



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Held at the Palais Wilson, Geneva,
on Thursday, 10 May 2007, at 3 p.m.

Chairperson: Mr. MAVROMMATIS

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 5) (*continued*)

Initial report of Japan (CAT/C/JPN/1; HRI/CORE/1/Add.111)

1. *At the invitation of the Chairperson, the members of the delegation of Japan resumed places at the Committee table.*
2. Mr. KIMURA (Japan) said that his country's report had been submitted late because of the broad nature of the issues, the many national bodies which had had to be consulted and new facts which had had to be taken into account. Moreover, the Government must draft many reports under the various conventions which it had ratified; that was a heavy workload.
3. Article 38 of the Constitution of Japan prohibited all State officials from committing acts of torture and specified that confessions obtained through torture, threat or long imprisonment could not be used as evidence. That provision had been incorporated in the Code of Criminal Procedure. On the other hand, Japanese legislation did not contain a definition of torture, but torture was considered a crime and thus was punishable, as was physical violence or abuse of power committed by a person in a position of authority. Any police officer in a position of authority, regardless of his status (prison guard, border guard etc.) was liable to punishment not only for acts of torture, but also for a whole set of offences committed in the performance of his duties. Under the Constitution, perpetrators of such acts and those who acquiesced or were accomplices to them were also liable under the Criminal Code. Members of the armed forces found guilty of abuse of authority or acts of cruelty or torture abroad were also liable to criminal sanctions.
4. If a police officer was suspected of having committed an act that could be classified as torture, an investigation was started with or without his consent, and if necessary, he was placed under arrest. Once the investigation was completed, evidence was submitted to the public prosecutor, who decided whether or not to prosecute. The law was applied with the greatest severity in the case of civil servants.
5. A question had been asked as to why Japan had not extradited former President Fujimori in response to the request made by Peru in 2003 and 2004. The Government had examined the request very closely at the time, but had concluded that it had not contained any prima facie evidence of acts which would have justified extradition. Further information had then been requested of Peru, but Mr. Fujimori had left Japan, and thus no decision had been taken on the matter.
6. Civil servants of all grades received human rights training, including with regard to the prohibition of torture, as part of an action plan implemented in connection with the United Nations Decade for Human Rights Education; training courses included conferences given by independent experts and focused in particular on the rights of women and children.
7. Accession to the Optional Protocol to the Convention against Torture was under study. The Government was examining the specific modalities of the inspections under the Protocol and the relationship between the provisions of that instrument and national legislation. As to the provisions enabling the Committee to consider individual communications, they were an excellent way of giving concrete effect to the Convention, but the Committee would appreciate that they posed problems in terms of the independence of the judiciary which

needed to be carefully considered. Although Japan had not made the declaration under article 22 of the Convention, it was watching closely how its application was evolving.

8. Pursuant to the Civil Code, the State or private persons might be required to pay compensation to victims of acts of torture for which they were responsible. The amount of compensation was set by the court as a function of the seriousness of the harm. The guilty parties might also be required to bear the costs of rehabilitating the victims.

9. With regard to the “comfort women” forced into sexual servitude during the Second World War, he noted that the Convention had entered into force in Japan in July 1999 and was not retroactive. The Japanese Government had examined in good faith the question of reparations in connection with the events that had taken place in the Second World War in the light of the San Francisco Treaty and other relevant instruments. Between 1991 and 1993, the Japanese authorities had considered the entire matter of the situation of “comfort women” and had interviewed some of them. In August 1993, the Government had expressed remorse and apologized to those victims of the Japanese army; the apologies had been reiterated many times. A special fund had been set up in 1995 for such women, and 282 of them had received two million yens as reparation. Thanks to the fund, medical programmes had been set up for their benefit. Several prime ministers had expressed remorse in a letter personally addressed to each of the women, in what was probably an unprecedented act in history.

