



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

# Implementation of the International Covenant on Economic, Social and Cultural Rights

**Third periodic reports submitted by States parties under  
articles 16 and 17 of the Covenant**

**Japan<sup>\*</sup>, <sup>\*\*</sup>**

[22 December 2009]

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

\*\* Appendices may be consulted in the files of the Secretariat.

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*Note:* Unless actual dates are specified, the contents of this report date from August 1998, following the submission of the second periodic report, to April 2009. And the new government, which was formed in September 2009, has started to study some of the contents of this report.

This report is the result of several years of preparation involving cooperation and coordination among the relevant ministries and agencies in Japan. Therefore, while elements from the new guidelines dated March 24, 2009 (E/C.12/2008/2) have been included to the greatest extent possible, the report was chiefly prepared with reference to the guidelines that were in effect when the preparation of the report began (E/C.12/1991/1).

## I. Responses to the previous concluding observations

1. The Government of Japan conveys its responses to each paragraph of the concluding observations (E/C.12/1/Add.67) adopted by the Committee on Economic, Cultural and Social Rights on 30 August 2001 (those relating to “Suggestions and Recommendations”) as follows.

### Paragraph 33

2. Japan’s position is as presented in comments by the State party on concluding observations (E/C.12/2002/12, para. 4, subpara. 1). With regard to “human rights impact assessments” to check in advance the impact on human rights in legislative and administrative policy and decision-making processes, the establishment of such a system would require wide-ranging investigations into, including whether it is possible to establish such a system, and if it is, what kind of organization would be appropriate for conducting the assessments. Thus, at present, the Government of Japan is not planning to introduce “human rights impact assessments”.

### Paragraph 34

#### *Article 7 (d)*

3. In Japan, only a few companies have introduced a system of paying salaries for national holidays, and there is no social consensus for remuneration for national holidays. Therefore, it is appropriate to leave this matter to agreements between labour and management.

#### *Article 8.1 (d)*

4. Article 8 of the Covenant provides for the basic labour rights of workers, and subparagraph (d) of paragraph 1 of the Article stipulates the right to strike. Due to the prohibition of the labour dispute action referred to in Article 8, which is not consistent with the relevant acts and regulations of Japan, Japan reserves the right not to be bound by the said provisions. Nevertheless, the sectors in which the right to strike is granted in accordance with the acts and regulations of Japan at the time of the ratification of the Covenant by the Government of Japan are excluded from this reservation.

5. At present, Japan has no plan to withdraw this reservation.

#### *Article 13.2 (b) and (c)*

6. Concerning the provision for making upper secondary and higher education free-of-charge, students who receive education are currently required to bear a reasonable burden from the point of view of the equitable payment burden and difficulty in securing sufficient funds in case such education is provided free-of-charge. For this and other reasons, Japan reserves the right not to be bound by the provision “in particular by the progressive introduction of free education” as stipulated in Article 13.2 (b) and (c) of the Covenant. The Government intends to continue studying this issue, taking into consideration the Committee’s findings and observations. With regard to making upper secondary and higher education equally accessible to all, the Government promotes measures to provide scholarships, waive or reduce tuition, and subsidize private schools for students, who, in spite of their abilities, have difficulties in receiving such education for financial reasons. Due to these policies, in Japan 97.7% (in 2008) of lower secondary school graduates go on to upper secondary school or similar educational entities.

**Paragraph 35**

7. In the Ministry of Justice, lectures on themes such as international human rights treaties have been given to prosecutors as a part of their training after they have completed certain periods of service. Prosecutors are also helped to improve their understanding of the importance of respecting human rights as they perform their day-to-day duties through guidance from their superiors.

8. The Government understands that the Legal Training and Research Institute of Japan is in charge of the training of judges, and as part of the training programs for judges in accordance with their years of work experience, it provides the judges in attendance with copies of the Committee's concluding observations and gives various lectures on international human rights and the protection of human rights, thereby taking account of the Committee's concluding observations concerning the second periodic report submitted under the International Covenant on Economic, Social and Cultural Rights (ICESCR). In this way, it is working to deepen judges' understanding and awareness of human rights and international human rights standards.

9. In addition, all those who become judges, prosecutors, or lawyers obtain legal qualifications after receiving training at the Legal Training and Research Institute of Japan, and the Government has been given to understand that such training includes a curriculum on, among others, international human rights covenants and the Human Rights Council.

**Paragraph 36**

10. Although it does not constitute a comprehensive national plan of action, in 1997, Japan formulated and published, in the field of human rights education, a National Plan of Action relating to the United Nations Decade for Human Rights Education, following the decision made at the General Assembly in December 1994 to designate the period from 1995 to 2005 as the "United Nations Decade for Human Rights Education".

11. Following the formulation of the National Plan of Action, progress on its implementation has been periodically monitored, and the results of this monitoring have been reflected in policy measures. Progress on the implementation of the plan has also been published on the website of the Prime Minister of Japan and His Cabinet.

12. In addition, with the aim of further promoting human rights education and its encouragement, Japan has made clear the philosophy concerning human rights education and its encouragement as well as the duties of the national government, local governments, and citizens. Moreover, from the view point that it is essential to designate in law such necessary measures as the formulation of a basic plan and the production of annual reports, the Act for Promotion of Human Rights Education and Encouragement was passed in December 2000.

13. In accordance with Article 7 of the Act for the Promotion of Human Rights Education and Encouragement, in March 2002 the Basic Plan for Promotion of Human Rights Education and Encouragement was formulated, and Japan intends to continue to make efforts to steadily implement the measures contained in this plan.

**Paragraph 37**

14. In 2008, Japan increased the ODA volume it provides, which had been decreasing during the previous few years. Although reserving fixing a deadline for achieving the target for ODA of 0.7% of GNI, the Government will ensure the ODA volume required to provide strategic assistance, and will continue to make efforts to reach the target.

**Paragraph 38**

15. In 2002, the Government submitted the Human Rights Protection Bill to the Diet. The Bill provided for the establishment of the Human Rights Commission as an independent administrative commission pursuant to Article 3, paragraph 2 of the National Government Organization Law. The chairman of the Commission and the Commission members would be ensured a high degree of independence in the exercise of their authority so that their decisions are not influenced either by the Cabinet or the ministers concerned. The Commission would have the authority to submit its opinions to the Government and the Diet, as well as the responsibility for organizing human rights awareness-raising campaigns and providing effective relief in case of human rights violations. Given these features the Human Rights Commission under the Bill is considered to be a national human rights institution in compliance with the Paris Principles. However the Bill was not passed due to the dissolution of the House of Representatives in October 2003.

16. The Government is currently reviewing the bill.

**Paragraph 39**

17. The Human Rights Protection Bill that the Government submitted to the Diet in 2002 explicitly prohibited unreasonable discriminatory treatment or promotion of discrimination based on race, ethnicity, creed, gender, social status, family origin, disability, illness or sexual orientation. Any such human rights infringements would be remedied by the independent human rights commission in a straightforward, swift, and flexible way. In other words, a more effective system for dealing with such infringements would be established. However, as aforementioned, this Bill was not passed due to the dissolution of the House of Representatives in October 2003.

18. The Government is currently reviewing the bill.

**Paragraph 40***Employment*

19. To avoid discrimination in the field of employment, the Government provides guidance and education to ensure that employers properly understand and acknowledge these people and conduct fair recruitment based on the suitability and ability of applicants. Through these efforts, the Government works to ensure that such people have equal opportunities when seeking work. Although this recommendation assumes that discrimination exists under the law, workers employed in business in Japan, whether or not they constitute a minority group, are protected by the Labor Standards Act. Under Article 3 of this Act, an employer must not engage in discriminatory treatment with respect to wages, working hours or other working conditions by reason of the nationality, creed or social status of any worker. This observation is therefore based on some apparent misunderstanding of the fact.

*Education*

20. In cases where children of foreign residents in Japan wish to enroll in public schools for compulsory schooling, public schools accept them free-of-charge, just as they do for Japanese schoolchildren, in accordance with relevant international human rights treaties such as ICESCR. They are also offered a wealth of support, including support for enrollment and Japanese language training. In addition, even if unable to graduate from lower or upper secondary schools, children of foreign residents in Japan are given the opportunity to apply for the qualifications required to continue their education by taking an official examination, just as Japanese schoolchildren can.

21. Furthermore, various efforts are being made to raise awareness of respect for human rights, including the elimination of discrimination.

*Human rights promotion*

22. In accordance with Article 7 of the Act for Promotion of Human Rights Education and Encouragement, which took effect in 2000, the Basic Plan for Promotion of Human Rights Education and Encouragement was decided on by the Cabinet in March 2002 to serve as a framework for Government measures aimed at comprehensively and strategically promoting human rights education and its encouragement. The plan makes reference to individual human rights issues such as those relating to the Dowa problem, the Ainu people, and foreign nationals, and the Government is taking various measures to address each of these issues.

23. In addition, the Human Rights Organs of the Ministry of Justice, with the aim of realizing a society in which the human rights of all people are respected, decide on annual slogans such as “eliminating discrimination against Buraku people” or “deepening understanding of the Ainu people”. Then, throughout the year the Organs conduct various types of awareness-raising campaigns in many places of the country.

*Utoro issue*

24. With regard to the Utoro issue, the Government recognizes that it is undeniable that many people found themselves in an unfortunate situation at one time, and believes that even though the situation was unusual even in wartime, it is extremely regrettable that it brought on these people unbearable suffering and sadness. However, it has been confirmed that under the Agreement between Japan and the Republic of Korea Concerning the Settlement of Problems in Regard to Property and Claims and on Economic Cooperation concluded in 1965, issues relating to property and claims were completely and ultimately resolved. Given that the Government views the Utoro issue as basically a civil dispute between residents of the area and real-estate companies and believes that it is a problem that both sides should primarily resolve by themselves, the Government is paying attention to the consultations and negotiations aimed at achieving a solution.

25. In addition, on December 5, 2007 the Ministry of Land, Infrastructure, Transport and Tourism, the Kinki Regional Development Bureau, Kyoto Prefecture, and the City of Uji established a committee to investigate ways of improving the living environment in the Utoro area. This committee has met three times.

**Paragraph 41**

26. In February 1996 the Legislative Council of the Ministry of Justice, an advisory council to the Minister of Justice, submitted to the Minister of Justice an outline of a Bill for Partial Amendments to the Civil Code, and this bill included provisions for giving both children born in wedlock and children born out of wedlock an equal statutory share in inheritances.

27. However, this is an important issue that relates to the institution of marriage and the nature of families, and is a topic of wide-ranging debate at various levels of society and among the various parties concerned. The Government therefore believes that the law on it should only be revised when the understanding of the majority of citizens can be obtained. With the aim of deepening understanding with regard to this issue at various levels of society and among the various parties concerned, the Ministry of Justice provides the public with useful information for debating this issue, such as by publicizing details of the Legislative Council’s findings and the results of surveys of public opinion. It also pays

close attention to the debate going on at various levels of society and among the various parties concerned.

28. With regard to the acquisition of Japanese nationality by virtue of birth, Japan's Nationality Act states that a child shall be a Japanese citizen "if the father or mother is a Japanese citizen at the time of birth". (Article 2, item 1 of the Nationality Act) It means that, a child obtains Japanese nationality if a legal, parent-child relationship exists between the child and a father or mother with Japanese nationality at the time of the child's birth (i.e. if the child is born in wedlock, if the child is acknowledged by a Japanese father who is not married to the mother before the child is born, or if the child is born to an unmarried Japanese woman).

29. In the past, a child under the age of 20 born out of wedlock to a Japanese man and a foreign woman who had not been acknowledged by the father could acquire the status of a child born in wedlock after birth through acknowledgement by the father and the marriage of the parents, and could then acquire Japanese nationality through notification to the Minister of Justice. However, on January 1, 2009 a revised Nationality Act took effect. The revised act states that a child under the age of 20 acknowledged by a Japanese father can acquire Japanese nationality through notification to the Minister of Justice, even if the child's parents are not married (Article 3 of the Nationality Act).

30. As the above illustrates, differences concerning requirements for the acquisition of Japanese nationality, which depend on factors such as the existence of a legal parent-child relationship at the time of birth, are based on the fundamental belief that Japanese nationality should be awarded when a close connection between the child and Japan exists due to a legal parent-child relationship. This belief reflects the view that biological factors, i.e. bloodline, should not be the only thing looked at, and is based on the spirit of Article 24 of the Constitution of Japan.

31. In addition, a child, born out of wedlock to a Japanese father, who was unable to obtain Japanese nationality can still do so through naturalization, and the conditions for naturalization are more relaxed for people who were born in Japan or have been acknowledged as their child by Japanese men (Article 6, item 2; Article 8, items 1 and 4 of the Nationality Act).

32. Besides these provisions, on November 1, 2004, an administrative dispensation was introduced to make the method of presentation in the relationship with the father and mother column of the family register the same for children born out of wedlock as it is for children born in wedlock. In addition, children born out of wedlock who are already recorded in their family registers can apply to have the method of presentation in the relationship with the father and mother column of the family register amended to make it the same as for children born in wedlock.

33. The Human Rights Organs of the Ministry of Justice offer human rights consultations at human rights counseling offices concerning all kinds of human rights infringements, including discrimination against children born out of wedlock. If a person reports that he or she has been subjected to a human rights infringement, the Organs will begin a procedure to remedy the infringement, conduct an investigation of the facts, and take appropriate action depending on the circumstances of the case. In this way, they are working to remedy and prevent suffering caused by human rights infringements.

34. In addition, based on the view that any discrimination should not be tolerated, the Organs are actively providing human rights awareness-raising campaigns, and also working to provide various types of awareness-raising campaigns aimed at realizing a society in which the human rights of all people are respected.

**Paragraph 42**

35. Recognizing that the realization of a gender-equal society is the most important task for determining the nature of Japanese society in the 21st century, in 1999 the Government enacted the Basic Act for a Gender-equal Society. In December 2000, the Cabinet decided on the Basic Plan for Gender Equality based on this act. In December 2005, it produced the Second Basic Plan for Gender Equality. Based on these plans, the Government has been promoting comprehensive and systematic measures for the formation of a gender-equal society.

36. To promote the formation of a gender-equal society, it is important to expand women's participation in policy decision-making processes. As one of the basic principles of ensuring gender equality, the Basic Act for a Gender-equal Society sets forth the "joint participation in planning and deciding policies". In order to narrow the gap between men and women, the Basic Act also stipulates taking "positive actions" as a responsibility of the Government, and secondarily of the local governments.

37. At the same time, the Second Basic Plan for Gender Equality sets as its priority goal of "increasing the share of women in leadership positions in all fields to at least around 30% of the total by 2020". To achieve this goal, various efforts are being made, including an annual follow-up to assess progress in promoting women's participation in various fields.

38. In addition, with the aim of implementing more strategic initiatives to expand women's participation, the Headquarters for the Promotion of Gender Equality, which is run by the Prime Minister, formulated the "Program for Accelerating Women's Social Participation" in 2008. This program lays down three basic policy frameworks in an integrated manner. These areas are the realization of a work-life balance, measures to support women's efforts to build their capacity and fulfill their potential, and awareness-raising. This program also calls for concrete measures to be implemented by Fiscal Year 2010 to establish a foundation for promoting involvement by women in every field by, for example, strategically lobbying leaders in each field. The Program also focuses on medical doctors, researchers, and public officials as three priority jobs in which women ought to play an active role, but in which the participation rate is still low, and action is being to rectify this situation.

39. In the case of national public officials, in particular, the program sets a target for achieving at least approximately 5% of female participation at the level of directors of the division and the office or higher in the Government as a whole by the end of Fiscal Year 2010. To achieve this goal, the program requires actions to promote female public officials to senior positions, to actively promote flexible working patterns, review working styles, and promote motivation and support for capacity building and fulfilling their potential (i.e. empowerment). Each Ministry is improving and reviewing its "Plan for the Enlargement of Recruitment and Promotion of Female Employees".

40. In the field of politics, the participation of women has slowly but undoubtedly increased. In April 2009, the percentage of female Diet members was 9.4% in the House of Representatives, and 18.2% in the House of Councilors. And in 2008, women made up 8.2% of prefectural assembly members and 10.8% of municipal assembly members. To increase the participation of women further, the Government is conducting case studies of the positive actions, in terms of laws and internal political party rules, that have been taken in various countries in which female participation in politics is high.

41. The share of female members in national advisory councils and on committees reached 32.4%, at the end of September 2008. The Government has been making continued efforts to achieve a state of gender equality where the number of either male or female members does not fall below 40% of the total of national councils and committees of the

Government as a whole, with an interim target of bringing the proportion of women up to 33.3% by the end of Fiscal Year 2010. In line with those of the national government, the advisory councils and committees of local governments are also pursuing initiatives and setting numerical targets, and have steadily raised the proportion of female members in councils and committees to 32.6% at prefectural governments and 30.7% at government-designated city governments.

### **Paragraph 43**

#### *Domestic violence*

- (a) Spousal violence
  - (i) Enactment of the Act on the Prevention of Spousal Violence and the Protection of Victims

42. Act on the Prevention of Spousal Violence and the Protection of Victims (hereinafter referred to as the “Act on the Prevention of Spousal Violence”) was passed in April 2001. It is Japan’s first law for comprehensively regulating the issue of spousal violence. In addition to provisions concerning Spousal Violence Counseling and Support Centers, which provide victims with counseling, temporary protection, information of various kinds, and so on, it also contains provisions concerning protection orders that can be issued to perpetrators by courts following a petition by a victim. Protection orders are of two types: “Order Prohibiting”, under which the perpetrator is prohibited from approaching, for example, the victim for six months, and “Order to Vacate”, under which the perpetrator must leave the domicile shared with the victim as a main home for a two-week period. Violators of protection orders are punished with either imprisonment or work for not more than one year or a fine of not more than one million yen. The application of penal provisions to court orders issued in response to petitions filed by individuals represents a new system for Japan, one which had not previously existed.

#### First revision of the Act

43. In June 2004 the Act on the Prevention of Spousal Violence was revised for the first time. The main revisions included (1) a redefinition of “spouse”, (2) an expansion of the definition of “violence”, (3) the expansion of the protection order system (the evacuation period was extended from two weeks to two months), (4) a clarification of the responsibilities of the Government and local governments for providing victims with support so as to become self-reliant, (5) a clarification of the responsibilities of the relevant officials to respect the human rights of victims regardless of facts such as their nationalities or disabilities.

44. Pursuant to this first revision, not only bodily harm, but also the words and deeds of one spouse that cause equivalent psychological or physical harm on victims is now included in “spousal violence”. Violence, verbal abuse or harmful behavior by former spouses is also included. In December 2004, pursuant to the provisions of the Act, the competent ministers (the Prime Minister, the National Public Safety Commission, the Minister of Justice, and the Minister of Health, Labour and Welfare) formulated a Basic Policy on Measures for the Prevention of Spousal Violence and the Protection of Victims. The Basic Policy describes the outline of the system and the basic ideas underlying the implementation of measures for each issue in the Law. As such it serves as a guideline for the basic plans formulated by prefectures.

## Second revision of the Act

45. In July 2007 the Act on the Prevention of Spousal Violence was revised for the second time. The main revisions included; (1) improvements in the protection order system (for example it includes protection orders relating to victims who have been subjected to life threatening intimidation, protection orders prohibiting telephone calls, faxes, e-mails, etc., and protection orders prohibiting approaches to the victim's relatives or other persons with whom the victim has close relationships in his/her social life), (2) the addition of a requirement that municipalities endeavor to formulate their own basic plans, and (3) the addition of a requirement that municipalities endeavor to set up appropriate facilities to serve as Spousal Violence Counseling and Support Centers.

46. Before the second revision, bodily harm had been the only grounds for petitioning for a protection order. However, the revision expanded it to cover life-threatening intimidation and introduced protection orders prohibiting telephone calls, faxes, e-mails, etc. in order to make the restraining orders prohibiting only stalking a victim more effective. In addition, restraining orders, which previously covered only the victim and children living with the victim, have been modified to cover the victim's relatives or other persons with whom the victim has close relationships in his/her social life.

47. In addition, to promoting initiatives by municipalities, which are closer to victims, municipalities are now obliged to endeavor to establish Spousal Violence Counseling and Support Centers and formulate basic plans.

(ii) Number of requests for advice at Spousal Violence Counseling and Support Centers

48. Since April 2002, each prefecture has begun operating Spousal Violence Counseling and Support Centers at Women's Consulting Offices or other appropriate facilities. Following the revision to the Law in 2004, municipalities also became able to establish Spousal Violence Counseling and Support Centers, and the 2007 revision compelled them to endeavor to establish such centers. In April 1, 2009, 183 Spousal Violence Counseling and Support Centers had been established nationwide. They provide consultations, counseling, temporary protection to victims and accompanying relatives, information of various kinds, and so on.

