

## JAPAN

### CCPR A/37/40 (1982)

53. The Committee considered the initial report of Japan (CCPR/C/10/Add.1) at its 319<sup>th</sup>, 320<sup>th</sup> and 324<sup>th</sup> meetings held on 20 and 22 October 1981 (CCPR/C/SR. 319, 320 and 324).

54. The report was introduced by the representative of the State party who pointed out that any international treaty concluded by Japan became part of its legal framework; that, before Japan concluded any treaty, the authorities always conducted a thorough examination of its provisions and, if need be, modified laws and regulations in accordance with the provisions of the treaty; that such an examination had taken place in the case of the Covenant; that the Japanese Government had concluded that no discrepancy existed in its laws and regulations to warrant any such amendments; and that all the rights provided for in the Covenant were guaranteed by the Constitution and the laws and regulations in force. The representative assured the Committee that his delegation would do its best to co-operate and to answer all questions and that, if it could not do so, his Government would submit its replies to the Committee at a later date.

55. Members of the Committee thanked the Government of Japan for submitting its report in time and in conformity with its reporting obligations. They noted, however, that the report was too brief and was limited to questions relating to the legal framework, lacking in information about actual practices in the country. In particular it was asked whether any of the long traditions of the country had affected the implementation of the rights provided for by the Covenant. They asked whether the Covenant had been translated into Japanese; whether the text was easily obtainable; whether police and prison personnel and civil servants were apprised of the Covenant during their training and of the obligations it imposed on the State; and what measures were being taken to publicize the contents of the Covenant and to make the general public aware of the rights conferred by it, especially as far as minorities and women were concerned. In this connection, information was requested on the role played during the "Human Rights Week" by the Civil Liberties Bureau and the Civil Liberties Commissioners, mentioned in the report, in promoting awareness of human rights in schools, universities, trade unions and political parties.

56. Commenting on the statement in several articles of the Constitution that the exercise of human rights in Japan could be "restricted on the ground of the public welfare", members of the Committee pointed out that this statement was not in accordance with the Covenant since "public welfare" was not one of the grounds on which derogations could be made. They requested explanations on the concept of "public welfare" as well as a few examples of its application where it affected the freedom of the individual.

57. With reference to article 1 of the Covenant, satisfaction was expressed at the statement in the report to the effect that Japan recognized the right of peoples to self-determination and worked towards its realization. It was asked whether, in the particular cases of Namibia and Palestine, the Japanese Government had done all that it could have done in the international context to ensure that the peoples concerned enjoyed their right to self-determination; what steps it had taken to discourage

South Africa from maintaining its domination over Namibia, and what it had done to prevent private businesses and banks from collaborating with the apartheid regime of South Africa.

58. Commenting on article 2 of the Covenant, members noted that whereas this article stressed the obligation of States parties to ensure to all individuals the rights recognized in the Covenant, without distinction of any kind, certain articles of the Japanese Constitution referred alternately to the “people”, “persons” or “nationals”, and it was asked whether the difference in terminology was one of substance or incorrect translation. In this connection, reference was made to a disadvantaged social group in Japan called the Burakumin, which was known to have suffered from discrimination based on certain traditions, and it was asked whether persons belonging to that group were still discriminated against with regard to marriage and the education of children, to what extent the State was responsible for that discrimination and what it was doing to remedy it.

59. More information was requested on the actual status of the Covenant in the legal system of Japan, whose Constitution dated from 1946, on whether the Constitution contained provisions concerning the relationship between national law and treaty obligations; whether the Covenant could be invoked before a court, and whether the courts and the administrative authorities were bound to observe its provisions and to resort to it in interpreting the provisions of the Constitution and Japanese legislation. It was observed that the problem seemed to be more one of how to ensure that the provisions of domestic law were actually implemented in the light of the constraints imposed by the country’s historical, social and cultural traditions which might be incompatible with the Covenant. In this connection, more information was requested on the remedies available in cases of violation of rights and it was asked whether any conditions were attached to the exercise of those remedies; whether an individual could bring a complaint and institute criminal proceedings; whether the authorities were bound to investigate all complaints and take legal action; and whether any dispute between an individual and the public administration could be brought before the courts or whether that remedy was available in only certain specific instances. It was also asked whether the constitutionality of laws could be raised only in connection with a specific case or whether it could be raised by itself. More information was requested on the Civil Liberties Bureau and the 11,000 Civil Liberties Commissioners referred to in the report and particularly, on their composition and powers, their relationship with the public administration, the judiciary and the legislature as well as on how the Commissioners were chosen; whether they were civil servants; what kind of procedures they followed; whether aliens could avail themselves of the protection of the Commissioners; how many complaints they had heard and what means were available to them for reaching a settlement since their decisions were not binding.

60. As regards article 3 of the Covenant, members of the Committee requested information on the factual status of women in Japan, on the results obtained to date under the National Plan of Action for Women’s Rights mentioned in the report, on the deficiencies that the plan was designed to correct, on how the right to equality between men and women, particularly in relation to education, employment, wages and career prospects was ensured, on the rights enjoyed under the Nationality Law by women married to foreigners as compared with the rights of men married to foreign women, and on the participation of women in the conduct of public affairs.

61. In relation to article 6 of the Covenant, it was pointed out that control of food and pharmaceutical products was vitally important in order to protect the individual’s enjoyment of the

right to life and that, though Japan was one of the countries where life expectancy was highest, the report should still give information on those subjects, as well as on the economic, social, administrative and other measures which had been taken to ensure the quality of life and to protect the health of workers and the quality of the environment in a highly industrialized country like Japan. More information was requested on capital punishment in view of the fact that it was still applicable to 17 offences, in particular on the number of cases since 1974 in which the death penalty had actually been carried out or commuted, and on whether the abolition of the death penalty was being contemplated. It was also asked whether there were provisions of positive law concerning the punishment of the crime of genocide. Some members wished to be enlightened as to whether abortion was legal in Japan.

62. Commenting on articles 7 and 10 of the Covenant, members asked how the provisions of the Constitution and the Penal Code concerning acts committed in violation of those articles were applied; whether the security forces were trained to observe such provisions; whether there was any control system whereby special boards, independent of the police or the prison administration, had direct access to detainees and prisoners whose complaints they could receive and, if not, whether the control system came within the competence of the judiciary or of the public prosecutor; whether the Civil Liberties Commissioners had access to the prisons and whether the prisoners could contact them; what reforms had been carried out since the Prison Law had been enacted in 1908; whether the Standard Minimum Rules for the Treatment of Prisoners <sup>9/</sup> were incorporated in the legal system and complied with in Japan; whether there has been recent cases of public officials being accused of abuse of power or of maltreatment of the kind mentioned in the Covenant and, if so, what penalty had been established to punish those violations. It was pointed out that there appeared to be no positive rule of Japanese law to ensure the implementation of article 10, paragraph 3, of the Covenant concerning the segregation of juvenile offenders from adults and that the absence of this guarantee for juvenile offenders should be brought to the attention of the Japanese Government.

63. As regards article 8 of the Covenant, members wondered whether the statement in the report to the effect that involuntary “servitude” could be imposed as a punishment for a crime, was a correct translation of the relevant provision in the Japanese Constitution. It was asked how “forced labour” was actually enforced in Japanese prisons and what happened if a person refused to perform such labour.

64. Commenting on article 9 in conjunction with article 13, of the Covenant, members asked how and under what conditions foreigners could be detained in immigration centres; whether the courts had the authority to examine the substantive reasons for the detention of persons deprived of their liberty or whether their power was limited to a formal verification of the lawfulness of the detention; whether the relevant legal provisions specified that the family of an arrested person must be informed

of his place of detention and whether all detained persons had the right to a lawyer of their choice. In relation to the right of compensation for victims of an unlawful arrest or detention, information

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<sup>9/</sup> Human Rights: A compilation of International Instruments (United Nations publication, Sales No. E. 78. XIV.2) pp.65-72.

was sought on the laws designed to implement that right.

65. As regards article 11 of the Covenant, it was asked whether inability to fulfil a contractual obligation could result in imprisonment.

66. In relation to article 12 of the Covenant, clarification was requested on the effect of the Immigration Control Order on the right of movement and freedom to choose one's residence, and on the extent to which restrictions on the movement of aliens lawfully residing in the country were compatible with the Covenant.

67. With reference to article 13 of the Covenant, it was asked whether the Japanese Government granted the right of asylum for political reasons; whether a person expelled from Japan for justified reasons could appeal and whether a stay of execution of the expulsion order could be granted pending a decision on appeal.

68. Commenting on article 14 of the Covenant, members noted that more information was needed on how the guarantees provided for in this article were implemented in the Japanese legal system and on the features of the judicial system. Questions were asked on who was able to become a judge, on whether, in the event that a judge was not maintained in office after a ten-year term, the procedure required the reasons for that measure to be stated, whether the judges of the Supreme Court came from all regions of Japan or from one or two universities only, what was the percentage of women in the Supreme Court and whether the independence of judges was protected by specific provisions. Noting that Japanese legislation did not expressly provide for the presumption of innocence, members asked whether the Japanese Government considered that principle, which according to the report was nevertheless affirmed in practice, as applying only to the Courts or also to other public authorities such as the police, and whether legal costs and lawyer's fees were covered by the State when a person was found innocent. In this connection, it was asked whether legal assistance was available for civil cases as well as for criminal ones, whether it was costly to appoint lawyers, in what instances a lawyer was necessary and whether governmental authorization was needed in order to become a lawyer. It was also noted that convicted persons seemed obliged to meet the cost of interpretation services and that, if that was so, it was inconsistent with the Covenant. Clarification was sought on the kind of cases the High Court had competence to decide and in what cases a right of appeal was provided; whether Japanese legislation provided for special courts to try juvenile delinquents; whether the complete rehabilitation of such delinquents was entrusted to the administration or to specialized institutions.

