



# International Covenant on Civil and Political Rights

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HUMAN RIGHTS COMMITTEE

Ninety-fourth session

SUMMARY RECORD OF THE 2575th MEETING

Held at the Palais Wilson, Geneva, on Thursday, 16 October 2008, at 10 a.m.

*Chairperson:* Mr. RIVAS POSADA

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*The meeting was called to order at 10 a.m.*

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 40 OF THE COVENANT (agenda item 7) *(continued)*

*Fifth periodic report of Japan (CCPR/C/JPN/5; CCPR/C/JPN/Q/5,  
CCPR/C/JPN/Q/5/Add.1) (continued)*

1. *At the invitation of the Chairperson, the Japanese delegation resumed places at the Committee table.*
2. The CHAIRPERSON invited the delegation to reply to the questions on the list of issues to be taken up in connection with consideration of the fifth periodic report of Japan (CCPR/C/JPN/Q/5).
3. Ms. IKEDA (Japan) said that, owing to time limitations, she had not been able to provide additional examples of decisions in court cases where provisions of the Covenant had been invoked. With regard to the matter discussed in the written reply to question 27, she said that the Supreme Court had referred to the Convention in ruling that an article in the Nationality Law that did not grant the same rights to children born out of wedlock as to other children was unconstitutional. The bill on the creation of an independent human rights commission had not yet been adopted and was still under consideration.
4. Ms. SHINO (Japan) said that since 1999 a study group had been considering the question of Japan's adherence to the Optional Protocol, in consultation with other actors, especially academics. The group had examined a large number of communications submitted to the Committee by individuals, as well as the Committee's concluding comments and observations. The Government planned to continue that research.
5. With regard to the possibility that restrictions might be imposed on the rights guaranteed in the Covenant on grounds of "the public welfare", she said that whenever the Supreme Court had had to impose such restrictions, it had done so only after careful consideration of the legality of the grounds given and having carefully weighed the advantages and disadvantages of the restriction. The Government would never arbitrarily restrict human rights on grounds of the public welfare. In accordance with the Covenant, the Constitution guaranteed fundamental rights, which were inalienable; the provisions of the Covenant had been directly invoked by the courts and, in certain specific cases, the Constitution and other domestic legislation had been interpreted and applied in the spirit of the Covenant.
6. The Japanese delegation was not able to comment on the consequences of legislative decision to prohibit door-to-door canvassing during election campaigns which, according to the Committee, might constitute a violation of the Covenant. Article 98 of the Constitution stipulated that treaties concluded by Japan, as well as established international law, must be conscientiously observed. The instruments to which Japan was a party took precedence over domestic law. With regard to the training of judges in human rights, she referred members to paragraphs 22 to 34 of the written replies.
7. Ms. IKEDA (Japan), referring to the minimum age of marriage and the period of prohibition for women to remarry, said that the Legislative Council had submitted some proposals, and different opinions were being considered with a view to reaching the best solution.

8. Mr. KANEKO (Japan) said that one of the measures that had been taken to ensure equal representation for women was the Basic Plan for Gender Equality, which established 12 priority measures, including expanding women's participation in decision-making processes, reviewing social systems and practices and raising awareness of the important role played by women. For each of those measures, action strategies had been drawn up and ministries responsible for implementing them had been designated. The Government and local authorities had organized workshops and sensitization campaigns on gender equality. As a result, a majority of the Japanese people now rejected stereotypes regarding the roles of men and women. With regard to measures to promote hiring of women in high-level positions in public service, he pointed out that women held 25 per cent of civil service posts that were filled by competitive examinations, showing an upward trend. To attain the goal of 30 per cent by 2010, a number of programmes had been developed enabling women to reconcile their jobs and their private lives, helping them upgrade their professional skills and implementing good practices. Working hours for mothers had been reduced to allow them to spend more time with their children and flexible schedules had been established. Thus, women were now able to hold positions that had previously been closed to them and they were able to pursue a career. Japan had taken many measures that had proved highly successful, opening job opportunities for women and encouraging more women to seek work.

9. On the matter of mid-term objectives, he said that the plan was to increase women's share of positions equivalent to the level of heads of ministries from 1.7 per cent in 2005 to 5 per cent in 2010. The share of women serving on Government advisory councils was expected to reach 33.3 percent by 2010. A study had been made of the sectors for which mid-term goals had not yet been set, with a view to determining how many women currently held positions of responsibility. The findings would be published in due course.