49. During Fiscal Year 2008 Spousal Violence Counseling and Support Centers received 68,196 requests for advice, and the number increases every year.

50. The Women's Consulting Offices established by each prefecture provide temporary protection to people such as those who have been subjected to spousal violence. In addition, since 2002 Women's Consulting Offices have been able to entrust temporary protection to other facilities (facilities for single mothers, privately-run shelters, etc.), provided they meet criteria specified by the Minister for Health, Labour and Welfare.

51. In Fiscal Year 2007, 4,549 persons received temporary protection, mainly from violence by a husband.

52. The number of cases of violations of the Act on the Prevention of Spousal Violence which were accepted and processed in Japan are shown in the table below. The data indicates that the relevant authorities are getting tough on cases of domestic violence through the vigorous application of relevant the laws and regulations. With regard to the petitions for protection orders relating to spousal violence processed (from April 2006 to the end of June 2009), approximately 9,610 new cases were accepted (including 101 cases that had not been dealt with in March 2006). Out of these, 117 cases have not yet been dealt with, while 9,493 cases have been. Out of the cases that have been dealt with, those where a protection order was approved amounted to 7,534 cases. Meanwhile, 495 cases were rejected and 1,464 cases were withdrawn or otherwise cancelled.

**Acceptance and processing of violations of protection orders under the Act on the Prevention of Spousal Violations and the Protection of Victims**

	2001	2002	2003	2004	2005	2006	2007
Received	2	36	40	52	74	58	83
Prosecuted (indictment)	0	19	21	33	29	28	34
Prosecuted (summary trial procedure)	0	10	13	10	29	13	37
Not prosecuted	0	6	6	8	18	14	14

53. When the police believes a case of spousal violence may violate a law or a regulation with penal provisions, they take appropriate action according to the circumstances of the case, such as making an arrest. They also make arrests in cases of violations of protection orders issued by courts pursuant to the Act on the Prevention of Spousal Violence, provide assistance based on reports made by victims, and work with Spousal Violence Counseling and Support Centers and other related organizations and groups taking care of victims. Thus, they endeavor to respond actively to the concerns of victims.

**(1) Number of documented consultations relating to spousal violence (the number of consultations, requests for assistance, requests for protection, damage reports, etc.)**

	2001 (see note)	2002	2003	2004	2005	2006	2007	2008
No. of documented cases	3 608	14 140	12 568	14 410	16 888	18 236	20 992	25 210

*Note:* The figure for 2001 is for the period from October 13 (the date the law took effect) to December 31.

**(2) Number of arrests for violations of protection orders**

	2001 (see note)	2002	2003	2004	2005	2006	2007	2008
No. of arrests	3	40	41	57	73	53	85	76

*Note:* The figure for 2001 is for the period from October 13 (the date the law took effect) to December 31.

**(3) Number of arrests for violence (homicide, injury, and assault) by spouses (including common-law spouses)**

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Homicide	197	191	197	215	206	218	179	192	200
By husband	134	116	120	133	127	126	117	107	126
Injury	888	1 097	1 250	1 269	1 198	1 342	1 353	1 346	1 339
By husband	838	1 065	1 197	1 211	1 143	1 264	1 294	1 255	1 268
Assault	127	156	219	234	290	379	707	933	1 045
By husband	124	152	211	230	284	359	671	870	975

*Note 1:* Cases of violence by spouses include cases such as homicides carried out with the aim of collecting insurance money.

*Note 2:* Homicides here also includes attempted homicides.

*Sexual harassment*

54. Violence against women, including sexual harassment, spousal violence, sexual crimes, prostitution, trafficking in persons and stalking behavior, constitutes a serious violation of the human rights of women. This is a problem to be solved during the process of the formation of a gender-equal society. In light of the 1999 inauguration of the “International Day for the Elimination of Violence against Women (November 25)” by the United Nations, the Headquarters for the Promotion of Gender Equality held a two-week Campaign from 12 to 25 November on the Elimination of Violence against Women and, in collaboration with local public authorities, women’s groups and other organizations, further strengthened efforts to eliminate violence against women, and included a program to enhance social awareness.

55. According to the results of “The Basic Survey Employment Management Of Women (2006)”, 10.5% of companies had received requests for advice or reports on sexual harassment from their workers. By size, for companies with 5,000 or more employees the figure was 86.0%, for those with 1,000–4,999 employees it was 55.1%, for those with 300–999 employees it was 26.7%, for those with 100–299 employees it was 13.2%, and for those with 30–99 employees it was 6.5%.

56. Before the 2006 revisions to the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment, the obligation of the employer to take action to deal with sexual harassment was to just give it consideration. However, the survey found that 40.1% of companies had made employees aware of their policy to prevent sexual harassment by clearly articulating it in documents such as the rules of employment or labor agreements. In addition, 60.4% of companies, in response to a question about whether they had established a point of contact for directing requests for advice or complaints about sexual harassment, said that they had designated a personnel manager or a workplace manager to handle such cases.

57. The 2006 revisions to the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment, which came into effect in April 2007, made it compulsory for companies to take action on sexual harassment. The revised Act has also made sexual harassment subject to the conciliation and publication, and the Government therefore intends to respond appropriately to these revisions.

*Cases of sexual exploitation of children*

## (a) Cases of child prostitution

## (i) Case of child prostitution by an unemployed man (Chiba)

58. In March 2008, a 51-year-old unemployed man paid for sex with a 14-year-old girl he had met through an Internet social networking service (SNS). The man was arrested the same month.

## (ii) Case of child prostitution by a company employee (Kyoto)

59. In June 2008, a male company employee committed an indecent act with a 16-year-old high school girl he had met at a so-called *deai-kei kissa* (dating café) after promising to give her money. The man was arrested in August.

## (b) Cases of child pornography

- (i) Case of sale of child pornography by a company executive and others (at Aichi, Miyagi, Chiba, and Shizuoka)

60. Between November 2007 and February 2008, a 31-year-old company executive and 16 others used a website to sell around 6,500 DVDs, including ones featuring child pornography, to around 780 people nationwide. By July, the members of the ring had all been arrested.

- (ii) Case of a company employee and others possessing child pornography with the intent of supplying it using file-sharing software (Saitama)

61. Between September and October 2008, a 37-year-old male company employee and two others connected themselves to a network in order to use file-sharing software to exchange files containing child pornography on their respective computers. They were arrested in November.

**Child victims under the Act on Punishment of Activities relating to Child Prostitution and Child Pornography, (2000–2008)**

Type	Year	Education/employment status								
		Total No. of persons	Preschool	Student/pupils	Elementary school	Junior high school	Senior high school	Other students	Employed juveniles	Unemployed juveniles
Child prostitution cases	2008	846	0	667	0	323	343	1	23	156
	2007	1 144	0	845	2	378	460	5	50	249
	2006	1 325	0	949	7	478	460	4	49	327
	2005	1 504	0	1 157	7	588	558	4	52	295
	2004	1 596	0	1 286	10	596	670	10	36	274
	2003	1 546	0	1 232	6	586	638	2	39	275
	2002	1 630	0	1 225	4	640	575	6	60	345
	2001	1 214	0	979	5	477	488	9	26	209
	2000	840	0	623	8	279	326	10	29	188
	2008	338	6	306	33	126	147	0	7	19
Child pornography cases	2007	275	6	251	24	105	122	0	6	12
	2006	253	12	228	26	126	74	2	3	10
	2005	246	5	213	26	68	119	0	4	24
	2004	82	0	68	5	30	33	0	4	10
	2003	71	0	67	11	15	41	0	3	1
	2002	60	1	48	12	20	16	0	7	4
	2001	175	1	170	75	76	19	0	2	2
	2000	123	1	120	71	22	27	0	1	1

62. The number of cases of child prostitution, pornography, etc. accepted and processed in Japan as violations of the Child Welfare Act or Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children are shown in the table (above). The data indicates that through the active application of relevant laws and regulations, the relevant authorities are working to deal with such cases strictly. A total of 2,454 people were punished at normal, first hearings for various violations of the Act on

Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children between 2001 and 2008. Of these, 1,388 were punished for child prostitution (i.e. paying for sex with minors), 88 for abetting child prostitution, 977 for the supply of child pornography, and 1 for human trafficking for the purpose of child prostitution.

#### Violations of the Child Welfare Act

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Received normally	473	481	348	507	544	610	750	743	689	580
Request made for trial	216	240	239	307	352	459	486	520	480	394
Request made for summary order	8	1	6		5	2		2	2	2
Not prosecuted	161	157	83	114	100	114	160	139	132	128

#### Violations Act on Punishment of Activities relating to Child Prostitution and Child Pornography, and the Protection of Children

##### Article 4 (Child prostitution)

	1999	2000	2001	2002	2003	2004	2005	2006	2007
Received normally	20	536	806	1 180	1 155	1 108	1 086	1 205	1 044
Request made for trial	11	179	264	383	347	374	338	318	239
Request made for summary order	7	305	476	710	719	651	659	771	670
Not prosecuted		33	47	60	57	77	70	86	82

*Note:* Data for 1999 is for November and December of that year.

##### Article 7 (Supply etc. of child pornography)

	1999	2000	2001	2002	2003	2004	2005	2006	2007
Received normally	28	188	153	203	283	272	510	686	637
Request made for trial	23	124	116	139	156	168	347	473	428
Request made for summary order	2	22	15	32	58	56	84	112	105
Not prosecuted	2	31	14	20	49	45	67	59	68

*Note:* Data for 1999 is for November and December of that year.

*Note:* Data for 2004 and afterwards includes cases both before and after the revised act came into effect.

#### Paragraph 44

63. To eliminate the unnatural wage disparity between men and women, Japan has long prohibited gender discrimination under Article 4 of the Labor Standards Law. In addition, the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment prohibits gender discrimination in various aspects of employment management that may have a big impact on wage determination, namely recruitment, hiring, assignment and promotion, education and training. The Government of Japan is

working to reduce wage gaps between men and women including through the enforcement of these laws.

64. In addition, to ensure that women are not subjected to wage discrimination, it is effective to eliminate discrimination in the way that jobs and work are assigned, to enable women to acquire a wide range of skills, and to ensure that the skills they have acquired are evaluated fairly. In light of these, in 2006 the Government revised the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment in order to reinforce the prohibition of gender discrimination in employment management. For example, the revised Act explicitly stipulated that gender discrimination is prohibited in the allocation of duties and the granting of authority and prohibited indirect discrimination (see Article 6.5 for details of the revision). In addition, in accordance with the important Notice Concerning Employment Management for a career-tracking system, which was revised to accommodate the revised Act, the Government advises companies on how they can ensure that a career-tracking system does not operate as a discriminatory, de facto gender-based personnel management system. Furthermore, the Government calls on labor and management to find out about wage disparities between men and women in their companies, think of ways to reduce it, and establish fair and transparent systems by, for example, clarifying the criteria for determining wages and the evaluation system. To this end, since 2003 the Government has been distributing to labor and management organizations “the Guideline on the Improvement Measures of Wage and Employment Management for Eliminating Wage Disparity between Men and Women”. In addition, to monitor current wage disparity between men and women and the progress being made in reducing them, the Government produces reports on such wage disparity and distributes them to labor and management organizations and employers.

65. In Japan, working conditions are determined in the individual companies through negotiations between the labor and management from different companies or occupational labor unions. Given this situation, to accelerate reviews of employment management systems and practices, efforts by labor and management within individual companies are of the utmost importance. It is also essential to change the attitudes of society towards such matters as women continuing to work after having families.

66. In addition to prohibiting gender discrimination by law, the Government has, until now, taken what it believes to be the most effective approach based on the practice of employment management in Japan. For example, the Government has encouraged management and workers to take measures to review employment management within their companies including by providing guidelines. Although employment management in companies shows signs of more and more changes due to such trends as economic globalization and the declining birth rate, the Government intends to keep a close eye on such trends, with the understanding and cooperation of labour and management, and to continue to take active measures to reduce wage disparity between men and women.

#### **Paragraph 45**

##### *ILO Convention No. 105*

67. This Convention prohibits forced labor as a means of punishment for having participated in strikes, and the Government therefore needs to carefully consider whether this is compatible with domestic law in Japan, which provides for imprisonment with labor for conspiring to strike and inciting or instigating strikes.

##### *ILO Convention No. 111*

68. In Japan, equality under the law is basically provided for under the Constitution, and in the fields of employment and work, measures to prevent discrimination are stipulated in

relevant labor laws and regulations. However, since this Convention covers a wide range of discriminatory practices relating to employment and work, the Government needs to carefully study whether this convention is compatible with domestic law, in considering the ratification of the convention.

*ILO Convention No. 169*

69. This Convention covers a number of aspects of the protection of workers, which are unrelated to those aspects to be handled by the ILO. It also contains provisions that are in conflict with Japan's legislative system. For example, the Convention provides for respecting the customs of indigenous and tribal peoples in criminal punishment and for giving priority to punishments other than imprisonment for indigenous peoples. These are incompatible with Japan's system of criminal punishment, which is based on the principle that the criteria for what constitutes a crime must be established before they are applied and the principle of equality under the law as provided for under the Constitution of Japan. These problems posed by the Convention make it difficult for Japan to be able to ratify it in the immediate future.

**Paragraph 46**

70. To promote reductions in working hours in Japan, the Government has encouraged management and workers to take voluntary actions to improve issues such as rules on working hours in accordance with the Act on Special Measures for Improvement of Working Time Arrangements, which came into effect in April 2006.

71. In addition, in terms of specific administrative measures, the Government has promoted, for example, the adoption of a system for designating when leave must be taken, to improve the rate of paid annual leave taken and compliance with limits on extensions to working hours prescribed in labor-management agreements made pursuant to Article 36, paragraph 1 of the Labor Standards Act.

**Paragraph 47**

72. To ensure that people have stable employment opportunities up to the age of 65 in Japan, the Law concerning Stabilization of Employment of Older Persons was revised in 2004 and came into force in 2006. Based on this revised law, employers are obliged to take one of the following measures; to raise their mandatory retirement age, to introduce a system for enabling employees to continue working beyond the mandatory retirement age, or to abolish the mandatory retirement age altogether. The Government is also implementing measures to help elderly persons find new jobs.

73. Public employment security offices also assist people to find stable employment by providing information on vacancies and giving advice on careers. Job seekers who need to find new jobs urgently, such as family breadwinners, are given extra support in which an assigned staff member assists them throughout the entire job-finding process, from identifying vacancies to actually getting them employed. In addition, to help middle-aged job seekers, who have a tendency to repeat holding unstable short-term jobs, private companies (to which services are outsourced by public employment security offices) provide them with appropriate assistance focused on their living and psychological needs.

**Paragraph 48**

74. Given their special status and the public nature of their duties, and from the standpoint of safeguarding the collective interests of the people as a whole, the basic labor rights of civil servants are subject to certain restrictions. However, from the standpoint of

safeguarding their right to life, they are compensated for these restrictions through, for example, the National Personnel Authority recommendation system.

75. The Supreme Court of Japan has ruled repeatedly that the prohibition of strikes by civil servants is constitutional. In other words, although civil servants are also workers, and Article 28 of the Constitution, which guarantees basic labor rights, therefore also applies to them, these rights have to be restricted from the standpoint of safeguarding the collective interests of the people as a whole. In addition, the restrictions on basic labor rights are appropriately compensated for through, for example, the National Personnel Authority recommendation system. The Court therefore holds that the provisions of laws prohibiting strikes by civil servants are not unconstitutional.

76. Although the Government fully recognizes the ILO's views on the prohibition of civil servants' right to strike, the determination of the scope of restrictions on strikes by civil servants should take into account the various circumstances in each country, such as the country's historical background and the current state of relations between civil servants and the government.

#### **Paragraph 49**

##### *Transparency of information, safety*

77. To obtain the understanding of citizens and residents of areas in which nuclear power installations are located, the Government recognizes that it is important to give them full explanations and to hear their opinions concerning the safety of nuclear power.

78. The Government has used various opportunities and the media to make appropriate disclosures of information concerning the safety of nuclear power.

79. The Nuclear and Industrial Safety Agency of the Ministry of Economy, Trade and Industry has assigned local public-relations officers for nuclear power safety to key areas of nuclear power installations. They explain the safety regulations governing nuclear power to local public entities, assemblies, and residents in the areas of nuclear power installations, and work to strengthen the systems of information disclosure by actively producing and distributing pamphlets. The Government will continue to do its utmost to enhance the understanding among the public of nuclear power safety regulations, and intends to instruct the operators of nuclear power installations to ensure that they should disclose information and give clear explanations to outsiders about safety.

##### *Preparation of plans*

80. The Basic Disaster Management Plan, which is based on the Disaster Countermeasures Basic Act, Japan's fundamental law concerning disasters, contains a section on dealing with accidents at nuclear power installations, which prescribes, as a basis for tackling nuclear-power-related accidents, the actions that need to be taken to prevent the occurrence and escalation of accidents and to recover from them.

81. Based on the Basic Disaster Management Plan, relevant ministries and agencies have formulated Disaster Management Operating Plans, while prefectures and municipalities have produced Local Disaster Management Plans. These plans place the affairs under the jurisdiction of relevant ministries and agencies and specify the actions to be taken within the prefectures and municipalities concerned.

82. Pursuant to the Act on Special Measures for Nuclear Disasters, operators of nuclear power installations have formulated a Disaster Management Operating Plan for each installation, which prescribes the action to be taken to prevent nuclear-power-related

accidents, respond to emergencies, and deal with the aftermath of nuclear-power-related accidents.

**Paragraph 50**

83. In 2001, the pension eligibility age hike started, to become 65 from 60, in 25 years.

84. It is important for the implementation of this process to link the pension scheme closely with actual employment and work practice. For this reason, the Law concerning Stabilization of Employment of Older Persons was revised in 2004. The revision requires employers to (1) raise the mandatory retirement age to 65 or, introduce a system for enabling employees to continue to work beyond the mandatory retirement age until 65, etc. and (2) strengthen the reemployment assistance given to elderly people.

85. In addition, pension reforms carried out in 1994 and 2000 improved an early benefits system of employees' pensions, so as to enable people to receive benefits from the age of 60 if their personal circumstances require it. Furthermore, the pension reform carried out in 2004 scrapped a measure that suspended 20% of benefits to employees receiving pension in their early 60s. The aim of this reform was to reduce a disincentive to work for people in their early 60s, and to adopt a neutral system for people receiving benefits while working.

**Paragraph 51**

86. Creating a new pension system including a "minimum guaranteed pension" is mentioned in the Policy Agreement upon the Establishment of a Coalition Government (September 9, 2009).

87. In addition, in 2001, the "Investigative Committee for the Pension System in line with the Change of Women's Lifestyle" discussed the most desirable pension system for women. Following the outcome of the discussions, the Government made pension reforms in 2004 which legally articulated the basic recognition that "contributions paid by the category-2 insured person with dependent spouse have been borne by both members of the couple" and introduced a system for splitting employee pension benefits in cases of divorce.

**Paragraph 52**

88. Discrimination relating to disabilities is not only prohibited in Article 14 of the Constitution (equality under the law), but is also articulated as fundamental legal principle in the Basic Act for Persons with Disabilities, which was revised in 2004.

89. With regard to the abolition of discriminatory provisions in laws and regulations, all 63 systems containing provisions that disqualify persons with disabilities have been reviewed.

90. By June 1, 2008, 38 out of 38 national government organizations (100.0%), 152 out of 160 prefectural organizations (95.0%), and 2,107 out of 2,512 municipal organizations (83.9%) had met the legally-prescribed minimum employment rate for persons with disabilities.

91. Employment of persons with disabilities by public-sector organizations has steadily increased, though some organizations have not met the legal minimum yet. Of particular concern are prefectural boards of education, with only 4 out of 47 currently meeting the legal minimum.

92. In light of this situation, in 2005 a target for the employment rate for persons with disabilities at public-sector organizations was set, with organizations failing to meet it being

subject to strict guidance. Through these measures, the Government intends to continue working to meet the legally-prescribed minimum employment rate for persons with disabilities.

### **Paragraph 53**

93. Since the ICESCR does not apply to issues that occurred before Japan ratified the Covenant in 1979, it is not appropriate for the “comfort women” issue to be brought up in the review of the country report.

94. Responding with this caveat, the Government of Japan submits that it conducted with the utmost rigor a study of the “comfort women” issue, which included a fact-finding survey among former “comfort women”, between December 1991 and August 1993, and released the findings in August 1993. Upon the release of the findings, then Chief Cabinet Secretary Yohei Kono issued a statement that recognized the issue of “comfort women” as one that “severely injured the honor and dignity of many women”, and extended the Government’s “sincere apologies and remorse”. The views expressed in this statement have reflected the fundamental and consistent position of the Government of Japan ever since.