69. As regards article 17 of the Covenant, it was asked whether there were any laws regulating intelligence activities or any rules applicable to electronic surveillance and telephone tapping; what action was taken by the administrative authorities to ensure the protection of individuals against the misuse of data; what exceptions were there to the principle of the inviolability of correspondence; and whether, from the stand point of jurisprudence, "home" was construed in a narrow sense in Japanese law or in a wider sense covering, for example, tents, caravans, houseboats and the like.

70. With reference to article 18 of the Covenant, it was asked whether the various religious communities in Japan had the right to print and distribute their writings and at what age children were entitled to choose their religion and beliefs themselves.

71. Commenting on the freedom provided for in articles 19, 21 and 22 of the Covenant, members

noted the brevity of the information on the laws authorizing restrictions of those freedoms and it was asked what procedures had been introduced in Japan to ensure that citizens could express opinions through the information media; what was the meaning of the term “terroristic subversive activity” used in the Subversive Activities Prevention Law and to what extent it affected freedom of assembly and association; whether any trade unions had been dissolved on account of terrorist subversive activity; whether fascist, revanchist and neo-Nazi organizations were allowed to operate and, if so, how could such tolerance be reconciled with the Covenant; whether the provisions in the Japanese Constitution relevant to the freedom of assembly were applicable to foreigners; which conditions a group of people had to meet, under the law, in order to form a political party and what political parties were banned in Japan and for what reason.

72. As regards article 20 of the Covenant, it was observed that the report stated that any propaganda for war was almost inconceivable since the Constitution provided for the renunciation of war. The question was raised as to whether this sufficed to meet the requirement of this article which made it mandatory for States parties to prohibit any propaganda for war by law. Reference was also made to the obligation in the same article concerning the advocacy, *inter alia*, of racial hatred, and it was noted that the relevant provisions of the Penal Code of Japan as cited in the report did not appear to meet the requirements of this article. Questions were asked as to Japan’s attitude towards these obligations and as to whether there were other provisions on this matter in Japanese law.

73. In connection with articles 23 and 24 of the Covenant, it was asked whether Japanese law provided for family allowances and housing grants for large families; what the status of illegitimate children was in Japan; whether such children enjoyed equal rights; which administrative and legal provisions ensured their protection; and whether adoption was the subject of a judicial decision.

74. Commenting on article 26 in conjunction with article 2 of the Covenant, some members pointed out that the Constitution did not seem to have entirely covered the provisions of this article because it spoke only of “equality under the law” and they requested clarification of the meaning of that term.

75. Regarding article 27 of the Covenant, members noted the statement in the report that minorities of the kind mentioned in the Covenant did not exist in Japan and they asked what constituted a minority according to Japanese legislation; whether immigrants could acquire minority status; what the status of Koreans, Chinese, the Ainu, the Burakumin and the people of Okinawa was; whether the principle of equal treatment applied to them; whether their rights to family reunion and participation in national life were recognized, and what guarantees existed to protect their rights.

76. Replying to comments made and questions raised by members of the Committee, the representative of the State party stated that the report could not have contained information on Japanese history, tradition and culture of relevance to human rights problems, as suggested by some members of the Committee, because that would have required a very large encyclopaedic volume which it was not possible to produce and which it had not been the intention of the authors of the Covenant to request. He also stated that although the Covenant itself remained silent on the matter, publicity to the Covenant had been given by the pre-ratification campaign carried out by the Ministry of Foreign Affairs and the press reports of the parliamentary debate on ratification, that after ratification the full text of the Covenant was published in the Official Gazette, and that a

pamphlet was then issued explaining the Covenant and the Government's position on it. Knowledge of the Covenant and of human rights in general was also fostered by Human Rights Week in which lectures or discussion meetings were held, films were shown and pamphlets distributed. Various ministries and agencies were engaged in publicizing the importance of strengthening human rights protection for women, children, young people, the disabled and the elderly. The duties of the Civil Liberties Commissioners included publicity of human rights and promotion of non-governmental activities for human rights protection.

77. Responding to comments concerning the possible imposition of restrictions on the exercise of human rights on the ground of the "public welfare", he stated that the concept of public welfare was given a strict interpretation and was not abused to justify unreasonable limitations on human rights and that, in the Japanese view, this term meant the same as public safety, order, health or morals.

78. As regards article 1 of the Covenant, the representative stated that his country was strenuously opposed to the apartheid policy of South Africa and had been consistently calling on it to abolish apartheid as soon as possible and to respect human rights and freedoms, that Japan limited its relations with South Africa to the consular level and did not allow direct investments by Japanese companies, that it restricted cultural, educational and sports exchanges and strictly observed the United Nations resolution on the export of arms to South Africa. However, Japan did not share the view that it was necessary to resort to force in order to compel South Africa to abolish apartheid, nor did it support taking radical measures such as mandatory economic sanctions, but that it had been voting in favour of other proposals designed to eliminate apartheid. Japan's position on the right to self-determination in relation to Palestine was that this question was not solely a refugee problem, that it was necessary, in addition to implementing Security Council resolutions 242 (1967) and 338 (1973) to recognize and respect the legitimate rights of the Palestinian people under the Charter of the United Nations, which extended to the right to self-determination as well as that of equality, and that the right to establish an independent State was included in the concept of the right of self-determination.

79. Replying to questions raised under article 2 of the Covenant, the representative stated that although the provisions of the Constitution, dealing with the rights and duties of the people, used a broad variety of terms, all those terms should be construed as having the same effect and that the administrative and judicial authorities had abided by that interpretation; that the "Burakumin" were Japanese nationals, not different from other nationals ethnically, religiously or culturally, that any unequal treatment of those persons derived from unreasonable social prejudices on the part of certain individuals and that the social sphere was a delicate area in which it was difficult for a Government to intervene; that aliens in Japan were on an equal footing with Japanese nationals in respect of the rights enumerated in the Covenant except for the rights specifically intended therein for nationals and that he was not in a position to state whether there were any aliens whose offers of marriage to Japanese citizens had been turned down on account of their nationality.

80. As regards the status of the Covenant in the legal system, he stressed that, according to the Constitution "treaties concluded by Japan and established laws of nations shall be faithfully observed", that the administrative and judicial authorities were obliged to comply, and ensure compliance, with treaty provisions and that treaties were deemed to have a higher status than domestic laws. This meant that if the court found a conflict between domestic legislation and the

treaty, the latter prevailed and the relevant legislation must be either nullified or amended. In respect of remedies, he explained that the Civil Liberties Bureau, which consisted of a central legal affairs office and regional legal affairs offices, was concerned with the investigation of cases of violations of human rights and the collection of information on them and with matters relating to habeas corpus, legal aid to the poor and the protection of human rights in general. The Civil Liberties Commissioners who had to be well-versed in social conditions, were appointed by the Minister of Justice, on a non-remunerative basis, on the recommendation of mayors. The duties of these commissioners included the investigation of cases of violation of human rights, the collection of information on such cases by hearing the persons concerned and the submission of reports to the Minister of Justice. They also gave effective advice to the persons concerned. Any violation of the human rights of aliens could be redressed through the existing legal arrangements.

81. Replying to questions raised under article 3 of the Covenant, the representative gave a detailed account of the progress achieved by women in various fields of activity, including the role they now played in public affairs since the revision of the Election Law in 1945 which had given equal political rights to men and women for the first time. He pointed out that Japan had signed the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex) and that measures were being taken with a view to ratifying the Convention by 1985. As part of that preparatory work, the administrative authorities concerned were considering amendments to the Law of Nationality that would ensure equality between husband and wife with regard to both naturalization procedures and acquisition of nationality by birth.

82. As regards article 6 of the Covenant, he informed the Committee that the Legislative Council, one of the advisory bodies to the Minister of Justice, had recently studied the question of capital punishment and had concluded that its abolition would be unwarranted in view of the continued commission of brutal crimes and the fact that a large majority of Japanese people favoured the retention of the death penalty. However, the Council had also concluded that the categories of crimes for which that penalty could be imposed should be reduced from 17 to 9. The code was expected to be revised along the lines recommended by the Council. He also stated that, as a result of strict regulations, the number of executions had decreased in recent years and that during the period 1975-1980, only 15 persons had been executed.

83. In connection with questions raised under article 8 of the Covenant, he noted that the relevant information provided in the report gave the erroneous impression that slavish bondage could be imposed if it was intended as punishment for a crime, and drew attention to the fact that the Constitution stated that "no person shall be held in bondage of any kind".

84. Regarding questions raised under articles 7 and 10 of the Covenant, the representative stated that the Prison Law enacted in 1908 had been revised, and its enforcement regulations provided for the treatment of prisoners with humanity and respect for the inherent dignity of the human person; that the Penal Code provided for the imposition of severe punishment for any abuse of authority and for acts of violence committed by prison officials against detainees; that inmates dissatisfied with particular conditions existing in prison could petition the competent Minister or an official visiting the prison, for the purpose of inspection; that the official could take a decision himself and note his decision in the petition record, thus making it mandatory for the Warden to notify the petitioner

promptly of its contents; that this official could otherwise request the Minister of Justice to make the decision; and that Prison Law provided for the competent Minister to send officials to inspect the prisons at least once every two years.

