- Relief projects to promote small and medium-sized enterprises;
- Projects to loan housing finance, etc.

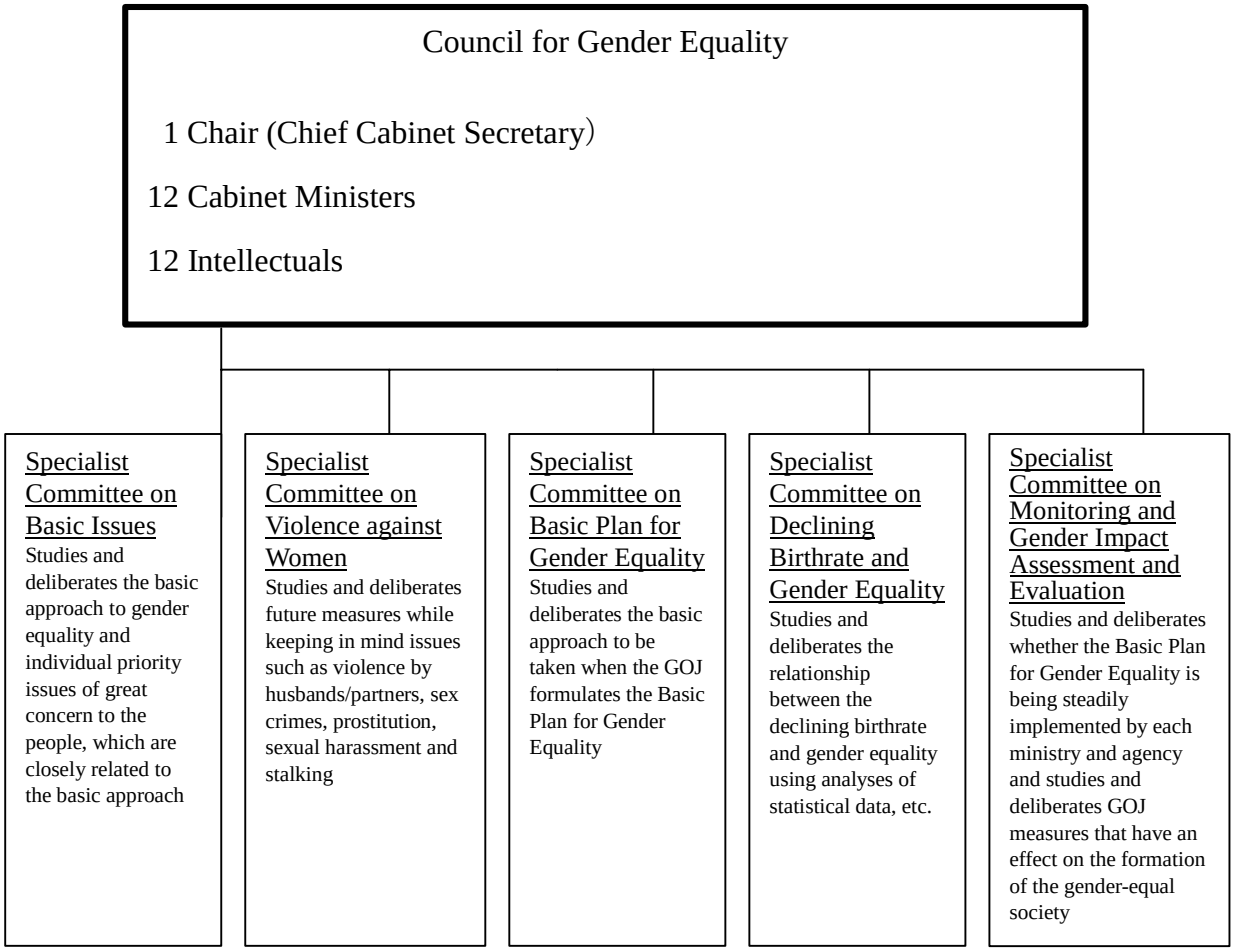
Annex I

MECHANISMS FOR THE PROMOTION OF THE FORMATION OF A GENDER-EQUAL SOCIETY



Annex II

(After reorganization)
STRUCTURE OF THE COUNCIL FOR GENDER EQUALITY
(structure diagram)



※ Other specialist committees may be established if necessary

※ Specialist committees that have been established thus far:

① Specialist Committee on Support Measures for the Harmonization of Work and Child Raising (Final report made at the June 2001 meeting of the Council for Gender Equality, dissolved)