10. Ms. HORII (Japan) said that the Government realized that the problem of inequities in pay between full-time and half-time workers was a serious one and that part-time workers also needed to be assured of equal treatment. The law on part-time work had been changed on 1 April 2008. With that law, the Government was working to guarantee equal treatment for both categories of workers, bearing in mind differences in types of jobs. Employers were required to pay part-time workers at the same rate as full-time employees for the same work. Japan would take steps to guarantee equal treatment for all workers.

11. At present, there were 22,909 day-care centres serving 2.1 million children. Between 2002 and 2004, the number of children placed in institutions had increased by 156,000, and that figure could increase to over 2.5 million by 2009. In February 2008, a new strategy had been drawn up to enable all families in which both parents worked to place their children in day care. To implement that strategy, the Ministry of Labour had requested a budget of 420 billion yen for the next fiscal year. The Government of Japan would continue with its efforts to develop a network of day-care centres and improve the quality of their services.

12. In the private sector, affirmative action measures had been implemented to promote the hiring of women to positions and jobs in which they had been underrepresented and training courses for women had been offered. Men in management had been made aware of the importance of professional training for women. Social structures had been put in place to enable women to work without detriment to their family life. The Government had worked actively through

counselling services, training courses and sensitization campaigns to promote the participation of women in high-level positions in the private sector.

13. Ms. MASUDA (Japan), turning to the question of sexual abuse, said that the police currently had 332 officers empowered to investigate cases of sexual abuse and provide training in that area. To avoid further traumatizing victims, sexual abuse cases were dealt with by approximately 600 female police officers in the country. In addition, 52 counselling offices and 53 free hotlines had been set up to provide support to victims of sexual abuse. Japan would continue those efforts and further reinforce victim protection programmes.

14. Mr. SAEKI (Japan) said that 6.5 per cent of prison personnel were female, and women accounted for 6.7 per cent of the prison population. The number of female officers was thus proportional to the number of female inmates, indicating that the ratio was adequate. In five years, female prison staff had risen to 27.7 per cent, and efforts were being made to further increase that ratio.

15. Mr. NAKAHODO (Japan) said that a number of measures had been taken to provide support to victims of domestic violence. In 2007, 52,000 cases had been processed in shelters and victim assistance centres, twice as many as in 2002. There were also shelters which offered women temporary protection. Budgetary resources allocated since 2002 for psychiatric services had been increased in 2007. Each of the 47 counselling centres for female victims of domestic violence had at least one psychiatrist, and 12 of them had more than one. Psychiatrists were also on duty in 24 of the 50 women's protection centres, and five of those centres had more than one psychiatrist. Victims of domestic violence had had access to legal services since 2006. Acts of domestic violence were considered serious violations of fundamental rights. That was why requests from victims of domestic violence for extension of permission to stay in the country or change their residency status were routinely accepted. In 2007, protection measures for victims had been strengthened. Women's counselling services had been instructed to report to the Immigration Bureau of the Ministry of Justice. Female victims of domestic violence who had temporary permission to stay had been able to obtain permanent permits. In 2007, Japan had accepted requests for renewal of permission to stay from 14 victims so they would not have to return to a country where they were likely to suffer domestic violence.

16. Mr. SHIBAYAMA (Japan), referring to the question of the substitute prison system, said that holding detainees in police detention centres was strictly regulated. Only individuals suspected of committing an offence could be detained in police cells and interrogations were never conducted in the cells. The law had been amended to guarantee respect for the fundamental rights of detainees. Thus, investigation and detention services had been separated to guarantee that the treatment of detainees would not be controlled or influenced by investigators. A committee had been set up to inspect detention centres; it had 251 members, including 62 women and 52 lawyers. Between June 2007 and May 2008, the Committee had visited 900 detention centres and interviewed 500 detainees. That body, which was independent of the police, was responsible for ensuring that the principle of separation between investigation and detention was effectively respected. It was empowered to report its views if it found problems. A complaint mechanism had also been created.

17. Mr. SAEKI (Japan) said that reports that the family of an individual sentenced to death only found out about the execution through the media were inaccurate. The law expressly provided that persons designated by a death-row inmate should be notified of execution as soon as it was carried out; media were informed afterwards.