85. Replying to questions raised under article 9 in conjunction with article 13 of the Covenant, the representative explained that the immigration centres were designed for detaining aliens in respect of whom deportation orders had been issued in accordance with the procedures provided for by law, but could not be deported immediately (for example when no country was willing to accept them) until such time as deportation became possible. Detention in these centres, which were under the supervision and control of the Ministry of Justice, was meant to ensure that such aliens would be available for deportation as well as to prevent them from engaging in economic or other activities permitted only to legal residents. These centres differed fundamentally from correctional institutions in that detainees, by virtue of the Immigration Control Order and the relevant regulations, were permitted the maximum liberty consistent with the proper functioning of the immigration centre. He informed the Committee that, at present, detainees possessing resident status were very few in number, that in deciding whether to deport persons possessing such status, the policy of the Japanese authorities was to order deportation only when that was absolutely unavoidable, for example, in certain cases of criminals convicted of serious crimes of violence, and that during the period 1970-1979, the total number of aliens deported from Japan had been 12,509 of whom only 11 had possessed permanent resident status.

86. Commenting on questions asked under article 14 of the Covenant, the representative informed the Committee that judgeships of the Summary Court were open to persons of ability other than qualified professionals; that an assistant judge had to pass the National Legal Examination, complete two years of training and pass a final qualifying examination before he could exercise limited judicial powers; that after not less than 10 years experience as an assistant judge, public prosecutor, practising lawyer, professor or assistant professor of law at particular universities, a candidate could be appointed a fully-pledged judge; that with regard to the Supreme Court, 10 of its 15 justices must be selected from among those candidates who had distinguished themselves in law-related positions, but that the remaining five need only be experienced and have knowledge of law; and that all judges were appointed by the Cabinet, except the Chief of Justice of the Supreme Court, who was appointed by the Emperor as designated by the Cabinet. There were a number of measures to prevent unsuitable or incompetent judges from disgracing the position, including removal by an impeachment court, periodic review by the members of the House of Representatives and the voters, the limiting of the term of office of lower court judges to 10 years, compulsory retirement for very old judges and disciplinary action by the High Court or the Supreme Court. He also stated that the assistance of a court-appointed defence counsel where an accused was unable, because of poverty or for other reasons, to select his own defence counsel was guaranteed by the Constitution and the Criminal Procedure law and that the latter law provided that an accused person would have the assistance of an interpreter or translator where necessary.

87. As regards article 17 of the Covenant, he stated that the means of regulating computer use for the purpose of protecting privacy were currently being examined in Japan and that the word "home" as used in the Constitution meant "a home habitation or the premises, structure or vessel guarded by a person" and that that definition would apply to a camping caravan or large boat with sleeping and eating facilities.



88. Replying to questions raised in relation to the freedoms provided for in articles 19, 21 and 22 of the Covenant, the representative pointed out that while the Subversive Activities Prevention Law held out the possibility of restricting freedom of assembly and association, the Law itself provided that it should not be interpreted broadly nor be imposed so as to limit unjustifiably such rights as freedom of assembly and association, and it severely limited the kinds of restricted activity and the manner in which they were punished. He informed the Committee that in fact no activity of any organization had been prohibited and no declaration had been made to dissolve an organization under the Law; and that it was impossible under the Japanese legal system to prohibit crimes under such general headings as fascist, revanchist and neo-Nazi and that only specific crimes could be prohibited.

89. Replying to a question raised under article 20 of the Covenant, on why propaganda for war was no prohibited in Japan by law as stipulated in this article, the representative stated that such law should be considered on the basis of whether it was necessary for the respect of other persons' rights, national security and public order.

90. In connection with articles 23 and 24 of the Covenant, he pointed out that, according to Japanese laws, children's allowance was granted to persons who took care of three or more children under the age of 18; that permission of the Family Court must be obtained in order to adopt a minor child; and that the share in the succession of an illegitimate child is one half of that of a legitimate child.

91. Replying to questions raised under article 27 of the Covenant the representative stated that "minority" meant a group of nationals who ethnically, religiously or culturally differed from most other nationals and could be clearly differentiated from them from a historical, social and cultural point of view; that the Ainus, who were more properly called "Utari people", were Japanese nationals and treated equally with other Japanese; that the Koreans who had been living in Japan for a long period of time were not considered minorities but aliens and, as such, did not have the right to vote or stand for election to public office. The representative gave a detailed account of the treatment of Koreans residing in Japan and the various rights and privileges enjoyed or not yet enjoyed by them, and stated that he was not in possession of data on the number of Koreans living in Japan in communities with their own particular characteristics but that an answer would be submitted in writing at a later date.

## CCPR A/43/40 (1988)

582. The Committee considered the second periodic report of Japan (CCPR/C/42/Add. 4 and Corr. 1 and 2) at its 827<sup>th</sup> to 831<sup>st</sup> meetings, held from 20 to 22 July 1988 (CCPR/C/SR. 827-831).

583. The report was introduced by the representative of the State party who referred to legal measures taken by Japan both at the international and the national level to strengthen human rights since the consideration by the Committee of his Government's initial report in 1981. Those measures included ratification of the Convention on the Elimination of All Forms of Discrimination against Women, accession to the Convention relating to the Status of Refugees and the Protocol thereto, modification or enactment of domestic legislation relating to human rights matters, such as acquisition of nationality, equal employment opportunities, mental health, professional activities of foreign lawyers and registration of aliens.

584. The representative of Japan further explained the political structure and the judicial system of his country under the Constitution of 1946 which, inter alia, provided for the separation of and a balanced relationship among the legislative, the executive and the judicial powers. He emphasized, in particular, that the Constitution guaranteed the independence of the judiciary and he provided information on the structure and functions of the five kinds of courts existing in Japan in accordance with the Court Organization Law of 1947. The Supreme Court, which was the highest Court in the country was vested with the power to make rules, the High Courts had jurisdiction over appeals lodged against judgements rendered by the District Courts or the Family Courts, the District Courts tried all cases in the first instance except those specifically coming under the original jurisdiction of the other courts, the Family Courts had jurisdiction over all disputes and conflicts within the family as well as on all related domestic affairs of legal significance and cases involving juvenile delinquents and the Summary Courts tried civil cases involving claims not exceeding 900,000 yen and certain minor criminal cases.

585. The representative of Japan pointed out that his country's legislation was gradually and steadily evolving to deal with new phenomena emerging in Japanese society, which was becoming increasingly aware of the importance of human rights.

### Constitutional and legal framework within which the Covenant is implemented

586. The members of the Committee wished to have further details on the status of the Covenant in the Japanese legal system. They asked, for example, whether the Covenant could be invoked directly before the courts and, if so, whether there had been cases in which that had been done. They also asked for information on the remedies available to individuals who claimed that their rights under the Covenant had been violated, particularly with regard to the right of access to the courts provided for in article 32 of the Japanese Constitution. The members of the Committee also wished to know what other measures had been taken since the consideration of Japan's initial report to publicize the Covenant, what activities the Civil Liberties Bureau and the Civil Liberties Commissioners had carried out recently and what factors and difficulties, if any, affected the implementation of the Covenant in Japan.

587. Some members of the Committee expressed interest in knowing what would happen if, in a Japanese court, one party invoked the provisions of the Covenant, while the opposing party relied on the Constitution, and in whose favour the court would find. They also asked whether any case of conflict between the provisions of the Covenant and those of domestic legislation had actually occurred and whether Japan had any permanent procedure for challenging a law, before or after its adoption, on the grounds that it was unconstitutional or, in particular, that it was at odds with a fundamental right embodied in chapter III of the Constitution or in the Covenant. It was also asked whether the report submitted to the Committee by Japan was circulated nationally and whether it was widely discussed, whether there was resistance to modern law on the part of the population, or behaviour which ran counter to the legislation, whether the inmates of Japanese prisons were informed of their rights, whether there was a procedure enabling them to appeal to an independent authority and whether prison staff were familiar with the relevant United Nation rules. Further information was also requested on the proportion of Civil Liberties Commissioners who were from Ainu, Chinese and other minorities, the nature of the powers of investigation of national institutions concerned with the protection and promotion of human rights, the relationships between such inquiries and judicial inquiries and the fundamental rights which were most frequently the subject of complaints. The Committee also wished to know the reasons which had prevented Japan from ratifying the Optional Protocol to the Covenant and requested information on the review of existing legislation which the Japanese Government had conducted before ratifying the Covenant and the interpretation of the provisions of articles 12 and 13 of the Japanese Constitution under which human rights could be restricted on account of “public welfare”. Regarding equality between men and women, the Committee asked whether it was true that a Japanese working woman was automatically dismissed when she married, whether she had any administrative remedy and what attention was being accorded by the authorities to “desertion”, which seemed to be a fact of Japanese society.

588. Replying to the questions raised by members of the Committee, the representative of Japan said that, under article 98 of the Japanese Constitution, in the event of a conflict, treaties concluded by Japan took precedence over national legislation. After referring to the provisions of the Constitution concerning the judiciary, access to the courts and the procedures whereby an individual could apply to the State for redress, he provided detailed information on the various remedies available to injured parties in Japan in the event of violation of a right by a State authority or an individual and in cases where violation of human rights constituted an offence under the relevant provisions of the Code of Criminal Procedure. He pointed out that the State provided assistance to persons without the means to bring a civil suit, including aliens.

