



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/JPN/3-6
16 June 2009

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Third to sixth periodic reports due in 2007*

JAPAN *****

[19 August 2008]

* This document contains the third, fourth, fifth and sixth periodic reports of Japan, due on 14 January 2003, 2005 and 2007, submitted in one document. For the initial and second periodic reports and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/350/Add.2, CERD/C/SR.1443-1444 and CERD/C/SR.1459.

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

*** The annexes can be consulted in the files of the secretariat.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. INTRODUCTION	1 - 32	6
Land and population	3 - 6	6
Land	3	6
Population	4 - 6	6
General legal framework for the protection of human rights	7 - 8	7
Information concerning situations of women	9	7
The Ainu people	10 - 14	8
Hokkaido Ainu living condition survey	10 - 11	8
Measures to improve the livelihood of the Ainu people in Hokkaido	12	9
Protection of the human rights of the Ainu	13	9
Policy based on the act on the promotion of Ainu culture, and dissemination and enlightenment of knowledge about Ainu tradition, etc.	14	10
Foreigners in Japan	15 - 18	10
Human rights of foreigners in Japan	19 - 20	11
Korean residents in Japan	21 - 27	11
(1) Legal status	22 - 23	12
(a) Special period of validity for re-entry permit	23	12
(b) Special conditions for landing examination	23	12
(2) Education	24 - 25	13
(3) Dealing with harassment of school children	26	14
(4) Employment	27	14
Refugees	28 - 32	14
(a) Treatment of refugees	28	14

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
(b) Acceptance of Indochinese refugees	29	15
(c) Settlement facilitation measures for the Indochinese refugees and the convention refugees as well as resettlement of refugees	30	15
(d) Living conditions	31 - 32	16
II. ARTICLE 2	33 - 35	17
Prohibition of discrimination by national and local public authorities and organisations, along with prohibition of discrimination among individuals	33 - 35	17
III. ARTICLE 3	36	18
Abolition of apartheid	36	18
IV. ARTICLE 4	37 - 43	18
Reservations	37 - 38	18
Making dissemination, incitement and violence punishable	39 - 40	18
Regulations in the field of telecommunication	41 - 42	19
Prohibition of activities to incite groups	43	19
V. ARTICLE 5	44 - 57	19
Right to receive fair treatment in a court of law	44	19
Information concerning measures to investigate complaints	45	19
Information concerning the training of law enforcement officers and court officials for preventing racial discrimination	46 - 48	20
Rights concerning the physical safety of a person against violence or being injured and protection by the State	49	21
Political rights	50	21
Civil rights	51	21
Economic, social and cultural rights	52 - 55	21

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
Right to utilize places or services intended for use by the general public	56 - 57	22
VI. ARTICLE 6	58 - 74	23
Remedies and compensation measures in cases of human rights infringement	58 - 62	23
Remedies by the judicial organs	58	23
Legal aid system	59	23
Redress by the administrative organs	60	24
Administrative appeal law	61	24
Immigration Control and Refugee Recognition Act	62	24
The structure of the human rights organs	63 - 64	25
The Human Rights Bureau of the Ministry of Justice and its subsidiary organs	63	25
Civil liberties commissioners	64	25
Law for the Promotion of Measures for Human Rights Protection and the Council for Human Rights Promotion	65	25
Court decisions	66 - 68	25
Information concerning court decisions that deal with ‘racial discrimination’ cases (January 2000-December 2007)	66 - 68	25
Activities of the human rights organs	69 - 74	28
Investigation and disposition of human rights infringement cases	69 - 70	28
Human Rights Counseling	72 - 73	29
Promoting awareness of the respect for human rights	74	30
VII. ARTICLE 7	75 - 84	30
Education and teaching	75 - 76	30

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
‘Act for Promotion of Human Rights Education and Encouragement’ and ‘Basic Plan for Promotion of Human Rights Education and Encouragement’	77 - 79	30
Human rights promotion activities for promoting human rights awareness undertaken by the human rights organs of the Ministry of Justice	80 - 81	31
Culture	82 - 84	32
The Ainu culture	82	32
International cultural exchange	83	32
Public information activities	84	32
Appendix		
Statistics		

**International Convention on Elimination of Racial Discrimination
(Third, Fourth, Fifth, and Sixth Combined Periodic Report)**

I. INTRODUCTION

1. Based on the provisions of Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as the “Convention on the Elimination of Racial Discrimination”), the Government of Japan hereby submits its Third, Fourth, Fifth and Sixth Combined Periodic Report on the Convention on the Elimination of Racial Discrimination. This is the updated version of the Initial and Second Periodic Report (CERD/C350/Add.2) submitted in January 2000. This report also describes the measures that the Government of Japan has taken to eliminate racial discrimination from the time when the Initial and Second Periodic Report was submitted to March 2008.

2. Japan has taken every conceivable measure to fight against racial discrimination. The Constitution of Japan, the supreme law of Japan, guarantees equality under the law without any form of discrimination, as is evidenced by the provision laid down in Paragraph 1 of Article 14 that ‘all of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin’. Based on this principle of the Constitution, Japan has striven to realize a society without any form of racial or ethnic discrimination, and will continue to make efforts to achieve a society in which each person is treated without any discrimination and respected as an individual and can fully develop his or her own personality.

Land and population

Land

3. Japan’s total land area is 377,907 square kilometers and is comprised of 6,852 islands including the four major islands of Honshu (227,952 square kilometers), Hokkaido (77,983 square kilometers), Kyushu (36,736 square kilometers), and Shikoku (18,298 square kilometers).

Population

4. As of 1 October 2005, Japan’s total population was estimated at 127,767,994 people. However, the ethnic breakdown of Japan is not readily available since Japan does not conduct population surveys from an ethnic viewpoint.

On the other hand, the Ainu people, who lived in Hokkaido before the arrival of Wajin,(*1) continue to maintain their ethnic identity with continuous efforts to pass on their own language

(*1) See Paragraph 7 (*3) of the Initial and Second Report.

and culture. Their population in Hokkaido was estimated at 23,782 according to the Hokkaido Ainu Living Conditions Survey(*2) conducted by the government of Hokkaido Prefecture in 2006.

5. Recently, the number of registered foreigners in Japan has been increasing.(*3) According to Ministry of Justice statistics on foreigner registration, the total number of foreigners registered in municipalities as of the end of 2007 was 2,152,973 (1.69% of Japan's total population), which was a record high. This figure is 301,215 (16.3%) larger than that of five years before (end of 2002), and 670,266 (45.2%) larger than that of ten years before (end of 1997).

As for disaggregation by nationality (birthplace), Chinese (including Taiwan and Hong Kong) are the largest (28.2% of the total), followed by Koreans (27.6%), and Brazilians (14.7%). (See Annex 1 and 2.)

6. With regard to refugees, Japan concluded, in 1981, the Convention relating to the Status of Refugees (hereinafter referred to as the "Refugee Convention"), and in 1982, the Protocol relating to the Status of Refugees (hereinafter referred to as the "Refugee Protocol"). As a result, Japan revised the Immigration Control Order and replaced it with the Immigration Control and Refugee Recognition Act, establishing the refugee status determination procedure.

From January 1982, when the refugee status determination procedure was inaugurated, until the end of December 2007, a total of 451 persons have been recognized as refugees. In addition, Japan allowed settlement of the refugees from three Indochinese countries (Vietnam, Laos and Cambodia), and their numbers reached 11,319 as of the end of December 2007.

General legal framework for the protection of human rights

7. See Paragraphs 3, 4 and 5 of the Initial and Second Periodic Report for details of the fundamental human rights protected under the Constitution of Japan.

8. See paragraphs 63, 64, and 65 (Article 6) for details of the governmental institutions whose direct goal is the protection of human rights.

Information concerning situations of women

9. In 2001, the 'Act for the Prevention of Spousal Violence and Protection of Victims' was promulgated and came into effect. The Act is designed to prevent spousal violence and protect victims by creating a system for reporting cases of spousal violence, giving victims consultation and protection, and otherwise helping them become self-reliant, thereby championing human

(*2) See Paragraph 7 (*4) of the Initial and Second Report.