10. A suspect was not taken into custody unless absolutely necessary, at the close of a careful investigation; close judicial supervision was required. Custody was not decided for the purpose of interrogation, but solely in order to preserve evidence or prevent the person concerned from evading justice. The police did not arrest a suspect unless they had an arrest warrant from a judge, who issued it if given convincing reasons. If a person was caught in the act, if the offence was very serious or if the suspect had a criminal record, arrest could take place without an arrest warrant, provided that it was issued without delay; otherwise, the suspect must be released. In any event, custody must not exceed 48 hours. If the arrested person’s answers were not satisfactory, he could be brought before a prosecutor, and a judge must decide within 24 hours whether or not to prolong the detention. Detention could be prolonged for ten days, and for another ten days if deemed necessary. In 2005, 33.2 % of suspects had been taken into custody; 29.8 % of those persons had been held in detention, 43.9 % of whom had been held in prolonged detention. Thus, in about half of the cases, the investigation had been completed within ten days. When a foreigner was taken into custody, the consular authorities of that person’s country were notified.

11. The Code of Criminal Procedure stipulated that when a person was accused of an offence, he was allowed access to a lawyer, whom he could meet with in the absence of witnesses. In some conditions, the judge could appoint a lawyer. When a suspect was brought to the police station, he was treated in conformity with the law and with due regard for his rights. The judge decided whether the suspect was to remain in police custody. Custody must be as short as possible, and the suspect was released if evidence was insufficient. The investigation must be completed quickly; that was easier when the interrogation was conducted on the premises of the police station.

12. It should be pointed out that detention and investigation were two very distinct aspects of the procedure. Upon arrest, the suspect was duly informed of his rights and of the conduct of the investigation by the person responsible for supervising his detention, who also looked after the suspect’s material conditions. During interrogation, the investigating officials must allow proper time for meals and sleep so as to ensure that a confession was not obtained under

duress. The duration of the interrogation varied depending on the nature and seriousness of the offence; no maximum duration was set. The rules merely specified that no act of intimidation or violence could be committed and that the interrogation must not take place at night, except for important reasons. It should be noted that the interrogation of women must take place in conformity with strict rules issued to take their particular rights and needs into account. For example, searches must be conducted by a woman.

13. Given that a confession extracted by threat or any other form of duress was of no value as evidence, only voluntary confessions were taken into consideration; the burden of proof was on the prosecution. In that connection, a question had been asked whether confessions alone were sufficient to arrive at a guilty verdict: article 38 of the Constitution provided that a person could not be found guilty if his confession was the sole evidence held against him.

14. When the police committed illegal acts, an investigation was started, and a whole set of disciplinary sanctions could be taken depending on the seriousness of the offence.

15. In connection with an incident at a police station in Nagata in 2004, it had been reported that a police officer responsible for custody had brought a suspect food and sake; the police officer had done so not to make the suspect confess, but because the latter had threatened to kill his family upon being released if his demands were not met.

16. Non-governmental organizations (NGOs) had reported the existence of a secret manual for interrogation procedures. In actual fact, that was a staff memorandum drafted by an investigator based on his own experience, which he had used to teach at a police academy; on no account was it an official manual. It had also been asked whether sound or video recordings were made of interrogations in Japan. That method was not provided for in the procedure and would have to be given close consideration, because it was likely to cause many problems, notably the risk of a violation of the right to privacy of the persons interrogated; that might discourage them from making the declarations required for establishing the facts. The authorities were aware of the need to conduct interrogations that were beyond reproach; interrogations were recorded in full in the police report.

17. The *International Herald Tribune* had published an article on a case of vote trafficking in 2003 during the election of a prefectural assembly. In the trial, 12 suspects had been found not guilty and 13 others had been indicted; one suspect had died during the proceedings. Given that six of the accused had confessed, the facts could hardly have been invented, as implied in the article, which had also asserted that violence had been used during the interrogation. The court had examined the case on the basis of the evidence and testimony and had concluded that the investigators had not exerted any undue pressure to obtain the confessions. It had also concluded that some of the suspects had had alibis and thus were innocent. The authorities were currently attempting to elucidate the circumstances surrounding the case, but it did not seem that there had been ill-treatment or torture during the investigation, despite difficult interrogations, lasting many hours, which had given rise to criticism.