589. With regard to measures taken to publicize the Covenant, he said that a human rights week was held each year. The Ministry of Justice and other bodies were making efforts to publicize the Universal Declaration of Human Rights and the Covenants and to ensure that they were observed throughout the country. Those activities had taken on special significance in 1983, with the celebration of the thirty-fifth anniversary of the adoption of the Declaration. Ceremonies and publications were planned for the end of 1988 to commemorate the fortieth anniversary. The media also gave wide coverage to campaigns to promote human rights, and the press had given special attention to the submission of the report to the Committee. Human rights were also taught in primary and secondary schools.

590. He also explained that members of the Bureau and the Civil Liberties Commissioners co-operated closely to increase public awareness of human rights. The Ministry of Justice and the National Federation of Consultative Assemblies of Civil Liberties Commissioners organized yearly publicity campaigns with a central theme. In 1986 and 1987, those campaigns had focused on the elimination of ragging and corporal punishment in schools, the status of women and the rights of the disabled. In 1988, the main themes of the campaign were the internationalization of society and human rights, as well as the fortieth anniversary of the Universal Declaration of Human Rights. The information activities of the Bureau and Civil Liberties Commissioners also took the form of inquiries into human rights violations and advisory services to deal with specific problems. In 1986, more than 392,000 cases had been dealt with by the advisory services.

591. He said that the implementation of protection of human rights was hampered in Japan by a number of deeply-rooted prejudices and practices, as well as by new problems such as the influx of illegal foreign workers, remunerated forced labour and prostitution.

592. The provisions of article 9, paragraph 3, of the Covenant had in fact been invoked in proceedings in which an alien had applied for release on bail. No conflict between the provisions of the Covenant and Japanese legislation had ever arisen. Moreover, there existed in Japan a system whereby any court could pronounce on the constitutionality of a law, although the final decision lay with the Supreme Court. The reports submitted by Japan to the Committee were circulated to the members of the Diet (parliament) concerned and to interested individuals. While conflicts between ancient cultural traditions and current legislation were inevitable, the Japanese authorities were nevertheless endeavouring to bring those traditions into harmony with the modern legal system. Prison authorities and detainees were informed of the rights embodied in the Covenant, the Standard Minimum Rules for the Treatment of Prisoners and, in general, the substance of texts adopted by the United Nations in the field of human rights. The role of the Civil Liberties Commissioners was to endeavour to redress violations without it being necessary to resort to judicial proceedings. They had no judicial powers and, in order to obtain legal redress, individuals had to go through the courts. The grounds for the complaints made included abuse of authority, violence in the home and invasions of privacy by the media.

593. His Government had undertaken to carry out a careful study of the effect of national legislation with a view to the possible ratification of the Optional Protocol to the Covenant. At the time when the Covenant had been ratified, there had been no conflict between its provisions and Japanese legislation. There was no definition of "public welfare" in Japanese legislation, so that it was for the courts to adopt their own interpretation in each case. Nor was there any rule compelling working women to give up their jobs when they married or had children, and any practice of that kind would be opposed by the authorities.

#### Self-determination

594. With reference to that issue, members of the Committee wished to know what Japan's position was with regard to the struggle for self-determination of the South African, Namibian and Palestinian peoples and whether the authorities had taken any concrete measures against the apartheid regime in South Africa. They asked, in particular, whether consideration had been given to dealing with indirect investment in South Africa, whether any violations of the regulations on

direct investment existed and, if so, what action had been taken and whether Japan was prepared to consider the imposition of economic and monetary sanctions against South Africa.

595. The representative of Japan stated that his Government co-operated fully with international efforts to eradicate apartheid. It had no diplomatic relations with South Africa; it had imposed restrictions on sporting, cultural and educational exchanges and suspended the issue of tourist visas to South African nationals as well as the air links with that country. All direct investment in South Africa had been banned. Furthermore, Japan provided humanitarian and educational assistance to the victims of apartheid in South Africa and participated in the United Nations programmes of assistance to those victims. His Government was convinced that Namibia should be given independence as soon as possible and it supported the recognition of the right of Palestinians to self-determination and survival as a nation. The banning of indirect investment in South Africa was legally outside the Japanese Government's control; in the few cases of contravention of the banning of direct investment, the Government had warned the firms in question with successful results. The question of comprehensive economic and monetary sanctions against South Africa should be discussed in United Nations forums.

#### State of emergency

596. On that subject, members of the Committee wished to know what legal provisions relating to the introduction of a state of public emergency existed in Japan and whether they conformed to article 4, paragraph 2, of the Covenant.

597. The representative of Japan stated that there was no provision in the Japanese legal system for the suspension of public rights. No public emergency had in fact occurred in Japan. If such an emergency were to threaten the life of the nation, the Government would take appropriate measures.

#### Non-discrimination and equality of the sexes

598. With regard to that issue, members of the Committee wished to know what laws and practices gave effect to the provisions of article 2, paragraph 1, of the Covenant relating to non-discrimination based on colour, language, political and other opinion, national origin, property or other status, and whether the adoption, in 1985, of the law concerning the promotion of equal opportunity and treatment for men and women in employment and other welfare measures for women workers and of other reforms had led to any measurable progress. They also wished to receive information concerning the number and proportion of women in parliament and in other high public offices, the liberal professions, the senior ranks of the civil service and private business, and asked for clarification of the special problems of the residents of the Dowa districts and the extent to which the measures being taken to improve their circumstances had been successful. In addition, they asked in which respects the rights of aliens were restricted as compared with those of Japanese citizens.

599. Questions were raised, in particular, with regard to the situation of foreign women who had emigrated to Japan and did not have Japanese nationality, the problem of prostitution in Japan and measures taken to control it, the situation of Koreans living in Japan, the system of registration of aliens, especially in connection with compulsory fingerprinting, the legal measures for the protection

of the Ainu and Okinawan peoples against discriminatory attitudes of society, the requirement of Japanese Nationality for teaching in schools and the existing legal measures concerning the mentally ill, which seemed to allow certain forms of discrimination. Furthermore, it was observed that there appeared to be a discrepancy between the Covenant and article 14 of the Japanese Constitution concerning equality as far as the enumeration of the grounds for discrimination was concerned and clarification was requested on the subject.

600. In his reply, the representative of Japan referred to provisions prohibiting all forms of discrimination in his country. The Law of 1985 concerning the promotion of equal opportunity and treatment for men and women in employment and other welfare measures for women workers entailed, in particular, the inclusion of women in the majority of jobs. Women and men received equal treatment in vocational training. The Equal Employment Opportunities Act had induced enterprises to facilitate the working conditions of women and, although the Act did not provide expressly for equal wages, it had contributed substantially to reducing the gap between the starting wages for men and women.

601. The representative stated that the number of women members of the Diet had increased from 21 out of 733 in 1970 to 29 out of 760 in 1987. He also provided figures showing the increasing participation of women in local assemblies and public service. He added that the Japanese residing in Dowa districts had been the subject of social discrimination since the seventeenth century, but the situation was now in the process of being rectified through legal and other measures to improve their social and economic conditions. Regarding the rights of aliens whose status was not expressly mentioned in the Japanese Constitution, the representative referred, in particular, to recent legislation improving their situation and providing for regulation of their immigration and residence in the country. With regard to the immigration of women to Japan, especially from South-East Asian countries, the representative explained that, in most cases, it was illegal immigration and the immigrants were exposed to exploitation and other abuses. The Japanese Government was taking measures in consultation with the countries of origin of the immigrants to solve the problem. Foreigners charged with being in Japan illegally could appeal to the Minister of Justice. Prostitution was illegal in Japan and was controlled by a prostitution prevention law, due attention being given to protecting the human rights of prostitutes. As for the Koreans living in Japan, the representative stated that 130,000 of them had been granted Japanese nationality by the end of 1986. The others had the legal status of foreign nationals and those who had been living in Japan before August 1945 were accorded special treatment. With the exception of suffrage and other rights, which by their nature belonged to Japanese nationals only, all fundamental human rights were guaranteed to Koreans and other foreigners living in Japan. Alien registration and the enactment of laws and regulations governing the entry of aliens and control of their activities under reasonable conditions were matters within the discretion of any sovereign State. Fingerprinting had been introduced to ensure the accuracy of registration details. It was applied without discrimination to all aliens of 16 years or more staying in the country for one year or more and was in no way designed to infringe their human rights.

602. The representative further stated that no discriminatory treatment was currently practised against the people of Okinawa, although the Civil Liberties Bureau in the Ministry of Justice had received some complaints in relation to the Ainu. There was an adequate legal framework to protect them at the government level, but there was some discrimination at the level of society, which the

Civil Liberties Bureau was endeavouring to eradicate. Concerning the employment of foreigners in education, the representative stated that his Government considered that posts connected with the public service or public activities, which involved the exercise of public power, should be held by Japanese citizens only. Teachers at the elementary, middle and high-school levels were required to take part in the management of public activities. Except at university level, therefore, teachers had to be of Japanese nationality. As for the mentally handicapped, efforts were being made in Japan to ease their difficulties and help them to become full members of society. With regard to the question of a discrepancy between article 14 of the Constitution and the provisions of the Covenant, the representative of Japan stated that, on 28 December 1978, the Supreme Court had ruled that the fundamental human rights guaranteed in chapter III of the Constitution, with the exception of rights which by their nature should be restricted to Japanese citizens, should be equally guaranteed to foreigners living in Japan.