② Specialist Committee on Monitoring and Handling Complaints
(Reported at the July 2004 meeting of the Council for Gender Equality)
} Reorganized as the Specialist Committee on Monitoring and Gender Impact Assessment and Evaluation

③ Specialist Committee on Gender Impact Assessment and Evaluation
(Reported at the July 2004 meeting of the Council for Gender Equality)

Annex III

TRENDS IN THE NUMBER OF FEMALE DIET MEMBERS

	Diet members			House of Representatives members			House of Councillors members		
	Total number	Female members	% of females	Total number	Female members	% of females	Total number	Female members	% of females
March 1997	752	57	7.6	500	23	4.6	252	34	13.5
March 1998	750	60	8.0	499	24	4.8	251	36	14.3
March 1999	749	68	9.1	497	25	5.0	252	43	17.1
March 2000	751	68	9.1	499	25	5.0	252	43	17.1
March 2001	731	79	10.8	480	36	7.5	251	43	17.1
March 2002	725	74	10.2	479	36	7.5	246	38	15.4
March 2003	723	72	10.0	477	34	7.1	246	38	15.4
March 2004	723	70	9.7	477	34	7.1	246	36	14.6

Source: Studies by the Secretariats of the House of Representatives and the House of Councillors.

Annex IV

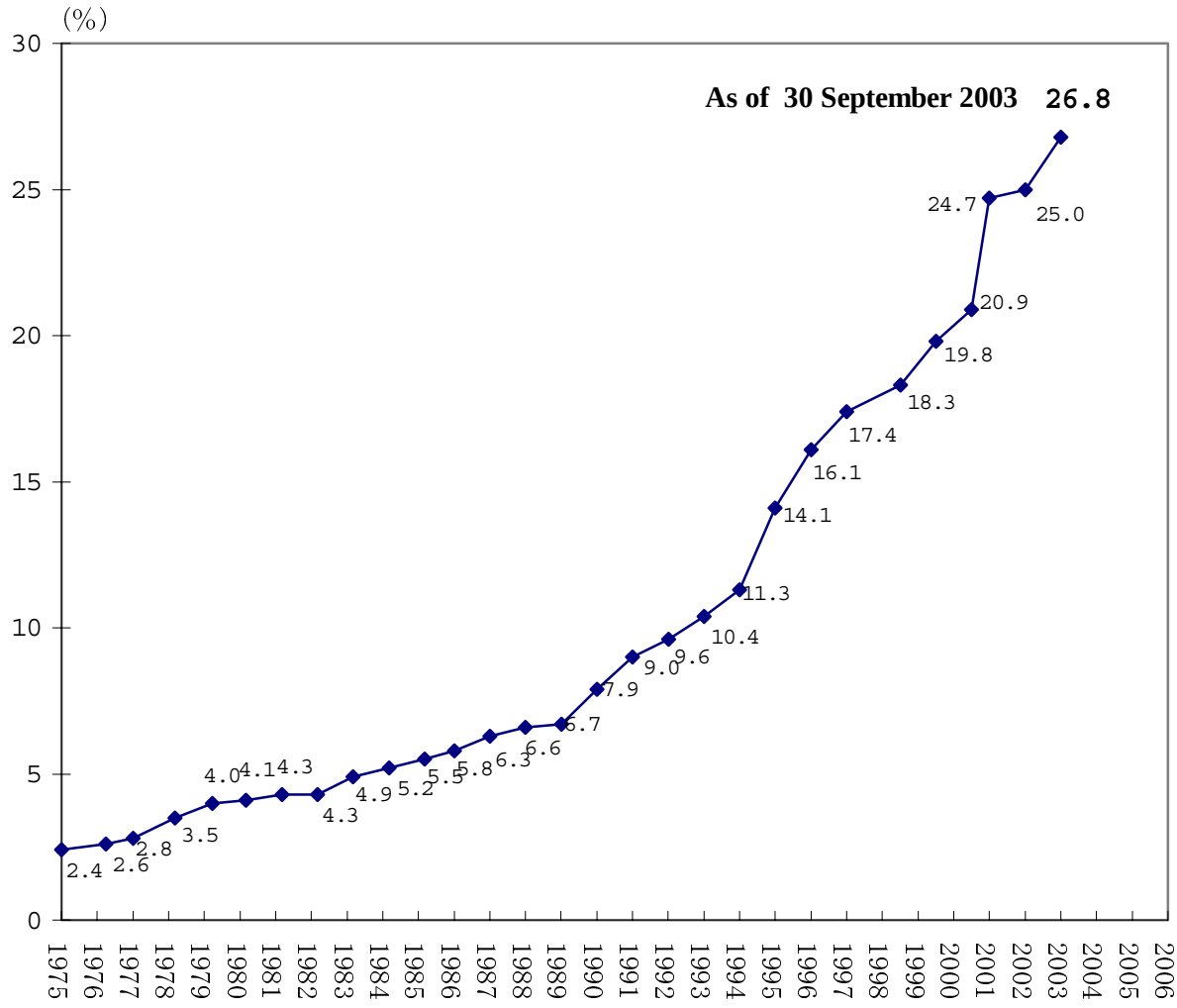
TYPES OF JOBS IN WHICH WOMEN ARE EMPLOYED IN THE DIET

