

**INTERNATIONAL  
COVENANT  
ON CIVIL AND  
POLITICAL RIGHTS**



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Addendum

JAPAN

[24 October 1980]

Part One: General Comments

1. Almost all the rights provided for in the Covenant are guaranteed by the Constitution of Japan. \*/ The Constitution provides in article 11: "The people shall not be prevented from enjoying any of the fundamental human rights ...", and it sets forth a comprehensive list of fundamental human rights on the basis of human dignity as prescribed in article 13. In compliance with the provisions of the Constitution, laws and regulations set forth detailed rules concerning the protection of these fundamental human rights. The rights referred to in the Covenant, including rights not specifically mentioned in the Constitution, are guaranteed under domestic legislation.

With regard to the rights of an alien, some provisions of the Constitution refer only to nationals (articles 11, 13, 14 et al.) and others to all persons irrespective of nationality. However, the Constitution does not purport to exclude an alien from the enjoyment of fundamental human rights, and, therefore, an alien is also guaranteed, by the Constitution and other domestic legislation, enjoyment of the rights recognized in the Covenant.

The Constitution provides that the exercise of human rights can be restricted on the ground of the public welfare (articles 12, 13 and 22). The concept of the public welfare, however, is given a strict interpretation and is not abused for unreasonable restriction of the human rights.

2. The judicial power is vested with the Supreme Court and the inferior courts, and any person, whose rights are violated, is constitutionally assured of access to the courts (articles 32 and 76). Moreover, the Constitution has provisions for the review by the courts of the constitutionality of laws, regulations and administrative dispositions at trials of individual cases (article 81).

Although in certain cases where there is a violation of the rights of people an agency empowered under the Administrative Complaint Review Law has primary jurisdiction over the case, judicial remedies are still available (article 81).

As regards compensation for damages caused by the conduct of Government agencies and officials, the Constitution sets forth general rules in articles 17 and 40, and in implementing these rules, the laws and regulations referred to in paragraph 3 below are applied.

3. A. In case of violation of rights, the following remedial procedures are available:

(1) In case of violation by Government agencies:

- (i) Application for a review or filing of an objection pursuant to the Administrative Complaint Review Law;
- (ii) Filing of a suit pursuant to the Law Concerning the Procedures for Administrative Litigations;

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\*/ The relevant parts of laws and regulations referred to in this report are contained in the annex to this document.

- (iii) Application for suspension of execution pursuant to article 34 of the Administrative Complaint Review Law;
- (iv) Application for suspension of execution pursuant to article 25 of the Law Concerning the Procedures for Administrative Litigations.

(2) In case of violation by private individuals:

- (i) Filing of a suit seeking an injunction (Civil Code, Code of Civil Procedure);
- (ii) Provisional disposition for an injunction regarding the above suit (Civil Code, Code of Civil Procedure).

(3) For those under unreasonable physical restraint, remedies are available through Habeas Corpus and parole (the Habeas Corpus Act, articles 2, 10, 16), in addition to the remedial measures cited in (1) and (2) above.

B. Criminal procedures for remedial actions for such violations are as follows:

(1) In general, a complaint (articles 230 et seq.), an accusation (articles 239 et seq.), indemnification of costs (articles 188-2 et seq.), a quasi-procedure for prosecution (articles 262 et seq.), Koso appeal (articles 372 et seq.), Jokoku appeal (articles 405 et seq.), Kokoku appeal, a quasi-Kokoku appeal, an extraordinary Kokoku appeal (articles 419 et seq.), re-opening of procedure (articles 435 et seq.) and an extraordinary Jokoku appeal (articles 454 et seq.), as prescribed in the Code of Criminal Procedure;

(2) For juvenile cases, Kokoku appeal and a second Kokoku appeal as provided for in the Juvenile Law.