### Right to life

603. With reference to that issue, members of the Committee requested additional information on the implementation by Japan of article 16 of the Covenant in accordance with the Committee's general comments Nos. 6 (16) and 14 (23). They wished to know, in particular, how many death sentences had been imposed during the period from 1985 to 1988 and what factors might account for any increases or decreases in this respect over earlier periods. They recalled that, under article 6, paragraph 2, of the Covenant, the death sentence might be imposed only for the most serious crimes and they asked what crimes fell within that category, how many persons were on death row currently and how much time normally elapsed between the imposition and the execution of the death sentence. They also asked what rules and regulations governed the use of firearms by the police and security forces and how the infant mortality rate of minority groups compared to that of the rest of the population.

604. Some members also asked how many persons under sentence of death had been pardoned, had benefited from an amnesty or had had their sentences commuted, which authority was empowered to decide on the legitimacy of the use of firearms by the police, particularly when such use resulted in death, whether Japanese regulations were consistent with the principles set forth by the United Nations in the Code of Conduct for Law Enforcement Officials, whether any decision had been taken by the Japanese authorities to reduce, as envisaged in the initial report, from 17 to 9 the number of crimes listed in the Japanese Criminal Code as being punishable by the death penalty and in how many cases over the past five years the reopening of the trial of an individual sentenced to death had resulted in a reversal of the verdict. Further details were also requested on the differences between the treatment of prisoners awaiting execution and the treatment of other prisoners.

605. In his reply, the representative of the reporting State referred to medical programmes and legal measures taken in his country to control various categories of diseases. He stated that the average life expectancy in Japan in 1987 stood at 75.61 years for men and 81.39 years for women. Under the Maternal and Child Health Law, the Child Welfare Law and related laws, measures to protect the health of expectant and nursing mothers and infants were being implemented. The infant mortality rate, which had stood at 9.3 per thousand live births in 1976, had fallen to 5.2 per thousand in 1986. As for the number of death sentences, the representative stated that they were steadily decreasing. During the decade from 1965 to 1974, there had been 90 irrevocable death sentences.

During the period from 1975 to 1984, the number had fallen to 30 and, between 1985 and 17 June 1988, to 15.

606. In accordance with article 9 of the Code of Criminal Procedure, the death sentence was applied sparingly and only to the most serious crimes, which fell into two categories. The first covered crimes resulting in death, the second, insurrection. An amendment to the Code of Criminal Procedure was under consideration to reduce the number of capital offences in the first category and to eliminate those in the second category. At the end of 1987, 27 persons had been awaiting execution. The average period between the irrevocable death sentence and execution was seven years and one month, taking into account requests for the reopening of proceedings or applications for amnesty. The representative added that article 7 of the Police Duties Execution Law allowed policemen to use weapons only in circumstances in which there was a reasonable need to do so. During the past decade, there had been only 13 cases in which the use of a hand-gun by a policeman had led to death, and in each case the rules had been strictly applied.

607. The representative explained the procedure by which an amnesty could be granted in Japan and added that, between 1945 and early 1988, in the cases of 25 persons sentenced to death, the penalty had been commuted to life sentences of hard labour. The total number of amnesties granted in respect of all sentences, including death sentences, had been 187 in 1985, 199 in 1986, and 96 in 1987. Furthermore, the National Public Security Commission dealt with questions concerning the training and equipment of the police and the lawfulness of the use of force by the police. Complaints could, however, be submitted to the prosecutor, which would lead to the institution of inquiries in the police force, and where appropriate, to the institution of criminal proceedings under the relevant provisions of the Criminal Code. Prisoners under sentence of death received the same treatment as other prisoners, except that they were held in separate quarters. Between in 1982 and 1986, the cases of three persons under sentence of death had been reopened.

#### Liberty and security of person

608. In that connection the members of the Committee asked for particulars concerning the practice of administrative confinement pursuant to the Prevention of Prostitution Act, the maximum period during which persons could be held in custody pending trial, and the time-limit within which the family of a detainee was informed. Several questions were asked concerning, in particular, one of the forms of deprivation of liberty, namely, the committal to an institution of persons suffering from mental disease. It was asked what safeguards were offered to such persons on the occasion of an involuntary committal, who made the diagnosis, who made the committal order, to which court an appeal be addressed at the time of committal and subsequently, whether the statutory remedy of habeas corpus was available, whether there was a right to damages and compensation in cases of irregular committal, what the function of the court was with regard to respect for the rights of mental patients, and how many mental patients were hospitalized. It was also asked what was the ratio of persons in custody pending trial to the total number of persons being prosecuted under the criminal law. Furthermore, particulars were requested concerning the way in which the detention procedure was carried out and the procedure for obtaining damages and compensation on the grounds of mistakes made by the police or the judicial authority.

609. In reply, the representative of Japan stated that the Prevention of Prostitution Act, in section



5, prescribed a penalty of imprisonment for a term not exceeding six months and a fine not exceeding 10,000 yen for procuring on a public thoroughfare or incitement to prostitution by advertisements. In section 17, paragraph 1, of the same Act, the sentence of imprisonment imposed under section 5 could be replaced by committal to a re-education centre. He gave particulars concerning the procedure for arrest and pre-trial detention under the Code of Criminal Procedure. He explained that the total time during which a suspect could be held without charge after arrest was 72 hours. If the time-limit was not respected, the suspect was released. The court was empowered to order detention for a period of 10 days, which could be prolonged for a further 10 days on the application of the prosecution. If at that point the trial procedure had not been initiated, the suspect was released. A further limit to the period of detention was that the person concerned could be released on bail, which was generally granted, except in cases of specially serious offences or if there was a risk that the accused might destroy evidence. Under Japanese law there was no provision requiring that the family must be informed after the arrest; in practice, however, the family was informed immediately if the detainee so requested, provided that the proper conduct of the inquiry was not thereby jeopardized. He provided some statistical data concerning persons under detention and compensation awarded in criminal cases. He added that under the Code of Criminal Procedure no arrest could take place without a court order and that the decision to award compensation was a matter for the Prosecutor-General attached to the highest court in the district. If the person concerned was not satisfied with the decision he could institute civil proceedings in the courts to apply for additional compensation.

610. Regarding the committal of mentally-ill persons, under a recently enacted law, psychiatrists were responsible for deciding on the need for hospitalization and for any restrictions on patients' activities. A Psychiatric Review Board had been established in each prefecture to examine the need for continued hospitalization and, based on the results of the review, the Prefectural Governor had to take the necessary action. If appropriate measures were not then taken the patient was entitled to bring proceedings against the Prefectural Governor. In addition to habeas corpus, the Administrative Litigation Law, the Code of Civil Procedure and the Code of Criminal Procedure provided opportunities for patients to bring proceedings in cases of alleged violations of their human rights in psychiatric hospitals.

#### Treatment of prisoners and other detainees

611. In that connection, the members of the Committee asked for particulars concerning the practices and circumstances of "imprisonment with hard labour" and "detention in a labour centre" mentioned in the report. Furthermore, in connection with the general practice of holding persons awaiting trial in police cells, they asked what safeguards had been provided in conformity with the provisions of the Covenant, whether the United Nations Standard Minimum Rules for the Treatment of Prisoners were applied and whether the relevant regulations and directives were known and could be consulted by detainees. Information was also requested on the current status of the draft legislation concerning detention centres and institutions for holding persons awaiting trial that were subject to the authority of the police of the prefecture.

612. Some members wondered whether the principle of using police cells as places for holding detainees was not on itself fraught with the risk of infringement of the human rights of detainees, particularly since the information at their disposal reported disturbing practices regarding police

cells and the conditions of detainees in general. They pointed out, *inter alia*, that the regime of solitary confinement encouraged - according to many sources of information - physical and psychological maltreatment and they asked what procedure was followed in cases where a court found that confessions had been extracted by coercion, how article 38 of the Constitution, which contained provisions on that subject, was applied, whether members of the police had been brought to trial on a charge of having used torture, and what action had been taken as a result of inquiries conducted by associations that endeavoured to defend the human rights of detainees.

613. In reply, the representative of Japan referred in particular to detention in a labour centre in pursuance of article 18 of the Japanese Criminal Code. He gave some particulars concerning the “police cells” in which persons might be held, provided that they were not kept there continuously. He added that members of the Japanese police force were highly trained and had received guidelines concerning human rights. Any complaint by a prisoner concerning the treatment he was receiving was promptly communicated to the chief of police of the prefecture, who would then institute an inquiry and inform the prisoner of the results. The Code of Criminal Procedure itemized all the cases in which confessions were not admissible in evidence and the court could dismiss any deposition if it had doubts regarding the circumstances in which the deposition had been made. Draft legislation providing for greater protection of prisoners had been submitted to parliament. The United Nations Standard Minimum Rules for the Treatment of Prisoners had been translated into Japanese and widely publicized in Japan and their implementation was guaranteed by administrative orders. Draft legislation concerning centres for holding persons in custody pending trial, which took into account principles laid down in the legislation of other countries and the United Nations Standard Minimum Rules were under consideration in parliament. The draft legislation contained specific provisions concerning the treatment of any person held in a police cell after arrest.

614. The representative pointed out that during the period from 1983 to 1987, only one police officer had been prosecuted on the grounds of abuse of power resulting in death and there had been no prosecution of such officers on the grounds of acts of violence or cruelty. In that connection, he stated that, while he could not altogether deny the possibility of isolated cases of excess by police officers, he had heard of no specific case in which such officers had tortured detainees. Prisoners were entitled to file a complaint with the Office of the Public Prosecutor who exercised strict control over the police.

