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ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\*

**Japan**

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## **I. JAPAN'S LEGAL SYSTEM AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS CONCLUDED BY JAPAN**

### **A. Japan's legal system**

#### **1. The political framework**

1. The Japanese political framework is based on the separation of legislative, executive and judicial powers, and on parliamentary democracy. The Constitution of Japan declares that sovereign power resides with the people, and stipulates that the Diet shall be the exclusive legislative power, executive power shall be vested in the Cabinet, and judicial power vested in the courts. (The Constitution stipulates that the Emperor is a symbol of the Japanese State and is only to perform acts in matters of state as provided for in the Constitution.) For the relationship between the Diet and the Cabinet, a parliamentary cabinet system has been adopted. (Based on the principles of autonomy of local public entities and autonomy of citizens, local public entities have independent authorities separate from the central organs, particularly regarding executive power.)

#### **2. Legislature**

2. The Diet consists of the House of Representatives and the House of Councillors, both of which consist of elected members, representatives of all the people. The right to vote in elections has been equally granted to any Japanese national, both female and male, aged 20 years or over. Eligibility for election to the House of Representatives is granted to any Japanese national aged 25 years or over, while that to the House of Councillors is granted to those aged 30 years or over. The term of office of members of the House of Representatives is four years, whereas that for members of the House of Councillors is six years.

#### **3. Executive organs**

3. The Cabinet consists of the Prime Minister and other Ministers of State. Under the current system, one Cabinet Office and 11 Ministries have been established under the Cabinet. Administrative commissions such as the National Personnel Authority, Fair Trade Commission, National Public Safety Commission and Environmental Dispute Coordination Commission have also been established. Japan has adopted a civil service system, and in the national government and local public entities, civil servants handle administrative affairs.

#### **4. Judicial organs**

4. Under the Constitution of Japan, judicial power is entirely vested in the courts, and no organs or agency of Executive shall be given final judicial power. Furthermore, trials are conducted and judgments are declared publicly. A three-tiered judicial system has been adopted in principle in Japan, and the system of courts includes the Supreme Court and lower courts (high courts, district courts, family courts and summary courts). The Supreme Court consists of a Chief Judge and 14 judges. The Chief Judge is appointed by the Emperor based on the Cabinet's nomination, while the other judges of the Supreme Court are appointed by the Cabinet. The judges of the lower courts are appointed by the Cabinet based on the nomination of the Supreme Court.

5. According to the Constitution, all judges shall be independent in the exercise of their conscience and shall be bound only by the Constitution and the laws. Judges shall not be removed except by public impeachment unless declared by a court to be mentally or physically incompetent to perform their official duties. This public impeachment shall take place based on the stipulations of the Constitution of Japan: the Diet shall set up an impeachment court from among members of both Houses for the purpose of trying those judges against the impeachment proceedings. Under the law, the decision on impeachment degradation requires a majority of over two thirds of those

members involved in the examination. Under the Constitution of Japan, the appointment of judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment. When the majority of the voters favor the dismissal of a judge, he/she shall be dismissed. No disciplinary action against judges shall be administered by any executive organization or agency. Furthermore, judicial administrative authority belongs to the courts, and management of the personnel, budget and other matters of the courts are to be performed autonomously.

### **B. Organizational outline of the Human Rights Bureau**

6. The human rights organs of the Ministry of Justice protect the fundamental human rights by performing duties related to human rights counseling, the investigation and resolution of human rights violation cases, and conducting promotion activities to raise awareness of and respect for human rights. In addition to the Human Rights Bureau of the Ministry of Justice, eight Human Rights Divisions have been established in the Legal Affairs Bureau and 42 Human Rights Offices have been established in the District Legal Affairs Bureau to act as implementing agencies for the provincial areas. Branch Bureaus of organs under the control of the Legal Affairs Bureau and the District Legal Affairs Bureau (284 as of April 1, 2008) are also involved in performing human rights duties. Human rights volunteers (14,000) appointed by the Minister of Justice are in place in all municipalities in the country (including special wards) and conduct human rights protection activities.

### **C. Human rights instruments concluded**

7. Principal international human rights instruments concluded or signed by Japan as of March 2008 are as follows:

- International Covenant on Civil and Political Rights (Ratification, Entry into force 1979);
- International Covenant on Economic, Social, and Cultural Rights (Ratification, Entry into force 1979);
- International Convention on the Elimination of All Forms of Racial Discrimination (Accession 1995, Entry into force 1996);
- Convention on the Elimination of All Forms of Discrimination against Women (Ratification, Entry into force 1985);
- Convention on the Rights of the Child (Ratification, Entry into force 1994);
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Ratification, Entry into force 2004);
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography (Ratification, Entry into force 2005);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Accession, Entry into force 1999);
- Convention on the Rights of Persons with Disabilities (Signature 2007);
- Convention for the Protection of All Persons from Enforced Disappearance (Signature 2007);

- Convention Relating to the Status of Refugees (Accession 1981, Entry into force 1982);
- Protocol Relating to the Status of Refugees (Accession 1982, Entry into force 1982);
- Geneva Conventions of 1949 (Agreements 1-4) (Accession, Entry into force 1953);
- Geneva Convention Additional Protocols of 1977 (1 and 2) (Accession 2004, Entry into force 2005);
- Rome Statute of the International Criminal Court (Accession, Entry into force 2007).

8. Some of the human rights instruments contain individual communications procedures that allow individuals or groups of individuals to bring complaints on human rights violations to the treaty bodies. Japan has neither concluded nor accepted any of communications procedures yet. Currently Japan is giving consideration to this matter.

## **II. RECENT IMPLEMENTATION OF PROTECTION OF HUMAN RIGHTS AND RESULTS ACHIEVED**

### **A. General initiatives for the encouragement of protection of human rights**

#### **1. Domestic matters**

##### **(a) Investigation and resolution of human rights violation cases**

9. Human rights organs of the Ministry of Justice, not only answer various inquiries through the Human Rights Counselling Offices, regarding human rights, but also work to relieve and prevent human rights violations such as abuse of children or older persons, domestic violence, discriminatory treatment on the basis of illness, disability or sex, or defamation and invasion of privacy by taking appropriate measures: introduce public organs or other agencies concerned, give legal advices or other appropriate support, coordinate relations between victims and persons concerned, give instructions or a warning to the persons concerned in the case the fact of the human rights violation is recognized through the investigations of the fact regarding complaint of human rights violation.