95. The Government has been dealing with the problems of reparations, property, and claims concerning the Second World War, including the issue of “comfort women”, in good faith in accordance with the San Francisco Peace Treaty, bilateral peace treaties, and other relevant treaties. In this way, issues concerning the War have been legally settled with the countries that are parties to those treaties.

96. In accordance with the aforementioned position, the Government of Japan, together with the people of Japan, thoroughly discussed what could be done about this issue and jointly established the Asian Women’s Fund in July 1995 to facilitate practical support for former comfort women who had by then reached advanced ages. The Fund, which is based on the results of the aforementioned study, provided atonement money, medical and welfare support, etc to former “comfort women”. The government made a major effort to support the fund, contributing 4.8 billion yen from the national budget to the Fund until its dissolution in March, 2007. Facts about the comfort women and the activities of the Fund are fully disclosed to the public through the Fund’s website (<http://www.awf.or.jp>). These records can also be accessed at the website of the Japan Center for Asian Historical Records (<http://www.jacar.go.jp>). In addition, the Government of Japan delivered a letter of apology from the Prime Minister to the former comfort women through the Asian Women’s Fund.

97. The Government of Japan will continue its efforts to promote awareness of the sympathy of the people of Japan represented by the activities of the Asian Women’s Fund. Carrying on the intentions of the fund, the Government will actively engage in projects related to the honor and dignity of Asian women, including providing care to former comfort women.

### **Paragraph 54**

98. To ensure that people in intensive-care older people’s homes in disaster-hit areas are taken care of, the Government has asked each prefecture and ordinance-designated city to ensure that facilities and prefectures near disaster-hit areas dispatch care workers etc. and provide daily necessities such as food and diapers.

99. In addition, in accordance with the Act on Extraordinary Expenditure and Assistance to Cope with Major Disasters and the Act for Extraordinary Expenditure and Assistance to Cope with the Hanshin-Awaji Earthquake, the Government has raised the proportion paid by the national government to the cost of repairing intensive-care old people’s homes etc. following disasters, and have built new intensive-care older people’s homes to cope with the increased demand for care following disasters.

**Paragraph 55**

100. The Japan Housing Finance Agency provides loans at long-term fixed interest rates to cover the cost of rebuilding or reconstructing homes that have been destroyed or damaged by disasters.

**Paragraph 56**

101. Nationwide investigations into homelessness in Japan were carried out with the cooperation of local public entities in 2003 and 2007 pursuant to the provisions of the Act on Special Measures concerning Assistance in Self-Support for Homeless (hereinafter referred to as the “Act”). These investigations provided us with information on where homeless people spend their time, the reasons they have become homeless and other such matters.

102. In addition, based on the Basic Policy on Assistance in Self-Support for Homeless, which the Government reviewed in 2008 in light of the provisions of the Act and the results of the nationwide investigation conducted in 2007, the Government is comprehensively implementing measures in various fields such as employment, housing, health care and welfare, with the aim of helping homeless people to become self-reliant.

**Paragraph 57**

103. In procedures for provisional disposition orders under the Civil Preservation Act, the reasons for the order must be attached to the order (Article 16 of the Civil Preservation Act). In addition, provisional disposition orders that order the eviction of the obligor may only be issued to prevent the obligee suffering extreme damage or being exposed to imminent danger, and, in principle, may only be issued following an oral argument (i.e. oral proceedings) or a hearing that the obligor was able to attend (Article 23, paragraphs 2 and 4 of the same Act). If the obligee has an objection to the provisional disposition order, he/she may petition the court with a preservation objection (Article 26 of the same Act). The court will decide whether to accept the petition, and if it decides to rescind the provisional disposition order, it may order, pursuant to a petition from the obligor, the obligee to restore the situation to its original state (Article 32, paragraph 1 and Article 33 of the same Act). If the obligor has an objection to the court’s decision on the preservation objection petition, he/she may petition the court with a preservation appeal (Article 41, paragraph 1 of the same Act). In addition, the court may order the suspension of the execution of the provisional disposition order until it decides whether to accept the obligor’s preservation objection or appeal petition (Article 27 and Article 41, paragraph 4 of the same Act). Moreover, a provisional disposition order is a temporary measure, and the court will decide whether eviction is appropriate when it considers the merits of the case, for which the procedures are more rigorous. If the obligee does not file a request asking the court to consider the merits of the case, the court must, subject to a petition from the obligor, order the obligee to file such a request and submit a document proving that such a request has been filed. If the obligee does not submit such a document, the court must, subject to a petition from the obligor, rescind the preservation order (Article 37, paragraphs 1 and 3 of the same Act). This concluding observation therefore demonstrates a misunderstanding of Japanese law.

104. In Japan, procedures for ordering eviction, including procedures for issuing provisional disposition orders, do not contravene the Committee’s guidelines as expressed in general comments No. 4 and 7.

**Paragraph 58**

105. The Government is working to improve the selection of students by upper secondary schools through the introduction of multi-faceted systems of evaluation that encompass the diverse abilities, aptitudes, and overall suitability etc. of students. This involves a shift from a system of selection heavily weighted towards academic examinations to a system encompassing recommendations, interviews, and so on. The Government has also made numerous improvements along the same lines to the selection of students by universities. Japan believes that problems such as chronic absences, illnesses, and suicides among students are the result of a complex combination of various factors; and it is unclear whether they relate only to the education system.

**Paragraph 59**

106. Japan has a Textbook Authorization System, the aim of which is to ensure that the contents in textbooks are appropriate, while also allowing authors to exercise their creativity and originality by entrusting the authoring and editing of textbooks to the private sector. For some time, the authorization process has required that a textbook meet some important criteria such as that:

- (1) It is based on nationally-prescribed curriculum standards (Courses of Study).
- (2) It is free from errors and inaccurate descriptions.
- (3) It is fair and balanced.

107. The Textbook Authorization System is implemented appropriately and rigorously following the results of expert deliberations by the Textbook Authorization Research Council.

**Paragraph 60**

108. In cases where children of foreign residents in Japan, and who are linguistic minorities, wish to enroll in public schools for compulsory schooling, public schools accept them free-of-charge just as they do Japanese children, in accordance with relevant international human rights treaties such as ICESCR. To facilitate the smooth integration of such students into the Japanese educational system, maximum consideration is given to their needs, for example the development of curricula for teaching the Japanese language; the assignment of Japanese teachers to them; and native language support from assistants proficient in our mother tongue.

109. For example, in cases where a Korean student is poor in Japanese, a Korean-speaking assistant works with the teacher to support the student's Japanese language learning, and create an environment conducive to learning in general.

110. With regard to schools for foreigners, various types have been approved of as official non-classified schools by prefectural governments, in accordance with Article 134 of the School Education Act, and certain non-classified schools that are also quasi-school corporations receive financial assistance from municipalities and prefectural governments. In addition, there are also cases in which certain schools may fulfill requirements for the eligibility of their students to enter a Japanese university.

111. Schools meeting the requirements prescribed in Article 1 of the School Education Act (so-called Article 1 schools) can receive Article 1 recognition. If they receive such recognition, they receive treatment identical to other Article 1 schools, including financing and the eligibility for entrance into universities. In the past, some schools for foreigners have indeed become so-called Article 1 schools.

**Paragraph 61**

112. Foreigners who reside legally in Japan are afforded the same social security as Japanese people in accordance with the principle of equality for nationals and foreigners.

113. In addition, laws and regulations relating to labor standards are applied to all workers employed by domestic entities, regardless of their nationality etc.

114. With regard to foreign trainees, to deal with the fact that an increasing number of organizations have been treating them inappropriately by failing to pay their wages, and by infringing their human rights, Japan has been actively conducting fact-finding investigations and has designated as “unjust conduct” the behavior of organizations treating foreign trainees inappropriately. Japan has also taken measures to prohibit such organizations from being able to take on foreign trainees for three years. Japan also conducted a review of the system for enrolling foreign trainees with the aim of better protecting them. This review led to a revised Immigration Control and Refugee Recognition Act being passed at an ordinary session of the Diet in 2009, with the act being promulgated in July of the same year. This act provides for the application of labor laws and regulations to foreign trainees engaged in practical training.

**Paragraph 62**

115. The concluding observations to the second periodic report have been widely distributed to people in legislative, administrative, and judicial circles, and are also provided on the website of the Ministry of Foreign Affairs.

116. In the process of preparing the third periodic report, a wide range of opinions from the general public was collected through the website, and meetings with NGO members and the general public were organized for consultations to take place.

**II. Comments on the general provisions of the Covenant**

117. The Japanese Constitution is based on “respect for the individual” and stipulates 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” (Article 14, Paragraph 1). This article serves to guarantee equality under the law for all people. “Equality under the law” is the general principle that binds the legislature, the executive, and the judicature, and this principle is the supreme consideration in all affairs of state.

**A. Right of self-determination**

118. Refer to the items mentioned under Part II, Article 1 of the fifth periodic report of Japan under the International Covenant on Civil and Political Rights (CCPR/C/JPN/5, para. 37).

**B. Status and rights of foreigners**

119. Refer to chapter I, section B of the second periodic report under Article 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.21 and Corr.1).

### C. Employment of foreigners as civil servants

120. Refer to chapter I, section C of the second periodic report under Article 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.21 and Corr.1).

### D. Provisions prohibiting discrimination in domestic law

121. For provisions prohibiting discrimination in domestic law, refer to paragraph I.4. of the second periodic report under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.21 and Corr.1). However, since the report was submitted, there have been some additions, for example:

(a) Opportunity and treatment in employment: Articles 5 and 6 of the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment:

“With regard to the recruitment and employment of workers, employers shall provide equal opportunities for all persons regardless of sex” (Article 5).

“With regard to the following matters, employers shall not discriminate against workers on the basis of their sex.

(i) Assignment (including allocation of duties and grant of authority), promotion, demotion, and training of workers;

(ii) Loans for housing and other similar fringe benefits as provided by Ordinance of the Ministry of Health, Labor and Welfare;

(iii) Change in job type and employment status of workers; and

(iv) Encouragement of retirement, mandatory retirement age, dismissal, and renewal of the labor contract” (Article 6).

(b) Right to receive education:

Article 26 of the Constitution of Japan:

“All people shall have the right to receive an equal education corresponding to their ability, as provided by law.”

Article 4, paragraph 1 of Basic Act on Education:

“Citizens shall all be given equal opportunities to receive education according to their abilities, and shall not be subject to discrimination in education on account of their race, creed, sex, social status, economic position, or family origin.”

(c) Respect for the human rights of women and men; Article 3 of the Basic Act for a Gender-Equal Society:

“The formation of a Gender-equal Society shall be promoted based on respect for the human rights of women and men, including: respect for the dignity of women and men as individuals; no gender-based discriminatory treatment of women or men; and the securing of opportunities for women and men to exercise their abilities as individuals.”

## **E. Development assistance to other countries**

122. Refer to chapter I, section E of the second periodic report under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.21 and Corr.1). However, since the report was submitted, there have been some additions, for example.

### **1. Assistance to make the right to work a reality**

123. Japan considers technical and vocational training in developing countries as one of the top priorities in development assistance. The importance of the development of human resources is clearly stated in the ODA (Official Development Assistance) Charter, which was decided on by the Cabinet in August 2003, based on the recognition that human resources are necessary and essential to support sustainable growth in developing countries.

### **2. Assistance to make the fundamental right to be free from hunger a reality**

124. Japan contributes to famine-relief through grant aid.

### **3. Assistance to make the right to education a reality**

125. Japan provides grants and loans to construct elementary, lower secondary, and upper secondary schools, as well as facilities for social education, and is improving and expanding courses broadcast over the air, as well as the training and retraining of school staff. In addition, through its Grant Assistance for Grassroots Human Security Projects, Japan has provided financial assistance to support grass-roots level projects to construct facilities, install equipment, etc. such as those conducted by NGOs since 1989. In the field of technical cooperation, achievements in the area of education that resulted from technical cooperation projects have been highly appreciated by the recipient countries. Japan also actively promotes the acceptance of students from developing countries at institutions for higher education, to contribute to the development of human resources in their countries. Japan comprehensively promotes various measures such as the Japanese Government Scholarship System in order to provide high-quality higher education to students around the world. In FY 2001, a special system "In-Service Teacher Special Participation System" was established within the Japan Overseas Cooperation Volunteers to enable teachers to volunteer to work overseas. The aim was to allow teachers, with practical education experience and abilities, to participate actively in international cooperation activities. In the seven years it has been operating, 510 teachers have been dispatched overseas.

## **F. Public welfare**

126. Refer to chapter I, section F of the second periodic report under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.21 and Corr.1).

## **G. Measures for the socially disadvantaged**

### **1. Measures for persons with disabilities**

127. Discrimination relating to disabilities is prohibited in Article 14 of the Constitution (equality under the law), and in 2004 the Basic Act for Persons with Disabilities was amended to articulate such discrimination as a fundamental legal principle. With regard to discriminatory provisions in laws and regulations, provisions that disqualify persons with disabilities in laws and regulations have been reviewed, and 63 systems were revised.

128. Japan is striving to create an integrated society in which all citizens, whether they have disabilities or not, have mutual respect for each other's personalities and individual characteristics and support each other. To this end, and in accordance with the Basic Act for Persons with Disabilities, in 2002 the Government formulated a New Basic Plan for Persons with Disabilities, which inherited the principles of the former New Long-Term Programme for Government Measures for Persons with Disabilities. And with the aim of putting this new plan into practice, in the same year and also in 2007 Japan formulated Five-year Plans for the Implementation of Priority Measures. Japan has been continuing to take more and more steps to increase the participation and involvement in society of persons with disabilities.

## **2. Measures for elderly persons**

129. In April 2000, in response to factors such as increases in the number of elderly people requiring care with their aging as well as changes in the situation of families who support them with an increasing trend towards nuclear families, a nursing care insurance system was established to serve as a mechanism for enabling society as a whole to assist in the provision of care to the elderly.

130. The long-term care insurance system provides health and welfare services to those people who have come to require care due to illness brought on by old age, and therefore need help with bathing, using the toilet, eating, as well as rehabilitation and medical care such as nursing and medical-related management. The system is administered by municipalities, which are familiar with their local residents.

131. Since the system was introduced, infrastructures for providing services have steadily been improved, while the number of people covered by the system, the number of people requiring care, and the number of people using the services have gradually increased. The system has been widely appreciated. On the other hand, the rapid increase in the use of such services has caused the costs of the system to rise sharply.

132. For some time, Japan has been facing a declining population but also an increasingly aging one. Furthermore, the number of elderly people with dementia and elderly people living alone is expected to increase rapidly. Such major challenges have therefore encouraged the establishment of an effective system for preventing the need for care, steadily building the infrastructure needed to enable people to live independently in the areas that have long been their homes, and ensure that the long-term care insurance system is sustainable.

133. A review of the long-term care insurance system was therefore conducted, and this review led to the passage of a revised Long-Term Care Insurance Act in June 2005. This act, which was promulgated in April 2006, called for the establishment of prevention benefits and community support projects and a review of the care services for people who do not require a high degree of care in order to make those services more effective by preventing the need for care. The Act also resulted in the introduction of long-term care prevention projects for people who risk becoming in need of care or assistance.

134. In addition, although the Government had been making progress in establishing an infrastructure for enabling high-quality services to be provided by a wide range of entities, some fraudulent cases emerged in which malicious and systematic wrongdoing by certain care service providers took place over a wide geographical area. To prevent a recurrence of such incidents and improve the management of long-term care provision, the Long-Term Care Insurance Act and the Act on Social Welfare Service for the Elderly was enacted in May 2008 and came into force on May 1, 2009.

135. Furthermore, to ensure that elderly people can maintain their dignity, it is important to prevent them from being subjected to abuse. To this end, the Act on the Prevention of

Abuse of Elderly Persons and Support for Persons Giving Care to Elderly Persons, which was submitted by the members of the Diet, was enacted, and come into effect in April 2006.

136. In addition to defining the abuse of elderly persons, the act makes it obligatory for anyone discovering such abuse to report it to the municipality. For their part, municipalities are required to accept reports of abuse in homes, care facilities, etc., while the national government and local governments must take action to protect elderly people who have been subjected to abuse.

137. Since the act came into effect, municipalities have been working to ensure that they can swiftly identify and address cases of abuse. For example, they have established points of contact for receiving requests for advice and reports concerning abuse.

### **3. Measures for children and families**

138. Since the Basic Direction for Future Child Rearing Support Measures (Angel Plan), which was described in the Second Periodic Report, the Government has been implementing measures such as the following:

(a) New Angel Plan:

(i) In December 1999, at the Ministerial Meeting to discuss ways of tackling the declining birth rate, the Basic Policy on Tackling the Declining Birth rate was adopted, and in the same month the Specific Implementation Plan for Priority Measures for the Declining Birth Rate (New Angel Plan) was formulated;

(ii) The implementation of the New Angel Plan, which involved the expansion of extended-hour childcare and childcare on holidays, came to an end in Fiscal 2004, by which time the initial targets set forth in the plan had been surpassed. The number of facilities offering extended-hour childcare had increased to 13,086, while the number of facilities providing childcare on holidays had risen to 618.

(b) Next Generation Nurturing Support Measures Promotion Law:

(i) In July 2003 the Next Generation Nurturing Support Measures Promotion Law was enacted to promote concentrated strategic initiatives by local governments and companies over the next 10 years;

(ii) In addition, in response to factors such as the sharp decline in the birth rate, the following revisions were made to the Act in December 2008:

(a) To promote local initiatives to support the raising of the next generation, the national Government sets standards (reference standards) that municipalities should refer to when drawing up their action plans (targets for the amount of support to be provided). In addition, when formulating or changing their action plans, municipalities and prefectures must take into account the opinions of residents, try to get management and labor involved, conduct periodic assessments of the progress in implementing measures based on their action plans, and work to ensure that the right measures are being taken when the plans have been changed;

(b) The number of ordinary companies required to formulate and submit action plans has been expanded, and such companies now have to make their reports public and inform their employees about them;

(c) Specific employers must inform their employees about their action plans (plans on measures to support the raising of the next generation that the national government and heads of local governments etc. formulate for their employees) and publicize progress on the implementation of measures based on the plans.

## (c) Plan for Supporting Children and Child-Rearing:

(i) In December 2004 the Government formulated the Plan for Supporting Children and Child-Rearing to serve as a concrete plan for implementing priority measures based on the General Principles for Tackling the Declining Birth rate, which had been adopted by the Cabinet in June of the same year;

(ii) Based on the Plan for Supporting Children and Child-Rearing, since Fiscal Year 2005, Japan has set specific targets for all aspects including the independence of young people, a review of their ways of working, and local support for child-rearing, and has been comprehensively implementing measures to support child-rearing by society as a whole. The Government has focused in particular on increasing the diversity of the childcare services offered by childcare facilities such as expanding extended-hour childcare, childcare on holidays, and childcare at night. And in February 2008 the Government adopted a new strategy to reduce the number of children on waiting lists for childcare to zero. The Government is implementing this strategy now, and it will involve, among other things, a massive increase in the capacity of childcare facilities in terms of the number of children they can accommodate (for example, the proportion of children under three years old who can receive childcare services will be increased from around 20% at present to 38%).

## (d) Priority Strategies for Building a Japan that Supports Children and Families:

(i) In December 2007, the Council on Measures for Society with Declining Birth rate put together a package of Priority Strategies for Building a Japan that Supports Children and Families. These strategies articulate the need for the simultaneous implementation of measures to (1) improve the work-life balance by reviewing methods of work and (2) massively expand services (e.g. childcare) that support child-rearing.

## (e) The Medium-term Program for Establishing a Sustainable Social Security System and Securing Its Stable Revenue Sources:

(i) Following deliberations by the People's Council on Social Security, in December 2008 the Cabinet decided on a Medium-term Program for Establishing a Sustainable Social Security System and Securing Its Stable Revenue Sources. In addition to positioning measures to tackle the declining birth rate as measures for which stable funding should be secured through a radical reform of the tax system including the consumption tax, the program also called for studies to be carried out on the possibility of designing a new systemic framework for addressing the declining birth rate, with a view to massively expanding services (e.g. childcare) that support child-rearing.

## H. Measures for the creation of a gender-equal society

139. The Headquarters for the Promotion of Gender Equality, which is composed entirely of Cabinet Ministers, chaired by the Prime Minister as its President, and with the Chief Cabinet Secretary and the Minister of State for Gender Equality as the Vice Presidents, formulated a new national plan of action, "Plan for Gender Equality 2000" in December 1996, and has been promoting the comprehensive and systematic implementation of the policy measures towards forming a gender-equal society (in which women and men shall be given equal opportunities to participate voluntarily in activities in all fields as equal partners and shall be able to enjoy political, economic, social and cultural benefits as well as to take equal responsibilities).

