

**Convention on the Rights of Persons
with Disabilities
(CPRD)**

**Replies to the list of issues
in relation to its initial report**

The Government of Japan

Annex 1

Paragraph 11 (a) of the list of issues: The Adult Guardian System

Systems in place under the Civil Code

- (1) The adult guardianship system is established to protect and provide support for persons incapable of making decisions on their own behalf due to dementia, intellectual disability, mental disability, or for some other reason. The adult guardianship system is broadly divided into the legal guardianship system and the voluntary guardianship system.
- (2) In addition, the legal guardianship system is divided into three categories: “guardianship,” “curatorship,” and “assistance.” The appropriate system can be chosen depending on the degree of the capacity to appreciate the person’s own situation. In the legal guardianship system, adult guardians (adult guardians / curators / assistants) selected by a family court protect and support the individual lacking sufficient capacity to appreciate the person’s own situation due to a mental disorder by acting on his or her behalf by performing legal acts such as entering into contracts, giving consent when the individual conducts a legal act by themselves, or later cancelling disadvantageous legal acts the individual performed without consent.
- (3) The voluntary guardianship system refers to when a person who has sufficient capacity to appreciate the person’s own situation signs a contract (voluntary guardianship contract) notarized by a notary public that gives the power of representation to perform work related to one’s living situation, nursing care and property management to a representative (voluntary guardian) they choose themselves beforehand in preparation for when they have insufficient capacity to appreciate the person’s own situation due to mental disorder in the future.(Further information on the system is available at: <https://www.moj.go.jp/EN/MINJI/minji17.html#a1>)

Overview of the Legal Guardianship System

	Guardianship	Curatorship	Assistance
Target	Those who lack capacity for judgment in normal state	Those who have significantly insufficient capacity for judgment	Those who have insufficient capacity for judgement
Those who can make a petition	The person in question, his/her spouse, relatives within the fourth degree of kinship, public prosecutors, etc. Heads of local municipalities (Note 1)		
Acts that an adult guardians (adult guardians, curators, assistants) can agree to or cancel	In principle, all legal acts (except for acts related to daily life, Note 4)	Acts stipulated in Article 13, Paragraph 1 of the Civil Code (Note 2) (Note 3) (Note 4)	“Specific legal acts” (some acts prescribed in Article 13, Paragraph 1 of the Civil Code) specified by the family court at a hearing within the scope of the petition (Note 1) (Note 2) (Note 4)

Acts that adult guardians (adult guardians, curators, assistants) can perform on the ward's behalf	All legal acts concerning property	Specific legal acts specified by the family court at a hearing within the scope of the petition (Note 1)	Same as left (Note 1)
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(Note 1) The consent of the person under curatorship will be required if the request is made by a person other than the person under curatorship to give a curator specific legal authority. The same is true for hearings giving the right of consent or specific legal authority to an assistant and hearings to start assistance.

(Note 2) Article 13, Paragraph 1 of the Civil Code states actions such as debt, litigation, approval and abandonment of inheritances, new construction, reconstruction, and extensions.

(Note 3) Through hearings in family court, the scope of the right of consent and the right of cancellation can be extended in addition to the acts prescribed in Article 13, Paragraph 1 of the Civil Code.

(Note 4) Activities related to daily life are excluded.

- (4) The appointment of adult guardians and the supervisors of adult guardians shall take into account all relevant circumstances, including the views of the adult ward, and the opportunity for the adult ward to provide a statement must be granted (Article 843, Paragraph 4 and Article 852 of the Civil Code, and Article 120 of the Domestic Relations Case Procedure Act).
- (5) Further, the adult guardian appointed must respect the intention of the adult ward, and consider his/her circumstances (Article 858 of the Civil Code). These stipulations are intended to respect the rights, intentions, and preferences of the adult ward.
- (6) These provisions either also apply mutatis mutandis to curators and assistants, or equivalent provisions have been established that apply to them (Article 876-2 Paragraph 2, 876-5, Paragraph 1, 876-7 Paragraph 2, 876-8 Paragraph 2, and 876-10 Paragraph 1 of the Civil Code; Articles 130 and 139 of the Domestic Relations Case Procedure Act).
- (7) The person in question must give their consent for the family court to rule on the commencement of assistance at the request of someone other than the person concerned (Article 15, Paragraph 2 of the Civil Code).
- (8) The scope of the adult guardian's right to rescind and authority of representation is clearly defined in the Civil Code, and the adult guardian must respect the wishes of the adult ward in exercising said rights (Articles 7 to 9, and Article 858 of the Civil Code).
- (9) With regard to guardianships, while adult guardians are granted the authority of representation, this is intended to have the adult guardian assume responsibility for taking the final decision on the signing of contracts and other agreements to ensure that the adult ward is not disadvantaged in contractual agreements and other legal affairs. (For example, even if a contract is concluded based on the volition of the adult ward, the adult guardian shall be responsible for performing a final check of the contents of the agreement before concluding the contract upon his or her responsibility). As such, even with regard to guardianships, the adult guardian may exercise his or her authority of representation in a manner that supports the decision-making of the adult ward in line with the above purpose. As described below, the GOJ is promoting measures to ensure the right of self-determination is respected within the adult guardianship system.