10. Approximately 21,000 human rights violations were brought to the new procedures for relief in 2006, and there were 277,000 inquiries concerning human rights.

##### **(b) Human rights education for civil servants**

11. The Ministry of Justice holds human rights workshops twice yearly for government officials, particularly targeted at those in central government ministries, in order to deepen the awareness and understanding of human rights problems among these national public officers. The Ministry also provides the Human Rights Promotion Leaders Workshop to enable officers, in charge of human rights promotion related administration in prefectural and municipal governments, to acquire the knowledge required for leaders.

12. The Legal Research and Training Institute for the training of judges and legal apprentices contain lectures relating to human rights issues in its judges' training curriculum. The lectures are given on such themes as human rights issues in criminal proceedings, women's and children's rights, domestic violence, Dowa, human rights for foreigners, and issues in international human

rights laws such as human rights instruments. The training curriculum for legal apprentices also contains lectures dealing with human rights.

13. The Training and Research Institute for Court Officials provides the training of court officials other than judges, which contains lectures on guaranteeing fundamental human rights, domestic violence issues and similar themes in its training curriculum for those officials.

14. Public prosecutors and assistant officers to the public prosecutor are given human rights education in many kinds of training occasions, and also are deepening their understandings of respect for human rights through everyday advice of their superiors, so that they may accomplish their duties with full respect for fundamental human rights.

**(c) Human rights education/promotion**

15. To further promote policies involving human rights education and awareness raising, the Act for Promotion of Human Rights Education and Encouragement was enacted in December 2000 in order to clarify the responsibilities of the government, local public entities and the people, and the basic philosophy behind human rights education and awareness raising. Based on the above act, in March 2002 the Basic Plan for Promotion of Human Rights Education and Encouragement was approved by the cabinet with the purpose of promoting human rights education and awareness raising comprehensively and systematically; an annual report based on the act has been submitted to the Diet from 2003 onwards.

16. Based on the above, Japan is striving to raise human rights awareness through school education and social education. In school education, model regions are designated to promote comprehensive human rights education initiatives where schools, families and local communities are integrated (including the formulation of human rights education teaching plans and cooperation between related institutions and different types of schools), and model schools are designated to promote practical human rights education initiatives (including skills for teaching and practical teacher training). Practical studies on the methods for teaching human rights education are conducted by experts, and disseminated by the government. In terms of social education, model programs are being implemented on human rights issues taking into account the actual situation in various regions of the country. Practical studies are also being made on measures for ensuring full opportunities to learn about human rights, the development of practical programs to increase the motivation to learn, and training for human rights education leaders.

17. The human rights organs of the Ministry of Justice also undertake the following activities in order to raise individual awareness of human rights and increase understanding: hold symposia, public lectures, round-table talks, debates and film presentations, participation in various events, TV and radio broadcasting, articles in newspapers and magazines, distribution of pamphlets and posters on bulletin boards. In particular, the organs designate each year the period from December 4 to 10, which is a week the ending Human Rights Day, as Human Rights Week and conduct various promotion activities in line with emphasis on certain issues such as “Protection of Children’s rights,” “Elimination of Discrimination relating to Dowa issue” and “Deepen Your Understanding of the Ainu people.”

18. Furthermore, the week from December 10 to 16 each year is designated as the North Korean Human Rights Abuses Awareness Week, during which international symposia and other events are held by the central, prefectural and municipal governments with the intention of raising the awareness of a wide range of people about human rights violations by North Korea, including the abduction issue.

## **2. International matters**

### **(a) Basic policy**

19. Japan recognizes the realization of the universal values common to the international community, such as fundamental human rights and democracy, as a major issue requiring the engagement of the international community, and has hence long kept up dialogue and cooperation with countries moving towards democracy and market economy. This has involved taking a wide range of initiatives on diverse occasions, and lobby for reform through various bilateral channels including bilateral human rights dialogue. Aid of all kind is given which includes human rights resources in fields necessary for the encouragement / protection of human rights and democracy, aid for free and fair elections and to support for a free and independent media, aid for governance and technical assistance in the legal and judicial field and aid with the purpose of guaranteeing and enhancing the capabilities of civil society and vulnerable persons within society from the perspective of “Human Security”. Human resources fostering of in fields necessary for the encouragement/protection of human rights and democracy, aid is given to free and fair elections and to support a free and independent media, while various aid is given for governance and technical assistance in the legal and judicial field.

### **(b) Technical assistance in the legal and judicial field**

20. The development of legal systems based on good governance is a basis for achieving national development through self-endeavor and realizing a fair and democratic society. Developing legal systems and enhancing the rule of law will contribute to realizing “Human Security”, which aims to build the capacity of individuals as well as their nations through protection and empowerment of individuals and communities to cope with threats they face. Japan has worked from these perspectives to provide assistance to the development of legal systems in developing countries through technical cooperation to reform their justice systems and to foster legal experts, and by contributing through aid grants from funds established in international institutions. Aid is particularly prioritized to countries actively involved in efforts towards reforming socio-economic structures and working towards peace, democracy and protection of human rights.

### **(c) Human rights dialogue**

21. Japan’s basic approach utilizes dialogue and cooperation. In consideration of the importance of encouraging improvement of human rights situation through dialogue, Japan strives to find shared values through frank exchange of opinions in bilateral dialogue, as well as implementing concrete cooperation with other countries’ governments to contribute as much as possible to improving the situation of human rights. Japan intends to continue to make effective use of opportunities for dialogue on human rights and to strive for the improvement of human rights issues.

### **(d) Coordination with human rights mechanisms**

22. Japan actively cooperates with the various international human rights instruments and their monitoring bodies, submitting government reports to each committee and attending hearings. Japanese committee members have joined the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, and the Sub-commission on the Protection and Protection of Human Rights (now the Human Rights Council Advisory Committee), thus contributing to the permeation of human rights mechanisms into the international community. Another human rights related commission is Commission on the Status of Women is which Japan is

a Member State, and a Japanese member having been sent on an International Humanitarian Fact-Finding Commission.