18. Mr. MATSUMOTO (Japan) said that the rate of convictions was so high in Japan for the simple reason that most of the suspects who were put on trial were actually guilty. That testified to the great care with which preliminary investigations were conducted.

19. Mr. MORIMOTO (Japan) said that detainees could submit their complaints to the National Public Safety Commission or the Prefectural Public Safety Commission. In 2006, no complaint had been submitted by a detainee through those bodies. With regard to the use

of restraining devices, gagging was used to control unruly persons when it was not possible to isolate them, for example in the absence of temporary solitary confinement cells (so-called protection cells), which was often the case at police stations. Rope three millimetres thick could also be used to tie down a detainee if there was a risk that he might attempt to flee or injure himself or others. In 2006, the police had employed this restraining device in 250 cases.

20. Body searches were conducted in a manner that was not degrading for the detainees. They were always conducted individually, and the detainee was not required to undress entirely unless there were reasons to believe that he was concealing a dangerous object. Even in such case, the detainee was not forced to stand naked in front of the officer in charge of conducting the search and could wear a kimono. The necessary provisions were taken so that female detainees were searched by women.

21. Ms. IKEDA (Japan) stressed that the quality of medical care in prisons was in keeping with international norms. Japan had four prison hospitals and six major health care centres to which sick inmates could be transferred, including for prolonged treatment. Since 2004, the Government had been working to improve the quality of care provided in prisons, and to that end it had drawn on the recommendations formulated by the Correctional Administration Reform Council. A sound partnership had been established with medical institutions, and a wide-ranging network of physicians had been set up to respond to the health care needs of inmates in all circumstances. Medical equipment was regularly modernized.

22. With regard to one of the cases of sexual violence involving police officers or prison officials to which the Committee had referred, she said that the Toyohashi prison warden accused in June 2004 of forcing a female inmate to have sexual relations with him had been sentenced to three years' imprisonment. She also cited two other cases: that of a prison official accused of forcing female inmates to undress in his presence on several occasions (the case had not been prosecuted, because the victims had withdrawn their complaint) and that of a former female inmate of Utsunomyia prison, whose complaint that she had been raped had been rejected for lack of evidence. As to prevention, classes on sexual violence had been included in the training of prison staff, and women had been recruited on a wide scale to ensure that, in the absence of an exclusively female guard staff in prisons or women's quarters, at least one female prison official was always present whenever a female inmate was required to be alone with one or more prison officials of the opposite sex.

23. Inmates did not have to be assisted by a lawyer to submit a complaint, because the procedure was very simple and did not require the opening of a heavily documented file. To be valid, a complaint must be submitted within 30 days after the date on which the acts were alleged to have occurred. If, for reasons beyond his control, an inmate had not been able to submit his complaint within the required time period, he had one additional week to do so from the time at which the circumstances which had prevented him from submitting the complaint had ceased to exist. The prison staff must respect the confidential nature of the complaint, and reprisals of any kind were strictly prohibited.

24. The Council responsible for examining complaints implemented the recommendations formulated by the Correctional Administration Reform Council. It was composed of jurists, physicians and experts chosen according to strict criteria of integrity and professionalism. It was independent of the Ministry of Justice, which nevertheless assisted the Committee in its work, providing it as necessary with copies of laws and regulations, court decisions, reports of prison inspections and other reference documents.

25. The Correctional Administration Inspection Council monitored the operation and administration of prison facilities. On the basis of visits and interviews with prisoners, it drafted a report for the prison warden, who forwarded it to the Ministry of Justice, which then publicized it. The results of the visits in 2006 had not yet been made public. The Inspection Council established the facts, drew attention to any irregularities and formulated recommendations, but it did not have the authority to institute an investigation on its own initiative. In conformity with the recommendations of the Correctional Administration Reform Council, the Inspection Council was made up of lawyers and physicians chosen upon the recommendation of the Bar and the Medical Association, respectively, as well as representatives of local authorities.