18. Mr. OGUCHI (Japan), replying to the question about the confidentiality of communications between attorneys and death-row inmates who had requested a retrial, said that prison officials were present during interviews only when the appeal was still being processed. Once the request for retrial had been accepted, inmates could speak in private with their counsel. It should be noted that the law on penitentiary institutions that had entered into force in 2007 allowed some exceptions and in certain cases a private interview might be authorized even when the request for retrial was still pending. It was important to understand that the presence of an officer was aimed at preventing suicide or escape attempts, as well as to monitor the physical and psychological condition of the inmate.

19. Mr. OHKUBO (Japan), replying to concerns expressed by several members at the previous meeting regarding confessions made under compulsion, said that police authorities were fully aware that such practices were illegal. A mechanism had been set up to allow officials not involved in the investigation to monitor interrogations. In addition, certain parts of the interrogation were recorded to show that a suspect's statements were freely made. For further information, he referred members to the written reply to question 16.

20. Ms. IKEDA (Japan) said that the Japanese Government was convinced that the legislation and penal system of Japan were as humane as those of any other country. Simply saying "yes, I did it" was not the same as a confession. A suspect must provide specific details regarding the circumstances in which the offence had occurred. For victims and for Japanese society as a whole, what was most important was not that an offender should be harshly treated but that he or she should express regret or apology and that compensation should be made for damages. Confessions were also important for offenders because they allowed them to take responsibility and hence improve their chances of re-entering society. There had even been cases in which an offender would thank police officers and judges for that opportunity. The Japanese judiciary might not be perfect but the Government was constantly striving to improve it, bearing in mind the observations made by bodies such as the Human Rights Committee, as well as criticisms from civil society.

21. Replying to a question regarding the law on explosives, she said that the use of such materials to threaten public security or cause harm to people or property could be considered a serious offence. As for the individual who had been mentioned, the case was not yet under review and the individual was therefore still a detainee.

22. Mr. KOIDE (Japan) explained that a survey of public opinion on the death sentence had been conducted in 2004. The survey had shown that 81.4 per cent of respondents had said that they were in favour of the death sentence. They had replied in the affirmative to the second proposition included in the survey, namely, "The death penalty is essential and cannot be avoided in certain cases".

23. Ms. SHINO (Japan) said she would refer to questions relating to immigration controls and recognition of refugee status. One of the reasons why Japan had a relatively small number of refugees was the geographical distance of the countries of origin; also, there were significant language barriers. In 2007, however, Japan had granted permissions to stay on humanitarian grounds to 26.5 per cent of all applicants. The temporary permits protected the individuals in question from being deported. A deportation order could not be issued as long as a request for refugee status was under consideration. Should the request be rejected, the Ministry of Justice would mail the notification to the applicant, detailing the reasons for the rejection and informing the applicant that he or she could challenge the decision. An independent body established in 2005 would conduct a second review of the request.

No alien was deported to a country where he or she might run the risk of being tortured. The Government was currently considering options for deportation to a third State. In September 2007, the Government had established a review board made up of representatives of different ministries and agencies concerned with refugee questions and had charged it with reviewing the matter of aliens who requested authorization to re-enter Japan.

24. Mr. KOIDO (Japan) said that there was an independent complaint mechanism available to immigrants held in retention centres. They could lodge a complaint with the director of the centre and, if they did not obtain satisfaction, with the Minister of Justice. In order to improve the treatment of immigrants, the Bureau of Immigration was studying surveillance mechanisms used in other countries in order to decide whether it would be advisable to create a similar body in Japan. The authorities were trying to avoid holding immigrants for extended periods of time pending deportation; those who were particularly vulnerable were granted temporary freedom, even after a deportation order had been issued. There had been 262 such cases in 2003, and 938 in 2007. Delays in the execution of deportation orders were often due to lack of cooperation on the part of the alien's State of nationality.

25. Ms. SHINO (Japan), replying to questions concerning violations of the rights of persons who belonged to sexual minorities, said that article 14 of the Constitution of Japan guaranteed equality to all citizens before the law. Educational programmes had been put in place to combat prejudice and discrimination based on sexual orientation, and the Government was working to ensure that all violations were punished.

26. The CHAIRPERSON thanked the Japanese delegation for their replies and invited Committee members to comment if they wished to do so.