		Female Diet members	Speaker/ Vice-speaker	Standing committee chairperson	Standing committee director	Special committee chairperson
House of Representatives	March 1997	23	0	0	3	0
	May 1998	24	0	1	6	0
	May 1999	25	0	0	5	0
	July 2000	35	0	0	6	2
	August 2001	36	0	1	1	1
	August 2002	35	0	0	3	1
	July 2003	35	-	0	4	1
House of Councillors	March 1997	34	0	1	6	2
	May 1998	36	0	3	13	2
	May 1999	43	0	3	14	1
	July 2000	43	0	3	16	1
	August 2001	38	0	0	14	0
	August 2002	38	0	2	12	1
	June 2003	36	-	1	12	1

Annex V

TRENDS IN THE APPOINTMENT OF FEMALE MEMBERS TO NATIONAL ADVISORY COUNCILS AND COMMITTEES

Target value by the end of FY2005 (end of March 2006): 30 per cent



Annex VI

TRENDS IN THE PARTICIPATION OF FEMALE MEMBERS IN ADVISORY COUNCILS AND COMMITTEES

	Number of councils and committees (A)	Number of councils with female members (B)	Ratio of councils with female members (B/A) (%)	Number of members (C)	Number of female members (D)	Ratio of female members (D/C) (%)
1 January 1975	237	73	30.8	5 436	133	2.4
1 June 1980	199	92	46.2	4 504	186	4.1
31 March 1985	206	114	55.3	4 664	255	5.5
31 March 1989	203	121	59.6	4 511	304	6.7
31 March 1990	204	141	69.1	4 559	359	7.9
31 March 1991	203	154	75.9	4 434	398	9.0
31 March 1992	200	156	78.0	4 497	432	9.6
31 March 1993	203	164	80.8	4 560	472	10.4
31 March 1994	200	163	81.5	4 478	507	11.3
31 March 1995	203	174	85.7	4 496	589	13.1
30 September 1995	207	175	84.5	4 484	631	14.1
31 March 1996	205	181	88.3	4 511	699	15.5
30 September 1996	207	185	89.4	4 472	721	16.1
31 March 1997	209	190	90.9	4 532	751	16.6
30 September 1997	208	191	91.8	4 483	780	17.4
31 March 1998	206	190	92.2	4 441	782	17.6
30 September 1998	203	187	92.1	4 375	799	18.3
31 March 1999	202	189	93.6	4 354	812	18.6
30 September 1999	198	187	94.4	4 246	842	19.8
31 March 2000	199	188	94.5	4 201	857	20.4
30 September 2000	197	186	94.4	3 985	831	20.9
31 March 2001	95	90	94.7	1 642	405	24.7
30 September 2001	98	94	95.9	1 717	424	24.7
30 September 2002	100	97	97.0	1 715	429	25.0
30 September 2003	102	100	98.0	1 734	465	26.8

Survey conducted by the Cabinet Office on national advisory councils and committees (excluding those which are suspended and those placed in regional and district offices) based on article 8 of the National Government Organization Law and articles 37 and 54 of the Cabinet Office Establishment Law.

* The period of office of council members is usually two or three years for most councils, and so even if surveys were held once every six months, there would be few re-elections of members and the figures would not change much; so beginning in FY2002 it was decided to conduct the surveys once a year at the end of September.