26. Placement in a temporary solitary confinement cell was used when inmates systematically refused to obey authority or suffered from physical or psychological problems which rendered them unfit to be held with other inmates. Sometimes an inmate was placed in temporary solitary confinement at his own request. Placement in temporary solitary confinement could last up to 72 hours and could be extended by 48 hours as often as deemed necessary. The inmate remained under medical attention throughout the period of solitary confinement and was returned to normal confinement once it was judged appropriate to do so.

27. The Committee had asked what the actual impact had been of the new Act on Penal and Detention Facilities and the Treatment of Inmates. It was still too soon to say: the Act had not entered into force until very recently, and some of its provisions would not be implemented until June 2007.

28. Mr. MATSUMOTO (Japan), having taken note of the Committee's concern that the death penalty was still in force in Japan, pointed out that hanging, which was the form of execution used in Japan, was not considered to be inhuman treatment in Japanese society and that it did not inflict any more physical or mental suffering than other existing execution methods.

29. Ms. IKEDA (Japan), referring also to the risk of inhuman treatment stemming from the conditions of detention of persons sentenced to death, said that such persons were not informed of the date of their execution until the actual day in order to avoid the psychological stress that an anticipated announcement might cause. Admittedly, a relatively long period of time could transpire between the pronouncement of the death sentence and execution, but that was due to the time periods provided for the submission and processing of appeals for a review of the sentence. The Committee had referred to the very long period of detention in solitary confinement of inmates on death row. Placement in solitary confinement was in accordance with the legal regime for inmates sentenced to death. That resulted de facto in prolonged solitary confinement in cases in which execution did not take place soon after sentencing.

30. Mr. HATAKEYAMA (Japan) said that since the entry into force in May 2005 of the new Immigration Control and Refugee Recognition Act, the number of applications for asylum had increased considerably. In 2006, 954 applications had been registered, of which 34 had been granted, as against 426 registered and 15 granted in 2004. A question had been asked as to whether the principle of non-refoulement under article 3 of the Convention against Torture was guaranteed under the new Act. The principle of non-refoulement was taken into account in article 53 of the Act, which incorporated the provisions of article 33, paragraph 1, of the Convention relating to the Status of Refugees, extending its scope to include foreigners who did not have refugee status. The sole restriction on that principle concerned persons

whose presence on Japanese territory constituted a threat to the security or interests of the country. Thus, pursuant to the Act, no one could be expelled from Japan to a country where there were serious reasons for believing that his life or freedom would be in danger. The Act also provided that persons whose expulsion was pending and who had applied for refugee status could not be expelled as long as their application was being examined. If the application was rejected in a final decision, expulsion took place as rapidly as possible, usually to the expellee's country of nationality.

31. Asylum requests submitted by women were given special consideration: the authorities sought to ascertain the circumstances that had led the asylum-seeker to flee her country, and if it was established that she had been the victim of sexual violence, she was granted special authorization for humanitarian reasons. Foreigners placed in immigrant detention centres who claimed that they had been the victims of ill-treatment could submit a complaint to the director of the centre and, if they were not satisfied with the action taken, they could then submit it to the Minister of Justice. Between 2001 and 2006, 167 such complaints had been received, of which 63 had been submitted to the Minister of Justice. However, for lack of sufficient proof, none of the cases had led to a conviction.

32. In 2005 and 2006, the regulations relating to the granting of visas had been reviewed and amended so that requests for visas as performing artists were examined very closely to prevent women who came to work in Japan on such visas from being victims of sexual exploitation. Thanks to those measures, the number of victims of trafficking had fallen sharply, from about 80,000 in 2001 to 47,000 in 2005 and 8,600 in 2006. The Government helped victims return to their country of origin.