140. In addition, in April 1997 the Council for Gender Equality was established on a legal basis. It deliberated on basic measures for the creation of a gender-equal society including the basic law on a gender-equal society, as well as an in-depth study on matters related to violence against women.

141. In June 1999 the Basic Act for a Gender-Equal Society was enacted. This act not only prescribes fundamental principles relating to the formation of a gender-equal society, but also defines the respective duties of the national government, local governments, and the people. In December 2000, the Basic Plan for Gender Equality was formulated pursuant to this Act. This plan, which also took into account the achievements of “Women 2000”, a special session of the United Nations General Assembly, laid out a long-term policy directive towards 2010, and also contained specific measures to be implemented by the end of Fiscal Year 2005.

142. In December 2005 the plan was revised. The revised plan lists 12 priority fields and for each of them lays out a long-term (to Fiscal Year 2020) policy directive and contains specific measures to be implemented by Fiscal Year 2010.

143. In addition, following the reorganization of the national government (January 2001), the Council for Gender Equality was also reorganized to make it stronger. As one of the Government’s “councils on important policies”, the council investigates and deliberates on basic policies etc. for promoting the formation of a gender-equal society. It is also entrusted with monitoring the implementation of government policies and investigating the impact of government policies on the formation of a gender-equal society. And cooperation among the various ministries and agencies is also being strengthened. Unlike the preceding one, the new council is not made up solely of intellectuals with the relevant knowledge and experience. Chaired by the Chief Cabinet Secretary, it now also features the Minister of State for Gender Equality as well as ministers from other ministries responsible for the implementation of policy relating to gender-equality, thus enhancing coordination among the relevant ministries. In addition, a Gender Equality Bureau, which is responsible for the overall coordination and promotion of the gender-equality policy, was established in the Cabinet Office.

144. As described above, a framework for promoting gender-equality has been steadily established, and the whole Government is now working to implement measures to promote the formation of a gender-equal society.

## **I. Promotion of a policy for the Ainu people**

145. On June 6, 2008, the Japanese Diet unanimously adopted a Resolution Calling for the Recognition the Ainu as an Indigenous People. Responding to this resolution, the Government announced that it would promote the current policies further towards establishing a comprehensive policy for the Ainu People with the recognition that the Ainu People are an indigenous people who live in or around the Northern part of Japan, especially Hokkaido, and have their own language, religion and culture. To this end, the Government established an “Advisory Panel of Eminent Persons on policies for the Ainu people”, which, while carefully listening to the Ainu People themselves, held an in-depth consultation on how to plan and implement a future policy and submitted recommendations to the Chief Cabinet Secretary in July 2009. In an immediate response to the recommendations, the Government set up an office in charge of Ainu Policy at the Cabinet Secretariat in August, which plays a central role in preparations for such as setting up a forum with the Ainu People’s participation.

146. The whole Government intends to make continued and steady efforts towards putting the recommendations into practice. The Government recognizes that it is important

to build a society where different ethnic groups show mutual respect and can co-exist happily.

### III. Report on specific rights

#### Article 6

147. The policy modifications and statistics updated since Japan submitted its last periodic report are as follows.

##### 1. Basic data related to employment and unemployment

148. Table 1 shows trends in the unemployment rate (the number of unemployed people as a percentage of the labour force) for each gender and age group. After peaking at 5.4% in 2002, the unemployment rate has gradually declined. However, in 2008 it edged up 0.1 points from the previous year's figure of 3.9%, marking the first rise in six years. Looking at the unemployment rate for each gender and age group, the unemployment rate for men increased year-by-year for all age groups except the 20–24-year-old bracket. In the case of women, meanwhile, the unemployment rate has been declining for young women but increasing for age groups such as the 30–34-year-old group. A look at the recent employment/unemployment situation reveals that the unemployment rate climbed to 5.0% in April 2009, indicating that the situation has become more severe due to factors such as the impact of the global economic crisis.

149. Table 2 shows the trends in the job openings to job applications ratio and the unemployment rate based on regions. It shows that job openings to job seekers ratios are low in Kinki (the Osaka area) and regions that are far from major cities, such as Hokkaido, Tohoku (both in the north of Japan), Shikoku, and Kyushu (both in the south of Japan). The unemployment rates in these regions also tend to be high, indicating that regional disparities exist.

150. In the case of people with disabilities, it is particularly important to provide them with carefully tailored career advice and refer them to jobs that match their abilities, aptitude, etc. Public employment exchanges therefore offer a registration system for people with disabilities who are looking for work. Table 3 shows job referrals for persons with disabilities made at "Hello Work", public employment offices. The number of such people landing jobs has been increasing sharply recently, and among the reasons for this are the fact that people with disabilities have become more enthusiastic about working, more companies are making an effort to hire them, and "Hello Work" public employment exchanges are working harder to help them.

##### 2. Policies and measures to guarantee the right to work

151. Since the last periodic report was submitted, the Government has adopted "Basic Guidelines for Employment Policy" to provide a framework for policies relating to employment in Japan.

152. To achieve and maintain full employment, which is the goal of employment policy, it is obviously important to be able to implement flexibly employment-related measures that reflect the current situation of the economy and employment. Efforts are also necessary to cope adequately with medium-to-long-term changes in the labour force supply and demand structure. Japan has therefore formulated "Basic Employment Measures Plans" since 1967 (the 9th Plan was adopted in 1999). However, with economic and social conditions changing rapidly, it has become important for the national government to

implement flexible employment measures that meet the needs of different regions, rather than devise uniform plans that cover a fixed period of time. The Basic Employment Measures Plans have therefore been abandoned in favor of Basic Guidelines for Employment Policy (adopted in February 2008), which lays out a medium-term directive for employment-related measures. These guidelines are based on a document called “Roadmap and Strategy” (now entitled “The Medium-to Long-term Fiscal Policy and an Economic and Fiscal Outlook for the Next Ten Years”, decided on by the Cabinet on January 19, 2009), which expresses the whole Government’s basic stance on medium-term measures to boost employment. In addition, each fiscal year the national government and local governments work closely together to formulate regional policies for the implementation of flexible and effective employment measures that match the circumstances of different regions, as well as nationwide guidelines to assist in the preparation of those regional policies.

### **3. Policies to improve labor productivity**

#### *Encouraging a reduction in working hours*

153. To promote ways of working that offer a good work-life balance, the Government is trying to improve the organization of working hours etc. by encouraging workers to take their annual paid leave and proactively implementing measures to reduce working hours, with a particular focus on reducing overtime.

### **4. Ensuring equal employment opportunities**

154. Article 3 of the Employment Security Act stipulates that no one shall be discriminated against in employment placement, vocational guidance, or the like, for reasons of race, nationality, creed, sex, social status, or family origin, etc. The Government implements the following measures to guarantee substantially equal employment opportunities.

#### **(a) Male and female workers**

##### *(i) Revision of the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment; the Labor Standards Act, etc.*

155. The Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment was revised to prevent workers from being discriminated against on the basis of sex, to create working environments in which mothers are respected, and enable women to demonstrate their abilities to the full. The revised act, along with the Ministerial ordinances and guidelines based on it, came into effect in April 2007.

156. The main revisions were as follows:

(i) In addition to prohibiting discrimination based on sex against both women and men, the act now makes it clear that discrimination in the “allocation of duties” and the “grant of authority” are included in discrimination in “assignment”. It also prohibits discrimination based on gender in “demotion”, “change in job type”, “change in employment status”, “encouragement of retirement”, and “renewal of the labor contract”;

(ii) The revised act prohibits indirect discrimination unless there is a legitimate reason for it, such as where it is required to ensure the duties concerned can be performed by the person in question. Three types of indirect discrimination are defined thus: “making the height, weight, or physical strength of workers a requirement in the recruitment or hiring of workers”, “making the ability to move

house to take on new assignments a requirement in the recruitment or hiring of “career-track” workers under career-track-based personnel management systems”, and “making experience of different work locations a requirement for the promotion of workers”. These three types of indirect discrimination will be reviewed in the future whenever the need arises;

(iii) Although dismissal based on pregnancy, childbirth, or the taking of maternity leave has been prohibited for some time, the revised act also prohibits other disadvantageous treatment besides dismissal. The act also invalidates dismissal during pregnancy or within one year of the birth of the child unless the employer can prove that the pregnancy etc. was not the reason for the dismissal;

(iv) Although employers have had to consider taking measures to prevent the sexual harassment of women for some time, under the revised act they actually have to take such measures, and the same now also applies to the sexual harassment of men;

(v) Employers that do not take measures against sexual harassment or take proper care of the health of mothers are now subject to the provisions in the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment concerning assistance in the resolution of disputes, the conciliation system, and the publication of the names of companies found to be in violation of the act. In addition, a provision on the collection of reports stipulates that employers that fail to submit reports or submit false reports will be subject to a non-penal fine.

(ii) *Assistance with improving employment management*

157. Since the last periodic report, the equal opportunity departments at prefectural labor bureaus have continued to address personnel-management-related issues such as recruitment, hiring, assignment, and promotion. Specifically, they have been working to raise awareness of the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment, which was revised in 1997. In addition, to strengthen compliance with the Act and ensure that personnel management practices are in line with the law, they have, among other things, provided education and advice, instructed employers to improve their systems of personnel management, and assistance in the resolution of individual disputes. Specifically, they have given strict instructions to employers where problems have been found, following consultations with female workers, the employer itself, etc., in terms of their compliance with the law. They have also held periodic hearings with companies to find out about their treatment of women, and, if a problem is identified, they have worked to provide active guidance, such as by strictly demanding that they rectify the problem.

158. Since further revisions to the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment took effect in April 2007 after the act was revised the previous year, the departments have been working to ensure awareness of the purpose and content of the revised act, and have continued to provide appropriate guidance to employers to ensure that their personnel management practices are in compliance with the revised act. They also continue to provide assistance in the resolution of individual disputes. In addition, to promote improvements in personnel management in line with the revised act, they urge companies to take voluntary action to address problems.

(iii) *Exceptions from the application of the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment*

159. With regard to guidelines pursuant to the Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment, revised in 2006, which prescribe

prohibited measures for which it is deemed necessary to be specifically and clearly expressed in order to enable employers to take appropriate action concerning recruitment, hiring, assignment, promotion, etc., the following exceptions are admitted:

- (i) Duties in which it is necessary that only persons of a particular sex engage in it due to such demands as verisimilitude in expression in any of art or the art of public entertainment;
- (ii) Duties, such as of guards or security personnel, in which it is necessary that men engage in it due to the demands of crime prevention;
- (iii) In addition to the duties listed in (i) and (ii) above, duties in which there is deemed to be the need for a similar level of necessity to that found in the above duties that only persons of a particular sex engage in due to religious reasons, reasons of public morals, due to the nature of competition in sports, or otherwise due to the nature of the business;
- (iv) Cases in which it is deemed difficult to provide equal opportunities to all workers or to treat all workers equally regardless of sex in order to conduct of normal duties when women workers cannot conduct duties under the provisions of the Labour Standards Act and when men workers cannot conduct duties under the provisions of the Act on Public Health Nurses, Midwives and Nurses;
- (v) Cases in which it is deemed difficult to provide equal opportunities to all workers or treat all workers equally regardless of sex due to special circumstances, such as cases in which it is necessary to serve in an overseas location where it is difficult for persons of a particular sex to exercise their abilities fully due to differences in public morals, customs, etc.

160. These guidelines have been reformulated on two occasions, in 1998 and 2006, and the current guidelines have been applied since April 2007.

**(b) The Ainu people, Dowa people, and Korean residents in Japan**

161. Refer to Part I above, on paragraph 40 of the concluding observations.

**(c) Foreigners entering Japan**

162. Japan believes that in order, for example, to advance its industry and revitalize its economy and society, it is important to actively promote the employment of foreign workers in professional and technical fields. Foreigners who have been permitted to enter and reside in Japan can find jobs at public employment exchanges just like Japanese citizens, provided that their status of residence allows them to do the jobs concerned. The Government is thus working to ensure that foreigners have opportunities for employment. In addition, Employment Service Centers for Foreigners and the Employment Service Corners for Foreigners that have been established in areas already with large numbers of foreigners also provide assistance with finding jobs. Furthermore, guidelines aimed at encouraging employers to take appropriate action to improve their personnel management of foreign workers state that employers should endeavor to treat foreign workers fairly during the hiring process in order to enable foreign workers to demonstrate their abilities effectively, provided, that their status of residence allows them to do the jobs concerned.

**(d) International cooperation**

163. International cooperation in the field of labor involves assisting developing countries to establish the fundamental requirements for social and economic development, and represents a key pillar of international cooperation for Japan.

164. In addition to helping other countries develop their human resources by dispatching experts, accepting trainees, and so on, in recent years Japan has, through the International Labor Organization (ILO), in the field of multilateral cooperation, been playing an active role in efforts to ensure that people everywhere can do what the ILO describes as “decent work” (i.e. meaningful work that respects workers’ dignity).

## **Article 7**

### **1. Wages**

#### **(a) Methods of deciding on wages**

165. Article 28 of the Constitution guarantees the right of workers to organize and to bargain and act collectively. In principle, wages are determined through discussions between labor and management or through collective bargaining. Based on the provisions of the Constitution, laws such as the Labor Union Act and the Act on Labor Relationship of Specified Independent Administrative Agency recognize the right to conclude labor agreements with regard to wages and other working conditions.

166. The basic labor rights of national public employees, however, are limited because of the characteristics of their positions and their public duties. National public employees in regular service engaged in the non-operational sector may not conclude labor agreements about their working conditions such as their remuneration. Instead, their remuneration is stipulated by law, and is revised in accordance with the general conditions of society based on recommendations made by the National Personnel Authority (a neutral third party organization) to the Diet and Cabinet (Article 28 of the National Public Service Act and Article 2 of the Act on Remuneration of Officials in the Regular Service).

167. The Cabinet’s basic stance is to respect the system of recommendations by the National Personnel Authority as compensation for the restrictions on the basic labor rights of national public employees. After receiving the recommendations, it studies them while taking into account the national government’s fiscal position and economic conditions in the private sector from an overall political point of view, and then makes a decision on how to revise the remuneration of public employees. It then puts together its proposed revisions in the form of a bill and submits it to the Diet.

168. The remuneration of local public employees (excluding the employees of local public enterprises and persons employed in simple labor) is also determined in a similar manner (Articles 24 and 26 of the Local Public Service Law).

#### **(b) Minimum wage**

169. Minimum wages are guaranteed under the Minimum Wages Act to secure the livelihood of workers and to improve the quality of the labor force. The Minister of Labour, Health and Welfare or the directors of prefectural labor bureaus ask the national or prefectural minimum wage council, which comprises an equal number of members from the public sector, the labor side and the management side, to conduct investigations and engage in deliberations on an appropriate minimum wage. They then determine the minimum wage based on the opinion of the council. There are two types of minimum wage based on investigations and deliberations by minimum wage councils: regional minimum wages (the minimum wage applied to all workers in a prefecture regardless of industry or type of work) and specific minimum wages (the minimum wage applied to workers in a specific industry or occupation; at present only industry minimum wages exist). Previously, regional minimum wages based on labor agreements also existed, but these were scrapped pursuant

to a revised Minimum Wages Act, which took effect in July 2008 (at present they remain in only two regions).

170. The minimum wages on April 30, 2009 are shown in Table 4 and depend on the method of calculation.

171. With the exception of public employees in general positions and other persons stipulated by law, the minimum wage is applied to all workers, including full-time, temporary, and part-time employees. However, the minimum wages of workers engaged in intermittent work may be subject to special reductions authorized by the director of the prefectural labor bureau.

172. The level of the minimum wages is determined by the Minister of Labour, Health and Welfare or the directors of prefectural labor Standards bureaus based on the results of investigations and deliberations by the Minimum Wage Council. The Minimum Wages Act stipulates that the minimum wage should be decided on taking into consideration three factors: the cost of living for workers, the wages of workers, and a normal employer's capacity to pay. In its deliberations, the Minimum Wage Council studies the results of surveys of the actual wages paid to the workers concerned, while members of the Minimum Wage Council also visit offices etc. to find out about actual jobs and wages and hear the views of workers and employers. They then determine the minimum wage by paying attention to such factors as the cost of living in the region, the starting salaries of recent graduates, the minimum wages agreed within the companies, the distribution of workers across different wage brackets, and the degree of impact on employment as judged from the number of workers whose wages are lower than the envisaged minimum wage.

173. Table 5 shows the national averages of regional and specific minimum wages.

174. Employers have an obligation to pay the minimum wage or a higher wage, and those who violate it are to be punished under the Minimum Wage Law. Even if labour and management were to agree on a wage lower than the minimum wage, it would be invalid and it is recognized that they agree on the minimum wage (Article 4 of the Minimum Wage Law).

175. With regard to violations of the Minimum Wage Law, a Labour Standards Inspection Administration Inspector is responsible for conducting investigations with a judicial police officer, which is stipulated in the Code of Criminal Procedure.

176. Minimum wages should be determined after taking into account (1) the cost of living for workers, (2) the wages of workers, and (3) a normal employer's capacity to pay. When taking into account the cost of living for workers, consistency with welfare programs must also be taken into consideration (Article 9 of the Minimum Wages Law).

177. Once the minimum wages have been determined, they are published in the official gazette, while labor standards supervisory bodies work hard to make people aware of them, for example, by distributing leaflets to workers and employers or by organizing meetings for them to explain the minimum wages. Labor standards supervisory bodies also provide guidance to employers across the country, and order employers that have violated the rules to rectify the situation.

178. Tables 5, 6, and 7 compare the cost of living with the minimum wages and average wages now, five years ago, and ten years ago.

179. Japan concluded the ILO Convention No. 26 (Convention concerning the Creation of Minimum Wage-Fixing Machinery) and Convention No. 131 (Convention concerning Minimum Wage-Fixing, with Special Reference to Developing Countries) in April 1971, and has established a legislative system that conforms to these Conventions. Japan submitted its latest reports on the implementation of Convention No. 26 to the ILO and Convention No 131 to the ILO in 1976 and in 2006 respectively.

## **2. Equal treatment**

180. Article 3 of the Labour Standards Law stipulates that “An employer shall not discriminate against or in favour of any workers with respect to wages, working hours, or other working conditions because of the nationality, creed, or social status of any worker”, while Article 4 sets forth the principle of equal wages for men and women. Japan also concluded the ILO Convention No. 100 (Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value) in July 1967, and has established a legislative system in accordance with the Convention.

### **Treatment of female workers**

181. As Japan stated in the previous periodic report, discrimination against women in assignment of jobs and promotion has been prohibited, and this is gradually being reflected in corporate personnel management practices. According to “The Basic Survey Employment Management Of Woman (1995)”, women accounted for 4.7% of company employees with positions equivalent of a subsection chief or higher (they made up 1.5% of employees with positions equivalent of the director of a department, 2.0% of employees with positions equivalent of the Section manager of a department, and 7.3% of employees with positions equivalent of a subsection chief). By 2006, however, this figure had risen to 6.9% (women made up 2.0% of employees with positions equivalent of the director of a department, 3.6% of employees with positions equivalent of the Section manager of a department, and 10.5% of employees with positions equivalent of a subsection chief).

## **3. Safe and healthy working conditions**

### **(a) Key laws, regulations, etc.**

182. There have been no changes in terms of legislation, judicial precedent, administrative measures, etc. since the last periodic report was submitted. Japan ratified ILO Convention No. 81 (Convention concerning Labour Inspection in Industry and Commerce) in October 1953, and has implemented its labour standards administrative activities based on this Convention. As for the implementation of this Convention, refer to the Japanese report submitted to the ILO in 2008.

### **(b) Industrial accidents**

183. The number of casualties due to industrial injuries (accidents while on duty or while commuting and occupational illnesses) has continued to decrease after reaching a peak in 1961. The same trend has been observed since the first report (see Table 8). In 1998, the number of deaths due to industrial injuries fell below 2,000 people for the first time, then dropped below 1,500 in 2006. Data on the number of people killed and the number of casualties (people absent four or more days of work) due to industrial injuries in the past ten years is as follows:

- (a) Numbers of deaths:
  - 1997: 2,078 people
  - 2002: 1,658 people
  - 2007: 1,357 people
- (b) Number of death and injuries (people absent four or more days of work):
  - 1997: 156,726 people
  - 2002: 125,918 people
  - 2007: 121,356 people

**(c) Occupational diseases**

184. The number of people suffering from occupational diseases stood at between 15,000 and 18,000 per year during the first half of the 1980s, but declined in the long-term and dropped to 8,684 in 1980. However, cases of back pain have been increasing in recent years. Data on the number of people suffering from occupational diseases (people absent four or more days of work) in the past ten years is as follows:

- 1997: 8,557 people
- 2002: 7,502 people
- 2007: 8,684 people

185. The breakdown of occupational diseases that occurred in 2007 is as follows: 72% as a result of injury, and approximately 7% as a result of pneumoconiosis and related complications.