(*3) A foreigner is to apply for his/her registration to the head of the municipality in which his/her residence is located within ninety days after the day of his/her entry into Japan (within sixty days of the day of his/her birth), and the registration is closed due to departure from Japan, naturalization as a Japanese citizen, or death, among others. There is no need to register when a foreigner leaves Japan within ninety days of entry.

rights and realizing gender equality. The said Act was revised in 2004 which now clearly states that those in charge of providing protection to victims of spousal violence must respect the human rights of the victims regardless of their nationality.

Furthermore, the said Act was revised for the second time in 2007 in order to strengthen the role of local governments by stipulating that municipalities have its obligations to make such efforts as to establish the Spousal Violence Counseling and Support Centers.

The Ainu people

Hokkaido Ainu living condition survey

(*Reference: the title of the Survey was renamed from ‘Hokkaido Utari Living Condition Survey’ at the sixth survey.)

10. The government of Hokkaido Prefecture conducted six surveys in 1972, 1979, 1986, 1993, 1999 and 2006 respectively, on the living conditions of the Ainu people. According to the ‘2006 Hokkaido Ainu Living Conditions Survey’, the Ainu people’s living standard continued to improve as explained below, although the gap with other residents in the district where the Ainu people reside has not yet completely diminished.

As for their education, the ratio of Ainu youth who go on to high school is 93.5%, and the ratio of Ainu youth who go on to university (including junior college) is 17.4%. The evolution of the ratio indicates a steady improvement in the Ainu access to high school and college. However, a gap still exists as 98.3% of all youth enter high school and 38.3% of all youth enter college in municipalities where the Ainu people reside.

Concerning the employment ratio by industry, the largest industry the Ainu people work in is the tertiary industries(41.1%), followed by the primary industries(28.6%) and the secondary industries(27.7%), and with regard to the employment ratio by business sector, the largest is the fisheries (20.1%) followed by the construction(18.0%) and the service sector(14.0%).

Compared with two previous surveys, there is a tendency the ratio of workers in the primary and secondary industries have consecutively decreased and that in the meantime, the ratio of workers in the tertiary industries has increased. In comparison with other(non-Ainu) workers in municipalities where Ainu people reside, the ratios of the Ainu people in the primary and secondary industries are higher than those of other workers in any single business sector, while the ratio of the Ainu people in the tertiary industries is lower in every other business sector but one. These figures indicate that the ratios of the Ainu people to work in the primary and secondary industries are relatively high against that in the tertiary industries.

The ratio of provision of public assistance for the Ainu people (the ratio of public assistance recipients among the population of 1,000) is 38.3% (per mill), which is a 1.1 point increase from the 1999 survey. In the 1972 survey, the ratio for the Ainu people was 6.6 times higher than that of the total population in the municipalities where the Ainu people resided, but the gap has been decreasing slowly. The difference dropped to 3.5 times in the 1979 survey, 2.8 times in the 1986 survey, 2.4 times in the 1993 survey, 2.0 times in 1999 and 1.6 times in 2006. The decrease in the public assistance application ratio shows the positive effects of the Hokkaido Utari

measures, which include a facility improvement project to ameliorate the overall living environment such as local roads and community centers, the consolidation of infrastructure in the area of agriculture, forestry and fisheries, the development of small and medium-sized enterprises to expand sales channels of Ainu arts and crafts, and measures for facilitating employment and skill training.

11. According to the 2006 survey, with regard to “the state of discrimination since one’s earliest recollection to today”, 30.6% of the Ainu answered that they experienced discrimination at school, at job interviews or in making marriages, or that they knew of someone who had experienced such discrimination.

Measures to improve the livelihood of the Ainu people in Hokkaido

12. The government of Hokkaido Prefecture formulated the policy paper ‘Hokkaido Utari Welfare Measures’ four times from 1974 to 2001, and has implemented the ‘Promotion Policy for the Improvement of Ainu people’s Life’ since 2002. Guided by these policy guidelines and taking into account the results of the aforementioned Living Conditions Survey, it works to improve the living standards of the Ainu people and to redress the imbalance with other Hokkaido residents, by taking comprehensive measures including the promotion of education and culture, the maintenance of livelihood opportunities, and the promotion of industries. For example, in order to eliminate the existing gap in educational opportunities between the Ainu people and other residents, the government offers entrance allowances and grants (loans for college students) to encourage Ainu students to attend high school and college.

The Government of Japan set up the “Joint Meeting of Ministries Concerned in the Hokkaido Utari Measures” in 1974 (renamed as ‘Joint Meeting of Ministries Concerned in the Measures for the Improvement of the Living Standards of the Ainu people in Hokkaido’ in 2002) to cooperate with and promote the above-mentioned measures led by the government of Hokkaido Prefecture. Through this forum, the Government ensures close cooperation among the related administrative organs to obtain sufficient budget for the measures for the improvement of the living standards of the Ainu in Hokkaido.

On June 6, 2008, the Japanese Diet unanimously adopted the resolution concerning the Ainu people. Responding to this resolution, the Government of Japan issued the Statement by the Chief Cabinet Secretary. The Government of Japan will plan policies in accordance with the Statement by the Chief Cabinet Secretary. The Government of Japan decided on July 1 to establish the “Advisory Panel of Eminent Persons on policies for the Ainu people” in light of the Statement by the Chief Cabinet Secretary.

Protection of the human rights of the Ainu

13. See Paragraph 17 of the Initial and Second Periodic Report.

The issue concerning the human rights of the Ainu people is taken up as one of the human rights issues in the ‘Basic Plan for promotion of Human Rights Education and Encouragement’ (see Part VII (Article 7) of this Report). The human rights organs of the Ministry of Justice have expanded and strengthened their promotion activities to spread and enhance the idea of respect for human rights with a view to realizing a society where the dignity of the Ainu people is fully

respected by eliminating prejudice and discrimination against the Ainu people while disseminating and deepening correct knowledge and understanding of the unique culture and traditions of the Ainu people.

Policy based on the act on the promotion of Ainu culture, and dissemination and enlightenment of knowledge about Ainu tradition, etc.

14. See Paragraph 15 of the Initial and Second Periodic Report for the measures taken based upon the said Law.

Foreigners in Japan

15. For information on the system of status of residence enforced in Japan, see Paragraph 20 of the Initial and Second Periodic Report.

16. As for classification by status of residence as of the end of 2007, 40.4% of the total number of registered foreigners stay under the status of ‘Special Permanent Resident’ or ‘Permanent Resident’, 12.5% stay under ‘Long-Term Resident’ and 11.9% stay under ‘Spouse or Child of Japanese National’.

9.0% of all foreigners are under the statuses with which they are allowed to work. As of the end of 2007, their number reached 193,785, which is 15,004 (8.4%) more than in the previous year.

As for region of origin, 85.7% of the total number of registered foreigners under ‘Entertainer’, 91.6% under ‘Engineer’ and 95.5% under ‘Skilled Labor’ are from Asia. 64.1% under ‘Instructor’ and 41.9% under ‘Religious Activities’ are from North America.(*4)

17. The ‘Ninth Basic Plan of Employment Measures’ was adopted by the Cabinet in August 1999. The plan espouses the following principle regarding the acceptance of foreign workers: “From the perspective of further promoting the rejuvenation and internationalization of the Japanese economy and society, the acceptance of foreign workers in professional and technical fields should be more actively promoted. On the other hand, with respect to the matter of accepting workers for so-called unskilled labor, there is a concern that the Japanese economy and society as well as people’s livelihood may be adversely affected by such an action. For example, problems may break out in the domestic labor market as a result of accepting unskilled workers. At the same time, accepting unskilled foreign workers may also adversely affect themselves as well as their countries of origin. For these reasons, the idea of accepting unskilled workers requires careful consideration, while taking into account of a consensus among the Japanese people.” Based on the aforementioned policy, in principle, no foreigner is permitted to enter the country to engage in unskilled labor. As for unskilled workers already in Japan, if they are working illegally in violation of the Immigration Control and Refugee Recognition Act, they will be deported, in principle. If it is revealed that they have not been properly paid or that they

(*4) See Paragraph 21 (*6) of the Initial and Second Periodic Report.

were injured at work (even illegal residents can be covered by occupational injury insurance), the relevant government agencies are to coordinate their efforts to make sure that necessary remedial measures are taken for these illegal residents.