Annex VII

NUMBER AND PERCENTAGE OF HIGH-RANKING FEMALE OFFICIALS

(Type 1 officials in charge of designated and administrative service)

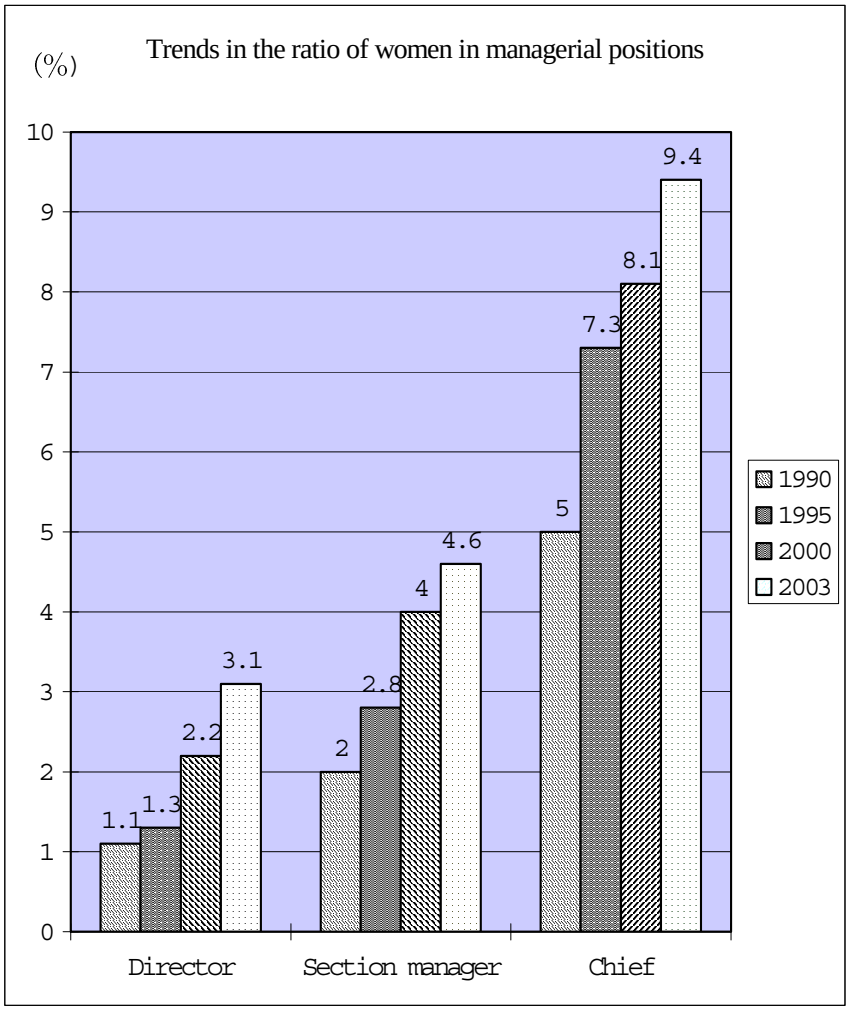
(Number, %)

	FY1985	FY1990	FY1995	FY2000	FY2001	FY2002
Number of high-ranking female officials	40	67	90	122	136	130
Percentage of high-ranking female officials	0.5	0.8	0.5	0.8	1.4	1.3

(Figures are current at the end of each fiscal year until FY2001. FY2002 figures are current at 15 January 2003.)