23. Japan served as a member of the United Nations Commission on Human Rights from 1982 onwards, the predecessor to the United Nations Human Rights Council (the principle forum for human rights affairs in the United Nations), and is currently one of the first elected Members of the Human Rights Council.

## **B. Strengthening the judicial system**

### **1. Comprehensive legal support (“Houterasu”)**

24. As a part of the Justice System Reform, after due consideration to the construction of a comprehensive legal support system for accepting information and services that enable solutions for legal troubles anywhere in Japan, the Japan Legal Support Center (also called “Houterasu”) was established in 2006.

25. “Houterasu” provides information services such as provision of information and counselling services free of charge to help solve legal trouble, civil legal aid such as giving free legal counsel to those in financial difficulty as well as lending legal fees services related, ensuring appointment of Court-Appointed Defense Counsels for criminal / youth-related incidents, measures for areas with limited judicial services (that is isolated areas without lawyers) where lawyers belong to “Houterasu” will be sent to the said area, and assistance for victims through providing information to victim support organizations and so on. Since services started in October 2006, the Call Center has provided information for 240,000 cases, provided civil legal aid through lending lawyer’s fees and so on in 70,000 cases, and given legal counsel in 140,000 cases a year.

### **2. Increasing the number of legal professions**

26. Japan is now trying to increase its number of legal professions needed to cope with the increased legal demand caused by human rights issues. Whereas only around 500 people passed the National Bar Examination from 1963 to 1990, from 1991 this figure increased, with around 1,000 passing the examination from 1999 to 2001. Subsequently, the Recommendations of the Justice System Reform Council (Jun 12 2001), and the Plan for Promotion of Justice System Reform (March 19 2002), approved by the Cabinet following these recommendations, recommended to aim for 3,000 successful examinees to be passed annually by 2010. The number of persons who successfully passed the National Bar Examination was around 1,200 for 2002 to 2003, around 1,500 for 2004 to 2006 and around 2,100 in 2007.

## **C. Protection of human rights in criminal justice proceedings**

### **1. The enactment of the Act on Penal and Detention Facilities and the Treatment of Inmates and Detainees and the contents of this Act**

#### **(a) The enactment of the Act on Penal and Detention Facilities and the Treatment of Inmates and Detainees**

27. The Prison Law, which was enacted in 1908, prescribed the treatment of sentenced and unsentenced inmates and others in prison. Since the Law was outdated in terms of both its substance and form, the government started working on amendments to the Law, by hearing from with legal experts and the Japan Federation of Bar Associations. In 2005, the Act on Penal Institutions and the Treatment of Sentenced Inmates, which completely revised the Prison Law regarding the treatment of sentenced inmates, was enacted. On this occasion the word “prison” was

revised to “penal institution”. This was followed in 2006 by a full revision of the treatment of unsentenced inmates and others in the Act on Partial Revision of Act on Penal Institutions and the Treatment of Sentenced Inmates. This came into effect in 2007, achieving a full revision of the Prison Law. With the enforcement of this amendment, the title of the Act was renamed the Act on Penal and Detention Facilities and the Treatment of Inmates and Detainees.

**(b) Penal institutions**

28. The Act on Penal and Detention Facilities and the Treatment of Inmates and Detainees (hereafter the Penal and Detention Facilities Act) can be summed up as follows:

(a) The transparency of correctional administration is secured by establishment of the third-party Penal Institution Visiting Committee and other measures.

(b) Inmates’ rights and obligations (rights to religious acts and access to books, etc.) and the authority of the officers (the use of handcuffs, confinement in a protective room, use of weapon and disciplinary punishments, etc.) are clarified.

(c) Prison work, rehabilitation programs and academic education are provided as correctional treatment to encourage successful rehabilitation of sentenced inmates is enhanced. For this purpose, systematic treatment based on treatment guidelines, relaxation of restrictions and privilege measures have been introduced.

(d) The living standards for inmates are guaranteed by clearly stipulating the loan and supply of clothing and food, and the range and requirements for using self-supplied articles as well as guaranteeing adequate hygiene and medical care.

(e) Contacts with the outside world are guaranteed by allowing visits and correspondence within a certain limit and clearly stipulating the requirements for restrictions. In addition, sentenced inmates meeting the necessary requirements may be permitted to engage in communication by telephone.

(f) Complaint mechanisms consisting of a petition for review, report of cases and filing of complaints are provided.

**(c) Detention facilities**

29. Under the provisions of the Code of Criminal Procedure and the Penal and Detention Facilities Act, unsentenced inmates may be placed in detention facilities of the police. Concerning detention facilities, the detention division, organizationally separate from the investigative division, have performed appropriate detention services with due consideration of the detainees’ human rights. Under the Penal and Detention Facilities Act, the principle of the separation between investigation and detention is made legally clear, and a system has been established enabling a Detention facilities visiting committee made up of external third parties (lawyers or other legal professionals and other third parties) to visit the detention facilities and state their opinion on the management of the facilities. In addition, a complaints mechanism has been developed wherein a petition of objection may be sent to the Prefectural Public Safety Commission, a third party institution which controls the prefectural police. Also, under the Penal and Detention Facilities Act, the treatment of those detained in detention facilities has the provisions which provide the similar level of treatment with one of unsentenced inmates awaiting trial in penal institutions. The police continues to promote appropriate detention services in consideration of the human rights of the detainee. This involves taking such steps as (a) to ensure that investigative officers are not involved in the treatment of the detainee; (b) to ensure a heating / cooling system is installed in the detention facilities; (c) to provide medical treatment from a doctor at public expense if a detainee is sick or

injured; (d) to provide meals sufficiently healthy and with consideration given to religious taboos; (e) to guarantee in principle visits with lawyers, etc., including at nights or on holidays; family visits to be allowed in the regular visiting hours on weekdays, except the case when special directives are given from the court.