18. The number of foreigners overstaying their visa in Japan was 149,785 as of January 1, 2008. The number of such illegal residents was 106,497 as of July 1, 1990, and their number increased dramatically in 1991 and 1992, hitting a peak of 298,646 on May 1, 1993. Since then, the number has consistently declined, that is, to a level about 150,000 fewer than the level at the peak period, but it has remained high. In 2007 there were around 45,500 illegal residents against whom deportation procedures were initiated. Of these about 37,000 were judged to be working illegally, and about 18,000, who accounted for about 49 percent of all illegal foreign workers, were judged to have worked illegally for 'at least three years'. This figure includes the number of foreigners judged to have worked illegally for 'five years or more', which in turn makes up about 32 percent of all illegal foreign workers. These figures indicate the trend that many of those who violate the Immigration Control Act are undocumented workers who tend to be illegally employed for longer periods and remain in such position.

The increase in the number of illegal foreign workers not only hampers the proper management of immigration control but also gives rise to criminal acts such as intermediary exploitation, forced labor, and human trafficking. There are also reports of infringements on human rights. To prevent illegal labor, the Government takes initiatives in raising awareness of and providing guidance with employers. At the same time, all the authorities concerned cooperate with each other to clamp down on job brokers, organized crime members and unscrupulous employers, all of whom may be involved in the entry and/or employment of undocumented foreign workers. Particularly, when an illegal foreign worker is found to be the victim of human trafficking, the authorities concerned will take into consideration the human rights of the victim as they cooperate with each other to provide him/her immediate protection, while at the same time treating the trafficker with proper severity.

Human rights of foreigners in Japan

19. See Paragraphs 27-30 of the Initial and Second Periodic Report.

20. The Basic Plan for Promotion of Human Rights Education and Encouragement (See Part VII (Article 7) of this Report) takes up the problems concerning the human rights of foreigners as one of the human rights issues to be addressed. The human rights organs of the Ministry of Justice expands and strengthens their promotion activities to disseminate and enhance the idea of respect for human rights with the view to fostering a human rights awareness as appropriate for the age of globalisation by eliminating prejudice and discrimination against foreigners, holding an attitude of tolerance towards and respect for diverse cultures, religions, lifestyles and customs that people of different origins practice.

Korean residents in Japan

21. The majority of Korean residents, who constitute about one-fourths of the foreign population in Japan, are Koreans or their descendants who came to reside in Japan for various reasons during the 36 years (1910-1945) of Japan's so-called rule over Korea and held Japanese

nationality during that period. They have continued to reside in Japan even after having lost their Japanese nationality due to the enforcement of the San Francisco Peace Treaty (April 28, 1952) after the World War II.

The Korean residents are divided into those who have obtained the nationality of the Republic of Korea and those who have not, based upon their own will, under the current circumstances in which the Korean Peninsula is divided into the Republic of Korea and the Democratic People's Republic of Korea.

These residents stay in Japan under the status of 'Special Permanent Resident'. They numbered 426,207 as of the end of 2007. (The total number of 'Special Permanent Residents' is 430,229, including 2,986 Chinese nationals and people of other nationalities) As for region of their residence, about half of these Korean residents live in the Kinki region centering on Osaka, and approximately 23% of them live in the Kanto region such as Tokyo and Kanagawa Prefecture.

The number of 'Special Permanent Residents' continues to decrease every year due to the settlement and naturalization of Korean residents in Japanese society.

(1) Legal status

22. See Paragraph 39 of the Initial and Second Periodic Report for details of the legal status of Korean residents in Japan.

23. Of the preferential treatment provided under the Special Law on the Immigration Control of Those Who Have Lost Japanese Nationality and Others on the Basis of the Treaty of Peace with Japan (Paragraphs 41, 42 and 43 of the Initial and Second Periodic Report), special period of validity for re-entry permit and special conditions for landing examination are as follows:

(a) Special period of validity for re-entry permit

For cases in which the special permanent residents work abroad as corporate representatives or study abroad and so on, the valid period for re-entry permit is set at within four years (three years for foreigners staying under other status, but in the case of foreigners whose period of stay are less than 3 years, their expired dates of re-entry permit are same date as their period of stay). Likewise, one year of extension of re-entry permit within five years in total from the original permit (within four years for foreigners staying under other status) is permitted in the case of an application made outside of Japan. This facilitates the re-entry procedure for the special permanent residents who live abroad for long periods of time.

(b) Special conditions for landing examination

When special permanent residents who have left Japan with a re-entry permit re-enter the country, of the landing conditions set out in article 7, paragraph 1, item 1 of the Immigration Control and Refugee Recognition Act, immigration inspectors consider only the validity of their passport, and do not examine items for refusing entry. Thus, the Government tries to legally stabilize the status of the permanent resident.

(2) Education

24. Japanese public schools at the compulsory education level guarantee foreign nationals the opportunity to receive education if they wish to attend such school by accepting them without charge, just as they do with Japanese school children.

In addition, a school subject called “*sogo-gakushu*” (general learning), which primarily aims at developing children’s learning ability beyond the borders of conventional subjects, allows conversational foreign language classes and opportunities to study traditional cultures, to be provided as part of the education for cultivating international understanding. In the case of children of foreign nationalities, they can even receive education in their native tongues (minority languages) and learn about their native cultures, according to local circumstances and situation of school children such as the number of children of a particular nationality and their command of Japanese.

Furthermore, when these foreign children enter school, maximum attention is given to ensure that they can receive, without undue difficulty, the education in Japanese normally taught to Japanese children. Toward this end, they are provided with, among other things, guidance in learning Japanese and are supported by their regular teachers as well as by others who can speak their native language.

Likewise, at the social education level, a variety of opportunities to learn the foreign cultures of South/North Korea and the Korean language are offered, according to local circumstances, in classes and lectures for youths, adults and women.

25. Most of the Korean residents who do not wish to be educated in Japanese schools attend North/South Korean schools established in Japan. Most of these schools have been approved by prefectural governors as ‘miscellaneous schools’.(*)5

In Japan, this provision was revised in September 1999 to enable graduates of South and North Korean schools to gain qualification to enter university if they pass the University Entrance Qualification Examination (renamed the High School Graduation Equivalency Test in 2005). Furthermore, in September 2003, the revision of the ordinance about university entrance qualification enabled students who have completed a course of study at an educational facility in Japan deemed by the school education system of a foreign country to possess an academic standard equivalent to that of a school corresponding to a high school in the said foreign country to have university entrance qualification. By this revision, Tokyo Korean School is now recognized as such an educational facility and its graduates are entitled to have university entrance qualification.

Also, the revision enabled universities to examine each candidate in terms of his/her total educational background, and when the examination recognizes that the candidates, including graduates of South and North Korean high schools, have an academic ability equal to or higher than that of graduates of Japanese high schools, they will have university entrance qualification.

(*)5 See Paragraph 47 (including footnote 8) of the Initial and Second Periodic Report.

(3) Dealing with harassment of school children

26. In a summit meeting between the political leaders of Japan and North Korea held on September 17, 2002, the North Korean side officially acknowledged the abduction of some Japanese nationals by North Koreans. For this and other reasons, students attending South and North Korean schools in Japan became targets of harassment and other abuses. To tackle such problems, Legal Affairs Bureaus and District Legal Affairs Bureaus took appropriate measures including displaying posters for human rights promotion in municipalities and distributing pamphlets and articles for human rights promotion at major railway stations and other busy areas, and provision of human rights counselling concerning harassment and other abuses.

Moreover, when North Korea was reported to have launched missiles in July 2006 and to have undertaken a nuclear test in October 2006, the students became targets of harassment and other abuses again. To tackle such problems, Legal Affairs Bureaus and District Legal Affairs Bureaus took appropriate measures similar to those stated above.