186. The percentage of workers required to undergo special health examinations for hazardous work, based on the Industrial Safety and Health Law, was 6.3% in 2007.

**4. Rest, leisure, limitation of working hours, and paid holidays**

**(a) Normal and overtime working hours**

187. The Labour Standards Law states that an employer shall not make a worker work more than 40 hours per week, excluding rest periods, or more than eight hours per day for each day of the week, excluding rest periods (Article 32). In addition, an employer may only make a worker work more than these legally stipulated hours in a case of emergency (Article 33) or when a written agreement between labour and management on overtime work has been duly submitted to the local administrative office (Article 36).

**(b) Annual paid holidays**

188. In 1999 Article 39 of the Labor Standards Law was revised. Under the previous version of the law, an employee received one additional paid holiday for each year of continuous service starting from the day that employee had been employed continuously for six months. Under the revised law, however, after having been employed continuously for two years and six months, an employee receives an additional two paid holidays for each year of continuous service.

## Article 8

### Right to form and join labor unions

189. The number of labor unions and their members in Japan are industry by industry indicated in Table 9.

190. The changes in domestic law, court judgments, and administrative regulations and procedures that affect the rights provided for in this article are as follows:

#### (a) Privatization of postal services

191. The Government enacted the law that privatized Japan Post on October 1, 2007, thereby excluding the Japan Post from the range of application of the Act on Labour Relationship of Specified Independent Administrative Agency, etc. As a result, the Trade Union Law applies to the employees of the privatized Japan Post, just as it applies to private-sector employees.

#### (b) Incorporation of national universities

192. The Government enacted the law that incorporated national universities on April 1, 2004, thereby excluding them from the range of application of the National Public Service Act. As a result, the Trade Union Law now applies to the employees of national university corporations, just as it applies to private-sector employees.

## Article 9

### 1. Japan's social security system

193. Japan's social security system provides benefits such as medical care, injury and sickness benefits, maternity benefits, old-age pensions, disability benefits, survivor benefits, family benefits, industrial accident benefits, and unemployment benefits.

194. The changes in domestic law, court judgments, and administrative regulations and procedures that affect rights concerning social security since the last Periodic Report are as follows:

195. With regard to the employment insurance system, because of the recent harsh employment situation, the Government revised the Employment Insurance Act, which took effect from March 31, 2009. Through these revisions, the Government has improved the safety net for non-regular workers and boosted support for helping people who have lost their jobs to find new ones.

196. With regard to the pension system, the Government revised the system in 2000 following the actuarial valuation. The revisions included: reform of the level of benefits; reform of the benefits paid to people in their early 60s, the introduction of a system for the early payment of old-age employees' pension benefits; an extension in eligibility for employees' pension insurance; reform of the exemption system of contribution for the National Pension, the introduction of a total remuneration system for calculating contributions and benefits; and special exemptions from contributions to the Employees' Pension Insurance for people on childcare leave.

197. In addition, a further revision to the pension system in 2004 saw the establishment of a sustainable system under which benefit payments and burdens are balanced over the long term, and so avoid an excessive burden on the working generations. Specifically, the reform (1) put a cap on the level of contributions in the future while making every effort to contain its rise, (2) introduced a mechanism for automatically adjusting the level of benefits

in line with the level of contributions, (3) decided to use the pension reserve funds effectively, and (4) raised the state-contribution portion of basic pension benefits to 50% after securing the required stable revenue sources through a fundamental tax reform.

198. With regard to the medical insurance system, in 2006 laws such as the Health Insurance Act were revised, with the changes being phased in gradually. The aim of the revisions was to create a sustainable system that can adapt to changes in Japan's demographic structure, a system that while still providing high-quality healthcare, achieves a balance between benefits and contributions. In April 2008 the Government introduced a new long-life medical insurance scheme. This system, which replaced the latter-stage elderly persons' health insurance scheme, serves as a mechanism for enabling both the working generations and the elderly to support each other. The aim is to provide a stable level of assistance to help elderly people, the number of whom is expected to grow in the future, with their medical bills and to ensure that the system of universal health insurance is sustained in the future.

199. In addition, the national government and prefectural governments have been formulating and implementing comprehensive plans to make the increase in medical costs worthwhile over the medium to long term. The formulation of these plans involved focusing on the structural factors behind the increase in medical costs, and the implementation of strategic initiatives to prevent lifestyle diseases and reduce the length of hospital stays.

200. Japan concluded ILO Convention No. 121 (Employment Injury Benefits Convention) in June 1974 and Convention No. 102 (Social Security (Minimum Standards) Convention) in February 1976, thereby undertaking the obligation to provide injury and sickness benefits, unemployment benefits, old-age pensions, and industrial accident benefits. For information on our implementation of these conventions, refer to the reports the Government submitted to the ILO in 2007 (on Convention No. 107) and 2008 (on Convention No. 121).

## **2. Medical care, injury or sickness benefits, and maternity benefits**

201. Japan's medical insurance system is a mechanism for providing the necessary benefits to people requiring medical care, people who are injured or sick, and mothers who are giving birth. In addition to the medical insurance system, a public assistance (living assistance) scheme also exists, which is funded from the general budgets of the national government and local governments.

### **(a) Contents of the medical insurance system**

202. The present medical insurance system consists of seven different schemes, which reflects the fact that different schemes were created for different employment sectors and regions. These schemes comprise employee insurance schemes for employees and their families (health insurance (administered by corporate health insurance societies or the Japan Health Insurance Association\*), seamen's insurance, and three mutual-aid schemes for national public employees, local public employees, and teachers and employees of

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\* With regard to national-government-administered health insurance, the national government used to administer this insurance and applied a fixed rate for premiums nationwide. However, with the aim of enabling the insurer to better fulfill its functions by, for example, administering insurance schemes in such a way as to reflect local conditions and taking action to reduce medical care costs, in October 2008 a new public corporation, the Japan Health Insurance Association was established to serve as the insurer and administer the insurance independently of the national government. Therefore, national-government-administered health insurance became the Japan Health Insurance Association.

private schools) and regional insurance for other people (the national health insurance and long-life medical insurance schemes (the latter-stage elderly persons' medical insurance scheme\*\*). Under Japan's system of public medical insurance, persons who do not meet the requirements for joining employee insurance or long-life medical insurance schemes (such persons as retired people or self-employed people under the age of 75) join the national health insurance scheme. Japan therefore has a system of universal health insurance, under which all citizens join one of the public medical insurance schemes so that anyone, anywhere, and at any time can receive appropriate medical care.

203. The main aspects of the employee health insurance and national health insurance schemes, which together cover the majority of the population are as follows:

(i) *Medical care*

204. Medical care provided under both schemes includes medical treatment, surgery, hospitalization, nursing care, dental treatment, medication, etc. Following changes in the law in 2006, the parents of preschool children pay 20%, school-age children up to adults under the age of 70 pay 30%, and people of 70 years of age and older pay 10% of their medical costs. However, the maximum amount a person has to pay is 80,100 yen + medical costs x 1% in any monthly period. This is in the case of people under the age of 70 who have an income, with the amount varying according to income and age. Any amount above this is covered by a system of high-cost medical care assistance.

(ii) *Sickness benefits*

205. The employee health insurance schemes provide a sickness allowance to safeguard the livelihoods of people who are unable to work because of injury or sickness. At present, such people receive two thirds of their standard daily remuneration (1/30th of their standard monthly remuneration, which is determined on the basis of 47 monthly salary grades). The allowance is paid for a maximum of one year and six months. Payment of sickness allowances under the national health insurance scheme, on the other hand, is optional, but as of April 2008 around 70% of national health insurance societies provide such an allowance.

(iii) *Maternity benefits*

206. Employee health insurance schemes provide two thirds of the standard monthly remuneration in maternity benefits for the 42 days before and the 56 days after childbirth, when the insured do not go to work due to childbirth and do not receive salaries. In addition, to help ease the financial burden of the expenses that accompany childbirth, there is also a lump-sum birth and nursing grant (spouse lump sum birth and nursing grant for the spouse) of 380,000 yen (which will be raised to 420,000 yen between October 2009 and March 2011). Under the national health insurance scheme, details of the grants are determined by municipal ordinances, though in most municipalities a lump-sum birth and nursing grant of 380,000 yen (rising to 420,000 yen between October 2009 and March 2011) is paid.

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\*\* The long-life medical insurance scheme will be explained later (2 (b) (iii)).

**(b) Financial structure of the medical insurance system***(i) Health insurance*

207. The amount of an individual insurance premium is calculated by multiplying the standard monthly remuneration of the insured person by the premium rate, and, in principle is split equally between the insured and his/her employer. As of April 2008, the premium rate for the Government-run Health Insurance Scheme was 8.2%, while the average for the association-run health insurance scheme was 7.308% as of the end of February 2008.

208. The administrative costs for these schemes are paid by the Government. Under the Japan Health Insurance Association, 13% of the cost of insurance benefits such as medical treatment, medical care benefits for dependants, sickness or injury benefits, maternity benefits, and high-cost medical care benefits (including those for dependants) are covered by the National Treasury.

*(ii) National health insurance*

209. Under the national health insurance scheme, the premium is paid by the household of the insured person. The amount of the premium is, in principle, the sum of a percentage of income and a percentage of assets, a per-head levy (fixed sum multiplied by the number of members in the household), and a per-household levy (same for all households), though no household need pay more than 590,000 yen per year.

210. In the case of national health insurance, around 50 percent of the benefits etc. are paid out of public funds. The reasons for this include the fact that unlike employee health insurance, there is no employer contribution, and the fact that many people insured under the scheme belong to the low-income group. In addition, to ensure stability in funding for the scheme, the Government takes measures such as providing insurers that insure a large number of low-income people with subsidies and implementing projects aimed at leveling out insurance premiums.

*(iii) Long-life medical insurance scheme (latter-stage elderly persons' medical insurance scheme)*

211. Like the system of medical insurance for the aged, the long-life medical insurance scheme covers persons of 75 years or older. Being based on clear rules regarding the relative burdens of the working generation and the elderly (around 50% of benefits are paid from public funds, around 40% are paid by the working generations, and around 10% are paid out of the premiums paid by the elderly), and being administered over large geographical areas by groups of prefectures, the scheme has clear accountability for administration and stable financing.

212. To expand the use of the long-life medical insurance scheme, the Government is taking action to inform the public of the purpose, details, etc. of the scheme. The Government is also implementing measures to improve the scheme, such as further reducing premiums for low-income people and allowing people to choose whether to pay their premiums by bank transfer or have them deducted from their pensions. In addition, because it is necessary to further improve the scheme so that it is fully accepted by the elderly people, the Government is reviewing the scheme and exploring ways of making it even better.

**3. Old-age benefits, disability benefits, and survivor's benefits**

213. Old-age benefits, disability benefits, and survivor's benefits are provided under public pension schemes, which apply to all residents of Japan (the nationality requirement was abolished in January 1982). Corporate and individual pensions are also offered based

on the type of work and the community. These pensions are provided as a means of enriching life in old age through self-help efforts, while public pensions aim at guaranteeing the basic part of retirement needs. These schemes thus supplement each other.

214. There are two types of public pension schemes: the National Pension Scheme, which provides a basic pension common to all beneficiaries, and Employees' Pension Schemes, which provide pensions in proportion to salary. The latter includes the Employee Pension Insurance Scheme for general employees, and Mutual-Aid Pension Schemes for national public service employees, local public service employees, teachers and employees of private schools. The outline of the National Pension Scheme, which applies to the entire population, and the Employees' Pension Insurance Scheme, which applies to company employees, is described below. The outline is basically the same as those given in the initial and second periodic reports. However, the pension system was reformed in 2000 and 2004 to balance benefits and contributions over the long term and to ensure that the system is sustainable, even given the trend of the decreasing number of children being born and the increasingly aging population.

**(a) The National Pension Scheme**

215. The National Pension Scheme applies to all residents of Japan aged 20 to 59 years old. Spouses (housewives, etc.) of those insured under Employees' Pension Schemes are also independently insured.

216. The benefits of the National Pension include (i) an old-age basic pension, which is provided for those over 65 years of age who have contributed for 25 years or more (66,008 yen monthly since April 2009), (ii) a disability basic pension, which is provided according to the degree of disability (82,508 yen monthly for class 1 and 66,008 yen for class 2 since April 2009), and (iii) a survivor's basic pension, which is provided to a family when an insured or an person eligible for his/her old-age basic pension dies (66,008 yen monthly plus an additional amount, depending on the number of children since April 2009).

217. Financial resources are covered by contributions from the insured (14,660 yen monthly in fiscal year 2009), contributions from employees' pension insurance schemes, and from the National subsidy (as a general rule, the obligatory share is half of the benefit costs of a basic pension).

**(b) The Employees' Pension Insurance Schemes**

218. The Employees' Pension Insurance Schemes applies to persons employed by private-sector companies.

219. Benefits of the insurance include (i) old-age benefits, which are provided for those over 60 years of age who have contributed for 25 years or more (the amount is determined by age, average monthly standard remuneration, months of contribution, existence of spouse and/or children); (ii) disability benefits, which are provided for disabilities resulting from sickness or injury which originated during the period of being insured (the amount is determined by the average monthly standard remuneration, months of contribution, and degree of disability); and (iii) survivor's benefits, which are provided for a family when an insured person or a person who was eligible for an old-age basic pension dies (the amount is determined by the average monthly standard remuneration and the months of contribution).

220. Financial resources are covered by contributions paid equally by employees and employers. The premium rate is 15.35% (from September 2008 to August 2009).

#### 4. Family benefits

221. Based on the Child Allowance Law, the Government established the Child Allowance Scheme in January 1972 to contribute to a stable family life, as well as to promote the healthy growth of children. The number of beneficiaries was 9,295,555 as of February 2008. This system was outlined in the second periodic report (Refer to Part II, Article 9, subsection 3 (a) – (c) of the second periodic report). However, the following revisions have since been made:

(1) Following revisions to the Child Allowance Law in 2000, a “Preschool Special Allowance” was introduced for preschool children aged three years or older. Like the Child Allowance and Special Allowance, 5,000 yen is paid per month for each of the first two children, while 10,000 yen is paid per month for each additional child. Two thirds of the cost is covered by the national government and one third by local governments.

(2) In 2001 income restrictions were eased, with the maximum income for a family of four to be eligible for allowances being raised from 4,325,000 yen to 5,963,000 yen, and that for a family with a salaried employee as head of the household being increased from 6,700,000 yen to 7,800,000 yen.

(3) Revisions in 2004 expanded the range of children eligible for the allowance described above in (1) to cover children up to (and including) the third year of elementary school, introducing the “Special Allowance for Children Who Have Not Completed the Third Year of Elementary School”.

(4) Revisions in 2006 expanded the range of children eligible for the allowance described above in (3) to cover children up to (and including) the final year of elementary school, introducing the “Special Allowance for Children Who Have Not Completed Elementary School”.

(5) The 2006 revisions also eased income restrictions, with the maximum income for a family of four to be eligible for allowances being raised from 5,963,000 yen to 7,800,000 yen, and that for a family with a salaried employee as head of the household being increased from 7,800,000 yen to 8,600,000 yen. The cost-sharing by national and local governments was also changed, with one third to be covered by the national government, and two thirds by local governments (excluding the portion paid by employers).

(6) Revisions in 2007 doubled the Child Allowance and Special Allowance (covering children from 0 to under 3 years old) for the first two children, and an additional allowance of a monthly payment of 10,000 yen, for infants was introduced regardless of the order in which they were born.

#### 5. Employment injury benefits

222. Benefits for an injury incurred while on duty (including accidents while commuting) are paid in accordance with the Workmens’ Accident Compensation Insurance Law.

223. Workmens’ Accident Compensation Insurance is aimed at all workers (hired by employers and receiving salary) regardless of nationality, and applies to all companies that employ workers. In March 2008, the number of insured companies was approximately 2.64 million with approximately 51.31 million workers.

224. New measures adopted since the previous periodic report include the introduction of benefits for second medical examinations (when there are abnormal findings in all relevant factors relating to brain or heart diseases as shown during periodic medical examinations).

225. The workmens’ Accident Compensation Insurance Scheme is run by the Government. In principle, the expenses required by the insurance are covered by premiums

paid by employers. The premium is calculated by multiplying the total salary paid by the employer by the premium rate. The premium rate is determined for each industry, taking into account the rate of accidents in the past and other factors. Currently, the lowest rate is 0.3% and the highest is 10.3%.

## 6. Unemployment benefits

226. Unemployment and other benefits are paid to workers who are unemployed or have trouble in continuing to be employed, in accordance with the Employment Insurance Law. This aims to stabilize workers' livelihood and employment as well as to promote employment.

227. The Employment Insurance Scheme applies to companies where one or more workers are employed. All persons employed in such companies are insured and covered, except for persons insured under the Seamen's Insurance Scheme and persons continuing to be employed after reaching 65 years of age. At the end of March 2009, the number of companies and workers covered was approximately 2.02 million and 37.30 million, respectively.

228. There are three kinds of unemployment benefits: namely, the job applicant benefit, which aims to stabilize the livelihood of the unemployed, the employment promotion benefit, which aims to promote re-entry into the workforce, and the continuous employment benefit, which aims to contribute to the stabilization of employment by providing the necessary benefits for workers unable to continue to be employed. The amount and duration of the basic allowance under the job applicant benefit are determined by the daily wage of the person's latest job, his/her age and the insured period. The minimum daily amount of the basic allowance in August 1, 2009 was 1,640 yen, while the maximum was 7,685 yen. The minimum duration for benefit payment is 90 days and the maximum is 360 days.

229. The financial resources for unemployment benefits are covered by insurance premiums paid by employees and employers (as of Fiscal Year 2009 they equally bear half of the amount equivalent to 0.8% of workers' wages) and by the National Treasury.

## 7. Trend of costs related to social security

230. In recent years, with the population aging, social security costs as a proportion of the national budget and national economy have been increasing (refer to Table 10).

## Article 10

231. Policy modifications since the previous periodic report was submitted, as well as the latest data are described below. In June 2006, Japan ratified ILO Convention No. 138 (Convention concerning Minimum Age for Admission to Employment). Please also refer to the report submitted in 2008, on the status of implementation of the Convention.

### 1. Protection of the family

#### Assistance for families

##### (i) *Financial assistance for child rearing*

232. As was stated in the previous periodic report, financial assistance for parents etc. raising children includes a child allowance, which is provided based on the Child Allowance Law, a child-rearing allowance, based on the Child Rearing Allowance Law, and a special child-rearing allowance, based on the Law Concerning the Provision of the

Special Child-Rearing Allowance. The latest figures for benefits and numbers of recipients are as follows:

- (i) Regarding child allowance, refer to Article 9, 4. of this report;
- (ii) As of April 2008, the child-rearing allowance for the full amount is 41,720 yen per month, with partial amount ranging between 9,850 yen and 41,710 yen (adjustments are made based on the number of children). The number of recipients totaled 955,941 at the end of March 2008;
- (iii) As of April 2009, the special child-rearing allowance is 50,750 yen per month for a child with a Class 1 disability. The number of recipients totaled 180,000 at the end of February 2009.

(ii) *Nursery care services*

233. Infants and toddlers whose guardians are unable to take care of them adequately due to work, illness or other reasons, are provided with nursery care services based on the Child Welfare Law.

234. Based on the “Strategy to Reduce the Number of Children on Waiting Lists for Childcare to Zero”, as part of the General Policy on Helping Parents to Balance Worklife and Child Rearing, decided on by the Cabinet in July 2001, in the three years from FY 2003, the number of children attending childcare facilities has increased by around 156,000, including at day-care centers, childcare in the family environment and extended care at kindergartens. In addition, in Fiscal Year 2005 a new effort to reduce children on waiting lists under the “Support Plan for Children and Child-Rearing” was started, to vastly increase the number of children attending childcare, in municipalities with 50 or more children on waiting lists.

235. As a result of these initiatives, around 2.02 million infants and toddlers (around 30% of all infants and toddlers) were receiving care at approximately 23,000 childcare facilities nationwide in April 2008.

236. In addition, a new strategy was adopted in February 2008, for reducing the number of children on waiting lists for childcare to zero. The aim is to increase the quantity and enhance the quality of childcare facilities, with the goal of building a society where anyone who wants can work, leaving their children in a safe and secure place.

237. The costs of providing care for infants and toddlers at childcare facilities are covered by the national government or local governments and by fees collected from guardians based on their financial capabilities. The national government also provides subsidies to develop private childcare facilities.