## **2. State-appointed counsel for suspects**

30. Formerly, state-appointed defense counsel was available only after indictment had been made. However, the 2004 amendment of Criminal Procedure Code introduced a new system, effective from October 2006, whereby the court may appoint defense counsel for a suspect under pre-indictment investigation, when the suspect cannot appoint counsel himself due to poverty or other grounds. Currently, this new system is applicable to cases that are punishable by death, or imprisonment for life or a minimum term of not less than one year, but the applicable cases will be expanded by May 2009 to those which are punishable by death, or imprisonment for life or a maximum term of more than three years. (According to a 2006 statistics, approximately eighty percent of the cases in which suspects were detained for offenses under the Penal Code were punishable by death, or imprisonment for life or a maximum term of more than three years.)

## **D. Protection of human rights of foreigners**

### **1. Refugee recognition procedures**

31. In May 2005, in order to stabilize the legal status of illegal foreign residents in the process of applying for refugee recognition, a system was established where permission for provisional stay is granted if certain conditions do not apply. For those with this permission for provisional stay, deportation procedures will be suspended while their refugee recognition is under examination, and they may legally stay in Japan without detention, while the procedures to determine their status will be prioritized.

32. At the same time, a refugee examination counselors system was introduced where the Minister of Justice consults with counselors, who are appointed from persons with extensive experience or academic standing in legal matters or in current international affairs, in order to make a decision on an objection filed against a denial of recognition of refugee status. Therefore, fairness and neutrality of the refugee recognition procedures have been enhanced.

### **2. Human Rights Counselling Offices for Foreign Nationals**

33. The human rights organs of the Ministry of Justice have established Human Rights Counselling Offices for Foreign Nationals with translation services (English, Chinese, etc.) within Legal Affairs Bureaus in Tokyo, Osaka, Nagoya, Hiroshima, Fukuoka and Takamatsu, as well as within District Legal Affairs Bureaus in Kobe and Matsuyama to deal with all forms of human rights counseling. In addition, regarding complaints of human rights violations for foreigners, such as being refused the renting of an apartment, or an entry to eating and drinking establishment or bath house by reason of being a foreigner, an investigation of the facts will be carried out and appropriate measures will be taken to ensure relief of the harm suffered and prevention of recurrence.

### **3. Measures to combat trafficking in persons**

34. Trafficking in persons is a grave violation of human rights and requires a prompt and appropriate response from the humanitarian perspective. Given such recognition, the Government of Japan established an Inter-Ministerial Liaison Committee (Task Force) regarding measures to combat trafficking in persons in April 2004. The Japan's Action Plan of Measures to Combat

Trafficking in Persons was formulated in December of the same year, and every effort is being made to firmly implement the plan to prevent and eradicate trafficking in persons while protecting victims.

35. Since trafficking in persons occurs due to the abuse of visas for “Entertainer” by criminal organizations as a method to bring victims into the country, the Ministry of Justice amended the Ministerial Ordinance to make the requirements for contracting agencies concluding contracts with foreign entertainers stricter. In addition, investigations of the actual conditions of the performing venues have been strengthened and other initiatives have been taken to remove improper business operators. As a result of stricter processing of visas for “Entertainer” by the Ministry of Foreign Affairs from April 2005, the issue of these visas fell from around 139,500 (2004) to around 39,500 (2007). The stricter visa review process involves careful examination of both “Entertainer” and “Temporary Visitor” visas in order to ensure such visas are not used for trafficking in persons. Publicity materials were produced to raise awareness among foreigners coming to Japan about the risk of becoming victims of trafficking in persons and to warn guarantors in Japan who invite foreigners into the country against being used by criminal organizations engaged in such trafficking, and these were publicized on the Ministry of Foreign Affairs website and Visa Counters of Japanese Embassies and Consulates-General.

36. Regarding the elimination of trafficking in persons, the Penal Code was amended in 2005 which included an article to criminalize the buying or selling of human beings. This makes all acts involving trafficking in persons criminal acts, adding kidnapping for illicit purposes, transportation, transfer and harboring of kidnapped victims for the purpose of harm to body or life in addition to already punishable acts such as kidnapping of minors or kidnapping for the profit or kidnapping for ransom. The police have made crackdowns through border control measures and on malicious employers or brokers, and attempted to give early protection to victims while determining the actual state of trafficking in persons in Japan and abroad; there were 40 incidents involving the arrest of 41 people in trafficking in persons in 2007, with 43 victims being taken under protection.

37. Regarding the protection of victims of trafficking in persons, if these victims are illegal foreign residents, special permission to stay in Japan is granted by the Immigration Bureau to stabilize their legal status. When interviewing female victims, the bureau usually assigns female officers for the interview and endeavors to alleviate the victim’s sense of insecurity by having the officers speak in a sensitive and caring manner, while continuing with the procedures. The Women’s Consulting Offices have protected 218 victims so far (as of December 2007), with 76 of these being commissioned for temporary protection to the care of private shelters available from FY2005. The Women’s Consulting Offices provides full support including staff trained in psychotherapy, interpreting service fees and medical treatment for the victims while in care. If the victims wish to return to their home country, repatriation assistance is provided through close cooperation among the Police, Immigration Bureau, Women’s Consulting Offices, NGOs, the International Organization for Migration and other related institutions. The International Organization for Migration (IOM) Voluntary Return and Reintegration Assistance funded by the Japanese Government has been available since April 2005 and, as of Dec.2007, it assisted 126 victims in returning to their home countries and supported the victims’ social reintegration.

38. The human rights organs of the Ministry of Justice are striving to prevent and relieve human rights violations. This is achieved through both by consultations on human rights for all kinds of human rights violations, including for victims of trafficking in persons, at the human rights counseling offices, and by taking all measures possible in cooperation with related institutions as necessary regarding complaints of human rights violations.

## **E. Protection of human rights of women**

### **1. Promoting policies based on the basic law for a gender-equal society**

39. Japan enacted the Basic Law for a Gender-equal Society in 1999 to clarify five principles on areas such as (a) Respect for the human rights of women and men, including no gender-based discriminatory treatment of women or men; (b) Consideration to social systems or practices; (c) Joint participation in planning and deciding policies, etc; (d) Compatibility of activities in family and other activities; and (e) International cooperation.