(4) Employment

27. See Paragraphs 49 and 50 of the Initial and Second Periodic Report.

Refugees

(a) Treatment of refugees

28. Upon the conclusion of the Convention relating to the Status of Refugees (hereinafter referred to as the 'Refugee Convention') in 1981 and the Protocol relating to the Status of Refugees (hereinafter referred to as the 'Refugee Protocol') in 1982, Japan revised the Immigration Control Order and replaced it with the Immigration Control and Refugee Recognition Act (hereinafter referred to as the 'Immigration Control Act'). At the same time, the refugee recognition system was established, which has been implemented since January 1982. The major amendment to the Immigration Control Act that came into effect in May 2005 introduced a new refugee recognition system that allows undocumented persons applying for recognition as a refugee to stay in Japan on a temporary basis to protect their legal status. The amendment also newly provides for refugee examination counselors to be appointed to act as a third party in the procedures for examination of appeals to enhance the impartiality and neutrality of the refugee recognition procedure. When an application for refugee recognition is submitted, the Ministry of Justice conducts an investigation into the case and judges whether the case falls under the definition of Article 1 of the Refugee Convention and Article 1 of the Refugee Protocol. The Government faithfully and strictly implements its obligations provided in the Refugee Convention and the Refugee Protocol.

Japan provides a person recognized as a refugee with various forms of protection and humanitarian assistance in the areas of employment, education, social security and housing in accordance with the Refugee Convention.

Data on the refugee recognition administration from 1982 to the end of December 2007 are as follows:

Applications accepted		5 698
Results	Approved	451
	Denied	3 608
Withdrawn and others		584

(b) Acceptance of Indochinese refugees

29. Acceptance of Indochinese refugees initially started in 1978 when Japan permitted settlement of the Vietnamese refugees who had been temporarily staying in Japan. Subsequently, Japan expanded the scope of the settlement permit to include the Indochinese refugees staying in Asian countries in 1979. Since then, Japan eased permit conditions twice, allowing settlement of those who had been staying in Japan as foreign students before the political changes took place in the three Indochinese countries, and of those who have entered Japan as family members under the Orderly Departure Program (ODP). At the end of December 2005 the number of Indochinese refugees settled in Japan reached 11,319.

As for bringing members of one's family to Japan from Vietnam based on ODP, the Government stopped accepting applications at the end of March 2006 mainly on the grounds that the political situation has stabilized in the three Indochinese countries.

The breakdown of the Indochinese refugees settled in Japan is as follows:

Classification countries	Total no. of settled residents	From facilities in Japan	From facilities abroad	Former foreign students	ODP
Vietnamese	8 656	3 536	1 826	625	2 669
Laotian	1 306	-	1 233	73	-
Cambodian	1 357	-	1 313	44	-
Total	11 319	3 536	4 372	742	2 669

(At the end of December 2005)

(c) Settlement facilitation measures for the Indochinese refugees and the convention refugees as well as resettlement of refugees

30. With Cabinet consent in 1979, the Government decided to offer Japanese language education, vocational training and employment services to Indochinese refugees with a view to facilitating their settlement in Japan, and entrusted the implementation of these measures to the Asia Welfare Education Foundation. The said Foundation established the Refugee Assistance Headquarters (RHQ) within the Foundation, followed by the Himeji Settlement Facilitation Center in Hyogo Prefecture (closed in March 1996) and the Yamato Settlement Facilitation Center in Kanagawa Prefecture in 1980 (closed in March 1998). It also established the Temporary Refugee Reception Center in Ohmura (Nagasaki Prefecture) in 1982 (closed in March 1995). In 1983, furthermore, the Foundation opened the International Rescue Center in Tokyo. The total number of users of the centers since their opening at the end of December 2005 is 11,523 as of the end of December 2005.

In addition, with the consent of the Cabinet on August 7, 2003, it was decided that the ministries and agencies concerned would hammer out various kinds of support also for those recognized as refugees based on the Immigration Control Act. From FY2004, as was the case with the Indochinese refugees, a total of 25 refugees at the International Rescue Center have been given support such as vocational consultation, employment guidance, and employment placement. From April 2006, the Government decided to launch a new settlement support program at the new settlement assistance facility, the 'RHQ Support Center', including Japanese language, livelihood guidance, and vocational consultation.

Japan established an inter-agency study group on resettlement to a third country in September 2007, which comprises of relevant ministries and agencies regarding policies on refugees. The group holds regular meetings for the purpose of sharing the information on measures taken by and situations in other countries, in which a thorough discussion on various aspects including the framework of reception and assistance for adaptation is provided.

(d) Living conditions

31. A Summary of the 2000 Survey of the Settlement Situation of Indochinese Refugees (conducted by RHQ), indicates a relatively smooth settlement of refugees. However, the survey also found that 35 percent of refugees had difficulty with the Japanese language. Additionally, a glance at the living conditions through the settlement support and livelihood counseling service provided by the RHQ reveals problems related to aging that confront first generation refugees as their stay in Japan becomes longer. Nevertheless, it appears that settlement conditions in Japan are generally stable. Regarding their employment situation, although the Japanese economy has begun to recover, the pace of recovery in employment by small- and medium-sized manufacturers remains slow in general. This means that there are still not enough job offers for Indochinese refugees. In light of such a situation, the RHQ designates November each year as 'Employment Facilitation Month for Refugees Who Have Settled in Japan' and holds seminars for employers in various locations to promote local residents' understanding of Indochinese refugees and their employment. The RHQ also helps those who have completed a vocational training course at the centers referred to in (c) to find job opportunities. These graduates have been placed mostly in such jobs as plastic and rubber molding, metal processing, assembly of electric appliances/machinery/automobiles, and food manufacturing.

32. As described above, most Indochinese refugees who have settled in Japan are considered to be well adjusted to their work and their local communities, supported by the understanding and aid of employers and the local community. With the gradual increase in the number of settled Indochinese refugees, however, there are some cases of those faced with various problems in their daily life due to differences of language and custom. To respond to such problems, the RHQ places 'counselors for refugees' in its Headquarters and the International Rescue Center (since April 2006 the 'RHQ Support Center', a facility for assisting settlement mainly for the refugees recognized in accordance with the Refugee Convention) to cope with the complicated and specialized details of consultation and offers thorough and continuous counseling for the refugees themselves, their family members, and their employers. Counselors for refugees continue to provide livelihood guidance and employment assistance among other supports.

The understanding and cooperation of local residents is indispensable for the smooth settlement of the Indochinese refugees and the convention refugees. Therefore, the said Foundation annually holds a 'Meeting with the Refugees Who Have Settled in Japan' in major cities to promote exchanges with local residents and to deepen their mutual understanding.

Furthermore, the refugee recognition applicants and those under temporary asylum are provided with funds to meet their living, housing (including the provision of temporary shelter), and medical expenses as needed while they wait for the result of their application.

II. ARTICLE 2

Prohibition of discrimination by national and local public authorities and organisations, along with prohibition of discrimination among individuals

33. Regarding constitutional and legal provisions concerning prohibition of discrimination, see Paragraphs 59, 60 and 62 of the Initial and Second Periodic Report.

34. Human rights organs of the Ministry of Justice conduct required surveys on alleged human rights abuses including racial discrimination and adopt measures most suitable for the case in question in accordance with the Investigation and Treatment Regulations of Human Rights Infringement Incidents and the Civil Liberties Commissioners Law (to be described hereinafter at VI, see Article 6).

The Human Rights Protection Bill, which was repealed in October 2003 and is under further elaboration by the Ministry of Justice, expressly prohibits any unfair treatment or discriminatory acts based on race, ethnicity and other criteria. It provides that the independent human rights committee take redress measures in a simple, quick and flexible manner against these human rights abuses, thereby creating a human rights redress system that is more effective than the existing system.

35. Given that the police becomes deeply involved in human rights issues when it performs its duties such as investigating crimes, the 'Rules Governing Police Officer's Ethics and Service' (National Public Safety Commission Rule No. 1 of 2000) prescribe 'Fundamentals of Service Ethics', which rests upon respect for human rights as one of its pillars. The Government also proactively implements human rights education for police since it considers education on service ethics as the top priority among the various themes covered by the education of police officers.

Newly hired police officers and those who are about to be promoted are educated at police academies with regard to human rights through classes of jurisprudence including the Constitution and the Code of Criminal Procedure and service ethics.