33. Ms. WATARI (Japan), referring to the role played by the State in the supervision of mental institutions, said that health care legislation and regulations applied to both private and public facilities and that the State was responsible for the proper functioning of both types of institution. Pursuant to the Mental Health Act, a person could not be institutionalized against his will unless at least two psychiatrists certified that he might constitute a danger to himself or to others. The Mental Health Act also provided that the Ministry of Health, Labour and Welfare was authorized to order health care facilities to take steps to improve the quality of a patient's treatment. Facilities at which patients were automatically institutionalized must report to the prefect at regular intervals on the state of health of the patients. When a patient placed in a mental health institution or his legal guardian requested authorization for discharge or asked for improved treatment, the prefect, as the authority empowered to take such action, consulted the Mental Health Institution Inspection Council before reaching a decision. If the Council's psychiatrists considered that the patient no longer represented a danger to himself or others, the prefect authorized him to leave the institution. In 2004, 219 requests for improved treatment and 2,496 requests for discharge had been granted.

34. In conformity with the act on the prevention of infectious illnesses, a prefect could recommend the hospitalization of a patient with an infectious disease. In the event of refusal, hospitalization might be ordered as a compulsory measure. When the patient was no longer a carrier of the pathogen, he could leave the hospital with the authorization of the prefect.

35. Mr. MATSUMOTO (Japan), referring to violence against women, said that under the Criminal Code, rape, even when committed within a couple and regardless of whether the offender was a man or a woman, was a punishable offence, as was trafficking in women (art. 226). In 2004, a special task force had been established to combat trafficking, and a set of preventive measures had been adopted which had produced encouraging results.

36. Ms. MATSUSHITA (Japan) said that Japanese nationality was not automatically acquired by marriage, but that the conditions for naturalization were more flexible for the spouses of Japanese nationals than for other applicants. Persons naturalized by marriage did not lose Japanese citizenship in the event of divorce.

37. With regard to the possibility of setting up a national human rights institution in keeping with the Paris Principles, it should be pointed out that in 2002, the Ministry of Justice had submitted a bill to the Diet on the protection of human rights which provided for the establishment of a human rights commission. The body would enjoy considerable independence, and its members would be appointed by the Prime Minister, who would have only limited power to remove them. The bill had not been passed yet, because the House of Representatives had been dissolved, but the Ministry of Justice intended to resubmit the bill once the new House had been constituted.

38. It should also be recalled that, under the Constitution, judges could not be dismissed from their post unless they were no longer physically or mentally competent to perform their duties or were guilty of gross professional misconduct. Judges on the Supreme Court could not be dismissed unless a majority of the members of the Diet so decided.

39. The CHAIRPERSON said that the latter statement was at variance with the information provided in Japan's core document (HRI/CORE/1/Add.111), according to which the mandate of a judge was the subject of a popular vote every ten years which could result in a judge's dismissal (para. 36). He also noted that although the delegation had provided many replies, unfortunately they were not always exhaustive.

40. Mr. MARIÑO MENÉNDEZ (Country Rapporteur) asked whether the State party considered the Convention to be applicable in the event of armed conflict. He would also like to know whether judges had already ordered audiovisual recordings to be made of interrogations conducted at police stations. Noting that detention for the purpose of interrogation could last up to 23 days and that the suspect could be interrogated both during the day and at night, he asked whether confessions obtained under such conditions were regarded as admissible evidence, whether the principle of the presumption of innocence was guaranteed and whether the duration of interrogation was set by law.

41. Concerning placement in solitary confinement, he enquired whether that measure was taken solely upon the request of the inmate or in other circumstances as well. He also sought clarification from the delegation on whether persons on death row had access to a lawyer. Noting that the new body responsible for inspecting prisons did not include representatives of civil society, he wondered whether it was truly independent and asked whether the prison system was monitored by a judge.

42. It would be useful for the delegation to indicate who appointed the counsellors involved in asylum proceedings and on the basis of what criteria. Lastly, given that an investigation of Peru's former President Alberto Fujimori had been under way in Japan before he had left the country, he enquired why the Japanese courts had not extradited him to Peru as requested by that country. Moreover, Japan could have declared that its courts had jurisdiction to try Mr. Fujimori, because pursuant to article 5 of the Convention, States parties were required to try persons suspected of violations of the Convention who were present in any territory under their jurisdiction, including when the alleged offender was one of their nationals, which was the case.