27. Ms. PALM said she welcomed the amendments that had been made to the law on part-time employment. However, the information available to her seemed to indicate that those improvements would only benefit 4 or 5 per cent of part-time workers. The total number of part-time workers was over 2 million, and a majority were women. Recalling the concerns expressed by the Committee with regard to legislation that discriminated against children born out of wedlock, especially with regard to registration and inheritance rights of those children, she asked why the State seemed to have difficulty bringing its legislation in line with articles 2, 24 and 26 of the Covenant, and whether it planned to remedy the situation.

28. Sir Nigel RODLEY asked whether it was true, as some non-governmental organizations (NGOs) had claimed, that holding prisoners in police stations was becoming increasingly frequent and, if so, why. Improvements aimed at increasing transparency in the judicial system, such as the creation of prison inspection committees and the establishment of procedures for appealing to the Minister of Justice were a good thing but it was unfortunate that they were not applied in the case of detentions in police stations. What was more worrying was not that the system could be used as a disciplinary measure (as was the case in most other systems), but that it could be applied also under a classification of detainees created by the establishment itself and that it could not be appealed. It was understandable that isolating persons sentenced to death would be necessary for certain detainees or in certain circumstances, but the fact that it was done systematically, and was even provided for in the law, was unacceptable, and the reasons given in the written replies of the Government (question 14) to justify the practice were surprising. The delegation might wish to explain the matter. Given the circumstances, it was more deplorable that some executions were carried out after prisoners had been on death row for years, sometimes decades, and that those prisoners were often very elderly.

29. Mr. O'FLAHERTY, returning to some questions he had raised at the previous meeting to which he had not received a clear answer, said that he would like to know if the State party planned to apply the Paris Principles and what amendments would be made to legislation regarding national human rights institutions. Also, with regard to possible restrictions on the rights guaranteed in the Covenant on the grounds of "public welfare", would the solution considered at the previous meeting be acceptable to the Japanese Government? Finally, he thanked the delegation for replying to a question on discrimination based on sexual orientation that was not in the list of issues; however, he wished to explain that he had not been referring to a specific case of which the delegation might not have been aware, but rather to the law on public housing, particularly article 33.1, paragraph 1, which appeared to stipulate that public housing could be rented to an unmarried couple but not to a homosexual couple. The law on domestic violence established the same type of discrimination.

30. Bearing in mind that time was limited, he invited the delegation to reply to his questions in writing by the usual deadline, before the Committee adopted its concluding observations.

31. Ms. CHANET thanked the Japanese delegation for their replies to questions that had been asked. She noted with satisfaction that progress had been made with regard to video recording of interrogations. She found it puzzling, however, that the Covenant had not once been mentioned by the delegation, which had consistently justified its domestic legislation without ever addressing the matter of its compatibility with the Covenant. The Committee had pointed out several glaring contradictions between the Japanese system and the Covenant. The delegation did not seem to have understood that the Covenant was a binding instrument and the Committee was responsible for verifying that it was properly implemented. The misunderstanding must be rectified, and discussion must be focused on the Covenant.

32. Mr. SHEARER asked whether lower court judges received training on the Covenant, as Supreme Court judges did.

33. Sir Nigel RODLEY said that the substitute prison system, which made it possible to prolong pretrial detention for over 20 days and to subject suspects to lengthy interrogations while limiting their communication with counsel, increased the potential for abuse, such as extracting confessions by compulsion or other types of pressure. Considering the probative force attributed to confessions under Japanese rules of evidence, such practices would increase the risk of judiciary error. The conviction of an innocent person was always a tragedy, especially when capital punishment was involved.

34. The Japanese delegation had justified the monitoring of interviews with counsel of death-row inmates who had requested a retrial on grounds of security. The surveillance was not continued, however, once a request for retrial had been accepted. It was not clear how such a decision would change the security situation. Moreover, communications between attorneys and inmates should be strictly confidential, and that was not possible when a prison official was present. He would appreciate further clarification on that question.

35. Mr. LALLAH noted with concern that the right to due process was being sacrificed in order to expedite investigations and improve efficiency. The investigation procedure guaranteed neither the right to counsel nor the presumption of innocence and left suspects with no protection against potential abuse. It was essential that the State party reconsider the practice in the light not only of the letter

of the Covenant, but also of its spirit, because there was clearly a misunderstanding about the values that were protected by the Covenant.