Police officers who are engaged in crime investigations, detainment operations, and assistance for victims are thoroughly educated to acquire the knowledge and skills necessary to ensure appropriate execution of duties that takes into consideration the human rights of suspects, detainees, crime victims, and others. Such education is offered using every possible occasion such as police academy classes and training sessions provided at police headquarters and police stations.

III. ARTICLE 3

Abolition of apartheid

36. Apartheid does not exist in Japan. Such a policy is prohibited in Paragraph 1 of Article 14 of the Constitution, which guarantees equality under law without racial or any other forms of discrimination. The same point is made in Paragraph 67 of the Initial and Second Periodic Report.

IV. ARTICLE 4

Reservations

37. Regarding the reservations made by Japan on Paragraphs (a) and (b) of Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination, see Paragraphs 72-74 of the Initial and Second Periodic Report.

38. The concept laid down in Article 4 may cover an extremely wide range of acts carried out in various situations and in various manners. Restricting all these acts with punitive laws that go beyond the existing legal system in Japan may conflict with what the Constitution guarantees, including the freedom of expression that strictly demands the necessity and rationale for its restrictions, and with the principle of legality of crime and punishment that requires concreteness and clarity in determining the punishable acts and penalties. It is on the basis of this judgment that the Japanese Government made its reservations about Article 4 (a) and (b) of the Convention.

In addition, the Government of Japan does not believe that in present-day Japan racist thoughts are disseminated and racial discrimination are fanned to the extent that would warrant consideration of enactment of laws to administer punishment by retracting the above reservation even at the risk of unduly stifling legitimate speech.

Japan was advised to retract the reservation it made about Article 4 (a) and (b) in the concluding observations of the Committee on the Elimination of Racial Discrimination in consideration of the Initial and Second Periodic Report. However, for the reasons given above, Japan does not intend to retract the said reservation.

Making dissemination, incitement and violence punishable

39. See Paragraphs 76 to 80 of the Initial and Second Periodic Report.

40. With regard to ‘acts of violence ... against any race or group of persons of another colour or ethnic origin’, Japan’s position remains unchanged from the last report. Meanwhile, the amendment of the Penal Code in 2004 established the crime of gang rape as an act of violence (Article 178-2), and increased the severity of the punishment for a number of crimes, including that of homicide (Article 199), bodily injury (Article 204), and robbery (Article 236).

Regulations in the field of telecommunication

41. As regards the Broadcast Law of Japan, see Paragraph 85 of the Initial and Second Periodic Report.

42. As stated in the last report, the Ministry of Internal Affairs and Communications has continued to support efforts to widely disseminate awareness about the following guidelines and the like formulated by industry associations concerning illegal and harmful information on the Internet including racist information: ‘Guidelines for Business Practices of Internet Service Providers’ and ‘Model Provision for Internet Subscription Contracts’ (formulated by the Telecom Service Association) and ‘Guidelines for Providing Internet Service’ (formulated by the Telecommunications Carriers Association).

In addition, regarding the information on the Internet that infringes on the rights of others, the Government addresses such infringements through the implementation of the ‘Law Concerning Limitations on the Liability for Damage of Specified Telecommunications Service Providers and Disclosure of Details on Information Senders’, which came into effect in May 2002 (hereinafter referred to as the ‘Provider Liability Limitation Law’).

In particular, the ‘Guidelines for Defamation and Privacy’, which were adopted by the Telecommunications Carriers Association as a code of conduct for Internet service providers (ISPs) and similar businesses, at the same time of the enforcement of the Provider Liability Limitation Law, were revised in October 2004. The revision introduced a procedure for fighting serious human rights abuse cases, in which the human rights organs of the Ministry of Justice are authorized to request ISPs to delete information that infringes on the rights of others. The Ministry of Internal Affairs and Communications has supported efforts to widely disseminate awareness of these guidelines.

Furthermore, since August 2005, the Government has convened the ‘Study Group on Actions against Illegal and Harmful Information on the Internet’ comprised of academics and members of industry associations to examine the voluntary measures taken by ISPs against illegal and harmful information on the Internet and to discuss effective ways to support those measures.

Prohibition of activities to incite groups

43. See Paragraphs 88-90 of the Initial and Second Periodic Report.

V. ARTICLE 5

Right to receive fair treatment in a court of law

44. See Paragraphs 91 and 92 of the Initial and Second Periodic Report.

Information concerning measures to investigate complaints

45. In Japan, there is no system specifically established for investigating complaints from parties in litigation and others claiming that they were treated in a discriminatory manner in a

court of law. However, the Government understands that when such a complaint is lodged by the parties concerned, necessary investigation will be conducted by other court officials authorized to supervise the alleged infringement in terms of judicial administration in general.

As a result of such investigation, if necessary, the court official who committed the act in question will be admonished and ordered to redress the act and/or further subjected to disciplinary procedures, in accordance with the provisions for supervision of officials in the judicial administration. However, complaints against the way the business of the court is conducted, that is, actions taken under the Code of Civil Procedure or the Code of Criminal Procedure, should be redressed in accordance with the procedure for filing complaints prescribed in respective procedural law. In principle, therefore such complaints are not subject to the provisions for supervision of officials in the judicial administration, and thus no particular action shall be taken against the said official. (Notwithstanding, the Government understands that even when a complaint is directed to the way the business of the court is conducted, if the action of the court is clearly in violation of the law, or deviates from the scope of discretionary power given to the judge, the provisions for supervision of officials in the judicial administration could apply.)

Information concerning the training of law enforcement officers and court officials for preventing racial discrimination

46. Regarding police officials, see Paragraph 35.

47. Training for officials of the Public Prosecutor's Office is as follows.

In Japan, public prosecutors and prosecutor's assistant officers take charge of criminal investigations, institute prosecution, carry out the prosecution and execute the sentence. As they are expected to be particularly mindful of human rights issues, public prosecutors and prosecutor's assistant officers are therefore thoroughly educated in the importance of human rights protection as part of the trainings they receive at the time of their appointment and after they have accumulated a certain degree of experience. These trainings range from lectures and discussions on matters those closely tied to their daily duties such as 'consideration for women and children in the practice of prosecution' to lectures on more general themes such as 'human rights issues' and 'international conventions on human rights'. The lectures and training are designed to cultivate the knowledge of public prosecutors and prosecutor's assistant officers and to raise their level of awareness on the issues.

48. Training for officials of the court is as follows.

(a) Judges

The Government understands that the Legal Research and Training Institute for the training of judges and legal apprentices contain lectures relating to human rights issues in its judges' training curriculum. The lectures are given on such themes as human rights issues in criminal proceedings, women's and children's rights, domestic violence, Dowry, human rights for foreigners, and issues in international human rights laws such as human rights instruments. The training curriculum for legal apprentices also contains lectures dealing with human rights.

(b) Other court officials

The Government understands that the Training and Research Institute for Court Officials (established in April 2004, integrating two bodies previously known as the Research and Training Institute for Court Clerks, and the Research and Training Institute for Family Court Probation Officers) provides the training of court officials other than judges, which contains lectures on guaranteeing fundamental human rights, domestic violence issues and similar themes in its training curriculum for those officials.

Rights concerning the physical safety of a person against violence or being injured and protection by the State

49. In Japan, the rights concerning the physical safety of a person against violence or being injured and the protection by the State are guaranteed without discrimination based on race, ethnicity or any other individual attribute.

The Constitution of Japan stipulates that “all of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall ... be the supreme consideration” (Article 13); “No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.” (Article 18); and “No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.” (Article 31). In this way, the Constitution demonstrates the utmost regard for people’s physical safety, and provides the principle of equality in Article 14.

The Penal Code stipulates such crimes as disturbance (Article 106), rape (Article 177), gang rape (Article 178-2), homicide (Article 199), bodily injury (Article 204), assault (Article 208), unlawful assembly with dangerous weapons (Article 208-3), unlawful capture and confinement (Article 220) and robbery (Article 236). Special laws including the Law Concerning Punishment for Physical Violence and Others also stipulate provisions for crimes of violence and thereby penalize those guilty of committing violence or act of causing injury. These provisions are applied equally regardless of race, ethnicity or any other attribute of the victims.