40. The law also clarifies the responsibilities towards the above of the State, local governments and the citizens. Based on this law, the Second Basic Plan for Gender Equality was adopted by the Cabinet in December 2005. This plan presents the necessary policies for the comprehensive and systematic promotion of the formation of a gender-equal society, such as the promotion of measures to support the return to work of women who left their jobs for child raising and the reformation of working styles (including those of men) in order to support compatibility between work, family and local community life. The actual implementation of these measures is being monitored and the degree of impact the government's measures are having on the formation of a gender-equal society is being studied. These studies are being discussed in the Council for Gender Equality and its opinions are submitted to the Prime Minister and other relevant ministers, when this is recognized as necessary.

### **2. Prevention of spousal violence**

41. The Act on the Prevention of Spousal Violence and the Protection of Victims was enacted in 2001 to develop systems for notification, consultation, protection and support for self-reliance concerning spousal violence; the Act was further revised in 2004 and 2007. The Act has been expanded to cover not only bodily harm but the words and deeds of one spouse that cause equivalent psychological or physical harm to the other which the government and local public entities bear responsibilities to prevent. Protection Orders have also been expanded in detail; they may be issued against threats from spouses of physical violence which are likely to risk life, or may prohibit spouses from making phone calls or sending emails of a certain kind towards their victims. These revisions have expanded the scope and the strength of this Act. Also, based on this Act and the Basic Policy of the government, prefectures have established their own basic plans, and authorized appropriate facilities within their jurisdiction to function as Spousal Violence Counselling and Support Centers, which deal with information provision, counseling, and protection against spousal violence. According to the 2007 revision, municipalities shall endeavor to establish their own basic plans and such centers.

42. The police is to prevent violence through the strict implementation of steps provided in laws and ordinances concerning violence and intent to cause harm from the perpetrator towards the victim, giving consideration to the thoughts of the victim. (There were 2,239 arrested cases of spousal (including de facto relationships) violence in 2006.)

Women's Consulting Offices or private shelters which meet certain conditions may offer temporary protection for victims; 4,565 cases of such temporary protection from spouses occurred in FY2006. The Ministry of Health, Labour and Welfare has given special training to prefectural Women's Consulting Offices staff and developed a network with related organizations, as well as strengthened night protection systems through Women's Consulting Office and Women's Protection Facilities and Daily Life Support Facilities for Mothers and Children, and expanded the placement of officials in charge of psychological treatment.

43. Though these measures the Government make efforts to protect victims of spousal violence, to encourage them to become independent and to prevent such violence.

### **3. Revision of the equal employment opportunity law**

44. In 2006 the Equal Employment Opportunity Law was revised (effective as of April 2007) to prohibit discrimination based on gender at any stage of employment, including indirect discrimination or detrimental treatment due to facts such as pregnancy and childbirth, as well as to enhance employers' obligations in measures against sexual harassment and impose administrative fines for breach of duty to report in accordance with the report provision; through such measures the law was maintained and strengthened.

### **4. Consultations on human rights**

45. The human rights organs of the Ministry of Justice are striving to prevent and relieve human rights violations through offering consultations on women's rights by the Human Rights Counselling Offices and the special Women's Rights Hotline phone service, and by taking whatever measures necessary upon investigation of the circumstances regarding complaints of human rights violations involving spousal/partner violence, sexual harassment in the workplace, stalkers or any other form of human rights violations applicable to women.

46. In 2006 the Women's Rights Hotline received about 25,000 calls regarding human rights counseling.

## **F. Protection of human rights of children**

### **1. Measures for prevention of child abuse (amendment of the Child Abuse Prevention Law and the Child Welfare Law)**

47. In May 2007, the Child Abuse Prevention Law and the Child Welfare Law were revised from the perspective of further enforcing the safeguard against child abuse, to (a) strengthen inspections of premises which the prefectural governor allows the staff of Child Guidance Centers to enter locked premises upon the authorization by a judge, for the purpose of ensuring the safety of children; (b) Tighten restrictions on meeting and communication by parents, legal guardians or any other person who has taken care of the child including the establishment of punishment for violating the approaching/prohibition order; (c) clarify the measures to be taken if the parents, legal guardians or any other person who has the care of the child does not follow guidance for the purpose of family reunification (effective as of April 2008).

### **2. Application of the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children**

48. Since the founding of Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children in 1999 and the revision in 2004, this law stipulates penalties for child prostitution and the aiding or abetting of such prostitution, provision, production, possession with intent to provide, importing, or public display (including the use of computer systems) of child pornography, and trafficking in persons with intent to engage in child prostitution. This law also provides penalties for offences committed outside of Japan.

49. In 2006 arrested 2,229 cases of arrest by the application of these laws were reported.

### **3. Formulation of a National Youth Development Policy**

50. In December 2003, the Government of Japan formulated the National Youth Development Policy at the Headquarters for Youth Development Promotion Headquarters, chaired by the Prime Minister, in order to indicate the future direction of the government's basic principles and medium-and long-term measures regarding the development of youth and to comprehensively and effectively promote youth development measures in a wide range of areas including healthcare, welfare, education, labor, and delinquency. The government is promoting the measures based on this policy, giving consideration to promote respect for and protection of the rights of the youth as indicated in the Convention on the Rights of the Child. Four years have passed since the original policy, and to continue to promote the strengthening of its commitment for children, the government will formulate the new policy later this year.

### **4. National Action Plan against Commercial Sexual Exploitation of Children**

51. As follow-up to the Stockholm 1996 First World Congress against Commercial Sexual Exploitation of Children, in February 2001 the comprehensive National Action Plan against the Commercial Sexual Exploitation of Children was formulated to examine the actual state of commercial and sexual exploitation of children and investigate causes, prevent and crackdown on such acts and help the recovery and reintegration of victims. Based on this, the related ministries and agencies are making efforts to prevent crime including the commercial and sexual exploitation of children. In December of the same year the Second World Congress against Commercial Sexual Exploitation of Children was held in Yokohama, and called on efforts in the international community to eliminate this problem. Government representatives from 136 countries (52 of cabinet level) attended the congress, along with 23 international organizations and 135 Japanese NGOs / 148 NGOs from outside Japan, 90 youths from inside and outside Japan, for a total of 3,000 participants, have made it one of the largest international congresses held in Japan. The Third Congress is to be held in Brazil in November this year, and the Japan will review its action plan and reconfirm its initiatives in this area in preparation for the congress.