- (10) Even with guardianships, there are no restrictions placed on legal acts available to adult wards, and these powers only extend to the ability to revoke legal acts by the adult ward or guardian should said legal act be disadvantageous to the adult ward. Further, the adult guardian does not have the authority to revoke activities relating to everyday life out of respect for the will of the adult ward.
- (11) curatorship, or expand the scope of the right of consent and right of revocation as necessary according to the decision-making faculties of the person concerned, any order to grant power of representation at the request of any person other than the person under curatorship shall require the consent of the person under curatorship (Article 13, and Article 876-4 of the Civil Code). While the Civil Code allows the family court to define the scope of the right of consent, the right of revocation, and the power of representation of assistants on a case-by-case basis as necessary according to the decision-making faculties of the person concerned, any order to grant the right of consent or other rights at the request of any person other than the person receiving assistance shall require the consent of the person receiving assistance (Article 17, and Article 876-9, of the Civil Code).
- (12) The family court shall monitor affairs conducted by guardians, curators, and assistants, and may request that said guardians, curators, and assistants submit a report of affairs conducted at any time (Article 863, Article 876-5, Paragraph 2, and Article 876-10, Paragraph 1 of the Civil Code). This ensures a review by a judicial organ. Should the person concerned recover their decision-making faculties, the family court may rescind the ruling of the commencement of guardianship, curatorship, or assistance if petitioned to do so (Article 10, Article 14, Paragraph 1, Article 18, Paragraph 1 of the Civil Code), allowing for measures appropriate to the circumstances concerning the person with the disability.
- (13) It is also noted that the adult guardianship system allows for an attorney appointed by an adult guardian to secure the safety of the adult ward's person and manage their estate to appropriately protect their wellbeing and assets, while respecting the will of the person concerned if, for example, the person with a disability is being physically abused, or is being exploited for their pension by a family member.

Promotion of the use of the adult guardianship system

- (14) The Act on the Promotion of the Use of the Adult Guardianship System (hereinafter, the Basic Act), enacted in May 2016, stipulates that promoting the use of the adult guardianship system should be based on the basic principles of the adult guardianship system, such as respect for the right of the adult ward.
- (15) The Basic Plan on the Promotion of the Use of the Adult Guardianship System (hereinafter, the Basic Plan) met with cabinet approval in March 2017. It sets out to promote measures concerning the promotion of the use of the adult guardianship system in a comprehensive and systematic manner based on the Basic Act.
- (16) The Basic Plan calls for further review into the establishment of guidelines on the means of providing decision-making assistance to ensure that adult guardians are able to give proper consideration to adult wards concerning with their own circumstances. In light of this, in May 2019 the GOJ set key performance indicators (KPIs) with a target date of the end of FY2021 for the establishment of said guidelines, together with the implementation of training programs for adult guardians in aiding decision-making of adult wards in all prefectures. As part of efforts to achieve said KPIs, the relevant bodies have held discussions and reviews into the formulation of the guidelines, which were publicly released in October 2020. In addition, decision-making assistance training for adult guardians has commenced in 15 prefectures by the end of FY2020, and completed in FY2021.
- (17) One of the goals of the Basic Plan is to promote the use of curatorship- and assistance- category guardianship and the voluntary guardianship system. Specifically, this involves bolstering consulting services based on the individual needs of the user, and enhancing activities raising awareness of these systems. Since the formulation of the Basic Plan, the relevant organizations have coordinated to promote system development measures to pave the way for each region to have a coordinated network and a core functioning body providing both public relations and consulting services.