Political rights

50. See Paragraphs 102 to 106 of the Initial and Second Periodic Report.

Civil rights

51. See Paragraphs 107 to 120 of the Initial and Second Periodic Report.

Economic, social and cultural rights

52. Regarding freedom of choice of employment, labor conditions, and forming/joining labor unions, see Paragraphs 121 to 127 of the Initial and Second Periodic Report. But, the meaning of “the major Prefectural Labour Standards Offices” shall be interpreted as “the major Prefectural Labour Bureaus etc.” in Paragraph 126 of the Report.

53. Regarding housing, see Paragraphs 128 to 131 of the Initial and Second Periodic Report. The Urban Renaissance Agency Law (effective since 2004) has replaced the Urban Development Corporation Law.

54. Regarding public health, medical care, social security and social service, see Paragraphs 132 to 135 of the Initial and Second Periodic Report.

The duties of welfare commissioners include providing consultation and assistance for those who require them, thereby helping to enhance their social welfare. In carrying out these duties, welfare commissioners should not conduct any act of discrimination based on race, creed, sex or any other personal attribute, as prescribed in Article 15 of the Welfare Commissioners Law.

In FY2006, there were 48,418 foreigners in Japan who required public assistance. For more detail, see Annex 3.

55. Regarding the treatment of foreign children in Japan in relation to their education in public schools at the compulsory education level (elementary schools and lower secondary schools) and upper secondary schools in Japan, see Paragraphs 138 to 140 of the Initial and Second Periodic Report.

Those foreigners who wish to attend public schools for compulsory education may do so free of class fee, including the free supply of textbooks and school expense subsidies, thus guaranteeing the same educational opportunities as for Japanese citizens. In addition, Japanese language teachers are dispatched to schools, providing parents with a guidebook on schooling, and conducting meetings with experts on policies to enhance education for foreigners.

Also, in order for foreigners to become accustomed to the living environment in Japan and to be able to receive the same residential services as members of Japanese society, a Program to Accelerate Foreigners' Adaptation to the Life Environment in Japan was formed in 2007. This program covers the establishment of language classes for foreigners of Japanese descent, teacher training for foreigners who speak Japanese, consultations with the governments of the children's country of origin, as well as model programs to support the school enrollment of foreign children and to set up a Japanese language instruction system.

Some schools for foreigners, such as international schools, are approved as miscellaneous schools by prefectural governors, and their independence is respected.

Right to utilize places or services intended for use by the general public

56. In terms of equal treatment in using the services at hotels, restaurants, cafes, and theaters, the Law Concerning Proper Management and Promotion of Businesses related to Environment and Hygiene provides that measures should be taken to safeguard the benefit for users and consumers at such services. For instance, Centers for Environment and Sanitation Management Guidance ensure proper response to complaints from the consumers.

In particular, the Hotel Business Law prohibits hotels from refusing a customer merely on the basis of race or ethnicity. Likewise, the Regulations for the Enforcement of the Law for Improvement of International Tourist Hotel Facilities prohibit discriminatory treatment

according to the nationality of guests, such as charging different rates depending on guests' nationality for services such as accommodation and meals provided by registered inns and hotels.

57. With respect to equal treatment in the use of transportation, discriminatory treatment against specific passengers and users of respective transportation service is prohibited in the following legislations: the Railway Operations Act, the Railway Business Law, the Road Transportation Law, the Trucking Business Law, the Freight Utilization Transportation Law, the Marine Transportation Law, the Port Transportation Business Law and the Aviation Law, although the details of the systems differ depending on laws. For example, there are provisions that prohibit the Government from authorizing fares or fees applied by businesses that treat specific users in a discriminatory manner, or that prohibit refusal of offering transportation service for specific passengers except in cases where the transport is against public order and good manners.

VI. ARTICLE 6

Remedies and compensation measures in cases of human rights infringement

Remedies by the judicial organs

58. See Paragraphs 146 to 149 of the Initial and Second Periodic Report.

The Law Concerning State Liability for Compensation adopted by Japan adheres to the principle of reciprocity (Article 6 of the Law Concerning State Liability for Compensation). This is based upon the principle of equal sovereignty among states in the international community, and the Government of Japan understands that the principle of reciprocity is internationally recognized.

In addition, if a foreigner victimized in a crime in Japan was granted the right to demand state liability for compensation in Japan while a Japanese national was summarily denied the same right in the country of origin of the said foreigner, this would lead to a situation where Japanese nationals may have to endure undue inequality and discrimination. Thus, the principle of reciprocity as currently adopted can be interpreted as ensuring substantial equality between citizens of Japan and those from other states.

Therefore, since this discrimination based on nationality is not covered by the Convention, even when the principle of reciprocity stipulated in Article 6 of the State Liability for Compensation allows for cases where the state liability for compensation does not apply to a foreigner from a country where the right to demand state liability for compensation is not granted to Japanese nationals, the Government of Japan is of the view that this would not give rise to any problem with respect to the Convention.

Legal aid system

59. See Paragraph 151 of the Initial and Second Periodic Report.

The Civil Legal Aid Law was enacted on April 20, 2000 in the 147th Ordinary Diet Session and entered into effect on October 1, 2000. The new law is designed to ensure the proper operation of civil legal aid programs and to enhance and develop their functions. On October 18, 2000, under

Article 5 of the said law, the Legal Aid Association was designated as the organization authorized to run the legal aid programs. Since then, the said association has implemented the civil legal aid programs as the designated organisation. The number of legal aid cases has been increasing year by year, reaching 51,463 in FY2004.

Subsequently, the Comprehensive Legal Support Law was enacted on May 26, 2004, and promulgated on June 2 of the same year. The Japan Legal Support Center newly established on the basis of the said law took over the civil legal aid program from the Legal Aid Association in October 2006.

Redress by the administrative organs

60. In Japan, every person is equally guaranteed the right to seek effective protection or redress in case an act of racial discrimination is committed, through taking measures such as those described in Paragraph 61 (the Administrative Appeal Law) and Paragraph 62 (the Immigration Control and Refugee Recognition Act). When the said person still has complaints about the result of the following redress procedures conducted by the relevant administrative organizations, he/she can pursue judicial redress under the Japanese judicial system by filing a suit in court for the revocation of the administrative disposition (see Article 3 of the Administrative Case Suit Law).

Administrative appeal law

61. See Paragraph 153 of the Initial and Second Periodic Report.

Immigration Control and Refugee Recognition Act

62. The Immigration Control and Refugee Recognition Act has a system below for the filing of complaints. In making a complaint, foreigners to whom this system applies can cite unfairness and can call for reconsideration of a discriminatory decision based on differences of race or ethnicity.

- (i) Landing procedures: a foreigner recognized by the special inquiry officer as not meeting landing requirements can file an objection with the Minister of Justice;
- (ii) Deportation procedures: a foreigner whose deportation is deemed appropriate by the immigration inspector can request a hearing with the inquiry officer; moreover, if the special inquiry officer judges that the immigration inspector was not mistaken, the foreigner can file an objection with the Minister of Justice;
- (iii) Refugee recognition procedures: a foreigner whose application for refugee recognition was rejected or whose refugee status was revoked can file an objection with the Minister of Justice.

With reference to refugee recognition procedures, the Minister of Justice is required to consult with the refugee examination counselors for every case of filing an objection, when the Minister makes a decision on such objection.

Refugee examination counselors are served by experts with neutral stances, specializing in a broad range of fields such as law, academia, and NGOs. Three counselors from different specialized fields form one group to inspect cases.

Since the system of refugee examination counselors was enforced in May 2005, there have been no instances where the Minister of Justice has made a decision which differed from the majority opinion of the refugee examination counselors.