C. In case of violation of rights involving damages, the following remedial procedures are available:

(1) Claims for damages caused by an unlawful act may be filed under the Civil Code;

(2) Claims for damages caused by illegal conduct by public officials may be filed under the State Redress Law (articles 1 and 3);

(3) Demand for compensation for damage caused by internment or detention pending trial, in which the person concerned is acquitted, may be sought under the Criminal Compensation Law (articles 1, 2, 4 and 5);

(4) Criminal compensation for the suspect interned or detained pending trial but not prosecuted may be filed under the Regulation for Suspect's Compensation (articles 2 and 3).

D. The Civil Liberties Bureau, which is the department in the Ministry of Justice responsible for the protection of human rights, has branches in legal affairs offices and regional legal affairs offices all over the country to ensure the protection of human rights throughout the country. In addition, there are about 11,000 Civil Liberties Commissioners entrusted by the Minister of Justice with the task of protecting the human rights of local residents. Any person whose rights have been infringed may at any time request the Civil Liberties Commissioners as well as

the civil liberties branches in legal affairs offices and their local branches to investigate his case as a violation of human rights and dispose of it properly. Although in this case, the disposition, unlike the other remedies described above, has no compulsory power, it provides a practical solution through a simpler procedure.

4. As indicated above, the rights mentioned in each article of the present Covenant are already guaranteed by the Constitution of Japan and the laws and regulations implementing it; moreover, protective administrative measures based on these domestic legislative provisions are adequately implemented.

Part Two: Information in relation to each of the articles  
in Parts I, II and III of the Covenant

Article 1.

Japan has consistently recognized the right to self-determination of peoples in accordance with the Charter of the United Nations and other related rules referred to in article 1 and has been working strenuously for full realization of the right to self-determination of peoples in the international community.

Article 2

(1) In providing equality under the law, article 14, paragraph 1, of the Constitution prohibits discrimination on account of race, creed, sex, social status or family origin. The laws and regulations giving effect to the rights recognized in the Covenant do not discriminate between individuals on any such basis as is mentioned in paragraph 1 of this article.

(2) Remedial measures referred to in paragraph 3 of article 2 are ensured by domestic laws and regulations as stated in Part One of this Report.

Article 3

As stated above, article 14, paragraph 1, of the Constitution prohibits discrimination on the basis of sex. Further, provisions in laws, such as article 27 of the National Public Service Law, article 3 of the Employment Security Law and article 3 of the Fundamental Law of Education ensure the equal right of men and women.

On the basis of the principle of equality of men and women and in line with the purport of the World Plan of Action adopted by the World Conference of the International Women's Year, Japan has also adopted a "National Plan of Action" to achieve fuller realization of women's right.

Article 4

No special measures are provided for under domestic legislation that may restrict the fundamental human rights in case of public emergency as referred to in paragraph 1. Should such an emergency arise, Japan will take adequate measures in compliance with the Covenant as well as the Constitution.

#### Article 5

(1) As stated above under "General Comments", the concept of public welfare in Japan is given a strict interpretation and is not abused for unreasonable restriction of the human rights. Japan does not, in any way, interpret the provisions of this Covenant in such a way as to destroy any of the rights and freedoms recognized in the Covenant or to limit them to a greater extent than is provided for in the Covenant.

(2) With regard to paragraph 2, the Constitution (articles 16, 23) and laws and regulations provide for the fundamental human rights not referred to in the Covenant. The absence of reference to these rights in the Covenant cannot be used in Japan as a pretext for derogating from or restricting fundamental human rights.

#### Article 6

(1) The right to life referred to in paragraph 1 is covered by articles 11, 13 and 31 of the Constitution, and the protection of life is guaranteed by laws such as article 199 of the Penal Code. Also, compensation for damages inflicted on the life of a person is provided for in articles 709 through 711 of the Civil Code and the State Redress Law.

(2) With regard to paragraph 2, the death penalty is provided for in article 9 of the Penal Code. Nevertheless, the extreme sanction is a statutory penalty and sparingly applied in Japan. It governs only 17 offences, 10 of which cover conduct directly dangerous to human life (e.g. intentional homicide, train wrecking causing death), three of which embody collective action jeopardizing public safety (e.g. organizing an insurrection), and four of which pose substantial danger to a community (e.g. arson of inhabited structures). Moreover, life imprisonment or imprisonment with or without labour for a fixed term is an alternative sanction available for each of the crimes stated above, except inducement of foreign aggression. Furthermore, article 471 of the Code of Criminal Procedure provides that a court decision may only be executed after the judgement becomes final. The death penalty, in particular, can only be executed by further order of the Minister of Justice under article 475 of the Code and the Minister gives an order of execution after having carefully examined not only the court records but various post-sentence circumstances.