43. Mr. KOVALEV (Alternate Country Rapporteur) said he did not see why judges were reluctant to allow the audiovisual recording of interrogations. There was no need to fear leaks, since the police were under an obligation to respect the confidentiality of data relating to the private life of the suspects, regardless of whether the data were recorded in a written report on a videocassette. With reference to the asylum procedure, he was concerned that the authorities based their decision on the prevailing situation in the country from which the asylum-seeker had arrived, which was not necessarily the country of origin. If the risk of torture was non-existent in the country of transit but considerable in the country of origin, the asylum-seeker could be returned to a country in which he might be tortured. The relevant provisions of the asylum procedure should thus be amended to ensure that the decisive criterion was the situation in the country of origin or return.

44. Ms. BELMIR asked the delegation to comment in detail on the information provided by NGOs according to which instructions in the police manual concerning interrogation methods encouraged police officers to interrogate the suspect until he confessed, if necessary day and night.

45. She would also like to know whether an appeal could be made for a death sentence to be pardoned or commuted to a prison sentence, and she wondered why authorization to discharge a patient hospitalized for an infectious illness was given by the prefect and was not exclusively a matter for someone from the medical profession.

46. Ms. GAER, underscoring with regard to the audiovisual recording of the statements of suspects that the need to protect such persons from ill-treatment should take priority over a concern for privacy, asked for more information on the conditions in which the police gagged suspects and wondered whether that technique could not be completely prohibited, given the risk of abuse.

47. Although she was aware that the offences committed against “comfort women” – mainly Korean women who had been forced to serve as sex slaves for soldiers of the Japanese army in the Second World War – had taken place in a distant past and that the Convention was not retroactively applicable to those crimes, she stressed that the absence of genuine official recognition of the traumatic experience of those women, the failure of the Japanese Government to grant reparations to the victims, and the fact that a number of highly placed persons had questioned the veracity of the stories of the survivors was doubly traumatic for the victims. She urged the State party to reflect on those questions.

48. Mr. WANG Xuexian noted that the international community and civil society organizations had urged the Japanese Government to recognize its moral and legal responsibility in that matter. Although the Prime Minister had corrected one of his statements and had publicly acknowledged Japan’s moral responsibility for the “comfort women”, the Japanese Government had never admitted that it had had a legal responsibility, even at the time of the events. He asked the delegation to explain the Japanese Government’s current position in that regard.

49. Mr. GROSSMAN, welcoming the useful dialogue which had begun with the delegation, drew its attention to a number of considerations of a general nature concerning the protection of human rights and the rights set out in the Convention in the framework of the administration of criminal justice. All States parties to the Convention were required to strike a balance between the imperative of an effective criminal investigation and respect for the rights of the detainee, and the principle of the presumption of innocence was vital in that regard, in particular during the interrogation phase, i.e. when there was the greatest risk of a

violation of the provisions of the Convention. One of the consequences of that principle was that the police must provide evidence of the guilt of the suspect, who was not under any obligation to prove his innocence.

50. With regard to the systematic effort to obtain a confession, which was said to be current practice in Japan, prudence dictated that such confessions should not be given too much weight. In many countries in which confessions had long been considered the best evidence, experience had shown that proceeding in such a fashion was far from infallible.

51. Mr. GALLEGOS CHIRIBOGA was grateful to the delegation for having provided the members of the Committee with very useful information. He was pleased to note the close cooperation between the Japanese authorities and civil society organizations on the protection of human rights in general and the prohibition of torture in particular. That being the case, he was convinced that those questions would continue to be given close attention.

52. The CHAIRPERSON welcomed the fruitful dialogue that had been started with the Japanese delegation on ways of ensuring better compliance with the provisions of the Convention against Torture. He regretted the – to say the least – expeditious reply given by the delegation to the question of hanging. Contrary to the assertions made, hanging was in fact cruel treatment within the meaning of the Convention. It was also difficult to accept references to public opinion as a justification for such a form of execution. It was well known that all countries which had abolished capital punishment had done so against the will of public opinion.