(iii) *Childcare leave*

238. The Law concerning the Welfare of Workers Who Care for Children or Other Family Members, Including Child Care and Family Care Leave (hereinafter referred to as the “Child Care and Family Care Leave Law”), which came into effect in October 1995, was partially revised in 2001, to prohibit employers from treating workers disadvantageously because they applied for or took the childcare leave, and to raise the age of the children whose parents are eligible for shorter working hours. Later, in April 2005, the range of workers eligible for childcare leave was expanded and the period of childcare leave was extended.

239. The revised law also stipulates that employers must take measures in accordance with the system of childcare leave or measures shortening working hours for workers who take care of children over one year of age and under three years of age (or, in certain cases,

one year and six months of age) (Article 23 paragraph 1), and that employers must take necessary measures, according to the system of child care leave or measures shortening working hours for workers who take care of children over three years old and before entering elementary school (Article 24 paragraph 1).

240. With regard to this section, please refer to paragraph 336 of Japan's sixth periodic report on the Convention on the Elimination of All Forms of Discrimination against Women.

(iv) *Family care leave*

241. The 2001 revisions to the Child Care and Family Care Leave Law prohibit employers from treating workers disadvantageously if they apply for or take family care leave. In addition, in April 2005 the range of workers eligible for family care leave was expanded and the number of times that family care leave can be taken was increased.

242. Under this law, workers caring for family members (spouse, parents and children, parents of spouse, or grandparents, siblings, or grandchildren who are living together and supported by the same household) under the requisite conditions (the necessity of giving constant care for more than a two-week period) can take family care leave for up to total of 93 days. Each time a family member requires care the worker must submit a request to their employer, who may not reject such a request if it satisfies the required conditions.

243. Employers must also take measures, such as shortening working hours for 93 days or more, to allow workers taking care of a family member or family members under the requisite conditions and who choose not to take family care leave, to remain employed and to facilitate their care-giving (Article 23, paragraph 2).

(v) *Sick/injured child care leave*

244. The 2001 revisions to the Child Care and Family Care Law urged employers to introduce a system of sick/injured child care leave.

245. In addition, further revisions made in April 2005 stipulate that workers taking care of children, who have not yet enter elementary school, may obtain leave for up to five days per year, to look after their children in the event of injury or sickness, upon submitting a request to their employers. (Article 16, paragraph 2-1).

## **2. Protection of mothers**

### **(a) Ensuring the health of expectant and nursing mothers, infants and toddlers**

246. Under the Maternal and Child Health Law, the Government provides health examinations to expectant or nursing mothers and infants and toddlers, health advice to expectant nursing mothers and the parents or guardians of infants and toddlers, medical care for premature infants, and various kinds of consultations relating to maternal and child health.

247. In addition, under the Services and Supports for People with Disabilities Law, the Government provides financial assistance to cover the medical costs incurred in ensuring that children with physical or mental disabilities can develop healthily and acquire the ability to live independently, and to cover the costs of prosthetic devices.

248. With regard to this section, please also refer to paragraphs 360 and 361 of the sixth periodic report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/JPN/6).

**(b) Financial assistance for childbirth**

249. Workers who are absent from work and therefore not receiving salary due to childbirth are paid, under the employee health insurance schemes, two thirds of their standard monthly remuneration in maternity benefit for 42 days before and 56 days after childbirth. In addition, to help ease the financial burden of the expenses that accompany childbirth, a lump-sum birth and nursing grant is also provided (spouse lump sum birth and nursing grant for the spouse) of 380,000 yen (which will be raised to 420,000 yen between October 2009 and March 2011).

250. Under the national health insurance scheme, details of the grants are determined by municipal ordinances, though in most municipalities a lump-sum birth and nursing grant of 380,000 yen (rising to 420,000 yen between October 2009 and March 2011) is paid.

**(c) Assistance for fatherless and other families**

251. Following the revision of the Law for the Welfare of Mothers with Dependents and Widows in 2002, comprehensive measures have been implemented, aiming principally at enabling single mothers to become self-reliant and employed. Measures include (1) assistance for child-rearing and ordinary living, (2) assistance in finding jobs, (3) support to cover the costs of child-rearing, and (4) financial assistance. In addition, based on a package of measures for improving living standards that was adopted at a joint meeting of the Government and the Ruling Parties Council and the New Economic Countermeasures and the Ministerial Meeting on Economic Measures on October 30, 2008, the period for supporting costs of advanced-skills training was extended in February 2009. The extended support is continued in Fiscal Year 2009, to help single mothers to be employed.

**(d) Protection of mothers under the Labor Standards Law and Equal Employment Opportunity Law**

252. The Labor Standards Law, which applies to all workers, stipulates the following measures to protect mothers:

- (i) Limitations on Belowground Labour (Article 64.2);
- (ii) Limitations on Dangerous and Injurious Work (Article 64.3);
- (iii) Work limitations of six weeks before childbirth (or 14 weeks in case of multiple pregnancy) and eight weeks after childbirth, and provisions for transferring pregnant women to lighter work activities (Article 65);
- (iv) Limitations on shift work and prohibition of overtime work, working on holidays and at night, when an expectant women or nursing mother so requests (Article 66);
- (v) The right to request time off for child-care for an infant under the age of one year (Article 67).

253. The revised Equal Employment Opportunity Law enacted in 2006 (see Article 6 5.), places employers under an obligation to take the following measures with respect to the health management of female workers in pregnancy and after childbirth:

- (i) Measures to ensure the necessary time for them to receive health guidance and medical examinations;
- (ii) Measures to enable them to observe the guidance given in health guidance or medical examinations.

254. The Government has established guidelines on measures to be taken by employers to ensure that female workers in pregnancy and after childbirth are able to observe the guidance given in health guidance or medical examination.

255. The Mariners Law also has similar provisions for their protection.

### **3. Protection of children**

256. Japan ratified the Convention on the Rights of the Child in April 1994. Refer to the third periodic report submitted in April 2008, for the implementation of the Convention (CRC/C/JPN/3).

#### **(a) Protection from economic exploitation**

257. In 1999 the Labor Standards Act was revised. Under the previous version of the act, employers were in principle prohibited from employing minors under 15 years of age, but under the revised version employers are in principle prohibited from employing minors until the end of the first 31st of March that occurs on or after the day when they reach 15 years of age (Article 56, paragraph 1). Exceptions are limited to the following cases:

(a) In cases where a minor of 13 years of age or older is employed, with permission from the appropriate administrative office, in regard to work which is not deemed hazardous to the health and welfare of the child, and is relatively easy in nature;

(b) In cases where permission from the appropriate administrative office is obtained in regard to the production of movies or performance work which is not deemed harmful to the health and welfare of the child, and is relatively easy in nature.

258. From January to December 2007, the number of such children permitted to work was 745.

#### **(b) Penalties for trafficking in children**

259. Articles 4 and 6 of the Act on Punishment for Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, which took effect in 1999, prescribes penalties for child prostitution, intermediation in child prostitution, and solicitation of child prostitution. Article 7 prescribes penalties for the provision, production, etc. of child pornography, and Article 8 prescribes penalties for the buying and selling of children for the purpose of child prostitution etc.

#### **(c) Protection of the human rights of children**

260. In 1994 the Human Rights Organs of the Ministry of Justice established a system of "Volunteers for Children's Rights Protection" to effectively handle the issues involving children's rights expertly. The Organs provide counselling for children's rights through human rights counselling offices, a telephone counselling hotline, "Children's Rights Hotline," and other ways. The Organs also offer the human rights counselling service on the internet, "Children's Rights SOS Email" and distribute "Children's Rights SOS Letter-Cards" to all elementary and lower secondary school students in the country. In these and other ways, the Organs monitor the children's rights, and if they find that those rights have been violated, they take appropriate measures promptly to remedy the situation. Furthermore, throughout the year and throughout the country, the Organs conduct various types of awareness-raising campaigns under the annual slogan "protect our children's rights".

#### **(d) Changes in legislation etc. that affect the rights described in this article**

261. The following changes in legislation affect the rights described in this article:

(a) Following the passage of a revised Child Welfare Act (act No. 153 passed in 2004), the system of placing children requiring protection with foster parents was discontinued;

(b) The Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children has been in force since November 1, 1999;

The act was partially revised on July 8, 2004 to expand the scope of legal penalties and punishment, while a revised version of the Criminal Code, which establishes human trafficking, including that of minors, as a crime, has been in effect since July 12, 2005.

(c) The Act on the Prevention, etc. of Child Abuse, which took effect in November 2000, prohibits child abuse, stipulates that the national government and local governments have a duty to prevent it, and prescribes measures for protecting children who have been victims of abuse and helping them to become self-reliant. In accordance with the provisions of this act, the Government is implementing measures concerning the prevention etc. of abuse against children;

(d) On November 1, 2004, an administrative dispensation was introduced to make the method of presentation in the relationship with father and mother column of the family register the same for children born out of wedlock as it is for children born in wedlock. In addition, children born out of wedlock who are already recorded in their family registers can apply to have the method of presentation in the relationship with father and mother column of the family register amended to make it the same as for children born in wedlock.

## **Article 11**

262. Article 25 of the Constitution stipulates that “All people shall have the right to maintain the minimum standards of wholesome and cultured living”.

### **1. Data related to an adequate standard of living**

#### **(a) Data concerning the living standards of nationals**

263. Table 11 shows the changes in annual income and consumption based on income class, according to the National Survey of Family Income and Expenditure. The data shows that both annual income and consumption have been decreasing for all income classes.

#### **(b) Assistance to the poor**

264. Under the Public Assistance Act, Japanese citizens who are struggling to make ends meet are provided with livelihood assistance, education assistance, housing assistance, medical assistance, long-term care assistance, maternity assistance, occupational assistance, and funeral assistance. The standard amount of monthly livelihood assistance provided to a standard three-member household (husband, wife, and one child) between Fiscal 2000 and 2009 in the highest price-index areas (large cities such as Tokyo and Osaka) is shown in Table 12.

#### **(c) Material living standard index**

265. Table 13 presents the number of consumer expenditure per household per month converted to expenditure based on a certain number of household members (four) and days (one month=30.4 days), which is further converted into an index based on the standards in 2005 and divided by the consumer price index (index of living expenditure).

## 2. Right to adequate food

### (a) Outline

266. Since food is the most basic commodity people need, assuring a stable supply of food and guaranteeing its security are objectives of fundamental importance for national policy. Therefore, the Government comprehensively implements the necessary measures for the improvement of agricultural productivity and structure, rationalization of food distribution and processing, and stabilization of agricultural product prices, to ensure a stable supply of food and measures for ensuring a stable supply of those agricultural imports which Japan depends upon from overseas sources. In addition, the Government has stored provisions for emergencies. Furthermore, it has implemented various consumption measures to promote a healthy and well-balanced diet. As a result, an appropriate food supply has been achieved in Japan, and the rights of certain deprived groups to receive an adequate supply of food are not being infringed.

### (b) Agricultural policy for maintaining an appropriate food supply

#### (i) *Development and improvement of agricultural land and promotion of its utilization*

267. In order to ensure a stable food supply in a country with limited agricultural land, the Government has implemented measures to develop and improve high-quality agricultural land as the foundation of our agricultural production as well as measures to promote its efficient use.

#### (ii) *Improvement of soil productivity*

268. Under the Soil Productivity Improvement Law, the Government has made efforts to maintain and improve the productivity from the soil, which exerts a significant influence on the improvement of agricultural productivity and on the assurance of a stable food supply.

#### (iii) *Introduction and utilization of equipment and materials for agricultural production*

269. The Government adopts measures to improve agricultural productivity and to ensure a safe food supply through the automation of agriculture, the maintenance of fertilizer quality, and the appropriate use of agricultural chemicals.

#### (iv) *Promotion of agricultural research and dissemination of agricultural technologies*

270. The Government facilitates technical developments through intensive agricultural research and makes efforts to improve the productivity of agriculture and the quality of agricultural products through the rapid and appropriate dissemination of agricultural technology.

#### (v) *Rationalization of the food distribution network*

271. The Government facilitates improvements in food quality, along with the smooth and appropriate distribution of food through the proper labelling of food products, the construction of wholesale markets for perishable foodstuffs, and the promotion of structural reforms in the distribution sector.

#### (vi) *Stable supply of staple foods*

272. Staple foods include key foods such as rice and wheat and in accordance with the Law for Stabilization of Supply-Demand and Prices of Staple Food, the Government draws up accurate forecasts for the supply of and demand for rice and wheat. Based on these forecasts, the Government:

(1) Promotes smooth adjustments in the production of rice to ensure a balance in the supply of and demand for rice, flexibly adjusts stocks to guard against shortages in the supply of rice, ensures that the rice that consumers need is appropriately and smoothly distributed, and makes sure that the purchase, import, and sale of rice is appropriate; and

(2) Smoothly adjusts stocks to guard against shortages in the supply of wheat and makes sure that the import and sale of wheat is appropriate.

273. In this way, the Government makes efforts to stabilize the supply of staple foods.

(vii) *Price stabilization for agricultural products*

274. To protect the livelihood of the nation from undesirable effects caused by excessive changes in agricultural prices, the Government has adopted price stabilization policies for agricultural products in accordance with the characteristics of each product and thus has achieved a stable food supply with stable prices.

(viii) *Plant protection and animal quarantine*

275. The Government facilitates the safety of and improvements in agricultural productivity through the elimination of outbreaks of plant pests and the prevention of the spread of disease, and encourages the promotion of livestock breeding through the prevention of the outbreak and spread of infectious diseases.

(c) **Influence of the environment and food production resources on the above measures**

276. Rice paddies, the major use of agricultural land in Japan, have a role in preserving the environment and the effect on the environment by the increased use of materials and machinery in rice paddies has not yet been clarified. However, while the increased use of machinery and materials, such as fertilizers and agricultural chemicals since the period of high economic growth has increased productivity in agriculture, there are concerns that an adverse impact on the environment would increase if they were used excessively. For example, there have been cases where nitrogen and phosphorus have flowed into lakes and ponds from agricultural land, which has led to a deterioration in water quality.

277. Projects to improve agricultural land, such as by land readjustment and the development of agricultural drainage facilities, contribute to the maintenance of agricultural and environmental preservation, as a result of the increase in labour productivity and the continuation of agricultural land use. It is requested to promote projects which take better care of the rich ecosystem of agricultural land.

278. To ensure continuous and stable agricultural production, while at the same time maintaining and increasing the environmental preservation function of agriculture, Japan has recognized that it is important to establish a harmonized environmental preservation-style agriculture (sustainable agriculture). This can be facilitated by minimizing the burden on the environment and promoting recycling in the agricultural sector.

(d) **Ensuring food safety**

279. In order to ensure food safety, the following measures have been taken based on the Food Sanitation Law:

(a) Establishment of standards for food, food additives, apparatus, and packaging;

(b) Monitoring and guidance by food sanitation inspectors;

(c) Developing a voluntary management system by food sanitation supervisors;  
and

(d) A business approval system for 34 types of industries (restaurants etc.).

**(e) Consideration of national nutrition**

280. Compared to the traditional eating pattern based on rice, fish and vegetables, dietary habits in Japan have recently become much more diversified and, on the whole, balanced with the addition of various food such as meat, milk, other dairy products, and fruit. As dietary habits change, however, the proportion of people skipping breakfast is increasing, people are becoming overly dependent on processed foods or certain types of food, people are becoming overly preoccupied with dieting, and so on. The National Nutrition Survey in Japan, in 1999 found that only around 30% of men and 50% of women possessed the knowledge and skills required to select appropriate food and prepare proper meals.

281. To address this situation, since 2000 the Government has been promoting a campaign called “Health Japan 21, to make people healthier in the 21st century”. The campaign features specific targets in nine areas including nutrition and diet, and is aimed at extending a healthy life-expectancy and improving people’s quality of life. And in accordance with the Basic Act on Food Education, which came into effect in 2005, the Government formulated the Basic Program for “Shokuiku”(food education), which promotes nine goals, such as reducing the proportion of people who skip breakfast, and, in a nation-wide campaign, has been promoting food education.

282. In addition, with the aim of encouraging people to take personal responsibility for improving their diets, in 2000 the Government formulated “Dietary Guidelines for Japanese” containing information on what people should pay attention to in their daily diets. And in 2005 the Government issued “Japanese Food Guide Spinning Top”, a more specific and easy-to-understand tool to serve as a balanced meal guide which presents suggestions regarding what to eat and the portions thereof per day in order to convert Dietary Guidelines into concrete action. By raising awareness through the use of this guide and by other means, the Government is making serious steps in to the whole community (population approach) to improve healthy life-styles by dietary means.

283. Furthermore, in accordance with the Health Promotion Act, the Government conducts a National Health and Nutrition survey every year, the results of which are disseminated among society at large, with the aim of shedding light on the physical health conditions of our nationals, the quantities of nutrition-intake and lifestyle habits. The Government has also set “Dietary Reference Intakes for Japanese” to serve as a benchmark for the ideal consumption of calories and nutrients by the Japanese people. These standards are revised every five years. Moreover, in accordance with the Elderly Health Law municipalities give nutritional advice to residents between the ages of 40 and 64 as part of the health-related education and consultations they offer.

284. In order to focus efforts on tackling lifestyle diseases, as part of the reforms to the medical-care system carried out in 2006, the basic health examinations performed in accordance with the Elderly Health Law were reorganized as “specific health checkups and specific counselling” and “specific health consultations” under the Act on Assurance of Medical Care for Elderly People, and insurers began providing such examinations and consultations to the insured in Fiscal Year 2008. These changes are aimed at improving the provision of follow-up advice, including advice on nutrition, to people after they have undergone health examinations.

285. In addition, municipalities (including special wards) carry out health promotion projects in accordance with the Health Promotion Act. These projects are administered

separately from the basic health examinations conducted pursuant to the Elderly Health Law.

**(f) Measures to ensure globally fair food distribution**

286. In some developing countries, especially in low income ones, there is a considerable malnutrition.

287. In response to this situation, Japan has actively promoted international cooperation to ensure a secure and stable food supply in developing countries, especially in the agricultural sector. Japan has contributed to the improvement and stabilization of the lives of farmers, who comprise over half the population and to the reduction of food shortages, in developing countries.

288. Particularly in the fields of agriculture, forestry and fisheries, Japan has founded the Japan International Research Center for Agricultural Sciences (JIRCAS) as a national organization to conduct research related to agriculture, forestry and fisheries in developing countries and to collaborate in international research through the dispatch and invitation of researchers.

**3. Right to adequate housing**

**(a) Statistical data on housing**

289. Refer to Tables 14–17.

290. There are no statistical data on homeless people, illegal residents, and evictions. In addition, there is no payment capacity limit on housing costs determined by the Government.

**(b) Laws relating to housing and living standards**

*(i) Law stipulating the rights concerning living standards*

291. The Civil Code stipulates conditions of ownership and leases. The “Land-Lease and House-Lease Law” provides specific provisions concerning the leasing of buildings (The Land-Lease and House-Lease Law unifies the former Lease Land Law, Lease House Law, and Law Concerning Building Protection, and came into force on August 1, 1992).

*(ii) Laws concerning housing*

292. With the aim of ensuring enough high-quality housing, establishing comfortable living environments, and assisting people who need help in finding a stable place to live, the Basic Act for Housing stipulates that the Government shall implement comprehensively and strategically measures to ensure that people have a stable place to live and to improve the quality of their housing. Concretely, in line with the Basic Plan on Housing, formulated in accordance with the act, the Government is steadily implementing measures based on the following laws:

**(i) Public-Operated Housing Act:**

This Act aims to provide low-rental housing for low-income earners in need of housing by both national and local governments.

**(ii) Act of Stable Living for the Elderly:**

This Act aims to provide elderly people with a stable housing, contains provisions for making it easier for elderly people to move into rented

accommodation and for promoting the supply of comfortable rental accommodation for the elderly.

(iii) Act on the Urban Renaissance Agency, Independent Administrative Agency:

This Act contains the provisions of the Urban Renaissance Agency, which provides assistance with improving built-up areas in major cities and cities that serve as regional centers and providing rental accommodation in such areas, where the infrastructure to fulfill their functions as urban areas or offer a vibrant urban lifestyle has not kept pace with economic and social changes. The agency also manages rental accommodation etc., a service inherited from the Urban Development Corporation. Through these initiatives, the agency's primary objective is to contribute to the sound development of cities and to the stabilizing and improving of the lives of people.

(iv) Act on the Public Housing Supply Corporations:

This Act contains provisions on matters such as the establishment of the Public Housing Supply Corporations, which receives funds from working people who need housing, puts these funds together with other funds, and provides the workers concerned with high-quality housing or land to be used for the purpose of building such housing.