(3) With regard to paragraph 4, convicted persons, including those sentenced to death, may seek special amnesty and commutation of the sentence under the Amnesty Law. Article 1-(2), paragraph 2, of the Amnesty Law Enforcement Regulations provides that the chief of penitentiary or the public prosecutor must transmit with his view an application by any convicted person for special amnesty or commutation to the Central Council for Rehabilitation and Protection, which submits its own proposal to the Government. The Constitution provides that amnesty is decided on by the Cabinet, the executive branch of the Government (article 73, item 7), and attested to by the Emperor (article 7, item 6). Also related to this paragraph, there are the provisions of the Offenders Rehabilitation Law (article 54) and the Code of Criminal Procedure (article 337).

(4) With regard to paragraph 5, article 51 of the Juvenile Law provides that any person who is under 18 years of age at the time of commission of an offence is not to be punished with the death penalty, and the Code of Criminal Procedure provides in article 479, paragraph 2, that if a woman sentenced to death is pregnant, execution of the penalty must be stayed by order of the Minister of Justice.



#### Article 7

The Constitution prohibits, in article 36, the infliction of torture and cruel punishment and articles 13 and 38 are also in conformity with the spirit of the present article. Under these provisions of the Constitution, the Penal Code provides against crimes concerning the abuse of power by public officials (articles 193 and 194) and physical violence or maltreatment by public officials of special categories (article 195), and these prohibitions are ensured by a special criminal procedure provided for in articles 262 et seq. of the Code of Criminal Procedure. Also, medical or scientific experimentation carried out without the consent of the person subjected to it constitutes the crime of bodily injury (article 204), assault (article 208), etc. under the Penal Code.

#### Article 8

Article 18 of the Constitution guarantees freedom from slavish bondage and involuntary servitude, except as punishment for crime, and article 27, paragraph 3, prohibits the exploitation of children. Also, the Penal Code prohibits traffic in persons or the sending of kidnapped persons out of the country under article 226, paragraph 2, and under article 223 it prohibits so-called "coercion", that is, making a person perform an act which he is under no obligation to perform, by the use of intimidation or physical violence.

In addition, there are also various safeguards prescribed in the Labour Standards Law (articles 5, 117, article 69, paragraph 1), the Prostitution Prevention Law (articles 7, 10 and 12), the Employment Security Law (article 63), the Child Welfare Law (article 34, paragraph 1, items 6 and 7 and article 60, paragraphs 1 and 2), and a person who is unlawfully under physical restraint may apply for remedial action under the Habeas Corpus Law, and any juristic act between private persons which aims at enslavement is to be nullified under article 90 of the Civil Code.

#### Article 9

(1) The rights referred to in paragraph 1 are guaranteed by articles 31, 33 and 34 of the Constitution and, in addition, the laws and regulations concerning criminal procedure, such as the Code of Criminal Procedure and the Juvenile Law, provide in detail for legal protection and procedures of arrest, production and detention.

In this connection, detention of an alien in an immigration centre under a deportation or detention order in accordance with the Immigration Control Order, which was given the validity of a law by the Diet, is based on the reasons and procedures prescribed by law and is not done arbitrarily. Also, under the Extradition Law, persons may be detained or subjected to other administrative measures involving physical restraint (articles 5 and 25), but since these measures are all based on law, they do not conflict with the provisions of paragraph 1.