36. Ms. KELLER asked whether the Government was considering measures to raise awareness among the Japanese people of the serious human rights issues raised by the death penalty. The delegation could reply to her question in writing if it did not have time to do so verbally. Like Ms. Chanet and Mr. Lallah, she invited the delegation to carefully re-examine the Covenant.

37. Ms. WEDGWOOD pointed out that freedom of expression as defined in article 19 of the Covenant included the right to impart information and ideas of all kinds, either orally, in writing or in print, and that included the distribution of tracts, brochures or other documents for electoral purposes. The fact that the law prohibiting such a practice had been considered compatible with article 19 by a court should not prevent the Government from amending it.

38. The determination of evidence called for a very strict epistemological approach. Nevertheless, certain rules that were in force in Japan – in particular, those relating to interrogation and to the dissemination of exculpatory arguments and evidence – made a truly adversary procedure impossible and compromised the integrity of the process, increasing the risk of mistakes and abuse. The extremely high rate of convictions tended to confirm the Committee's misgivings. Bearing in mind the keen sense of honour of the Japanese people, it was understandable that it might be embarrassing to discover after the fact that an error in judgement had been made. That same sense of honour should cause every precaution to be taken to avoid making mistakes that would have serious consequences.

39. Ms. MAJODINA asked how the State party intended to improve the effectiveness of measures taken by the police to improve the protection of victims of sexual violence in the absence of follow-up mechanisms for assessing the results of such measures. She would also like to know if an evaluation had been made of the effectiveness of the measures taken in applying the law on prevention of spousal violence; if not, a study of the matter should be made. In the oral reply to question 17, on recognition of refugee status, the delegation had mentioned a figure of 26.5 per cent for 2007. She would like to know exactly what that figure referred to.

40. Ms. SHINO (Japan) said that everyone was free to campaign for or support candidates during election campaigns, provided they respected certain rules necessary to prevent public disturbances and guarantee fair elections. Door-to-door canvassing was prohibited in order to ensure a calm atmosphere for voters, and so was the distribution of tracts, brochures or other documents, so that differences in resources would not put any candidate at a disadvantage with respect to the others. Voter rights were not jeopardized.

41. Ms. IKEDA (Japan) said that the death penalty was applied for the most heinous crimes, and in every case, the death sentence was imposed after a careful examination of evidence by competent judicial authorities. In such circumstances, a prisoner's age, if it was raised at the time of execution, did not constitute sufficient grounds for commuting the sentence.

42. Mr. OGUSHI (Japan) said that when a death-row inmate was granted a retrial, he again became a suspect and, as such, he had the right to a private interview with his attorney. On the other hand, an inmate who had been sentenced to death would continue to be considered as such if the appeal for retrial was rejected or was still pending before the competent court. In that case, the rules applying to death-row inmates remained in effect, including the mandatory presence of a prison official



during interviews with the inmate's counsel. The increased surveillance was aimed at preventing suicide and monitoring the physical and psychological state of the prisoner.

43. Mr. SAEKI (Japan) said that solitary confinement was a measure that was taken in the interest of prisoners who, for one reason or another, could not live in the same quarters as other prisoners. It was not a disciplinary measure. One Committee member had mentioned the claim by some NGOs that the practice had increased. The Japanese delegation was not aware of information that would confirm that allegation. Detainees in solitary confinement could complain to the prison warden, the regional director of prisons or the Minister of Justice.

44. Mr. KOIDE (Japan) said that in 2007, out of 487 persons who had applied for refugee status, 129 had been authorized to stay in Japanese territory as refugees or had been granted a permit for humanitarian reasons. That amounted to 26.5 per cent.

45. Mr. OHKUBO (Japan) said that after consideration of Japan's previous periodic report, new rules had entered into effect which limited the duration of interrogations and the hours during which they could be conducted. It might sometimes be necessary, for purposes of the investigation, to disregard a particular rule, but that could only be done with the express authorization of the competent police authorities.

46. Ms. MASUDA (Japan) explained that in 2005, the police had adopted a plan to protect victims of violence. Reports on implementation of the plan were submitted annually to the Diet, and the First Secretary of the Government and the ministers concerned held meetings to evaluate the effectiveness of the measures taken under the plan.

47. Mr. UEDA (Japan) said that because of time limitations, the delegation would reply to the other questions in writing.