(v) Act on the Japan Housing Finance Agency, Independent Administrative Agency:

This Act contains the provisions of the Japan Housing Finance Agency, the purpose of which is to smoothly and efficiently provide loans needed for housing construction etc. Among its operations, the agency assists ordinary financial institutions with the provision of loans needed for housing construction etc. and supplements loans offered by ordinary financial institutions by providing loans needed for the re-construction of disaster-damaged buildings.

(vi) Inferior Residential Areas Improvement Act:

This Act stipulates renewal projects to improve the living environment in areas where substandard housing is concentrated.

(vii) Act for Specified Good Quality Rental Housing:

This Act aims to improve the supply of rental housing for middle income earners by aiding landholders in constructing good quality rental housing.

(viii) Act on Special Measures concerning Development of Public Rental Housing, etc. to Accommodate Various Demands of Communities:

This Act contains the provisions of measures such as the formulation of a basic policy by the Minister for Land, Infrastructure, Transport and Tourism for and the establishment of a system of grants for projects and administration relating to the improvement of public rental accommodation in line with regional housing plans in order to accurately respond to regional diversity in the demand for housing.

(ix) Act on Promotion of Rental Housing Supply for people in need of Securing Housing:

This Act contains provisions on measures taken by the national government and local government to promote the supply of rental accommodation to "persons requiring special attention in securing housing (low-income people, people who have been victims of disasters, elderly people, people with disabilities, families with children, etc.).

(iii) *Laws concerning land usage*

293. Under the Act for planning the Utilization of National Land, the Utilization of national Land Plan which covers fundamental matters concerning the use of national land, and the Land Usage Basic Plan including the designation of urban, agricultural, and preservation areas are determined.

(iv) *Law concerning the rights of tenants*

294. The Land-Lease and House-Lease Law stipulates the minimum period for land lease contracts, limits cases when the lessor of a house can refuse to renew a lease contract, and limits cases when the lessor of house can request the termination of building lease contracts. In addition, special agreements which violate the provisions of this law and are not beneficial to tenants are regarded as void. As such, this law is designed to protect tenants.

(v) *Laws restricting speculation on land*

295. The Basic Land Law stipulates that land should not be used for speculative transactions. The Act for Planning the Utilization of National Land stipulates the measures for the regulation of land transactions, to prevent damage to the nation from speculative transactions and steep rises in land prices.

(vi) *Law on standards and regulations for building*

296. The Building Standard Law stipulates the minimum standards for sites, structure, and use of buildings, with the aim of protecting the lives, health and property of nationals.

(vii) *Laws concerning living environments in housing and residential areas*

297. The Basic Act for Housing, which aims to ensure that people have a stable place to live and to improve the quality of their housing, stipulates the establishment of comfortable living environments as one of its objectives. Therefore, in its Basic Plan on Housing, which is produced in accordance with the Act, the Government has articulated the establishment of comfortable living environments as an objective, and is implementing a variety of measures to achieve that objective.

**(c) Other measures adopted with the aim of securing rights concerning residence**

(i) *Subsidies for organizations established by community residents*

298. As part of the Inferior Residential Area Improvement Projects, the Government provides subsidies for projects such as surveying and research, which are conducted by the Living Environment Development Associations established by community residents.

(ii) *Measures adopted to promote the construction of housing*

299. In accordance with the Basic Plan on Housing decided on by the Cabinet in September 2006, and with the aim of providing high-quality housing that meets the needs and is affordable for both owner-occupiers and tenants, measures have been taken to improve mortgage markets to ensure that they provide a stable supply of a wide range of housing loans including long-term loans and fixed-interest loans, tax incentives and the promotion of the provision of high-quality rental accommodation. In addition, public housing is provided to people, such as those on low incomes, who cannot secure a reasonable standard of housing from the market solely from their own financial resources. Furthermore, with the aim of building a multi-level housing safety net, measures to stabilize and improve the quality of housing are implemented comprehensively and strategically.

The measures include the establishment of a mechanism for the more integrated administration of public rental accommodation.

(iii) *Measures for residents facing housing problems*

300. Local governments provide improved housing for those residents who face housing difficulties and can not improve their environment by implementing projects such as the Inferior Residential Area Improvement Project and the Inferior Small Residential Area Improvement Project in deteriorated areas where substandard housing are concentrated.

(iv) *Measures adopted to utilize derelict land*

301. Under the Act for Planning the Utilization of National Land, the effective and appropriate use of derelict land is promoted through advice, recommendations, and discussions on purchasing land.

(v) *National budget for housing*

302. The budget for housing in fiscal year 2009 was 626,615,000,000 yen, which accounted for approximately 0.7% of the overall amount.

## Article 12

### 1. Data related to the health conditions of citizens

303. Refer to WHO Regional Office for the Western Pacific, "Regional Databases on Health Indicators ([http://www.wpro.who.int/health\\_topics/health\\_information/db\\_list.htm](http://www.wpro.who.int/health_topics/health_information/db_list.htm)).

304. The infant mortality rates are provided in Tables 18 and 19.

305. The average life expectancy by region, sex, and municipality is provided in Table 20.

### 2. Health policy

#### (a) Prevention, treatment, and control of disease

##### (i) *Infectious disease control*

306. To prevent the outbreak and spread of infectious diseases, countermeasures against the sources and paths of infection are implemented under the Act on Prevention of Infectious Diseases and Medical Care of Infectious Patients. The countermeasures include physicians' obligation to report cases of infectious diseases, make medical examinations, prevent infected patients from going to work, their hospitalization and decontamination and the disposal of contaminated articles. In addition, the routine preventative immunization against nine diseases such as poliomyelitis and diphtheria is implemented under the Prevention Vaccination Law.

307. In order to prevent the invasion of pathogens which are not normally found in Japan, quarantine is implemented under the Quarantine Law.

308. The Government endeavors to prevent the occurrence and spread of cases of tuberculosis in accordance with the Act on Prevention of Infectious Diseases and Medical Care of Infectious Patients. Because tuberculosis is an infectious disease for which countermeasures are particularly important, the Government has drawn up specific guidelines for preventing the tuberculosis infection and is also taking other tuberculosis-specific measures, such as promoting the use of the DOTS (directly observed treatment,

short-course) strategy. As a result of those measures, the number of newly registered tuberculosis cases has been steadily decreasing.

309. Although the number of people who have contracted AIDS remains small in Japan, the number is steadily increasing. Based on the “AIDS Prevention Guideline” (Ministry of Health, Labour and Welfare Notice No. 89, dated March 2, 2006), the Government has been making efforts to prevent the possibility of AIDS contraction and to disseminate information about AIDS.

(ii) *Prevention of lifestyle related diseases*

310. In accordance with the Act on Assurance of Medical Care for Elderly People which came into force in February 1983, municipalities provide health services to prevent circulatory diseases, cancer, diabetes, and other lifestyle related diseases. These health services include health education, checkups, examinations and various other services. Cancer screening, meanwhile, has been conducted independently by municipalities and funded from general budgets since fiscal year 1998.

311. As part of reforms to the medical-care system carried out in 2006, basic health checkups performed in accordance with the Elderly Health Act were reorganized as “specific health checkups” and “specific health counsellings” under the Act on Assurance of Medical Care for Elderly People and insurers began providing these checkups and counsellings to the insured in fiscal year 2008. These changes were made in order to focus efforts on tackling lifestyle-related diseases, and are aimed at improving follow-up advice to people after they have undergone health checkups.

312. In addition, municipalities (including special wards) administer health promotion projects in accordance with the Health Promotion Act. These projects are administered separately from the basic health checkups conducted under the Act on Assurance of Medical Care for Elderly People.

(iii) *Measures for the prevention of occupational diseases*

313. In order to prevent occupational diseases, the Government has promoted various measures since 1953 through the formulation of Industrial Injury Prevention Programs. The 11th Industrial Injury Prevention Program (covering fiscal year 2008 through fiscal year 2012) has decided to take following measures:

- (i) Measures to prevent harm caused by dust;
- (ii) Measures to prevent harm caused by asbestos;
- (iii) Measures to safeguard mental health;
- (iv) Measures to prevent back pain;
- (v) Measures to make work places more pleasant.

**(b) Guarantee of adequate medical services**

(i) *Medical care supply system*

314. Japan’s medical care system has been arranged to ensure the effective provision of high-quality and appropriate medical care responding to the patient’s physical and mental condition. In particular effective measures to ensure adequate numbers of doctors is implemented steadily by reviewing budgets and systems.

315. Since fiscal year 1986, prefectures have created and implemented medical plans in response to community conditions, in cooperation with those who provide medical care.

Moreover, in accordance with new medical-care plans produced following the reforms to the system of medical care carried out in 2006, prefectures have been taking measures towards establishing a seamless, patient-centered system for the provision of medical care.

316. The Government provides the necessary subsidies to hospitals providing unprofitable or advanced medical services such as those in remote rural areas and those providing emergency care, cancer treatment, perinatal care and treatment for children.

317. Doctors, nurses, and other medical professionals are trained and hired through legally-stipulated qualification systems. In order to nurture highly capable doctors with all-round ability in the areas of diagnosis and treatment, efforts have been made to improve clinical training for those who have acquired doctor's licenses.

318. The Government has formulated medical care plan for remote areas every five years since Fiscal Year 1956 with a view to guaranteeing medical care for those living in remote areas. For example, measures such as the provision of core hospitals, support hospitals and clinics in remote areas, the maintenance of mobile clinics, the supply of doctors for remote areas, and the development of a patient transportation system, have been promoted.

319. In order to secure emergency medical services for local residents on holidays or at night, the Government has promoted the systematic construction of an initial, second and third emergency medical service system and an emergency medical information center since fiscal year 1977. In addition, the Government has made efforts to ensure proper medical service at first-aid scenes and during the transportation of patients. For example, the system of emergency life-saving technicians was introduced in fiscal year 1991.

(ii) *Medical care security system*

320. Refer to the part under Article 9 in this report for an outline of the medical care insurance system. Every citizen receives benefits from one of these medical care insurance schemes. In this section, public medical care, which is another pillar of the major medical care security system in Japan, is outlined as follows:

(a) Medical assistance under the Public Assistance Act

321. Medical assistance based on the Public Assistance Act, Japan's public assistance law, includes provisions for hospitalization, health examinations, medication, injections, and surgical operations, for those who need such assistance due to their financial situation. Medical assistance benefits under medical assistance are provided in accordance with the medical service guidelines of the National Health Insurance Act. In this way, almost the same medical care as provided by medical insurance is guaranteed.

(b) Medical care assistance for intractable diseases

322. The Government subsidizes the treatment of diseases to reduce the financial burden of patients suffering from a disease for which the cause is unknown, no really effective remedies are present, and there is high possibility of after effects, and the cost of treatment is high.

323. Moreover, to promote the healthy growth of children who suffer from a specific chronic disease that requires a long period of treatment, remedy research projects on the specific chronic diseases of children are implemented to promote effective research, the establishment and dissemination of medical care, and reduction of the financial burden on the patients and their family.

(c) Measures for public mental health and welfare for the mentally disordered

324. According to the Law Related to Mental Health and Welfare of the Person with Mentally Disordered, the Government pays all or the part of the medical expenses of the patients hospitalized on orders of the prefectural governors. In Japan, the policy for the mental health and welfare of the mentally disordered has developed in line with the thought of “From Hospital-Centered Care to Community-Centered Care”. Furthermore, in 2004, the Headquarters of Mental Health and Welfare Measures formulated a “Reform Vision for Mental health and Welfare Services”. The main provisions of the vision include deepening the understanding of people on mental health issues, the reform of mental health care, and strengthening the support to those living in communities.

325. Under the Services and Supports for Persons with Disabilities Act which came into effect in 2006 in accordance with “Reform Vision for Mental health and Welfare Services”, a system was established to provide integrated services to persons with disabilities mainly by municipalities without distinguishing between physical, intellectual and mental disabilities.

(d) Medical care for tuberculosis

326. The Government implements measures, such as health examinations for the detection of the disease, hospitalization, and medical care services, to prevent and treat tuberculosis, in accordance with the Act on Prevention of Infectious Diseases and Medical Care for Patients Suffering Infectious Diseases. The number of newly-registered tuberculosis patients in Japan has decreased year by year since the registration of new cases began in 1961.

(e) Medical care to helping persons with disabilities become self-reliant

327. In accordance with the Services and Supports for Persons with Disabilities Act, public medical care is provided to reduce inconveniences for persons with mental or physical disabilities and enable them to live independently on a day-to-day basis as members of ordinary society. Specifically:

(1) Develop mental medical care required to enable children with physical disabilities to grow up healthily and gain the abilities they need to live their lives.

(2) Rehabilitative medical care required to enable persons with physical disabilities to become self-reliant and participate in social and economic activities.

(3) Mental outpatient medical care required to encourage the adoption of appropriate treatment for persons with mental disabilities.

(f) Others

328. In addition to the measures mentioned above, public medical care services include medical care for atomic-bomb victims based on the Law Concerning Relief for Atomic Bomb Victims, and medical care for those with infectious diseases when they are hospitalized based on the Act on Prevention of infectious Diseases and Medical Care for Patients Suffering Infectious Diseases.

(c) **Health promotion**

(i) *Health Japan 21*

329. Since 2000, the Government has been running a campaign called “Health Japan 21,” with the aim of reducing the number of deaths among the middle aged, extending healthy life expectancy, and improving the quality of life. Health Japan 21 contains goals covering

nine areas: (1) nutrition and diet, (2) physical activity and exercise, (3) rest and mental well-being, (4) tobacco, (5) alcohol, (6) dental health, (7) diabetes, (8) circulatory diseases, and (9) cancer. These goals include boosting the average daily consumption of vegetables by adults and increasing the number of steps they walk each day. The campaign also involves the implementation of measures focusing on the prevention of lifestyle diseases.

330. In April 2007 an interim report was published which evaluated the achievement of Health Japan 21 so far. Based upon the report's findings, the Government is promoting efforts to tackle lifestyle diseases by launching a new national campaign aimed at getting people to lead healthier lives. This campaign focuses on encouraging people to take moderate physical exercise, eat appropriately, and quit smoking.

(ii) *Health Promotion Act*

331. In May 2003 the Health Promotion Act came into effect. This law is aimed at providing a legal foundation for more actively encouraging people to improve their health, with the Health Japan 21 campaign at the core.

(iii) *Health services provided in accordance with the Act on Assurance of Medical Care for Elderly People*

332. Under the Act on Assurance of Medical Care for Elderly People, which was enforced in February 1983, the Government provides those aged 40 and over with comprehensive health and medical services, including preventive care, medical treatment and rehabilitation to ensure the health of the aged.

333. (Since Fiscal 2006, health education, health counsellings, rehabilitation, and home visits have been offered to people over the age of 64 years.)

334. These medical services were provided based on the four consecutive Five-Year Health Services Programmes. Since Fiscal Year 2005, however, in accordance with the approach advocated in the fourth five-year program, these five-year programs have been replaced by single-year programs. These programs aim to keep people from falling into physical conditions in which they require long-term care by preventing them from acquiring lifestyle-related and other diseases, preventing them from becoming bedridden, and so on.

335. As part of the reforms to the medical-care system carried out in 2006, basic health checkups performed in accordance with Act on Assurance of Medical Care for Elderly People were reorganized as "specific health checkups" and "specific health counsellings" under the Act on Assurance of Medical Care for Elderly People, and insurers began providing these checkups and counsellings to the insured in Fiscal Year 2008. These changes were made in order to focus efforts on tackling lifestyle diseases, and to improve the provision of follow-up advice, after health checkups has been undertaken.

336. In addition, municipalities (including special wards) administer health promotion projects in accordance with the Health Promotion Act. These projects are administered separately from the basic health checkups conducted under the Act on Assurance of Medical Care for Elderly People.

(iv) *Health services provided by medical insurance providers*

337. Medical care insurance providers, such as health insurance providers, actively provide the necessary health services to maintain and improve the health of insured persons. These services include health education, health counselling as well as health examinations.

**(d) Improvement of environmental hygiene**

*(i) Waste management*

338. Under the Waste Management and Public Cleansing Law, all solid and liquid waste, other than radioactive waste and waste polluted by radioactivity, are classified into two categories; municipal solid waste and industrial waste.

339. Municipalities (cities, towns and villages) are responsible for the management and disposal of municipal solid waste, including night soil, and for establishing a municipal solid waste management plan within their respective administrative areas.

340. Each business is responsible for the appropriate management of its industrial waste. Each prefecture draws up its master plan for waste reduction and other proper management in its respective area.

341. All treatments, such as the collection, transport, intermediate treatment and final disposal of waste, must comply with legal standards. The Government provides local authorities with financial and technical assistance for the construction of municipal solid waste disposal facilities.

*(ii) Water works*

342. Water utility companies which are authorized under the Water Works Act supply water that meets the standards for drinking water quality set forth in the same act. As of the end of Fiscal Year 2007, 97.4% of Japan's population was supplied with such water.

343. In addition, the Government subsidizes the construction and operation of water works such as area-wide water systems, which tend to be exceptionally costly because of their nature and large scale.

*(iii) Sewerage*

344. Under the Sewerage Act, local governments such as municipal authorities (cities, towns and villages) and prefectures are responsible for the construction, and maintenance of sewerage facilities.

345. Sewers support environmental hygiene by draining waste water from households and industries quickly. The Sewerage Act prescribes that waste water should be treated by sewage purification plants to preserve the quality of public bodies of water.

346. Sewers also drain storm water and protect urban areas from being damaged by flooding.

347. The Government provides local governments with financial and technical assistance for the construction of sewerage facilities because the construction of sewers is expensive.

**(e) Improvement of industrial sanitation**

348. The Industrial Safety and Health Act, the Working Environment Measurement Act, and the Pneumoconiosis Act and the rules based on these laws such as the Ordinance on Industrial Safety and Health, the Ordinance on the Prevention of Organic Solvent Poisoning, the Ordinance on the Prevention of Hazards due to Specified Chemical Substances and the Ordinance on the Prevention of Anoxia, ensure the health of workers in the workplace and establish suitable environmental working conditions.

### 3. International cooperation

349. International cooperation in the health and medical sector consists of assistance for basic human needs in developing countries, and is regarded as an important pillar of Japan's international cooperation policy. Japan contributes to human resources development mainly by providing technical cooperation including the dispatch of experts, and acceptance of trainees. Japan also provides grant and loan aid in the health sector, as well playing an active role in multilateral cooperation by working closely with international organizations such as the WHO.

## Article 13

### 1. Right to education

#### (a) Elementary and lower secondary education

350. In Japan, elementary and lower secondary education is compulsory. Under Article 26 of the Constitution, Article 5 of the Basic Act on Education, and Articles 6, 16, and 17 of the School Education Act, the first nine years of general education (six years of elementary and three years of lower secondary education) are compulsory. Compulsory education provided by national and public schools is free-of-charge.

351. In order for the nation to maintain a sufficient level of education, the School Education Act stipulates goals for each of school education. In addition, Japan sets objectives for schools at the compulsory education level (the School Education Law Execution Regulations and Courses of Study). Standard annual school hours for each subject, for compulsory education, are determined by the School Education Act Execution Regulations.

352. Textbooks used for compulsory education at private compulsory education schools, as well as at national and public compulsory education schools, are provided free-of-charge by the national Government, (Act Concerning Free Textbooks in Compulsory Education Schools).

353. For those who have difficulty continuing their compulsory education because of their financial situation of their families, municipalities and prefectural governments provide assistance to cover various expenses such as stationery, commuting, school excursions, school lunches, etc. The national Government subsidizes this assistance, and by doing so, strives to secure school attendance by all children and the smooth implementation of compulsory education.

354. In order to secure the necessary number of teachers and other personnel for public compulsory education schools nationwide, and to eliminate any imbalance in salary levels and teacher and personnel numbers among prefectures, the national Government has set legal standards for class sizes and staffing levels in public compulsory education; and in principle, pays one third of the salary expenses of school employees for public compulsory schools, so as to improve and maintain the nationwide education level and provide equal opportunities in education.

355. As a result, 99.97 % of the applicable age groups received elementary school and lower secondary education (as of May 2006).

356. Furthermore, children of foreign residents in Japan have the opportunity to receive elementary and lower secondary education free-of-charge in national and public schools. In May 2008, the number of foreign students enrolled in compulsory education schools throughout Japan was 69,108, with 67,404 of them receiving education at public schools.

357. When the children of foreign residents in Japan receive Japanese school education, it is important to provide substantial Japanese language education. According to a survey conducted in September 2008, the number of foreign students who needed Japanese language training at public compulsory education schools was 27,184. Enhanced measures such as special Japanese lessons and assimilation guidance are provided for these students.

**(b) Upper secondary education**

358. It is, in general, possible for everyone to receive upper secondary education (including technical and vocational education) in Japan.