The structure of the human rights organs

The Human Rights Bureau of the Ministry of Justice and its subsidiary organs

63. See Paragraph 155 of the Initial and Second Periodic Report.

Civil liberties commissioners

64. See Paragraphs 156 and 157 of the Initial and Second Periodic Report.

Law for the Promotion of Measures for Human Rights Protection and the Council for Human Rights Promotion

65. The Council for the Promotion of Human Rights Protection, which was established in the Ministry of Justice in March 1997 based on the Law for the Promotion of Measures for Human Rights Protection passed in December 1996, submitted a report in July 1999 on basic matters concerning the promotion of measures for human rights education and encouragement as well as reports on the framework of the human rights remedy system in May 2001 and on reform of the human rights volunteers system in December 2001. Based on these reports, in March 2002 the Government of Japan submitted to the Diet the Human Rights Protection Bill which had the objectives of carrying out fundamental reform of the existing human rights protection system and establishing a human rights committee, an entity independent of the Government of Japan, under which human rights promotion and effective remedy of harm caused by human rights infringements would be promoted. The bill was not passed, however, due to dissolution of the House of Representatives in October 2003. At present, draft law based on the reports by the Council for the Promotion of Human Rights Protection is under review by the Ministry of Justice.

Court decisions

Information concerning court decisions that deal with ‘racial discrimination’ cases (January 2000-December 2007)

66. Below are examples of civil cases which are recognized as ‘racial discrimination’ cases.

(a) Sapporo District Court decision on November 11, 2002

A community bathhouse proprietor refused to allow foreign nationals or naturalized citizens to bathe in his bathhouse because they were “foreigners”. The proprietor’s act was judged as constituting an illegal act of racial discrimination that violated Paragraph 1, Article 14 of the Constitution of Japan, Article 26 of the International Covenant on Civil and Political

Rights, and the spirit of the International Convention on the Elimination of All Forms of Racial Discrimination. Recognizing the tort liability of the defendant, the court granted the plaintiffs right to claim compensation for damages from mental suffering etc.

(b) Tokyo District Court decision on June 26, 2003

A prison officer was judged to have acted unlawfully and committed contempt when he uttered a racial slur against an Iranian inmate: “All Iranians are liars.” (However, the right to claim state liability for the racial slur was denied due to the doctrine of laches. But the right to claim compensation for damages from mental suffering were granted for the remaining tort, based on Paragraph 1, Article 1 of the State Redress Law.)

(c) Kyoto District Court on October 2, 2007

When the owner of a rental unit refused to conclude a lease contract because the person intending to live in the unit did not have Japanese nationality, tort liability was recognized for the person planning to live in the unit, and a damages claim for mental suffering was admitted.

67. Below are examples of civil cases that alleged “racial discrimination” but were not recognized as such.

(a) Sapporo District Court decision on June 27, 2002

The plaintiffs sought tort damages against the defendants on the grounds that mental suffering was caused by the defendants’ violation of the personal rights of the Ainu people as members of an ethnic minority and by the defamation of their character, as a book published by the defendants contained expressions discriminatory against the Ainu people. The complaint was dismissed in part on the grounds that the personal rights of the plaintiffs as members of an ethnic minority are not subject to the judicial redress by a claim for tort damages, and in part that the social reputation of the individual plaintiffs could not be considered to have been impaired by the descriptions in the book concerned.

(b) Tokyo High Court decision on August 29, 2002

When a bank refused to accept a mortgage application submitted by a foreign national who did not have permanent resident status, the court dismissed the plaintiff’s claim for damages under Articles 709 and 710 of the Civil Code. The rationale behind the dismissal was that the bank’s act did not constitute a violation of the Convention, since judging the creditworthiness of an applicant on the basis of whether or not he or she has permanent resident status is reasonable, given the lengthy loan period.

(c) Tokyo High Court decision on January 23, 2002

The defendants refused to permit the transfer of a golf club membership from an existing member to the plaintiff who is a foreign national, based on the resolution of the board of directors that effectively restricted the admission of foreigners to the golf club. The court judged that the importance of the freedom of assembly should not be undermined even under the Convention and that an association or organization which is a private entity may, in principle, freely determine the conditions for its membership. Consequently, given the fact that a golf club

is merely a private association formed for the enjoyment of playing golf, the Tokyo High Court dismissed the appeal requesting the confirmation of annulment of the said resolution, on the grounds that it did not constitute tort that violates Article 90 of the Civil Code.

(d) Kyoto District Court on February 23, 2007

A damages claim for mental suffering was dismissed on the grounds that it cannot be said that the establishment of a nationality clause in the old National Pension Law excluding persons without Japanese nationality from those persons covered for a pension, is in breach of the International Covenant on Human Rights, Paragraph 1 of Article 14 of the Constitution or of international customary law, and in the process of revising said law when the nationality clause was deleted, it cannot be said that not taking transitional measures or remedy measures is in violation of the International Covenant on Human Rights, Paragraph 1 of Article 14 of the Constitution or in breach of the State Redress Law.

(e) Osaka District Court on December 18, 2007

In the case of the plaintiff who did not have Japanese nationality claiming to have been discriminated against because of nationality or ethnicity with respect to living in a rental unit, and to have suffered mental anguish, and claiming that this was the result of the defendant (local public body) not establishing municipal law to prohibit discrimination and that such inaction was in violation of the purposes of Paragraph 1 of Article 1 of the State Redress Law and with regard to the plaintiff requesting payment of damages, the claim was dismissed because Paragraph 1 of Article 2 of the Convention on the Elimination of All Forms of Racial Discrimination and the provision of the same paragraph (d) prohibits the discrimination of private individuals and prescribes the using of legislative measures to bring such discrimination to an end, but cannot be interpreted as laying down the concrete duty of action of a State Party toward an individual citizen.

68. Below are examples of legal precedents in which plaintiffs claim to have been discriminated against on the basis of race.

(a) Tokyo District Court decision on March 29, 2005

The plaintiff, a foreign national who was a reporter for a newspaper, demanded the nullification of a provision in his labor contract limiting the term of the contract to one year, arguing that the limitation constituted discriminatory treatment against a foreign national on the basis of nationality or race. The court admitted that the plaintiff's contract was not as favorable as that of a regular Japanese salaried employee in terms of the period of employment since the latter is premised on the continuous employment until the company's prescribed retirement age. However, it maintained that the salary stipulated in the plaintiff's contract was substantially preferential as he was employed as a professional reporter skilled in writing articles in English. The court therefore judged that it could not be said that the limitation of the contract term was based solely on the plaintiff's nationality or race.

(b) Tokyo District Court decision on December 24, 2004

A system engineer, an Indian national, was dismissed by the defendant company he was working for before the expiration of his employment term as stipulated in his temporary employment contract on the grounds of a change in management policy. The engineer had entered into the contract with a foreign-capital securities firm before its business was transferred to the defendant. The engineer sued for damages arguing that his dismissal constituted an abuse of the right of dismissal based on his race and other attributes. The court rejected his claim, holding that there was no tort of racial discrimination involved in the engineer's dismissal.

(c) Tokyo District Court decision on August 29, 2003

The plaintiffs, computer engineers from China, sued the company where they worked for tort damages on the grounds that the defendant acted unlawfully by treating them in a far more discriminating manner than the way the company treated its Japanese employees by regularly forcing them to work late at night and on holidays and refusing to allow them to take any paid holidays. The court partially granted the alleged tort liability of the defendant on the grounds that its action amounted to intentionally preventing the plaintiffs from exercising their rights by unfairly taking advantage of the fact that the plaintiffs' status as foreign workers made it difficult for them to realize their rights on their own.

(d) Kumamoto District Court decision on October 31, 2002

A foreign language teacher who worked as a part-time staff member at a prefectural university petitioned the prefecture to confirm his status as a foreign language teacher at the said university, arguing that limiting the term of his office to one year was invalid as it constituted a violation of the Convention and that unilaterally denying renewal of his employment contract was a case of unreasonable discrimination against a foreigner. The court dismissed the petition on the grounds that foreign teachers were not the only ones that were appointed to the part-time staff, and that the difference of the employment conditions between the complainant's contract and other contracts with longer terms were based on the mode of appointment and not on discrimination based on nationality.

Activities of the human rights organs**Investigation and disposition of human rights infringement cases**

69. The 'human rights infringements' addressed by the human rights organs of the Ministry of Justice refer to acts that infringe upon the human rights of others such as unfair discrimination and other abusive treatment. Acts of racial discrimination fall within the scope of 'human rights infringements'. Investigation into a case where human rights infringement is suspected begins when a request from a person concerned is received or when the possibility of human rights infringement is recognized based on information in newspapers and magazines and information provided by relevant administrative organs.