(2) With regard to paragraph 2, a warrant of arrest describing, inter alia, the crime suspected to have been committed by the person to be arrested must be shown to him in ordinary cases (Code of Criminal Procedure, article 201, paragraph 1). In case of emergency, such a person may be arrested without being shown a warrant of arrest after being told of the crime which he is suspected of having committed as well as of the fact that the warrant has been issued against him; the warrant, however, must be shown to him as soon as possible (article 201, paragraph 2, article 73, paragraph 3). Also, in case of emergency arrest, the person to be arrested must be

notified that there is sufficient reason to believe that he committed a crime punishable by the death penalty, or imprisonment with or without forced labour for life or for a period of three years or more, and, in addition, that by reason of urgency, a warrant of arrest cannot be obtained beforehand from a judge; the warrant, however, must be obtained from a judge immediately; otherwise, the suspect must be released (article 210). It should be added here that no other procedures involving physical restraint, those taken under the Juvenile Law, the Extradition Law, the Immigration Control Order, the Prostitution Prevention Law, the Offenders Rehabilitation Law, the Law for Probationary Supervision of Persons under Suspension of Execution of Sentences, conflict with the provisions of paragraph 2.

(3) As regards paragraph 3, a suspect must be released unless a public prosecutor requests a judge to detain him or institutes prosecution within 48 or 72 hours after his arrest in accordance with articles 203, 204, 205, 211 and 216 of the Code of Criminal Procedure. And in cases where a request for detention is made to a judge or where prosecution is instituted by the prosecutor, the suspect is promptly brought before a judge, who makes a decision whether to detain or release him (articles 207 and 60). Also, the period of detention prior to prosecution cannot exceed a maximum of 20 days. Further, the accused who is detained after being prosecuted has the right to bail, except in certain cases (article 89), and if the detention of the accused is unduly prolonged, the court must release him by rescinding his detention or granting bail (article 91).

To order detention, there must be reasons as prescribed in article 60 of the Code and, in granting bail, restrictions may be placed on the residence of the accused and other appropriate conditions imposed under articles 88 through 94 of the Code to secure his appearance in court.

(4) With regard to paragraph 4, article 34 of the Constitution provides safeguards against unlawful arrest or detention and the Code of Criminal Procedure provides in detail for the court proceedings concerning the reasons for detention and the rescission of the order of detention under articles 82 through 87, article 207, paragraph 1. Furthermore, article 429, paragraph 1, item 2, article 419 and article 433, paragraph 1, of the Code provide for the procedures for filing quasi-Kōkoku appeal, Kōkoku appeal and special Kōkoku appeal from a court decision relating to detention, thus guaranteeing the rights referred to in paragraph 4.

Also, anyone who is deprived of liberty in accordance with the Immigration Control Order or any other administrative measure may file a suit with the court under the Habeas Corpus Law or the Law concerning the Procedures for Administrative Litigations. Thus the requirements prescribed in this paragraph are well satisfied.

(5) As regards paragraph 5, articles 17 and 40 of the Constitution and also the State Redress Law, the Criminal Compensation Law and the Regulations for Suspect's Compensation guarantee the right established in this paragraph.

#### Article 10

(1) Under article 36 of the Constitution, the infliction of torture by public officers and cruel punishments are absolutely forbidden, and although, in the case of lawful physical restraint some basic rights may be limited to the extent necessary, they are never totally withdrawn. The Prison Law and the Enforcement Regulations thereof provide for the treatment of prisoners in several chapters covering their clothing, meals, cells, hygiene, etc. in order that prisoners may be treated with humanity and with respect for the inherent dignity of the human person. Incidentally, the Prison Law was enacted in 1908, and the work of revising it is now under way to ensure better treatment as well as to meet the present needs of prison administration.

Also, in the field of the administration of immigration control, proper treatment is given to those aliens interned in immigration centres and, in this respect, nothing is in conflict with paragraph 1.

(2) With regard to paragraph 2 (a), accused persons are segregated from convicted prisoners, and are accorded separate treatment in all aspects of treatment programmes, including their right to have interviews with defence counsel without being watched, as provided for under the Code of Criminal Procedure and the Prison Law (articles 1, 3).

As for paragraph 2 (b), the Juvenile Law provides for restrictions on the issuance of a warrant of detention in juvenile cases (article 48) and for the separation of juveniles from adults in institutions (article 49).