359. Under the School Education Act, all students who have graduated from a lower secondary or equivalent schools, who have completed the lower division of secondary schools, or whose academic achievement is recognized as being equivalent to or higher than the criteria laid down by the Minister of Education, Culture, Sports, Science and Technology (MEXT) are eligible for admittance to upper secondary schools and equivalent level schools, without discrimination of any kind based on gender, race, nationality, etc. In 2006, 97.7 % of lower secondary school graduates entered upper secondary schools. The standards for upper secondary education and upper secondary school departments of schools for special needs education are determined by the Government in the same way as they are for compulsory education schools. Education content is designed to accommodate the diverse range of capabilities, aptitudes, interests, and future career paths of individual students with some schools offering programs that are focused on technical and vocational education. In addition, a day/evening course schools and a correspondence course in upper secondary schools are offered for working people regardless of age.

360. Refer to section 2 below for a description of the introduction of free upper secondary education.

**(c) Higher education**

361. Eligibility to apply for entrance into Japanese universities, regardless of nationality, is provided equally to who have graduated from a Japanese high school, or who are recognized as being an equivalent or higher level in academic achievement.

362. Furthermore, the Open University, which offers higher education through the effective use of a wide variety of media, mainly television and radio, provides people with more opportunities for university education.

363. In addition, further educational opportunities are provided by universities and colleges through their periodic extension lectures, which are open not only to officially enrolled students but to everybody else.

364. For those endowed with both the desire and talent, but hampered from attending university because of their financial situation, the Japan Student Services Organization (an independent administrative corporation) awards scholarships in accordance with the provisions of the Act on the Japan Student Services Organization. In addition, municipalities, local governments, and non-profit public-interest corporations also operate scholarship programs. Moreover, national, public, and private universities waive or reduce tuition for needy students.

365. Refer to section 2 below for a description of the introduction of free higher education.

**(d) Basic education**

366. Under Article 26 of the Constitution, Article 5 of the Basic Act on Education, and Articles 16 and 17 of the School Education Act, the first nine years of general education

(six years of elementary and three years of lower secondary education) are compulsory in Japan. Persons over school age who, because of their physical condition or other unavoidable circumstances, have been unable to graduate from a school for compulsory education can transfer to the appropriate grade at such a school, provided that they receive permission from the municipal board of education. Furthermore, when students who have not completed the compulsory education curriculum wish to enter a higher-level school, an opportunity is guaranteed through an academic recognition examination system.

**(e) Percentages of students attending or going on to schools/universities**

367. Percentages of students attending or going on to elementary school, lower secondary school, upper secondary school, and university (2008) (total for boys and girls):

Percentage attending elementary school:	99.96%
Percentage attending lower secondary school:	99.97%
Percentage continuing to upper secondary school:	97.8%
Percentage continuing to university:	52.9%

*Notes:* This is:

1. Percentage of students continuing to upper secondary school: the percentage of lower secondary school graduates and those that have completed the lower secondary education curriculum who go on to upper secondary school, the upper secondary education curriculum, a regular or special program in the upper secondary section of a special needs school, or a technical college (including those who worked in the interim but not those who graduated late).

2. Percentage of students continuing to university: the percentage of upper secondary school graduates and those that have completed a regular program in the upper secondary education curriculum who go on to a regular, correspondence, or special program at a university or junior college, or a specialist program at a technical school (including those who worked in the interim).

Percentages continuing to upper secondary school and university by sex (2008):

Percentage continuing to upper secondary school:

Boys: 97.6% Girls: 98.1%

Percentage continuing to university:

Boys: 51.4% Girls: 54.4%

**(f) Measures to improve the literacy rate and provide equal access to different levels of education**

368. The Japanese system of compulsory education ensures that all students acquire the basic level of ability they need to adequately understand and use the Japanese language in their daily lives. In addition, if foreign children wish to attend public schools for compulsory education, they may do so free-of-charge, as Japanese children do, which is in accordance with relevant international human rights treaties such as ICESCR. To enable such children to integrate smoothly into the Japanese education system, the Government takes measures such as developing curricula for teaching the Japanese language, assigning teachers to teach Japanese, and employing assistants who speak the students' mother tongue.

**2. Introduction of free upper secondary education and higher education**

369. Due to the need for the costs of upper secondary education and higher education to be borne fairly, students are currently required to pay a reasonable share from the point of view of the equitable payment burden and difficulty in securing sufficient funds in case such education is provided free-of-charge. For this and other reasons, Japan reserves the right not to be bound by the provision “in particular by the progressive introduction of free education” as stipulated in Article 13.2 (b) and (c) of the Covenant.

370. However, in order to ensure opportunities to receive education, the Japan Student Services Organization (an independent administrative corporation), local governments and non-profit public-interest corporations provide scholarships and take measures to waive or reduce tuition for students with financial difficulties that might affect their school attendance.

371. In 2004, 15.49% of the total national and local expenditure was spent on education.

**3. Treatment of teaching staff**

372. Refer to Article 13 3. of the second periodic report (E/1990/6/Add.21 and Corr.1).

**4. International cooperation in the field of education**

373. Promoting international cooperation in the field of education is very important for improving the education and research level in both Japan and foreign countries, as well as for creating a spirit of international understanding and cooperation and for contributing to capacity-building in foreign countries.

374. In order to advance further international cooperation, Japan actively promotes the acceptance of foreign students at Japanese institutions of higher education for the purpose of contributing to the development of human resources in developing countries.

375. It provides assistance through cooperation with UNESCO’s projects as well as in the form of grants and loans. Japan also cooperates with the Japan International Cooperation Agency (JICA) and Japan Foundation through projects such as dispatching university professors, accepting of foreign researchers, and training of female public officials in the field of education, and is promoting the active use of expertise of Japan.

**Article 14****Providing free compulsory education**

376. Refer to Article 14 of the second periodic report (E/1990/6/Add.21 and Corr.1).

**Article 15****1. Right to take part in cultural life**

377. Changes that have occurred since Japan submitted its previous periodic report are as follows.

**(a) Financial measures**

378. Among the financial measures to promote cultural development and public participation in cultural life, assistance through Arts Plan 21 has become assistance through the Culture and Arts Creation Plan.

**(b) Establishment of cultural facilities**

379. Due to the increase in the number of cultural facilities nationwide, the national government subsidies for the construction of such facilities by local governments have been eliminated. However, the national government still provides assistance with projects of community halls, public museums (including art museums), and public libraries, with the aim of encouraging residents to take part in cultural activities. In 2005, there were 17,143 community halls, 1,196 museums, 2,979 libraries, and 1,885 cultural halls.

380. The Government has established a fifth national art museum (The National Art Center, Tokyo) to enable the public to view outstanding works of art and other exhibits and to facilitate art-related research and projects.

**(c) Role of the mass media and communications**

381. The Broadcast Act stipulates that broadcasters shall, in principle, include educational programs in their domestic television broadcasts. In addition, the Basic Plan for Broadcasting Diffusion, which is formulated by the Minister of Internal Affairs and Communications in accordance with the same act, states that every possible effort should be made to ensure that educational broadcasts from NHK (The Japan Broadcasting Corporation) can be received in every part of Japan.

**(d) Protection of cultural property**

382. The Historic Monuments of Ancient Nara; the Shrines and Temples of Nikko; Gusuku Sites and Related Properties of the Kingdom of Ryukyu; Sacred Sites and Pilgrimage Routes in the Kii Mountain Range; and the Iwami Ginzan Silver Mine and its Cultural Landscape have been newly added to the World Heritage List, which is based on the Convention for the Protection of the World Cultural and Natural Heritage which Japan concluded in 1992. Japan has taken the necessary measures to preserve these sites.

**(e) Specialized education in culture and art**

383. Specialized education in various forms of art is provided by universities and junior colleges. In 2008, there were 55 art-related faculties at universities (such as art and music faculties) with approximately 54,500 students enrolled in them. Meanwhile, the number of art-related departments at junior colleges, was 49, with around 7,500 students enrolled.

**(f) Other measures for the protection, development, and dissemination of culture**

384. Although the Government ceased to dispatch instructors in artistic and cultural activities, under the scheme for enabling up-and-coming artists to study overseas in 2008, the scheme itself is still in operation.

385. The Encouragement Award from the Minister of Education was changed to the Minister of Education, Culture, Sports, Science and Technology Prize.

**2. Right to enjoy the benefits of scientific progress and its application****(a) Promotion of scientific research**

386. Maximum respect for the independence of researchers is essential for ensuring that scientific research produces realistic, practical results. Article 21 (Freedom of Expression) and Article 23 (Freedom of Learning) of the Constitution therefore safeguard the right to research, publish, and teach.

387. Scientific research in Japan is centered on universities. National universities and inter-university research institutes were formerly national government organizations

established in accordance with the National Schools Establishment Act. In April 2004, however, they were incorporated under the National University Corporation Act. This change was aimed at revitalizing national universities by making them more autonomous, and at encouraging them to become more proactive in delivering superior standards of education and conducting distinctive research. The national universities also have various research institutes. In 2008 the Government established a new system whereas the Minister for Education, Culture, Sports, Science and Technology certifies the research institutes of universities as Joint Usage/Research Center. This system was designed to utilize the potential of all national, public and private universities' research and stimulate the joint usage and research of various fields from humanities to physical science. Furthermore, the national government provides assistance to research at private universities in accordance with the Act on Subsidies for Private Schools and the Act on State's Subsidies for Research Equipment of Private Universities.

388. Every five years, in accordance with the Science and Technology Basic Act, the Government formulates a basic plan for science and technology, to serve as a roadmap for the comprehensive and strategic implementation of measures for advancing science and technology (the third plan began in 2007). The Government has also expanded the budget for its Grant-in-Aid for Scientific Research programs, the key scheme for funding research aimed at advancing academic research, from 131.4 billion yen in FY 1999 to 197.0 billion yen in FY 2009. In addition, the Government implements multi-faceted measures aimed at advancing academic research. These include making radical improvements to graduate school education with the goal of developing high-level personnel who can contribute in a wide range of fields (such as industry) without being limited to academia; focusing on basic research; building, improving, and expanding research facilities and equipment; and promoting international academic exchanges involving researchers and others.

389. In addition, the Japan Society for the Promotion of Science implements various projects aimed at the promotion of science such as supporting scientific research; funding for fostering researchers; promoting international scientific exchanges; and conducting research into the application of scientific knowledge.

390. The Government also provides financial support to the Japan Academy, which accords special recognition to researchers with the most eminent records in academic and scientific achievement.

**(b) Dissemination of related information**

391. The results of academic and scientific research are published by academic societies and therefore enjoy wide practical application in industry and other fields.

392. The Government, through its Grant-in-Aid for Scientific Research Program, subsidizes the release of research findings, the publication of important findings from academic research, and the construction of databases. It therefore contributes to advancing and disseminating academic knowledge and encouraging international academic exchanges, and promotes the dissemination among the public of outstanding research achievements. The Japan Science and Technology Agency (JST) has taken over from its previous incarnation the Japan Science and Technology Corporation as the main repository of information on science and technology in Japan. And to encourage the dissemination of science- and technology-related information, it offers services such as an online service for the provision of information.

393. In addition, since 1998 the JST has been helping put the journals produced by academic societies in Japan into a digital format. It has deployed an integrated system called "J-STAGE" for distributing and disseminating information, which at the end of April 2009 was offering 687 academic journals in electronic form. Moreover, since 2005 it has

been compiling an electronic archive of Japanese academic journals going back to their very first issues, with the aim of treating the wealth of research information that Japan has accumulated over the years as an asset, and disseminating it to audiences both in Japan and overseas. Around 60% of visits to J-STAGE come from overseas, while the figure for the journal archive is approximately 90%, indicating that these services are making a significant contribution to the dissemination overseas of information on science and technology from Japan.

394. Furthermore, since 2009 the JST has made available a beta version of “J-GLOBAL”, an integrated link center for science and technology that links together basic information on science and technology, such as information on academic papers, researchers, research organizations, and patents, and provides it to the general public. In this way, it enables high-quality information on science and technology to be disseminated more effectively.

395. In addition, the NII (National Institute of Informatics) is also working to facilitate the dissemination of academic information. It gathers academic information that is indispensable to the academic community and ensures that it can be provided to them when needed. It is also pressing ahead with the construction of an information infrastructure for collecting, organizing, and adding value to the results of education and research generated by universities, research organizations, etc., and disseminating these findings among society at large.

396. Moreover, the National Museum of Nature and Science, the National Museum of Ethnology, and the National Museum of Japanese History (the latter two of which are National Institutes for the Humanities) are also working to facilitate the dissemination of information by collecting, storing, exhibiting, and making available for public viewing the results of and materials relating to surveys and research conducted in their respective fields.

**(c) Preservation of natural property and the natural environment**

397. With the aim of properly preserving the natural environment, the Government, in accordance with the Nature Conservation Law, initiates surveys to gather information on the current state of the natural environment in Japan, designates areas of outstanding natural environment as nature conservation areas, and carefully manages the natural environments in those areas.

398. The Government and local governments also designate and manage natural parks based on the Natural Parks Law to conserve and make appropriate use of areas with outstanding natural landscapes. In March 2009, natural parks covered a total area of 5,410,000 hectares, which is 14% of the total land area of the nation.

399. Furthermore, to protect animal and plant life and preserve natural environment through the preservation of primitive forests, Japan designates and manages a significant part of National Forests as protected forests such as Forest Ecosystem Reserves.

400. The Shiretoko Peninsula (a habitat for rare animal species, due to interaction between marine and terrestrial ecosystems that are featured by the formation of seasonal sea ice) has been newly added to the World Heritage List based on the Convention for the Protection of the World Cultural and Natural Heritage, which Japan ratified in 1992.

401. Japan has been taking necessary measures to protect this site, as well as Yakushima and Shirakami-Sanchi. These measures are based on management plans, and include the enforcement of various regulations and the implementation of a wide range of projects.

402. In addition, with the aim of preserving natural features that are distinctive to Japan, particularly flora and fauna and ecosystems, the Government also designates animals, plants, geological features, etc. with significant academic value as “Natural Treasures”, and restrict activities that will have an adverse impact on them.

**(d) Measures taken to promote the learning of and dissemination of scientific and technological knowledge**

403. These measures include:

(a) Extending assistance to the Science World Gifu Research Information Center, which is operated by local governments with the aim of stimulating young people's interest in science and technology;

(b) Helping the Japan Science and Technology Agency to support people to learn about science and technology, promote scientific communications, and maintain and operate the National Museum of Emerging Science and Innovation (Miraikan);

(c) Endorsing sponsorship of activities to promote the learning and to disseminate scientific and technological knowledge;

(d) Setting up preferential tax measures for non-profit public-interest corporations involved in the promotion of learning and the dissemination of scientific and technological knowledge; and

(e) Honoring people who make great achievements in science and technology (medals of honor, the Minister of Education, Culture, Sports, Science and Technology Prize, etc.).

**3. Protection of the rights of authors**

**(a) Protection of moral and material interests in the scientific field**

404. In Japan, among intellectual property rights which grow out of human intellectual activities, rights for intellectual creations that might bring about moral or material benefits in the field of science are protected as inventions (highly advanced creations of technical ideas utilizing the laws of nature), devices (creations of technical ideas utilizing the laws of nature; only includes devices relating to the shape or structure of an article or combination of articles, but the devices do not need to be highly advanced), and designs (the shape, patterns or colors, or any combination thereof, of an article which creates an aesthetic impression through the eye) under the Patent Act, the Utility Model Act, and the Design Act, respectively.

**(b) Protection of moral and material interests in literature and art**

405. In Japan, the Copyright Act and other related acts and regulations protect the moral and material interests of authors. Japan has concluded such international treaties as the Berne Convention, the Universal Copyright Convention, the TRIPS Agreement; and the WIPO Copyright Treaty (WCT); and the level of protection provided in Japan exceeds the obligations under these treaties.

406. To ensure that these rights can be exercised effectively, Japan has enacted the Act on Management Business of Copyright and Neighboring Rights, and has been monitoring the management organizations on copyright and related rights.

407. In addition, to ensure that copyrights and the moral rights of authors are adequately safeguarded, it is essential for the public to acquire sufficient knowledge and understanding of these rights. Therefore, to foster greater awareness of the idea of copyrights, the Government organizes seminars etc., of various types for teachers, prefectural government workers, librarians, etc., and also produces publications that explain the key aspects of the Copyright Act in an easy-to-understand manner.

#### **4. Encouragement and development of international exchanges and cooperation**

##### **(a) International exchanges and cooperation in the scientific field**

408. Progress in science depends on intellectual exchange between researchers and also beyond national boundaries; hence providing assistance to encourage this is extremely important.

409. Japan takes various measures to encourage international exchanges, covering the travel and other expenses of those wishing to participate in international conferences and symposia, and so on. In addition, the Japan Society for the Promotion of Science implements various projects such as supporting scientific research; funding for fostering researchers; promoting international scientific exchanges, and conducting research projects into the application of scientific knowledge. Japan also plays an active role in the activities of UNESCO, implementing scientific cooperation projects that benefit developing countries, such as global environmental projects that are financed from UNESCO trust funds.

410. Japan also carries out international collaborative research in other parts of Asia. This research is funded by a special budget for the promotion of science and technology, and supports international exchanges in research by universities, research organizations, and so on. Moreover, the Japan Science and Technology Agency promotes scientific and technical cooperation with developing countries in Asia and elsewhere in various fields such as environment and energy, by the collaboration of outstanding science and technology of Japan with Official Development Assistance (ODA), and implements a program aimed at the strategic promotion of international cooperation in science and technology.

411. Furthermore, in the fields specified under science and technology cooperation agreements etc. as being important in terms of government policy, international workshops are organized with the aim of information exchanges and exploring policy ideas to facilitate international research exchanges.

##### **(b) International exchanges and cooperation in the cultural field**

412. Japan established the Japan Foundation to contribute to a better international environment, and to the maintenance and development of harmonious foreign relationships with Japan, through deepening other nations' understanding of Japan, promoting better mutual understanding among nations, encouraging friendship and goodwill among the peoples of the world, and contributing to the world in culture and other fields through the efficient and comprehensive implementation of international cultural exchange activities. The foundation carries out various types of arts and cultural exchange; promotes Japanese language overseas; conducts Japanese studies and intellectual exchange; and assists private international exchange organizations.

413. In addition, to promote cultural and educational activities in developing countries, since FY 1975, the Government has provided funds from its national budget (in the form of cultural grant assistance) for the preservation and utilization of cultural heritage and cultural remains; the holding of cultural performances and exhibitions; and the purchase of equipment for education and research. By the end of FY 2008, Japan had provided a total of 1,620 grants to 130 countries, with their total value amounting to approximately 62.1 billion yen. Since 1998, Japan has also provided a total of 57.87 billion yen in Government loans to projects for preserving historical cultural heritage and remains in developing countries.

414. As mentioned above, Japan concluded the Convention for the Protection of the World Cultural and National Heritage in 1992, and has since taken measures for the

protection of the world heritage. Japan has also made financial contributions to the World Heritage Fund, in accordance with the terms of the convention.

415. Furthermore, with the objective of cooperating in the preservation and restoration of world heritage sites and other cultural heritages, which are of value to all mankind, Japan also founded the Japanese Trust Fund for the Preservation of the World Cultural Heritage in 1989 (within UNESCO), to which it had provided a total of \$53.4 million up to FY 2008. Not only has this fund financed projects to preserve and restore cultural heritage sites around the world, such as the Angkor (Cambodia) and Bamiyan (Afghanistan) sites, it has also supported preservation and restoration of the Dunhuang murals in China and Japanese works of art in foreign countries, organized seminars on the preservation of Asian cultural properties, and so on. Japan also operates the Japan Center for International Cooperation in Conservation as a center for international cooperation in the preservation of cultural properties. The objectives of the center are to help with international research; exchange, preservation, and restoration projects; train experts, and collect and utilize information; all in relation to the preservation and restoration of cultural properties around the world, and to thereby enable Japan to fulfill its international duty to protect cultural properties. Moreover, in June 2006, the Act on the Promotion of International Cultural Heritage Abroad came into effect, and the Japan Consortium for International Cooperation in Cultural Heritage was established. These developments have created a platform for even greater cooperation in the area of culture by, for example, establishing an infrastructure for enabling the government, business, and academia to work as one on the preservation of cultural heritage.

416. In 2003, the Convention for the Safeguarding of the Intangible Cultural Heritage was adopted at the UNESCO General Conference, and was concluded by the Japanese Government in 2004. The convention came into force in 2006, and Japan was selected as a member of the Intergovernmental Committee, which was established pursuant to the convention. In September 2007, the second meeting of the Intergovernmental Committee was held in Japan. Also with the aim of preserving and promoting cultural heritage, Japan established a Trust Fund for the Preservation and Promotion of the Intangible Cultural Heritage in 1993 within UNESCO, and, by FY 2008, had provided a total of \$12.57 million.

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