48. The CHAIRPERSON thanked members of the delegation for the information provided and invited them to reply to the second part of the list of issues (questions 20-29).

49. Mr. UEDA (Japan) said that in Japan, trafficking in persons was considered a serious violation of human rights. Accordingly, in April 2004, the Government had set up an inter-ministerial working group to define measures for combating the practice. In December 2004, a plan of action had been drawn up to prevent and eliminate trafficking and protect victims; the plan provided for the creation of women's shelters throughout the country. By the end of March 2008, 222 victims had received protection, thanks to the shelters. In 2005, the Penal Code had been amended to criminalize all forms of trafficking, in accordance with the Palermo Protocol. The Code of Penal Procedures had been amended in 2007 to improve the protection of victims and witnesses. For example, their identity could now be kept secret during public hearings in cases of crimes involving human trafficking for sexual purposes. Another measure consisted of granting clandestine victims of trafficking special permission to stay, bearing in mind the risks they would face in their country of origin, their willingness to cooperate with police, their physical and psychological condition and their need for protection. The law on immigration controls had been amended in 2005 so that grounds for prohibiting entry into Japan, as well as for deportation, would not be applicable to victims of trafficking. After the adoption of the new provisions, all clandestine immigrants in that situation had been granted special permission to stay. Those who wished to return home received support from the International Organization for Migration (IOM), which assessed the risks faced by victims in their countries of origin, informed victims of the

situation and helped them re-enter without falling prey once again to traffickers. Anonymous telephone hotlines had been set up, and information brochures in nine languages had been widely distributed to help victims of trafficking contact police.

50. The requirements for obtaining permission to stay under the category of “artist” had been amended so that that rule would not be used as a cover for human trafficking. As a result, the number of foreign artists had dropped from around 135,000 in 2004 to 39,000 in 2007. Also, since 2005, applications for “artist” visas and “temporary visitor” visas were scrutinized more carefully.

51. With regard to the “comfort women”, he pointed out that the Covenant did not apply to events that had occurred prior to its ratification by Japan in 1979. Nonetheless, the Japanese Government wished to stress that it had done everything possible to investigate the issue. Since the publication of the conclusions of the investigation, in August 1993, it had publicly apologized for the practice, which had constituted a serious violation of the honour and dignity of many women. The question of reparations had been settled legally in the context of the San Francisco Treaty and other bilateral agreements. The Asia Women’s Fund had been created in 1995 to compensate and assist former “comfort women”. The Government had contributed approximately 4.8 billion yen to the Fund until its closing in March 2007 and would continue to support activities on behalf of the “comfort women”.

52. Applicants for asylum who were rejected could appeal to the Minister of Justice. The Ministry’s advisers on asylum issues could request a hearing for the applicant whom they could question themselves. The interests and rights of asylum-seekers were taken into account from the moment the request was submitted throughout the appeal process. Since the system had been put in place in May 2005, the Ministry had never made a decision that went against the majority recommendation of the advisers. Moreover, since that date, clandestine immigrants against whom deportation orders had been issued had been granted temporary permission to stay, pending review of their request for asylum.

53. If the Central Labour Relations Commission prohibited wearing armbands during hearings on unfair labour practices, it did so to maintain order and the Government respected that decision. Since April 2000, the Commission had never suspended a hearing because of the armband issue.

54. Inciting to national, racial or religious hatred had already been criminalized in legislation. For example, disseminating or expressing discriminatory or offensive ideas about a person or a group was punishable under the Penal Code, as it was considered defamation, an attack against someone else’s reputation or an offence of obstruction. If threats were involved, that would qualify as intimidation under the Penal Code or as collective or ordinary intimidation under the law on suppression of physical violence. Violence arising from discriminatory opinions referred to bodily injury, blows and wounds or other acts of violence punished by the Penal Code.

55. A continuous chain of support services was in place to prevent and detect child abuse, ensure rapid intervention and protect victims. In April 2008, amended versions of the 2000 law on prevention of child abuse had entered into effect, as well as the 2004 law on protection of children, which provided for the following measures: home visits to verify the safety of the child; stricter limitations on contacts between a child and his or her parents or guardians, with sanctions for failure to comply with restraining orders; and specific instructions to parents or guardians who did not follow the advice given to them in regard to education. Since 2004, penalties for child prostitution had increased, as well as penalties for

distribution of child pornography. The latter was now punishable even when only a few people received the pornographic materials, and a bill criminalizing the mere possession of child pornography had been submitted to the Diet in June 2008.