70. In April 2004, the Government implemented a comprehensive revision of the Regulations of Human Rights Infringement Incidents Treatment to ensure quick, flexible and appropriate enforcement of investigation and relief activities. Based on this revision, when the human rights

organs recognize the facts of a human rights abuse case, including acts of racial discrimination, it commences relief activities immediately and carries out necessary investigation in cooperation with the administrative organs concerned. If, as a result of the investigation, it becomes clear that a human rights abuse, including acts of racial discrimination, has occurred, the human rights organs take various steps for the relief of the victims according to individual cases. For instance, they admonish and/or order the perpetrator to stop such acts of racial discrimination and request that parties authorized to substantially respond to the case take necessary measures for the relief of the victims and prevention of reoccurrence. The human rights organs also endeavor to prevent reoccurrence of acts of racial discrimination by educating the persons concerned with regard to respect for human rights.

71. During the course of 2007, there were 21,506 human rights infringement cases for which remedy procedures were commenced, 115 of which were cases where foreigners were unfairly discriminated against because they were foreigners.

Below are two typical cases of discrimination against foreigners based on race and ethnicity that human rights organs disposed of in 2007.

(a) A rental apartment agent refused to act as an agent for two visitors solely because they looked like foreigners. The human rights organ of the Ministry of Justice investigated and concluded that the agent did not have any reasonable grounds for the refusal and gave a warning to the agent. (The result of the disposition was 'warning'.)

(b) A food products company canceled the informal decision to employ a job applicant solely because he is a Korean resident in Japan. The human rights organ of the Ministry of Justice investigated and concluded that the company did not have any reasonable grounds for the cancellation and gave a warning to the president of the company. (The result of the disposition was 'warning'.)

Human Rights Counseling

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

73. During the course of the reporting period, human rights counseling cases concerning foreigners included those involving discrimination with respect to job opportunities, those involving married persons divorcing their Japanese spouse, and those involving trouble with neighbors.

Promoting awareness of the respect for human rights

74. See Paragraph 80 and 81(Article 7).

VII. ARTICLE 7

Education and teaching

75. See Paragraphs 169 and 170 of the Initial and Second Periodic Report.

In addition, universities and junior colleges provide at their own discretion various courses and subjects that deal with human rights so that students can deepen their knowledge and understanding on human rights.

With regard to education for international understanding, schools can now incorporate classes on this theme in a subject called “*sogo-gakushu*” (general learning), in addition to the conventional subjects and ethics, as well as special curricular activities and school events. In addition, material entitled ‘The Collection of Guidance Examples of Education for International Understanding’ (Elementary School Edition) has been compiled and distributed to promote education for international understanding.

76. It is important that school children properly acquire the spirit of respecting fundamental human rights, deepen their level of understanding about different racial and ethnic groups, and eliminate discrimination and prejudice against people of different races or ethnicity. Therefore, the Government promotes human rights-oriented education throughout the educational activities of schools.

The Ministry of Education, Culture, Sports, Science and Technology has implemented various projects designed to improve and enrich the method of human rights education, including designating a certain number of schools for research on human rights education.

The ‘Study Group on Educational Methods on Human Rights Education’ was formulated under the Ministry to promote human rights education in schools and conduct research on desirable methods that should be used in human rights education. It issued ‘the first report on educational methods of human rights education’ in June 2004, ‘the second report’ in January 2006, and ‘the third report’ in March 2008.

Furthermore, the National Center for Teachers’ Development implements a training course with a view to nurturing teachers with leadership roles to promote human rights education.

‘Act for Promotion of Human Rights Education and Encouragement’ and ‘Basic Plan for Promotion of Human Rights Education and Encouragement’

77. In Japan, the ‘Act for Promotion of Human Rights Education and Encouragement’ (hereinafter referred to as the “Human Rights Education and Encouragement Act”) was enacted in November 2000. The Act aims at consolidating the human rights protection by clarifying the responsibilities of the State, local governments and the people with regard to the promotion of policy measures for human rights education and encouragement and also by providing the measures to be taken in relation to such policy measures. The enforcement of the Act took into

consideration such factors as increased awareness for urgency of respect for human rights, and the national and international trends concerning protection of human rights, as well as the situation of human rights violation such as occurrence of discrimination on the grounds of social status, family origin, race, creed or sex.

78. The Human Rights Education and Encouragement Act requires the Government of Japan to formulate a basic plan for promoting measures concerning human rights education and encouragement in a comprehensive and systematic manner. On the basis of this requirement, the Government formulated the ‘Basic Plan for Promotion of Human Rights Education and Encouragement’ as a Cabinet decision in March 2002. This Basic Plan discusses how tasks such as individual human rights issues and training for those engaged in certain occupations deeply concerned with human rights should be addressed, as well as efforts to tackle human rights issues from the universal perspective of human rights in general. The Basic Plan also shows the direction Japan should take to advance and promote its human rights education and encouragement in a comprehensive and systematic manner.

79. Moreover, the Basic Plan calls for active promotion of efforts toward the elimination of prejudice and discrimination against the Ainu people and foreigners. Measures based on the Basic Plan have been implemented and, the progress achieved through the implementation of these measures is reported to the Diet in a white paper every year in accordance with Article 8 of the ‘Human Rights Education and Promotion Activities Act’.

**Human rights promotion activities for promoting human rights awareness
undertaken by the human rights organs of the Ministry of Justice**

80. The human rights organs of the Ministry of Justice carry out a wide variety of activities to disseminate and enhance respect for human rights by the general public, based on the ‘Basic Plan for Promotion of Human Rights Education and Encouragement’. Various methods are used to conduct these activities, including producing and distributing handbooks, leaflets, posters and other printed material; sponsoring lectures, discussion meetings, debates and symposia; showing films and stage dramas; and campaigns through mass-media such as television/radio/cable broadcasting and the Internet.

Ever since 1949, the year after the adoption of the Universal Declaration of Human Rights, the Ministry of Justice and the National Federation of Consultative Assemblies of Human Rights Volunteers have designated the week prior to every Human Rights Day, December 10, as Human Rights Week and carried out nationwide activities to enhance respect for human rights and raise public awareness of its importance. During the Human Rights Week, the Government carries out various nationwide awareness raising activities centering on human rights issues in a focused way with slogans such as “Deepen your Understanding of the Ainu people” and “Respect the human rights of foreigners”.

Moreover, having designated June 1 of every year as Human Rights Volunteer’s Day to commemorate the day of enforcement of the Human Rights Volunteers Law (June 1 in 1949), the National Federation of Consultative Assemblies of Human Rights Volunteers carries out nationwide activities to make the Human Rights Volunteers System widely known to the public and also to raise public awareness of human rights.

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

Culture

The Ainu culture

82. See Paragraph 177 of the Initial and Second Periodic Report.

International cultural exchange

83. With the internationalization of Japanese society, opening people's minds and promoting mutual understanding of different races and ethnicity has become important in Japan to respect each other's values and to coexist by overcoming ethnic and cultural differences.

From such a perspective, the Government, actively implements many kinds of personal and cultural exchange programmes with various foreign countries at all levels, such as science, art, youth and student exchanges. The Government considers youth exchanges to be particularly important, as the youth of today will be the driving force of tomorrow. Therefore, the Government makes efforts to promote youth exchanges and acceptance of international students, as well as to expand exchanges with various foreign schools. The local governments implement programmes to facilitate understanding about foreign countries and areas, and exchange programmes, to which the Government gives financial support.

Public information activities

84. The Government endeavors to disseminate the significance and the content of the Convention and outline of the activities concerned among the public by offering important information with respect to the Convention through the Internet. The Initial and Second Periodic Report and the concluding observations of the United Nations Committee on the Elimination of Racial Discrimination thereto, both in English and Japanese, are publicly available at the Ministry of Foreign Affairs' website. This Periodic Report and concluding observations to be issued by the Committee thereto will likewise be available on the Internet.