#### Right to a fair trial

615. With reference to that issue, members of the Committee wished to know why the principle of the presumption of innocence had not been reflected thus far in either the Japanese Constitution or legislation, and how Kokuku, quasi -Kokuku and extraordinary Kokuku appeals differed from each other. They recalled that, under article 2, paragraph 3, of the Covenant, each State party should undertake to develop the possibility of judicial remedy and they asked whether that requirement had been taken into account when the Mental Health Law had been revised in 1987. Explanations were requested, in particular, with respect to the right of a prisoner to communicate with his counsel and the concept of “grey and indecisive innocence”, which was expressed by the Chief of Justice after the conclusion of a case with a verdict of not guilty.

616. In his reply, the representative of Japan stated that the presumption of innocence was firmly

established as a fundamental principle of criminal procedure and had been fully respected in judicial practice. He further explained that under the Code of Criminal Procedure, sentence was pronounced by court judgement. Other decisions by a court of first instance or by a judge were generally made in the form of a ruling order. Kokuku appeals against a judgement rendered in the first instance by a district court, family court or summary court could be lodged with the High Court; those against a judgement in the first or second instance rendered by the Court with the Supreme Court and those against a ruling to which no objection was allowed in the Code of Criminal Procedure with the High Court. An extraordinary Kokuku could be filed with the Supreme Court only on such grounds as violation of the Constitution and incompatibility with judicial precedent. Quasi-Kokuku appeal against a decision prescribed in article 429 of the Code of Criminal Procedure, which was rendered by a judge in respect of such matters as detention and release on bail, could be lodged with the court to which the judge was attached.

617. The representative then referred to the possibility of judicial remedy which had been developed by the law with regard to persons in psychiatric hospitals and provided information concerning the structure and functions of the Japanese bar under the Practising Attorneys Law of 1949. He pointed out that unconvicted persons were given sufficient guarantees to ensure that they could receive documents and other material from their counsel. As a general rule, detainees were also permitted to see persons other than their counsel and to receive documents from them. Under article 39, paragraph 3, of the Code of Criminal Procedure, if it was essential for the investigation, the public prosecutor or investigating magistrate could designate the date, place and time at which an interview with the accused was to be held, provided that the ability of the accused to prepare his defence was not prejudiced thereby.

#### Freedom of movement and expulsion of aliens

618. On that subject, members of the Committee asked whether there were any restrictions on the freedom of movement of aliens within Japan other than those which were applicable also to citizens and restrictions relating to “provisionally landed aliens” or special cases. Moreover, in the light of the Committee’s general comment No. 15 (27), they requested additional information on the position of aliens in Japan.

619. In his reply, the representative of the reporting State referred to article 22 of the Japanese Constitution, which guaranteed freedom of movement to both Japanese citizens and aliens, and legislation relevant to the requirements for entry of aliens in Japan. He stated that an alien who had been refused entry by the immigration authorities might lodge an appeal with the Ministry of Justice. By a decision of the Supreme Court of 28 September 1978 foreigners living in Japan enjoyed the same fundamental human rights as Japanese citizens, apart from voting and certain other rights expressly reserved for Japanese citizens. The conditions governing the residence and activities of foreigners in Japan were laid down by the immigration authorities. Investigation of offences carrying the penalty of deportation was carried out initially by the immigration control officer. If grounds for deportation were found, the person concerned could request a hearing by the special inquiries officer and, in the event of an adverse ruling, lodge an appeal with the Ministry of Justice, which was the final authority on deportation.

#### Right to privacy

620. With regard to that issue, members of the Committee requested additional information on article 17, in accordance with the Committee's general comment No. 16 ( 32 ), and clarification on the concept of "the right to portrait". They also requested a description of Japanese laws and practices relating to the collection and use of personal data by public agencies or private entities. In addition, they asked how the use of electronic listening and viewing devices was regulated, whether an individual had the right to ascertain in intelligible form whether personal data relating to him were stored on data files, and, if so, what data and for what purpose, and which public authorities or private firms controlled such data.

621. In his reply, the representative of the State party said that, if the infringement of privacy constituted an offence, the individual concerned might lodge a complaint with the public prosecutor or investigating magistrate, in accordance with the Code of Criminal Procedure, requesting redress for the damage caused and restoration of the original condition. In addition, he could request an investigation by a civil liberties commissioner on grounds of violation of his human rights. Regarding the concept of "the right to portrait", he explained that the Supreme Court had ruled that the photographing of a person's face by the police without good reasons was contrary to article 14 of the Constitution. With reference to the other questions raised, he stated that the Instalment Sales Act relating to computerized information in the private sector, amended in 1984, provided that information acquired in connection with credit transactions should not be used for any other purpose; article 21 of the Constitution guaranteed security of all means of communication, while the Telecommunications Act prohibited any violation of telecommunications security; a Bill recently submitted to the Diet would cover the handling of controversial personal data by public institutions, combining the protection of individual rights with efficient administration.

#### Freedom of religion and expression, prohibition of propaganda for war and advocacy of racial or religious hatred

622. On that subject, members of the Committee asked whether religions were officially recognized or registered in Japan and, if so, what the relevant legal basis and procedures were, what controls were exercised on freedom of the press and mass media in accordance with the law and what concrete measures had been taken to ensure compliance with the provisions of article 20 of the Covenant. Members of Committee stressed that legislative provisions against propaganda for war had to be enacted by a State party, if it was to fulfil its obligations under that article.

623. In his reply, the representative of Japan referred to constitutional and other legislative provisions guaranteeing freedom of religion and expression and regulating the press and other mass media. He stated, in particular, that no religious education was imparted by the State, that religious organizations were not required to be registered, that dissemination of war propaganda in his country was virtually inconceivable and therefore no need had arisen in his country for specific legislation on the matter.

#### Freedom of assembly and association

624. With reference to that issue, members of the Committee asked about the relevant laws and practices relating to the establishment of political parties, the organization of trade unions, the size of their membership and the percentage of the labour force belonging to trade unions.

625. The representative of the reporting State replied that political parties could be organized freely in Japan without restrictions. However, the Political Funds Regulation Law regulated expenditure on political activities and 27 organizations had been recognized as parties under that law. The main political parties had representatives in both houses of the Diet. The representative also referred to articles 21 and 28 of the Japanese Constitution relating to trade unions and the right to strike and recalled that Japan was a party to the International Labour Organisation Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

#### Protection of the family and children, including the right to marry

626. With reference to that issue, members of the Committee asked how the right of men and women of marriageable age to marry and to found a family was recognized in Japan, what measures the Government was taking to eradicate child prostitution and what the position was in Japan with regard to corporal punishment.

627. The representative replied that article 24 of the Japanese Constitution affirmed that marriage was based on the mutual consent of the intending spouses. In 1986, a total of 967 female juveniles under 20 years of age had been counselled for prostitution. Relevant laws were the Child Welfare Law and the Prostitution Prevention Law, and the police endeavoured to locate and protect juvenile victims of prostitution. Corporal punishment in school was prohibited by law.

#### Right to participate in the conduct of public affairs

628. In respect to that subject, members of the Committee wished to receive information concerning the exercise of and restrictions on political rights. They also asked how equitable access of members of ethnic, religious or linguistic minorities to public services was ensured.

629. In his reply the representative of Japan referred to the Public Offices Election Law, which contained provisions regarding the election of members of the two houses of the Diet and members of the assemblies of local public bodies, and the National Public Service Law and the Local Public Service Law, which guaranteed that the recruitment of public officials was based on fair and competitive examinations. He stated that equal access to the conduct of public affairs was guaranteed to everybody under law.

#### Rights of minorities

630. Regarding that issue, members of the Committee asked whether there were, in Japan, any special factors and difficulties concerning the effective enjoyment by minorities of their rights under the Covenant and, in particular, what the situation was in regard to Koreans, Chinese, the Utari people and the Dowa people.

631. In his reply, the representative of Japan provided figures concerning the composition of the groups of persons referred to in the question and stated that in Japan no one was denied the right to enjoy his own culture, to practise his own religion, or to use his own language.

## General Comments

632. The members of the Committee expressed satisfaction with the thorough, constructive and fruitful dialogue which had taken place between the representatives of Japan and the Committee. They noted with appreciation that the report had already been publicly discussed in Japan and that many non-governmental organizations and groups had been involved; in their opinion that demonstrated the keen interest in human rights matters that existed in Japan. They noted that many elements of traditional law existed in Japanese society; they had the impression that in the current state of affairs, Japanese legislation was an amalgam of various legal concepts and was expected to evolve further. Hence it was sometimes difficult to determine with certainty whether some provisions of the legislation were compatible with the Covenant. They noted that some improvements in the Japanese legal system from the point of view of human rights could already be seen, in particular with regard to the ban on war propaganda, the human rights of mental patients, the management of penitentiary establishments and the use of police cells for holding persons awaiting trial in custody. They also referred to the comments made in the course of the consideration of the report concerning the difficulties in obtaining naturalization in Japan, allegations of maltreatment of prisoners, the application of the death penalty, and certain forms of discrimination against certain ethnic groups and certain communities of the Japanese population as well as against women and aliens. The members expressed the view that the measures needed to deal with the questions raised related to both legislation and practice, and they expressed the hope that the Japanese Government would take the Committee's comments into account.

633. On the conclusion of consideration of Japan's second periodic report, the Chairman also thanked the Japanese delegation for its contribution to a fruitful dialogue with the Committee and expressed the hope that all questions left in abeyance at the current session would be dealt with in Japan's next periodic report.