Paragraph 12 (b) of the list of issues: Specific Measures on Trainings

Lawyers	The Japan Federation of Bar Associations provides training to lawyers to enhance their understanding of appropriate considerations for persons with disabilities. Additionally, each local bar association provides their member lawyers with training related to the elimination of discrimination against persons with disabilities.
Court Officials, Judges	It is the understanding of the GOJ that the Legal Training and Research Institute of Japan, which is responsible for the training of judges, and the Training and Research Institute for Court Officials, which is responsible for the training of court officials, invite government officials involved in the protection of human rights and experts in fields related to persons with disabilities to carry out training courses aimed to further understanding of appropriate considerations required for persons with disabilities, and that similar training is also provided at courts in Japan.
Public Prosecutors	Various training programs are implemented for public prosecutors on the basis of their number of years of service. These include lectures on the Convention on the Rights of Persons with Disabilities and other matters relating to international human rights, and lectures aimed at furthering understanding and consideration for persons with disabilities. In addition, senior prosecutors provide further instruction to individual prosecutors on a daily basis through work on individual investigations and trials.
Police Officers	Police academies and police stations provide lectures on (1) the Convention on the Rights of Persons with Disabilities and other conventions pertaining to human rights, (2) the Constitution of Japan, the Code of Criminal Procedure and other laws, and (3) ethical principles for the workplace. They also conduct training programs such as visits to facilities for persons with disabilities and talks from experts in the field. These lectures and trainings are provided in order to deepen police officers' understanding on the characteristics of persons with disabilities and the communication which takes disabilities into consideration, and also to promote policing activities which give full consideration to human rights, including that of persons with disabilities.
Prison Guards	Training is provided to prison guards from the perspective of respect for the human rights of inmates in correctional facilities. This is done through various lectures on the human rights of inmates as defined in the Constitution of Japan and various other treaties on human rights, as well as through training programs based on behavioral science taught as part of training programs offered by the Training Institute for Correctional Personnel and its branch offices. Further, correctional facilities are striving to improve awareness for human rights among correctional personnel through self-training courses that use role play activities based on actual correctional situations concerning the treatment of inmates.
Other Personnel	In September 2016 and January 2018, workshops with a focus on the "Human Rights of Persons with Disabilities" were held as part of the "Human rights workshop for national government officials" held for employees working at central ministries and agencies to deepen the level of understanding and awareness of government officials on human rights issues. Further, lectures on human rights issues concerning persons with disabilities are given as part of training programs provided to employees of Legal Affairs Bureaus and District Legal Affairs Bureaus involved in the protection of human rights. Training on human rights issues concerning persons with disabilities is also provided to Human Rights Volunteers.

Paragraph 13 (a) of the list of issues: Behavioural Restrictions

Due to the risk under certain circumstances of attempted suicide or other acts of self-harm which endanger the life of the patient without intervention while under psychiatric care, Article 36, Paragraph 1 of the Act on Mental Health and Welfare for the Mentally Disabled provides for the imposing of necessary restrictions to prevent said acts to the degree necessary to ensure the care and protection of the patient concerned. Administrators of psychiatric hospitals must comply with the standards imposed by the Minister of Health, Labour and Welfare based on the provisions of Article 37, Paragraph 1 of the same Act. These standards require that isolation and physical restraint (hereinafter, “behavioral restrictions”) are only applied under unavoidable circumstances to ensure the care and protection of the patient concerned, and must not be used as a punishment or a warning for others. Further, these standards set forth compliance rules to prevent against behavioral restrictions being applied unless absolutely necessary, such as by requiring efforts to notify the patient of the reason why said behavioral restrictions are being applied, and mandating the keeping of medical records containing information on the restrictions applied, the reason said restrictions were applied, and the date and time said restrictions commenced.