53. Mr. KIMURA (Japan) recalled that the current Japanese Prime Minister had recently indicated that Japan intended to scrupulously respect the apologies officially presented in 1993 to the Korean and Chinese women who had been victims of forced prostitution during the Second World War. The members of the Committee must know that the Japanese Government was doing everything in its power to reach an agreement on compensation for the victims.

54. It should also be pointed out that it was not correct to say that Japan had refused to extradite Mr. Fujimori to Peru on grounds that he had Japanese nationality. In actual fact, Mr. Fujimori had left Japanese territory while the Japanese authorities had been awaiting a reply from the Peruvian Government to their request for additional information, formulated pursuant to articles 4 and 14 of the extradition act.

55. Mr. NAKAGAWA (Japan), referring to action taken on acts of racial discrimination committed by members of the police, said that the victims could report such acts to a complaints mechanism within the National Police Agency. With regard to the existence of a secret manual which supposedly encouraged police officers to prolong interrogations until they obtained a suspect's confession, that was not an official document at all, but merely the testimony of one police officer on his experience and simply aimed to suggest that if interrogations were too short, the police were unable to gather the information needed to establish the facts.

56. Japan was aware that an effective police investigation must not result in violations of the principle of the presumption of innocence, which was fully respected. All persons placed in detention benefited from the rights enumerated in paragraph 78 of the report, including the right to remain silent. Moreover, all detainees must be given an examination whenever they left a temporary solitary confinement cell or were returned to it to ensure that they had not

been tortured. A report was drafted for even the slightest injury and must be referred to the superintendent of police, who could order an investigation on the basis of the evidence.

57. Mr. HATSUMATA (Japan) said that Japan did not have any particular objection to a sound or audiovisual recording of custody, although it must be ensured that such a procedure did not interfere with the investigation. The question was currently under close examination, and before taking a decision, the Japanese Government wanted to collect more information on the experience of States that had opted for that method.

58. Mr. MATSUMOTO (Japan), referring to the use of restraining devices, said that violent individuals were gagged and bound only in exceptional circumstances and in the absence of other means of isolating them. In order to put an end to that practice, the authorities were working to provide as many police stations as possible with temporary solitary confinement cells.

59. With regard to the procedure for the examination of asylum requests, Japanese legislation was in full compliance with the provisions of the 1951 Convention relating to the Status of Refugees and the relevant provisions of the Convention against Torture. It should also be pointed out that a committee of experts, entrusted with formulating recommendations for the Minister of Justice on appeals lodged by persons whose application for asylum had been rejected, had been set up under the 2005 Immigration Control and Refugee Recognition Act. Made up of jurists, academics and representatives of NGOs, the committee ensured the independence and impartiality of the asylum application procedure.

60. Mr. MORIMOTO (Japan) said that the Correctional Administration Inspection Council was made up of representatives of civil society who were fully independent of the prison authorities. It did not have the power to institute investigations, but it was competent for receiving allegations from prisoners of ill-treatment and must report them to the public prosecutor's office, which could decide to order an investigation if necessary.

61. Mr. KIMURA (Japan) offered to provide the Committee at a later date with information concerning the powers which the national armed forces had to conduct their own investigation of any act of torture committed during actions outside Japanese territory.

62. Ms. WATARI (Japan), referring to the rights of persons placed in mental institutions, said that they could at any time request permission to be discharged if they considered that their confinement was no longer justified. Permission for discharge was issued by the prefect on the recommendation of a Psychiatric Review Board (para. 122 of the report), a body whose composition ensured that requests would be examined independently and impartially.

63. The CHAIRPERSON said that the Committee was grateful to the delegation for having made the most of the short time available to it to reply to the numerous questions posed. He welcomed the quality of the dialogue entered into with Japan, whose initial report contained much useful information for the Committee. He urged the State party to focus more heavily in its second periodic report on the question of the actual implementation of provisions adopted to give effect to the Convention. The Committee would communicate its conclusions and recommendations to the delegation at a later date.

64. *The delegation of Japan withdrew.*

The meeting rose at 5.55 p.m.