### **5. Volunteers for children's rights protection**

52. Children's rights have become a major social issue, covering such points as bullying in schools, physical punishment and parental abuse.

53. The Ministry of Justice has developed systems for protecting children and has set up, from FY1994, Volunteers for Children's Rights Protection, appointed from human rights volunteers, effectively handle problems with expertise involving children's rights, as well as working to gather information to help solve these problems.

### **6. Consultations on human rights**

54. The human rights organs of the Ministry of Justice provide counselling for children's rights through human rights counselling offices and the Children's Rights Hotline, as well as offering counselling with the Children's Rights SOS Letter-cards distributed to all elementary and lower secondary schools students in the country. Through these counsellings, in cases where children's rights may have been violated through bullying, physical punishment or abuse, the government seeks to prevent and relieve human rights violations through implementing appropriate measures in line with the situation and after investigation of the actual facts.

55. There were 13,000 cases of human rights counselling involving the Children's Rights Hotline in 2006.

## **7. Human rights promotion activities focused on children**

56. The human rights organs of the Ministry of Justice, as part of promotion activities to spread respect for human rights, conduct promotion activities in schools. As an example, since 1982 the Human Rights Flower Campaign to foster respect and consideration for life through raising flowers has been in place in elementary schools. The National Human Rights Essay Contest for Junior High School Students is held each year, with about 840,000 entries in FY2007. Legal Affairs Bureaus and District Legal Affairs Bureaus staff visits schools with human rights volunteers as part of the Human Rights Class which provides opportunities for children to think about issues such as bullying. This is an excellent chance for elementary and lower secondary school children to learn the value and necessity of respect for human rights.

## **G. Protection of human rights of persons with disabilities**

### **1. Basic law for persons with disabilities**

57. In 2004 the Basic Law for Persons with Disabilities was revised, prohibiting for the first time as an individual law actions violating the rights and interests of persons with disabilities or discriminating against them on the basis of disabilities. In addition, the government and local governments have a duty to prevent discrimination against persons with disabilities, and the people shall also endeavour to ensure persons with disabilities are not discriminated against. On the occasion of the revision the former Day of Persons with Disabilities (December 9) was expanded to the Week of Persons with Disabilities (December 3 to 9); this week will be used as an opportunity to aim for realizing a cohesive society in which no discrimination nor prejudice on the basis of disabilities, and to raise awareness and understanding of the people.

### **2. Welfare/medical treatment for persons with disabilities**

58. The Services and Supports for Person with Disabilities Act provides necessary welfare services such as work support for persons and children with disabilities, regardless of the nature of that disability, to enable them to be active and independent in the community. Various views were aired regarding this law, and urgent measures were taken over the last two years to firmly establish this law in place.

59. Regarding medical treatment for persons with disabilities, under Japan's independence support health care system, partial or full subsidies are given for the medical expenses of persons with disabilities. For those with mental disabilities, appropriate medical treatment and protection with consideration for human rights are ensured under the Law for the Mental Health and Welfare of the Mentally Disabled.

### **3. Employment of persons with disabilities**

60. Various measures have been promoted to ensure the participation of persons with disabilities in society through employment in line with their skills and abilities, based on the Basic Programme for Persons with Disabilities given in the Law for Employment, Promotion, etc. of Persons with Disabilities, in addition to the Fundamental Policies for Employment Measures for Persons with Disabilities.

61. In detail, in order to give the independence of a working life to persons with disabilities through expanding opportunities for their employment, employment of persons with disabilities is promoted through (a) Employment quota system for persons with disabilities (A system which obliges business-owning employers to maintain a certain ratio of employment of persons with disabilities, regardless of private or public sector. Payments are levied on employers not fulfilling the said obligation, and compensatory payments are made to employers fulfilling the said

obligation according to the number of workers involved, alleviating the economic burden of employing persons with disabilities among users.); (b) Vocational rehabilitation through vocational guidance, job placement, giving consideration to the special nature of each person with disabilities; (c) public encouragement activities in coordination with organizations for persons with disabilities.

#### **4. Education for persons with disabilities**

62. Special needs education is education for students with disabilities aiming at the full development of their capacities, independence and social participation. To meet their individual educational needs, special needs education is carried out in various forms, including in resource rooms (rooms where special instruction is given to children with disabilities who are enrolled in regular classes), and special classes (both taking place in regular schools), and in special schools named "Schools for Special Needs Education". Home Tutoring Education is also available for students who have difficulty in attending school due to their disability. Learning is supported at the higher education stage by requiring all national, public and private universities to take into account the needs of students with disabilities and by offering support for students' living after their admission. Educational opportunities for persons with disabilities are further provided through distance education involving TV and radio programs broadcast, for example, by the Open University of Japan.

#### **5. Barrier free**

63. In order to achieve a universal society where all people, including older persons and persons with disabilities, can live in comfort, under the Law for Promoting Easily Accessible Public Transportation and Facilities for the Aged and the Disabled (the New Barrier Free Law), when target facilities or equipment such as passengers facilities, vehicles, roads, municipal parks, off-street parking or buildings are newly constructed or undergoing renovations, there is an obligation to ensure that public transportation and facilities conform to the standards for easy accessibility in their construction. In addition, the development of integrated and specific barrier free schemes by municipalities has promoted the comprehensive and integrated move towards barrier free ideals in public transportation facilities, buildings and pedestrian spaces. For example, as of the end of 2006, progress towards the goal of ensuring no barriers in train stations by 2010 has achieved 62.8% success, and the goal of having about 30 per cent of buses as non-step buses by 2010 has reached 17.7%, showing a firm progress towards these goals for 2010. Various awareness-raising activities are also in place to ensure, through promotion of a Barrier-Free Spirit, recognition by each individual citizen of the difficulties faced by older persons and persons with disabilities.

#### **H. Protection of human rights of older persons**

64. Japan is truly becoming an aging society, with estimates of 1 in 4 citizens being older persons (over 65-year-old) in the near future. The following initiatives are in place concerning the human rights issue of the physical or mental abuse of older persons, and in order to achieve a society where people can continue to work at any age.