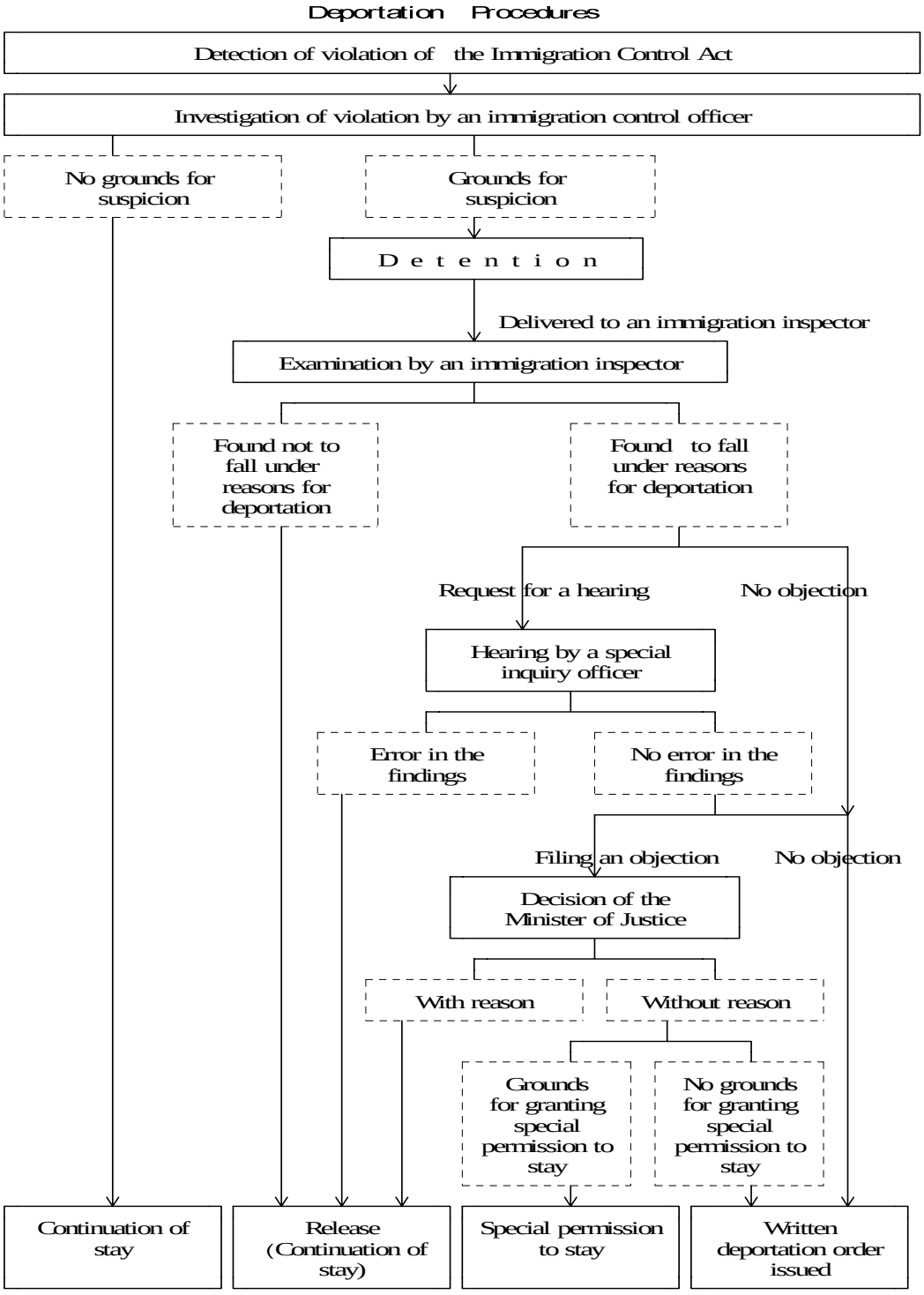
High-ranking officials: type 1 level 9 officials and above in charge of designated and administrative service (vice-department chief and above at all ministries and agencies).

Annex VIII


Trends in the ratio of women in managerial positions
(%)
10
9
8
7
6
5
4
3
2
1
0
1.1
1.3
2.2
3.1
2
2.8
4
4.6
5
7.3
8.1
9.4
1990
1995
2000
2003
Director
Section manager
Chief

Annex IX

(Attached Document ⑨)



Annex X

STATUS OF CRACKDOWNS IN ACCORDANCE WITH THE LAW BANNING CHILD PROSTITUTION AND CHILD PORNOGRAPHY

November-December 1999

Total	38 cases	42 persons
Child prostitution cases	20 cases	20 persons
Related to telephone club business	17 cases (85%)	17 persons (85%)
Related to use of deai-kei (meet-a-mate sites)	0 cases	0 persons (0%)
Child pornography cases	18 cases	22 persons
Related to use of Internet	9 cases (50%)	10 persons (45%)

January-December 2000

Total	1 155 cases	777 persons
Child prostitution cases	985 cases	613 persons
Related to telephone club business	476 cases (48%)	319 persons (52%)
Related to use of deai-kei (meet-a-mate sites)	40 cases (4%)	21 persons (3%)
Child pornography cases	170 cases	164 persons
Related to use of Internet	114 cases (67%)	85 persons (52%)

January-December 2001

Total	1 562 cases	1 026 persons
Child prostitution cases	1 410 cases	898 persons
Related to telephone club business	503 cases (36%)	357 persons (40%)
Related to use of deai-kei (meet-a-mate sites)	379 cases (27%)	237 persons (26%)
Child pornography cases	152 cases	128 persons
Related to use of Internet	128 cases (84%)	99 persons (77%)

January-December 2002

Total	2 091 cases	1 366 persons
Child prostitution cases	1 902 cases	1 201 persons
Related to telephone club business	478 cases (25%)	356 persons (30%)
Related to use of deai-kei (meet-a-mate sites)	787 cases (41%)	493 persons (41%)
Child pornography cases	189 cases	165 persons
Related to use of Internet	140 cases (74%)	104 persons (63%)