## CCPR A/49/40 (1994)

98. The Human Rights Committee considered the third periodic report of Japan (CCPR/C/70/Add.1 and Corr.1 and 2) at its 1277th to 1280th meetings, held on 27 and 28 October 1993, and adopted 23/ the following comments:

### 1. Introduction

99. The Committee commends the Government of Japan on its excellent report, which has been prepared in accordance with the Committee's guidelines for the presentation of State party reports and submitted on schedule. The Committee appreciates, in particular, the participation, in its consideration of the report, of a competent delegation from the Government of Japan, which consisted of experts in various fields relating to the protection of human rights. The Committee is of the view that the detailed information provided by the delegation in its introduction of the report, as well as the comprehensive replies furnished to the question raised by the Committee members, contributed greatly to making the dialogue fruitful.

100. The Committee notes with appreciation that the Government of Japan gave wide publicity to its report, thus enabling a great number of non-governmental organizations to become aware of the contents of the report and to make known their particular concerns. In addition, some of them were present during the Committee's consideration of the report.

### 2. Factors and difficulties affecting the implementation of the Covenant

101. The Committee notes that the Government of Japan sometimes experiences difficulties in taking measures to implement the Covenant owing to various social factors, such as the traditional concept of the different roles of the sexes, the unique relationship between individuals and the group they belong to and the unconscious particularities owing to the homogeneity of the population.

### 3. Positive aspects

102. The Committee takes note with satisfaction of the serious approach that the Government of Japan has taken in dealing with issues relating to civil and political rights, and of its commitment to fulfil its obligations under the Covenant.

103. The Committee is of the view that the human rights situation in Japan has improved since the consideration of the second periodic report of that State party in 1988, and that there is generally a good regard for human rights in the country.

104. Furthermore, the Committee notes, with appreciation, that Japan actively assists in the promotion of human rights at the international level. It also notes that there is awareness in the

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23/ At its 1290<sup>th</sup> meeting (forty-ninth session), held on 4 November 1993.

Japanese society of the provisions of the Covenant; this awareness is confirmed by the interest expressed by many Japanese non-governmental organizations in the Committee's consideration of the third periodic report of Japan.

#### 4. Principal subjects of concern

105. The Committee believes that it is not clear that the Covenant would prevail in the case of conflict with domestic legislation and that its terms are not fully subsumed in the Constitution. Furthermore, it is also not clear whether the "public welfare" limitation of articles 12 and 13 of the Constitution would be applied in a particular situation in conformity with the Covenant.

106. The Committee expresses concern at the continued existence in Japan of certain discriminatory practices against social groups, such as Korean permanent residents, members of the Buraku communities, and persons belonging to the Ainu minority. The requirement that it is a penal offence for alien permanent residents not to carry documentation at all times, while this does not apply to Japanese nationals, is not consistent with the Covenant. Moreover, persons of Korean and Taiwanese origin who serve in the Japanese Army and who no longer possess Japanese nationality are discriminated against in respect of their pensions.

107. In addition, the Committee expresses concern at other discriminatory practices that appear to persist in Japan against women with regard to remuneration in employment, and notes that de facto problems of discrimination more generally continue to exist. The situation regarding mentally ill persons has significantly improved, but problems continue regarding access to employment. The Committee acknowledges the fact that legal measures have been taken by the Japanese authorities to forbid those practices and that there are comprehensive programmes to promote equal opportunity. However, it appears that a certain gap exists in Japan between the adoption of legislation and the actual behaviour of certain sectors of society. The Committee notes that recourse for settlement of claims of discrimination against trade-union activists is very protracted.

108. The Committee is particularly concerned at the discriminatory legal provisions concerning children born out of wedlock. In particular, provisions and practices regarding the birth registration forms and the family register are contrary to articles 17 and 24 of the Covenant. The discrimination in their right to inherit is not consistent with article 26 of the Covenant.

109. The Committee is disturbed by the number and nature of crimes punishable by death penalty under the Japanese Penal Code. The Committee recalls that the terms of the Covenant tend towards the abolition of the death penalty and that those States which have not already abolished the death penalty are bound to apply it only for the most serious crimes. In addition, there are matters of concern relating to conditions of detainees. In particular, the Committee finds that the undue restrictions on visits and correspondence and the failure of notification of executions to the family are incompatible with the Covenant.

110. The Committee is concerned that the guarantees contained in articles 9, 10 and 14 are not fully complied with, in that pre-trial detention takes place not only in cases where the conduct of the investigation requires it; the detention is not promptly and effectively brought under judicial control and is left under the control of the police; most of the time interrogation does not take place in the



presence of the detainee's counsel, nor do rules exist to regulate the length of interrogation; and the substitute prison system (Daiyo Kangoku) is not under the control of an authority separate from the police. In addition, the legal representatives of the defendant do not have access to all relevant material in the police record, in order to enable them to prepare the defence.

111. The Committee regrets that there appears to be a restrictive approach in certain laws and decisions as to respect for the right to freedom of expression.

112. The Committee notes with concern the exclusion of Koreans from the Government's concept of minorities. This is not justified by the Covenant, which does not limit the concept of minority to those who are nationals of the State concerned.

#### 5. Suggestions and recommendations

113. The Committee recommends that Japan become a party to both Optional Protocols to the International Covenant on Civil and Political Rights and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

114. The Committee also recommends that the Japanese legislation concerning children born out of wedlock be amended and that discriminatory provisions contained therein be removed to bring it into line with the provisions of articles 2, 24 and 26 of the Covenant. All discriminatory laws and practices still existing in Japan should be abolished in conformity with articles 2, 3 and 26 of the Covenant. The Government of Japan should make an effort to influence public opinion in this respect.

115. The Committee further recommends that Japan take measures towards the abolition of the death penalty and that, in the meantime, that penalty should be limited to the most serious crimes; that the conditions of death row detainees be reconsidered; and that preventive measures of control against any kind of ill-treatment of detainees should be further improved.

116. With a view to guaranteeing the full application of articles 9, 10 and 14 of the Covenant, the Committee recommends that pre-trial procedures and the operation of the substitute prison system (Daiyo Kangoku) should be made compatible with all requirements of the Covenant and, in particular, that all the guarantees relating to the facilities for the preparation of the defence should be observed.

## **CCPR A/54/40 (1999)**

143. The Committee considered the fourth periodic report of Japan (CCPR/C/115/Add.3 and Corr.1) at its 1714th to 1717th meetings (CCPR/SR.1714-1717) held on 28 and 29 October 1998 and adopted the following concluding observations at its 1726th and 1727th meetings (CCPR/C/SR.1726-1727) held on 5 November 1998.

### **1. Introduction**

144. The Committee expresses its appreciation for the frank and forthright replies given by the delegation to the issues raised by the Committee and the clarifications and explanations given in answer to the oral questions put by the members of the Committee. The Committee is also appreciative of the presence of the large delegation representing various branches of the Government, which demonstrates the seriousness of the State party in meeting its obligations under the Covenant. The Committee also commends the State party for having given wide publicity to its report and to the work of the Committee. It welcomes the large number of lawyers and non-governmental organizations present during the discussion of the report.

### **2. Positive aspects**

145. The Committee commends the Government for the ongoing process of bringing its legislation into line with the provisions of the Covenant. It welcomes the enactment of the Law on the Promotion of Measures for Human Rights Protection, as well as amendments to other laws such as the Equal Employment Opportunities Law, the Standard Labour Law, the Immigration Control and Refugee Recognition Act, the Penal Code, the Child Welfare Law, the Election Law and the Entertainment Business Law, and the draft bill aimed at punishing Japanese nationals involved in child prostitution and child pornography.

146. The Committee notes with satisfaction the establishment, at Cabinet level, of the Council for the Promotion of Gender Equality, aimed at investigating and developing policies for the achievement of a gender-equal society and its adoption of the Plan for Gender Equality 2000. The Committee also notes the measures being taken by the human rights organs of the Ministry of Justice to deal with the elimination of discrimination and prejudice against students at Korean schools in Japan, children born out of wedlock and children of the Ainu minority.

147. The Committee welcomes the abolition of restrictions on women's eligibility to take the national public service examination, the abolition of discriminatory compulsory retirement, and of dismissals on grounds of marriage, pregnancy or childbirth.

### **3. Principal subjects of concern and recommendations**

148. The Committee regrets that its recommendations issued after the consideration of the third periodic report have largely not been implemented.

149. The Committee stresses that protection of human rights and human rights standards are not

determined by popularity polls. It is concerned by the repeated use of popularity statistics to justify attitudes of the State party that may violate its obligations under the Covenant.

150. The Committee reiterates its concern about the restrictions which can be placed on the rights guaranteed in the Covenant on the grounds of "public welfare", a concept which is vague and open-ended and which may permit restrictions exceeding those permissible under the Covenant. Following upon its previous observations, the Committee once again strongly recommends to the State party to bring its internal law into conformity with the Covenant.

151. The Committee is concerned about the lack of institutional mechanisms available for investigating violations of human rights and for providing redress to the complainants. Effective institutional mechanisms are required to ensure that the authorities do not abuse their power and that they respect the rights of individuals in practice. The Committee is of the view that the Civil Liberties Commission is not such a mechanism, since it is supervised by the Ministry of Justice and its powers are strictly limited to issuing recommendations. The Committee strongly recommends to the State Party to set up an independent mechanism for investigating complaints of violations of human rights.

152. More particularly, the Committee is concerned that there is no independent authority to which complaints of ill-treatment by the police and immigration officials can be addressed for investigation and redress. The Committee recommends that such an independent body or authority be set up by the State party without delay.