##### **1. Consultations on human rights**

65. The human rights organs of the Ministry of Justice have set up special human rights counseling offices to enable counseling at ease for those in social welfare facilities for older persons or their families. In addition to giving counseling on all forms of human rights, where there is a complaint of a human rights violation, the organs strive to prevent and take appropriate measures in line with the situation after investigating the facts.

## **2. Raising awareness of older persons' welfare**

66. "Each year Day for the Elderly and Week for the Elderly Campaign Guidelines" are set by the Japanese Council of Social Welfare and nine other related organizations, and related initiatives are implemented. This is to ensure a seven-day period for the Day for the Elderly and Week for the Elderly is set, and requests for support, cooperation and encouragement to related organizations are made to prefectural authorities to implement actions to "encourage a wide understanding and concern for the welfare of older persons among the people and to ensure older persons are motivated to improve their own lives."

## **3. Raising awareness for employment of older persons/securing diverse employment opportunities**

67. Under the FY2006 Law Concerning Stabilization of Employment of Older Persons, the introduction of Older Persons Job Security Measures, such as raising the employment retirement age to 65, has been made obligatory for business owners. The Ministry of Health, Labour and Welfare has actively worked to improve knowledge and understanding of these steps by making use of private and public employment agencies and looking to local business groups for cooperation.

68. The Ministry of Health, Labour and Welfare is also working to raise awareness through consultations and aid for the introduction of steps to ensure the employment of senior citizens by business owners through Japan Organization for Employment of the Elderly and Persons with Disabilities.

69. From FY2007, encouragement is being given to spreading Businesses Offering Employment to 70, with the aim of achieving a society where people can continue to work as long as skills and motivation remain.

## **4. The law of prevention of older persons abuse**

70. In consideration of the importance of maintaining respect for older persons and preventing abuse of older persons, the Elder Abuse Prevention and Caregiver Support Law (Law No.124, 2005) was enacted in November 2005 and enforced on April 1, 2006. The law provides measures to protect older persons abused in the home or in establishments, and to provide support for their caregivers from the municipality or prefecture closest to the residents.

### **I. Human rights violations in an information technology society**

#### **1. Responding to human rights violations on the internet**

71. Regarding malicious incidents violating the rights of the privacy and reputation of others, the human rights organs of the Ministry of Justice are working to eliminate violations by contacting the individual responsible when this individual can be identified, or to request the provider to remove the offending contents if the perpetrator cannot be identified.

#### **2. Provider liability limitation law**

72. The Provider Liability Limitation Law was enacted in 2001 to give conditions for limiting liability for damages in cases where providers or bulletin board managers delete, or do not delete, information violating human rights on the Internet, including incidents of slander, and prescribe the rights of the victim to request the disclosure of information regarding the distributor of information violating human rights. Telecommunications Carrier Organizations formulated the Guidelines related to Defamation and Privacy Issues as legal guidelines for businesses, which are being used

by providers and bulletin board managers boards to respond in a legally appropriate manner to information violating human rights on the Internet.

## **J. Leprosy**

73. The Japanese Government, based on its past history of enforcing quarantine for victims of leprosy, is taking the following initiatives to eliminate prejudice and discrimination against leprosy-affected persons and their families. Further use of such experience will be used for future activities directed toward the elimination of discrimination against leprosy in the international fora including the Human Rights Council.

### **1. Domestic measures**

74. Initiatives towards the elimination of prejudice and discrimination against leprosy-affected persons and their families are being taken in consideration of the history of past policies towards leprosy. This involves initiatives for the rehabilitation of leprosy-affected persons and their families and to raise awareness for understanding and accurate knowledge of leprosy carried out through the operation of the National Leprosy Museum, the creation and distribution of pamphlets for secondary school students and the holding of symposia. Representatives of leprosy-affected persons are consulted yearly to review the nature of measures for the promotion of rehabilitation and welfare for leprosy-affected persons.

### **2. Promotion activities**

75. The human rights organs of the Ministry of Justice have set the “Elimination of Prejudice against HIV carriers and Leprosy-affected persons” as a priority issue for Human Rights Week, and in addition to undertaking various promotion activities, holds the Symposium on Leprosy for Parents and Children during Summer Vacation. The symposium involves discussions by lower secondary school students panelists and the screening of human rights promotion videos, providing an opportunity for parents and children to consider leprosy issues together.

## **K. Protection of human rights for crime victims**

### **1. Basic act on crime victims**

76. To protect the rights and profits of crime victims and their families or their bereaved families, the Basic Act on Crime Victims was enacted in December 2004, providing the basic principles of the measures for crime victims and other basic measures. Through this, the Government had Cabinet decision on the Basic Plan for Crime Victims in December 2005 and is promoting these measures comprehensively and systematically.

### **2. Victim participation in criminal trial**

77. Based on the aforementioned Cabinet decision, in order to aim to further protect the rights and interests of crime victims, a new system of victim participation in criminal trial, which will go into effect by December 2008, was introduced. Under the new system, a victim of crimes such as murder or assault may, when they so wish and with the court's approval, attend trial dates and engage in activities such as the questioning of the defendant under certain requirements. The use of this new system is expected to help crime victims regain their dignity and recover from suffering.

### **3. Benefit system for crime victims**

78. The Benefit System for Crime Victims, operative from January 1, 1981, is based on the spirit of mutual social aid, and provides Crime Victims Benefit from the national government to the

bereaved families of victims who have lost their lives unexpectedly in intentional criminal acts such as random street assaults, or victims who have borne disabilities caused by such acts, to lessen their emotional and economic distress. Crime Victims Benefits are given as one-off payments from the government, classified into the following three types: (a) Survivor Benefit for the families of deceased victims; (b) Severe Injury and Disease Benefit paid to those suffering illness or serious injury through criminal acts; (c) Disability Benefit for those with disabilities remaining.