January-December 2003

Total	1 945 cases	1 374 persons
Child prostitution cases	1 731 cases	1 182 persons
Related to telephone club business	212 cases (12%)	174 persons (15%)
Related to use of deai-kei (meet-a-mate sites)	791 cases (46%)	568 persons (48%)
Child pornography cases	214 cases	192 persons
Related to use of Internet	102 cases (48%)	100 persons (52%)

Annex XI

PROCESS OF REGIONAL IMPROVEMENT MEASURES

1965 Report of the *Dowa* Policy Council

↓

1969 Establishment of the Law on Special Measures for *Dowa* Projects (expiration period of 10 years) (extended for 3 years in 1979)

↓

1982 Establishment of the Law on Special Measures for Regional Improvement (expiration period of 5 years)

↓

1987 Establishment of the Law regarding the Special Fiscal Measures of the Government for Regional Improvement Projects (expiration period of 5 years)

↓

1992 Extension of the Law regarding the Special Fiscal Measures of the Government for Regional Improvement Projects by 5 years (the Law expired on 31 March 1997)

↓

FY1993 Fact-finding surveys carried out in *Dowa* districts (released in FY1995)

↓

May 1996 Gathering of opinions by the Council on the Policy of Regional Improvement

(Fact-finding) Special measures concluded at the end of March 1997 and basically made the transition to general measures thereafter (Education and encouragement) Reformulated to human rights education and human rights encouragement (Remedies for victims) Wholeheartedly held discussions with the aim of establishing a remedy system for human rights violations suitable for the twenty-first century.

↓

July 1996 Cabinet Decision on "Measures for the future targeted at an early resolution of the *Dowa* problem"

- Smoothly make the transition from special measures to general measures (take transitional legal measures for only 15 projects)
- Projects concerning education and encouragement aimed at eliminating the sense of discrimination regarding the *Dowa* problem should be reformulated and promoted as projects for human rights education and human rights encouragement.

↓

March 1997 Law to partially amend the Law regarding the Special Fiscal Measures of the Government for Regional Improvement Projects (expiration date is 31 March 2002)

December 1996 Law of Promotion of Measures for Human Rights Protection established at the extraordinary session of the Diet (expiration period of 5 years)

↓

March 1997 Establishment of the Council for Human Rights Promotion

- Matters of deliberation

1. Basic items of human rights education and encouragement on human rights (Minister of Justice, Minister of Education, Director-General of the Management and Coordination Agency)
2. Role and function of the remedy system for human rights (Minister of Justice)

↓

July 1999 Report of the Council for Human Rights Promotion (basic items of human rights education and encouragement)

↓

May 2001 Report of the Council for Human Rights Promotion (role and function of the remedy system for human rights)

December 2000 Law on Promoting Human Rights Education and Human Rights Edification

(Legislation initiated by lawmakers)

Annex XII

RESULTS OF FACT-FINDING SURVEYS CARRIED OUT IN *DOWA* DISTRICTS IN FY1993 (EXCERPTS)

- Situation of the housing environment (average number of rooms per house, average size based on tatami mats)

	FY1993 survey	FY1985 survey	Nationwide
Average number of rooms	5.5 rooms	5.3 rooms	4.9 rooms
Average size	31.3 tatami mats	30.1 tatami mats	31.5 tatami mats

* Nationwide: Based on the *1993 Preliminary Statistics of the Housing Statistics Survey* (Statistics Bureau, Ministry of Internal Affairs and Communications (MIC)).

- Status of development of municipal roads

	Within *Dowa* districts	Municipalities overall
Percentage developed	61.6%	44.0%

- Status of development of rice paddies

	Within *Dowa* districts	Municipalities overall
Percentage developed	61.4%	39.0%

- Situation of marriage (number of couples based on place of birth)

		Both spouses born in the *Dowa* districts (%)	One of the spouses born outside of the *Dowa* districts (%)
This survey		57.5	36.6
Age of husband	Under age 25	24.5	67.9
	Age 25-29	25.6	67.4
	Age 30-34	32.6	61.2
	Age 35-39	40.6	54.3
	Age 40-44	46.2	49.2
	Age 45-49	51.7	42.2
	Age 50-54	58.4	35.1
	Age 55-59	65.6	27.7
	Age 60-64	71.0	23.1
	Age 65-69	73.9	21.2
	Age 70-74	76.9	16.9
	Age 75-79	78.1	15.8
	Age 89 and over	79.4	14.1
FY1985 survey		65.6	30.3