Paragraph 19 (a) of the list of issues: additional information on survey results

- (1) A survey conducted in 2016 on the living conditions and needs of children and adults with disabilities at home (Survey on Difficulty in Living) estimated the number of disabled people with a disability certificate at 5.594 million. Of these, 2.971 million were male and 2.595 million were female. The number of disability certificate holders aged 65 and older was estimated to be 3.238 million. Of those with a disability certificate, 24.7 percent used disability benefits services under the Act on the Comprehensive Support for the Daily and Social Life of Persons with Disabilities.
- (2) The status of inpatient psychiatric beds by gender, age group, and prefecture is shown in Annex 3. This table was published in the “Mental Health Welfare Paper,” which compiles the findings of the Psychiatric Medical Policy Research Department, Institute of Mental Health of the National Institute of Mental Health National Center of Neurology and Psychiatry.

Table 1: Number of persons in disability support facilities

Age	Number of persons in disability support facilities
Total number	153,426
17 and under	318
18–19	1,438
20–29	13,231
30–39	19,428
40–49	34,979
50–59	33,300
60–69	31,032
70–79	15,278
80–89	2,987
90 and above	190
Unknown	1,246

Table 2: Number of persons in residential facilities for children with disabilities

Age	Number of persons in residential facilities for children with disabilities
Total number	16,303
0–10	2,832
11–17	6,033
18 and above	7,311
Unknown	126

Table 3: Post-discharge place of residence of people discharged from disability support facilities

Total number	7,415
Home/apartment	1,365
Group home	752
Welfare home	46
Residential facility	1,279
Other	927

Paragraph 20 of the list of issues: Act on the Comprehensive Support for the Daily and Social Life of Persons with Disabilities

Article 5, Paragraph 3 Visiting Care for Persons with Severe Disabilities	The GOJ provides comprehensive care for persons with severe physical disabilities and other persons with disabilities who require constant care for bathing, elimination, and eating at home, as well as transportation care when going out. The number of service users in March 2021 was 11,568.
Article 5, Paragraph 4 Companionship Support	This service provides support for persons with disabilities who have significant mobility difficulties due to visual impairment by accompanying them when they go out, providing them with information necessary for mobility, and assisting them with mobility. The number of service users in March 2021 was 24,913.
Article 5, Paragraph 5 Behavioral Support	This service provides necessary support to persons with disabilities who have obvious behavioral difficulties due to intellectual disability or mental impairment and who require continuous care, to avoid possible dangers when these persons with disabilities go out, and to provide care during transportation. The number of service users in March 2021 was 11,334.
related services	In order to provide commuting support and workplace support to persons with disabilities who use visiting care for persons with severe disabilities, companionship support, or behavioral support for persons with disabilities, the Assistance for Persons with Disabilities Subsidy and the Commuting Measures Subsidy for Persons with Severe Disabilities have been expanded as subsidies to companies based on a system called the Levy and Grant System for Employing Persons with Disabilities. In addition, the “Special Project for Employment Support for Persons with Severe Disabilities in Coordination with Employment Policies” is being implemented as a municipal community living support project based on Article 77 of the Act on the Comprehensive Support for the Daily and Social Life of Persons with Disabilities.
Article 77 Movement Support Project	Being carried out by municipalities as a community living support project by municipalities based on the characteristics of the community and the needs of users. The purpose of the project is to promote independent living and social participation in the community by providing out-of-home support for persons with disabilities who have difficulty moving around outdoors.
Article 76 Support for Prostheses and Daily Living Equipment	Necessary expenses are provided for the purchase of prostheses (welfare devices that supplement or replace the physical functions of persons with disabilities and last for a long period of time, such as wheelchairs and artificial legs).
Article 77, Paragraph 6	The GOJ provides daily living equipment to facilitate daily living through the Daily Living Equipment Provision Project.

Paragraph 29 of the list of issues: Specific Measures Taken for the Operation of Voting Systems

- (1) With regard to voting in Braille, polling stations throughout the country have Braille machines and lists of candidates in Braille. With regard to proxy voting, from the viewpoint of ensuring the free will of the voters themselves, it was decided that votes should be cast by two assistants designated among the clerks at the polling stations, that good practices of secrecy of voting should be disseminated, and that detailed and appropriate actions should be taken by the assistants to confirm the voters' intentions. Regarding absentee voting at designated facilities (hospitals, nursing homes, and support facilities for the physically disabled designated by the Prefectural Election Commission) and absentee voting by mail, the use of these systems and procedures was thoroughly publicized through explanatory meetings, distribution of public relations magazines, and posting on the Election Commission website.
- (2) The National Diet is working to make its facilities more accessible so that they can be used smoothly by all visitors with disabilities, including members of the National Diet, guests from overseas, and visitors to the National Diet.