(3) With regard to paragraph 3, the provisions of article 24, paragraph 1, and articles 29 and 30 of the Prison Law governing prison labour, preaching and education and, above all, the prisoners' progressive treatment programme, and also the parole system provided for in article 28 of the Penal Code, serve the purposes of this paragraph.

Juvenile offenders are segregated from adults under article 56, paragraph 1, of the Juvenile Law and article 2, paragraph 1, of the Prison Law and, in prison labour and in education, too, they are accorded special treatment, according to the special rules established for juveniles.

#### Article 11

Inability to fulfil a contractual obligation per se does not constitute a crime under Japanese legislation. Therefore, no person may be imprisoned or detained on that ground.

#### Article 12

(1) The rights referred to in paragraphs 1 and 2 are guaranteed under article 22, paragraphs 1 and 2 of the Constitution which provide for freedom to choose one's own residence and freedom to move to a foreign country respectively. Although the Constitution does not expressly stipulate with regard to the right to enter one's own country, it is a well-established interpretation of the Constitution that such right exists as a matter of course.

The Immigration Control Order, which has the validity of a law as mentioned above, is a general law which covers the matters referred to in article 12. In this Order there is no provision which restricts in any manner the freedom of any person to leave Japan or the freedom of a Japanese national to enter Japan, except those provisions referred to in (2) below. Furthermore, in the Order as well as in the Alien Registration Law, there is no provision which restricts the freedom of movement of an alien or his right to choose his own residence.

(2) Although certain provisions of domestic laws, inter alia, article 93, paragraph 3, and article 95 of the Code of Criminal Procedure, and article 13, paragraph 3, article 14, paragraph 3, article 15, paragraph 3, article 16, paragraph 3, and article 18, paragraph 4 of the Immigration Control Order, impose certain restrictions on the rights provided for in article 12 of the Covenant, these restrictions are based on the reasonable grounds falling within the terms of paragraph 3 of the article. Under article 13 of the Passport Law, issue of a passport is restricted only when there is a reasonable ground that is affirmed under paragraph 3 of article 12 as in the case of a person being under prosecution.



### Article 13

An alien may be expelled from Japan only in pursuance of a decision reached in accordance with provisions of the Immigration Control Order, and his right to submit the reasons against his expulsion and to have his case reviewed by a competent authority is guaranteed under chapter 5 (articles 27-55) of the Order. He may also be represented at a hearing in the course of the procedure concerning expulsion (article 48, paragraph 5).

Moreover, appeal to a court is also available to an alien (Law Concerning the Procedures for Administrative Litigations).

### Article 14

(1) With regard to paragraph 1, all persons are treated equally before the courts in pursuance of the provision of article 14 of the Constitution, which embodies the principle of equality under the law. Furthermore, the Constitution guarantees the right to a fair and public trial by an impartial court in article 32, article 37, paragraphs 1 and 3 and chapter 6 (articles 76-82). In compliance with these principles, the Court Organization Law sets forth detailed rules concerning the types of courts and their power, appointment and removal of judges, guarantee of the status of judges, prohibition of political activities of judges and other related matters; and other laws and regulations, including the Code of Criminal Procedure and the Code of Civil Procedure, set forth detailed rules with regard to a fair trial by impartial judges.

As regards publicity of trial, article 82 of the Constitution provides that where a court determines publicity to be detrimental to public order and morals, a trial may be conducted privately except in such cases as offences involving the press.

A trial involving family matters and an offence by a juvenile is to be conducted privately in accordance with article 6 of the Rules for Court Proceedings for Family Affairs and article 22, paragraph 2, of the Juvenile Law respectively, which are in conformity with the provisions of article 14.

(2) Although the Constitution, the Code of Criminal Procedure and other domestic legislation do not expressly provide for the presumption of innocence referred to in paragraph 2 of article 14, it is affirmed in practice as one of the fundamental principles of criminal procedure.