153. The Committee is concerned about the vagueness of the concept of "reasonable discrimination" which, in the absence of objective criteria, is incompatible with article 26 of the Covenant. The Committee finds that the arguments advanced by the State party in support of this concept are the same as had been advanced during the consideration of the third periodic report and which the Committee found to be unacceptable.

154. The Committee continues to be concerned about discrimination against children born out of wedlock, particularly with regard to the issues of nationality, family registers and inheritance rights. It reaffirms its position that pursuant to article 26 of the Covenant, all children are entitled to equal protection, and recommends that the State party take the necessary measures to amend its legislation, including article 900, paragraph 4, of the Civil Code.

155. The Committee is concerned about instances of discrimination against members of the Japanese-Korean minority who are not Japanese citizens, including the non-recognition of Korean schools. The Committee draws the attention of the State party to general comment No. 23 (1994) which stresses that protection under Article 27 may not be restricted to citizens.

156. The Committee is concerned about the discrimination against members of the Ainu indigenous minority in regard to language and higher education, as well as about non-recognition of their land rights.

157. With regard to the Dowa problem, the Committee acknowledges the acceptance by the State party of the fact that discrimination persists vis-à-vis members of the Buraku minority with regard

to education, income and the system of effective remedies. The Committee recommends that the State party take measures to put an end to such discrimination.

158. The Committee is concerned that there still remain in the domestic legal order of the State party discriminatory laws against women, such as the prohibition on women remarrying within six months following the date of the dissolution or annulment of their marriage and the different age of marriage for men and women. The Committee recalls that all legal provisions that discriminate against women are incompatible with articles 2, 3 and 26 of the Covenant and should be repealed.

159. The Committee reiterates the comment made in its concluding observations at the end of the consideration of Japan's third periodic report that the Alien Registration Law, which makes it a penal offence for alien permanent residents not to carry certificates of registration at all times and imposes criminal sanctions for failure to do so is incompatible with article 26 of the Covenant. It recommends once again that such discriminatory laws be abolished.

160. Article 26 of the Immigration Control and Refugee Recognition Act provides that only those foreigners who leave the country with a permit to re-enter are allowed to return to Japan without losing their residents status and that the granting of such permits is entirely within the discretion of the Minister of Justice. Under this law, foreigners who are second- or third-generation permanent residents in Japan and whose life activities are based in Japan may be deprived of their right to leave and re-enter the country. The Committee is of the view that this provision is incompatible with article 12, paragraphs 2 and 4, of the Covenant. The Committee reminds the State party that the words "one's own country" are not synonymous with "country of one's own nationality". The Committee therefore strongly urges the State party to remove from the law the provision requiring a permit to re-enter to be obtained prior to departure, in respect of permanent residents like persons of Korean origin born in Japan.

161. The Committee is concerned about allegations of violence and sexual harassment of persons detained pending immigration procedures, including harsh conditions of detention, the use of handcuffs and detention in isolation rooms. Persons held in immigration detention centres may remain there for periods of up to six months and, in some cases, even up to two years. The Committee recommends that the State party review the conditions of detention and, if necessary, take measures to bring the situation into compliance with articles 7 and 9 of the Covenant.

162. The Committee is gravely concerned that the number of crimes punishable by the death penalty has not been reduced, contrary to what was indicated by the delegation at the consideration of Japan's third periodic report. The Committee recalls once again that the terms of the Covenant tend towards the abolition of the death penalty and that those States which have not already abolished the death penalty are bound to apply it only for the most serious crimes. The Committee recommends that Japan take measures towards the abolition of the death penalty and that, in the meantime, that penalty should be limited to the most serious crimes, in accordance with article 6, paragraph 2, of the Covenant.

163. The Committee remains seriously concerned at the conditions under which persons are held on death row. In particular, the Committee finds that the undue restrictions on visits and correspondence and the failure to notify the family and lawyers of the prisoners on death row of their

execution are incompatible with the Covenant. The Committee recommends that the conditions of detention on death row be made humane in accordance with articles 7 and 10, paragraph 1, of the Covenant.

164. The Committee is deeply concerned that the guarantees contained in articles 9, 10 and 14 are not fully complied with in pre-trial detention in that pre-trial detention may continue for as long as 23 days under police control and is not promptly and effectively brought under judicial control; the suspect is not entitled to bail during the 23-day period; there are no rules regulating the time and length of interrogation; there is no State-appointed counsel to advise and assist the suspect in custody; there are serious restrictions on access to defence counsel under article 39 (3) of the Code of Criminal Procedure; and the interrogation does not take place in the presence of the counsel engaged by the suspect. The Committee strongly recommends that the pre-trial detention system in Japan should be reformed with immediate effect to bring it into conformity with articles 9, 10 and 14 of the Covenant.

165. The Committee is concerned that the substitute prison system (Daiyo Kangoku), although under the authority of a branch of the police which does not deal with investigation, is not under the control of a separate authority. This may increase the chances of abuse of the rights of detainees under articles 9 and 14 of the Covenant. The Committee reiterates its recommendation, made after consideration of the third periodic report, that the substitute prison system should be made compatible with all requirements of the Covenant.

166. The Committee is concerned that rule 4 of the Habeas Corpus Rules under the Habeas Corpus Law limits the grounds for obtaining a writ of habeas corpus to (a) the absence of a legal right to place a person in custody and (b) manifest violation of due process. It also requires exhaustion of all other remedies. The Committee is of the view that rule 4 impairs the effectiveness of the remedy for challenging the legality of detention and is therefore incompatible with article 9 of the Covenant. The Committee recommends that the State party repeal rule 4 and make the remedy of habeas corpus fully effective without any limitation or restriction.

167. The Committee is deeply concerned about the fact that a large number of the convictions in criminal trials are based on confessions. In order to exclude the possibility that confessions are extracted under duress, the Committee strongly recommends that the interrogation of the suspect in police custody or substitute prisons be strictly monitored, and recorded by electronic means.

168. The Committee is concerned that under the criminal law, there is no obligation on the prosecution to disclose evidence it may have gathered in the course of the investigation other than that which it intends to produce at the trial, and that the defence has no general right to ask for the disclosure of that material at any stage of the proceedings. The Committee recommends that, in accordance with the guarantees provided for in article 14, paragraph 3, of the Covenant, the State party ensure that its law and practice enable the defence to have access to all relevant material so as not to hamper the right of defence.

169. The Committee is deeply concerned at many aspects of the prison system in Japan, which raise serious questions of compliance with articles 2, paragraph 3 (a), 7 and 10 of the Covenant. Specifically, the Committee is concerned at the following:

- (a) Harsh rules of conduct in prisons that restrict the fundamental rights of prisoners, including freedom of speech, freedom of association and privacy;
- (b) Use of harsh punitive measures, including frequent resort to solitary confinement;
- (c) Lack of fair and open procedures for deciding on disciplinary measures against prisoners accused of breaking the rules;
- (d) Inadequate protection for prisoners who complain of reprisals by prison warders;
- (e) Lack of a credible system for investigating complaints by prisoners; and
- (f) Frequent use of protective measures, such as leather handcuffs, that may constitute cruel and inhuman treatment.

170. The Committee is concerned that the Central Labour Relations Commission refuses to hear an application of unfair labour practices if the workers wear armbands indicating their affiliation to a trade union. Such an action contravenes articles 19 and 22 of the Covenant. The Committee's view should be brought to the attention of the Central Labour Relations Commission.

171. Despite the amendment to the Business Entertainment Law, traffic in women and insufficient protection for women subject to trafficking and slavery-like practices remain serious concerns under article 8 of the Covenant. In light of information given by the State party on planned new legislation against child prostitution and child pornography, the Committee is concerned that such measures may not protect children under the age of 18 when the age limit for sexual consent is as low as 13. The Committee is also concerned about the absence of specific legal provisions prohibiting the bringing of foreign children to Japan for the purpose of prostitution, despite the fact that abduction and sexual exploitation of children are subject to penal sanctions. The Committee recommends that the situation be made to comply with the State party's obligations under articles 9, 17 and 24 of the Covenant.

172. The Committee continues to be gravely concerned about the high incidence of violence against women, in particular domestic violence and rape, and the absence of any measures to eradicate this practice. The Committee is troubled that the courts in Japan seem to consider domestic violence, including forced sexual intercourse, as a normal incident of married life.

173. The Committee, while acknowledging the abolition of forced sterilization of disabled women, regrets that the law has not provided for a right of compensation to persons who were subjected to forced sterilization, and recommends that the necessary legal steps be taken in this regard.

174. The Committee is concerned that there is no provision for the training of judges, prosecutors and administrative officers in human rights under the Covenant. The Committee strongly recommends that such training be made available. Judicial colloquiums and seminars should be held to familiarize judges with the provisions of the Covenant. The Committee's general comments and the Views expressed by the Committee on communications under the Optional Protocol should be supplied to the judges.

175. The Committee urges the Government to take action on the basis of these concluding observations and to consider them in the preparation of the fifth periodic report. It also recommends that the State party continue reviewing its laws, and making appropriate amendments, so as to bring its legislation into full conformity with the Covenant. The Committee recommends that the State party take measures to provide remedies to victims of violations of human rights and, in particular, that it ratify the Optional Protocol to the Covenant.

176. The Committee expects that in implementing the concluding observations the State party will engage in a dialogue with all domestic interested parties, including non-governmental organizations. The Committee urges the State party to ensure the wide dissemination of its report and of the present concluding observations.

177. The Committee has fixed the date of submission of Japan's fifth periodic report at October 2002.