Paragraph 30 (a) of the list of issues: Other Measures

- (1) In consideration of children with disabilities who were not able to attend the Tokyo 2020 Olympic and Paralympic Games, the GOJ encouraged special needs education schools across Japan to hold sports, cultural and educational events with local residents.
- (2) The National Training Center, which serves as a hub for activities for Japan's top athletes, including Paralympic athletes, has been expanded and upgraded.

Paragraph 32 (a) of the list of issues: JICA's Guidelines for Environmental and Social Considerations

The Guidelines for Environmental and Social Considerations state that

JICA respects the principles of internationally established human rights standards such as the International Covenants on Human Rights, and gives special attention to the human rights of vulnerable social groups, including women, indigenous peoples, persons with disabilities, and minorities when implementing cooperation projects. JICA obtains a wide range of country reports and information about human rights that are issued by related institutions, and seeks to understand local human rights situations by disclosing information about cooperation projects. Thus, JICA integrates local human rights situations into decision-making processes that relate to environmental and social considerations.

Accordingly, JICA must take into account the rights of persons with disabilities in its projects.

Paragraph 32 (b) of the list of issues: Specific Initiatives on Promoting Participation of Groups Led/Run by People with Disabilities

Establishment of issue-specific support committees

- (1) In order to obtain advice on initiatives in the field of disability from persons with disabilities and experts belonging to organizations of/for persons with disabilities, an issue-specific support committee on "Disability and Development" was established in 2003 and worked to obtain such advice up to FY2019. Consultations were conducted through the committee or individually on specific projects related to each committee member. (The committee included four members with disabilities: two with hearing impairments, one with visual impairment, and one with physical impairment in FY2019.) From FY2020 on, such committees have not been established, but discussion and consultation with related organizations of/for persons with disabilities have been conducted on a case by case, when necessary.

Establishing guidelines to ensure the participation of persons with disabilities in various projects

- (1) When sending volunteers with disabilities to participate in volunteer projects, guidelines are established to ensure that volunteers with disabilities are given reasonable accommodation based on their wishes and that they are not treated differently from other volunteers, for example by being subjected to stricter safety restrictions than other volunteers against their will.
- (2) To ensure the participation of persons with disabilities in technical cooperation and other projects, the Procedures for Dispatching Specialists/Investigators with Disabilities (for Wheelchair Users and Users of Assistance Services) was established. These procedures ensure reasonable accommodation such as being accompanied by a caregiver, in line with the requests of the specialist with disabilities to be dispatched.
- (3) For training programs, various manuals have been developed to ensure the participation of trainees with disabilities and to ensure that trainees with disabilities receive the reasonable accommodation they need to participate in training in Japan.

Participation of groups led/run by persons with disabilities in citizen participation cooperation projects

Projects are formed and implemented in cooperation with groups including persons with disabilities. Specific examples are as follows:

- (i) Empowerment of and disability mainstreaming for persons with disabilities affected by earthquakes conducted by persons with disabilities
 - Implementing organization: NPO Okinawa Independent Living Center Dolphin
 - Target country: Nepal
 - Implementation period: October 2016 to September 2019
- (ii) Project to establish a social support system for persons with disabilities
 - Implementing organization: NPO Mainstream Association
 - Target country: Costa Rica
 - Implementation period: April 2017 to April 2022
- (iii) Building the capacity of independent living centers for persons with disabilities through accessible community development
 - Implementing organization: Japan National Assembly Of Disabled Peoples' International
 - Target country: Republic of South Africa
 - Implementation period: September 2016 to February 2020

Paragraph 33 of the list of issues: Achievements of the Commission on Policy for Persons with Disabilities

- (1) From May 2015, the Commission monitored the implementation of the Third Basic Plan for Persons with Disabilities with a view to submitting the GOJ's initial report, and compiled the results in a document in September 2015.
- (2) In addition, since October 2016, the GOJ has conducted 11 studies and deliberations for the development of the Fourth Basic Plan for Persons with Disabilities and compiled the opinions into a document. This process included reflecting the principles of the Convention throughout the document and clearly indicating the correspondence between each area of the Basic Plan and each article of the Convention to ensure consistency with the Convention. The results of this process have been reflected in the Fourth Basic Plan for Persons with Disabilities.