(3) With regard to the guarantees referred to in the subparagraphs of paragraph 3 of article 14, articles 34, 37, 38 and 82 of the Constitution provide for these guarantees, which are implemented by the detailed provisions of domestic legislation, *inter alia*, the Code of Criminal Procedure (article 271, paragraph 1, article 275, article 39, paragraph 1, articles 273, 286, 157 and 304, article 198, paragraph 2, article 319, paragraph 1) in compliance with the constitutional provisions.

(4) As regards the matter referred to in paragraph 4 of article 14, wholesome rehabilitation of juvenile persons is promoted through various measures such as providing a special procedure for handling their cases under the Juvenile Law (in particular, articles 9, 49 and 50) and the Rules of Criminal Procedure (article 277). Thus the provisions of paragraph 14 are implemented.

(5) The right referred to in paragraph 5 of article 14 is guaranteed by domestic laws and regulations such as the Court Organization Law, the Code of Criminal Procedure (articles 351, 372, 405) and the Juvenile Law (articles 32 and 40).

(6) With regard to the rights referred to in paragraph 6 of article 14, Book IV (articles 435-453) of the Code of Criminal Procedure provides for a system of re-opening of procedure, and the Criminal Compensation Law sets forth rules concerning compensation. Furthermore, if a person's conviction was caused by a public officer's intentional conducts or negligence, that person has the right to claim remedy for damages in accordance with the State Redress Law.

(7) With regard to the principle of ne bis in idem referred to in paragraph 7 of article 14, article 39 of the Constitution ensures that right. In compliance with this constitutional provision, article 337, item 1, of the Code of Criminal Procedure provides that "where a final judgement has already been rendered" the defendant is acquitted, and articles 435, 436 and 452 of the Code prohibit re-opening of procedure against the interest of the convicted person. Thus, the principle is fully established in the practice of Japanese criminal procedure.

#### Article 15

The Constitution provides for the principle of nulla poena sine lege, nullum crimen sine lege in article 31 and for the prohibition of ex post facto laws in the first part of article 39. These are basic principles of criminal law (Penal Code, article 6 and the Code of Criminal Procedure, article 337, item 2).

#### Article 16

The purport of article 16 is guaranteed by articles 11 and 13 of the Constitution.

#### Article 17

(1) Article 35 of the Constitution prohibits interference with the home or belongings of any person by the use of public power except under a warrant issued by a competent judicial officer. Further, domestic laws and regulations such as the Penal Code (in particular, articles 130, 134 and 230, paragraph 1), the Civil Code (in particular, articles 710 and 723), the Minor Offences Law (article 1, item 23), the Code of Criminal Procedure (article 149) and the Code of Civil Procedure (article 281, paragraph 1, item 2) prohibit unlawful interference with private life, family or home.

(2) Prohibition of interference with any means of communication is guaranteed by article 21, paragraph 2 of the Constitution, and by the Postal Law (articles 9 and 80) and the Public Telecommunication Law (articles 5 and 110 through 112) in compliance with the constitutional provision.

(3) Articles 230, 231 and 233 of the Penal Code provide for protection against defamation and discredit, and articles 710 and 723 of the Civil Code provide for remedies for such damages.

#### Article 18

The Constitution provides for freedom of thought and conscience in article 19, for freedom of religion in article 20 and for freedom of expression in article 21, paragraph 1. The prohibition of discrimination because of thought, and creed is guaranteed by article 14. In compliance with these constitutional provisions,

discrimination based on creed or religion is prohibited under domestic legislation such as the National Public Service Law (article 27), the Fundamental Law of Education (article 3) and the Labour Standards Law (article 53).

Under article 12 of the Constitution, freedom of religion and freedom of expression are to be subject to certain restriction for reasons of public welfare. These restrictions, examples of which are found in articles 175 and 230 and subsequent articles of the Penal Code, are in conformity with paragraph 3 of article 18.

#### Article 19

(1) The right referred to in paragraph 1 of article 19 is guaranteed under article 19 of the Constitution which provides for freedom of thought and conscience.

(2) The right referred to in paragraph 2 is guaranteed under articles 21 and 23 of the Constitution.