56. With regard to non-discrimination, Japan considered that the Covenant prohibited unjustifiable discrimination but not differences in treatment based on reasonable criteria, such as those envisaged in paragraph 13 of the Committee's General Comment 18. An in-depth analysis was made to ensure that differential treatment was reasonable, bearing in mind the objective of the differentiation and the specific aspects of the situation, including socio-economic factors. That was done to prohibit discrimination, in compliance with the Covenant, and no arbitrary discrimination would be tolerated under the guise of "reasonable discrimination".

57. Under article 2, paragraph 1, of the Nationality Law, a child acquired Japanese nationality if, at the time of birth, the father or mother was a Japanese national. Article 3, paragraph 1, provided that a child born out of wedlock when only the father was Japanese and who had not acquired Japanese nationality at birth under article 2 could be naturalized if the couple married, giving the child legitimate status. That article would be reviewed, however, since the Supreme Court had recently declared it discriminatory with regard to children who, although recognized by their father after birth, had not acquired legitimate status through the marriage of the parents. The expression "illegitimate child" was no longer used in legislation.

58. With regard to inheritance rights, a bill to partially amend the Civil Code provided that part of the inheritance of children born out of wedlock must be the same as that of other children. However, in important issues relating to marriage and the family, different trends in public opinion had to be taken into account.

59. In Japan, there were many Korean schools, almost all of which were accredited and subsidized by local authorities. Access to university was open to students of all nationalities, regardless of whether they had secondary school diplomas from Japanese schools or some other diploma at an equivalent or higher level. Since September 2003, access had been extended to students from foreign schools in Japan if their diplomas were recognized as equivalent to a secondary school diploma in the country concerned, and to students from foreign schools that were recognized by an international accreditation association, as well as to students whose level was recognized as adequate by a university.

60. Several projects on behalf of the Aïnu minority had been implemented under the law on promotion of the Aïnu culture. For example, an Aïnu language programme had been proposed to parents and children and textbooks on Aïnu history and culture had been developed and distributed to students in primary and secondary schools. In June 2008, the Diet had unanimously adopted a resolution recognizing the Aïnu as an indigenous people of northern Japan with their own language, religion and culture.

61. In connection with the preparation of the fifth periodic report, representatives of civil society had been invited to participate in informal meetings and to express their views on the website of the Ministry for Foreign Affairs. Two meetings, in October 2001 and October 2003, had brought together 10 ministries and Government agencies and several NGOs, some concerned with minorities. The Government realized that collaboration with civil society was essential to the promotion and protection of human rights, and it would pursue its efforts in that regard. It had published for wide distribution a brochure on the Universal Declaration of Human Rights and other international instruments and another on

international society and human rights. Information was also available on the website of the Ministry for Foreign Affairs.

62. The CHAIRPERSON thanked the delegation for their replies and invited Committee members who wished to do so to pose additional questions.

63. Mr. O'FLAHERTY said he would like to know if more detailed statistics on trafficking were available. Trafficking was difficult to quantify, but the United Nations Children's Fund (UNICEF) had done so in some countries. Further details on the plan of action would also be welcome, especially on how it was coordinated by different ministries and stakeholders. It appeared from information provided by the delegation that assistance had been requested from two foreign providers: private centres that offered shelter to victims, and IOM, for the assessment of risks before a person was sent back to his or her country. He would like to know what type of surveillance mechanism was envisaged, especially to verify whether victims were well treated in the centres and whether the evaluations made by IOM, which was not a human rights organization, were adequate. The penalties imposed on traffickers seemed very lenient: in 2005, out of 75 persons convicted, only 6 had been sentenced to prison, for an average duration of two years. Moreover, five of those individuals had been aliens. The Committee would appreciate an explanation of the matter.

64. The delegation had not explained why the age of consent for sexual relations (13) was so low, nor had it specified if the same age applied to boys as to girls. The delegation had mentioned that there was a broad structure for combating child abuse but had not indicated whether that included a national plan of action. Finally, he would like to know the status of the proposed legislation on criminalization of the possession of child pornography.

65. The CHAIRPERSON invited the delegation and the Committee to conclude the examination of the fifth periodic report of Japan at the next meeting.

*The meeting rose at 1 p.m.*