## **L. Protection of social rights**

### **1. The right to receive education**

79. The Constitution of Japan states that “All Japanese people are equal under the law” (Art. 14), and that “All Japanese people shall have the right to receive an equal education correspondent to their ability, as provided by law.” (Art. 26)

80. In the Basic Act on Education, these Constitutional stipulations are key fundamental concepts which must be taken into consideration in the implementation of education. The law prescribes the securing of equal opportunities for education and the prohibition of discrimination in education (Art. 4 Section 1), prescribes support from the government and local public entities for the education of persons with disabilities (Art. 4 Section 2), and provides for measures to allow those facing economic difficulties to attend school (Art. 4 Section 3).

81. Compulsory education in Japan involves six years of elementary education and three years of lower secondary school education. Compulsory education in public schools is free of charge, and 99.7 per cent of those of eligible for compulsory education are in primary or lower secondary schools (as of FY2007). Upper secondary education and higher education is open to all and opportunities for such education have resulted in advancement rates of 97.7 per cent and 76.3 per cent respectively.

### **2. Education for foreigners**

82. Those foreigners who wish to attend public schools for compulsory education may do so free of charge, including the free supply of textbooks and school expense subsidies, thus guaranteeing the same educational opportunities as for Japanese citizens. Further review is being made of comprehensive policies for the education for foreign children in Japan to allow placement in schools with teachers able to teach Japanese, the distribution of a guidebook on schooling for parents, and meetings with knowledgeable persons.

83. Also, in order for foreigners to be able to receive the same residential services as members of Japanese society, allowing them to cope with life in Japan, a Program to Accelerate Foreigners’ Adaptation to the Life Environment in Japan was formed in 2007. This is a program that contains the establishment of language classes for foreigners of Japanese descent, training Japanese language teachers, holding meetings with the government authorities of foreign children studying in Japan, and establishing structures to assist the enrollment of foreign children and to provide them with Japanese education.

### **3. The rights of workers**

84. The Constitution of Japan is based on respect for the human dignity, and guarantees equality under the law, freedom in the choice of employment, the guarantee of the right to work of citizens, and the rights of workers to organize and to bargain collectively. Based on such points, the necessary steps are being taken to offer stable lifestyles for workers and to improve the quality of labor through the various labor laws.

85. In more detail, from the perspective of stability in employment, the Employment Security Law and other related laws stipulate that, as various measures to ensure the stability of employment for workers the Japanese government must implement job placement, unemployment benefits and active labor market policies integrally through nationwide network of local employment security offices. Also, from the perspective of encouraging the Human Resources Development the Japanese government takes such action as establishing public vocational training facilities nationwide and giving aid for improvement of one's vocational capabilities.

86. From the perspective of guaranteeing workers' rights, the Labor Standards Law was prescribed to give provisions on the minimum standards necessary to be met to ensure workers are able to lead a life worthy of human beings. In addition, laws regarding the minimum standard of wage with legally binding force from the government and laws intended to ensure health and safety in the workplace have been prescribed and appropriate measures are being taken.

87. Under such labor standard laws, labor standard inspectors investigate facilities and make their owners observe the standard provided by the laws and work to ensure labor conditions. Also, labor consulting sections throughout the country provide one stop consultation regarding any fields of labor problems.

#### **4. Introducing the Labor Dispute Adjudication System**

88. Against the background of increasing numbers of individual labor-related disputes, and to ensure a swift, appropriate and effective resolution based on the actual situation of cases, in 2004 the Labor Dispute Adjudication Act was enacted to allow the introduction of the Labor Dispute Adjudication System to act as a new means of settling disputes through the involvement in court of experts who have specialized knowledge and experience in labor related issues; the act was enforced from April 2006. Cases of the labor dispute adjudications in a one-year period from April 2006 to March 2007 involved about 1,000 applications nation-wide, with each case being brought to a conclusion in an average of two and a half months. About 70 per cent of the cases concluded reached settlement through conciliation, gaining a positive reputation from users for the system and showing a good start so far.

### **III. FUTURE ISSUES AND RESPONSES**

#### **A. Early Conclusion of the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearances**

89. In September 2007, Japan signed the Convention on the Rights of Persons with Disabilities. Japan participated actively in the negotiations of the Convention from the very initial phase of the discussion. Japan aimed at making a convention for the sake of persons with disabilities through the participation in the negotiations of a representative of NGOs for persons with disabilities and through exchanging views and thoughts with NGOs. Japan intends to make efforts to conclude the Convention as soon as possible.

90. Japan also participated actively in the drafting process of the International Convention for the Protection of All Persons from Enforced Disappearance, acting with a view to preventing any recurrence of the crime of enforced disappearance. Japan was a co-sponsoring country for the adoption of the convention, and signed it in February 2007. Japan has shown to the international community its strong resolution to tackle enforced disappearances, including act of abductions, as well as to contribute to bringing this convention into force as quickly as possible. Japan is making efforts to conclude the convention as soon as possible to raise international awareness of the problem of enforced disappearances.

**B. Establishment of the National Institution for the Protection of Human Rights**

91. In March 2002, the Ministry of Justice submitted the Human Rights Bill to establish a new Human Rights Commission to function as an independent administrative commission and to create a new human rights redress system. In the Bill, the Human Rights Commission retains its independence from the government and is to function to redress human rights and promote human rights, as well as submit opinions to the government and Diet. The Bill was not passed because of the dissolution of the lower house in October 2003, and the Ministry of Justice continues to review the Bill.

**IV. PREPARATION PROCESS FOR THE UNIVERSAL PERIODIC REVIEW**

**A. Holding discussion meetings with NGOs concerning human rights conventions**

92. Discussion meetings with NGOs and ordinary citizens have been held as part of the process of drafting a government report for each human rights convention. NGOs and the Ministry of Foreign Affairs have co-hosted the Public Forum for United Nations Reform, six times so far since August 2005, each time establishing a separate session to exchange opinions among citizens, members of NGOs and international organizations, and officials of the Ministry of Foreign Affairs, on human rights including discussions on issues related to the Human Rights Council such as the UPR.

**B. Hearings on opinions for the drafting of the report for  
the universal periodic review**

93. In drafting this report, the Ministry of Foreign Affairs posted information on the UPR system and process involved on its homepage, and asked for opinions of NGOs and ordinary citizens regarding the report. As a result, opinions from 11 NGOs and 214 ordinary citizens were received.

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