#### Article 20

(1) With regard to paragraph 1 of article 20, since article 9 of the Constitution provides for the renunciation of war and since a very strong negative feeling against war exists among the people, it is almost inconceivable that any propaganda for war could actually be carried out. Furthermore, freedom of expression is guaranteed by the Constitution to the extent that it does not interfere with the public welfare. If there should emerge a danger of a harmful effect of propaganda for war in the future, then legislative measures would be considered as necessary.

(2) With regard to paragraph 2 of article 20, article 14 of the Constitution provides, as mentioned above, for the principle of equality under the law. Furthermore, legislative measures, which contribute to the elimination of discrimination, hostility and violence, have been taken in various areas such as criminal laws (in particular, Penal Code, articles 222 and 223), education laws, labour laws and others. In case actual adverse effects caused by such acts arise in the future which could not be restrained under the existing legislation, further legislative measures are to be considered with careful consideration for freedom of expression, which is guaranteed by the Constitution to the extent that it does not interfere with the public welfare.

#### Article 21

Freedom of assembly and association is guaranteed under article 21, paragraph 1 of the Constitution. Restrictions on the exercise of this right under domestic legislation, (such as article 5 of the Subversive Activities Prevention Law concerning organizational activities and article 19, paragraph 1, item 3, of the Contagious Disease Prevention Law on certain activities, including assembly) are all in conformity with the provisions of article 21.

#### Article 22

Freedom of association is guaranteed under article 21, paragraph 1, of the Constitution, while specific provisions for labour organizations are contained in article 28 thereof. In compliance with these constitutional provisions, domestic legislation, including the Trade Union Law and the Law of Labour Relations for Public Corporations and Others, is laid down.

Article 7 of the Subversive Activities Prevention Law provides that an organization may be declared to be dissolved. However, since such a measure is taken only when there is a clear danger of an organization engaging in terrorist subversive activity, it does not conflict with the provisions of article 22.

#### Article 23

(1) The right referred to in paragraphs 1, 2 and 3 of article 23 is guaranteed by article 24 of the Constitution which provides that "marriage shall be based on the mutual consent of both sexes and it shall be maintained through mutual co-operation with the equal rights of husband and wife as a basis. With regard to ... matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes". Article 24 of the Constitution is mainly ensured by the detailed provisions in Book IV (Relations) of the Civil Code (in particular, articles 731 - 754).

(2) With regard to paragraph 4 of article 23, Book IV of the Civil Code (in particular, articles 750 - 771) contains provisions similar to those of paragraph 23. Furthermore, for the purpose of dealing with domestic disputes, family courts are set up, and regarding the protection of children in case of dissolution of marriage, provision is made at the time of divorce for the designation of either one of the parents as the person in parental authority. Thus the interests of children are protected.

#### Article 24

(1) With regard to the guarantee referred to in paragraph 1 of article 24, the exploitation of children and discrimination on grounds of race, creed, sex, social status and family origin are prohibited under article 27, paragraph 3, and article 14, paragraph 1, of the Constitution. Further guarantees are provided through measures taken in accordance with the Juvenile Law, the Child Welfare Law and the Law on Health Care of Mothers and Children.

(2) With regard to paragraphs 2 and 3 of article 24, article 18 of the Family Registration Law and article 2 of the Nationality Law contain similar provisions.

#### Article 25

The rights referred to in subparagraphs (a) and (b) of article 25 are guaranteed under, *inter alia*, articles 15, 16, 44 and 79 and article 93, paragraph 2 of the Constitution and articles 1, 36, 46 and 52 of the Law Concerning Elections for Public Offices. As regards subparagraph (c), domestic legislation such as article 33 of the National Public Service Law and article 15 of the Local Public Service Law is laid down.

#### Article 26

As mentioned earlier, equality under the law is provided for in article 14, paragraph 1, of the Constitution and related provisions are also set forth in articles 24 and 44. Further, there exist related domestic legislation such as article 4 of the Labour Standards Law, article 27 of the National Public Service Law, article 3 of the Fundamental Law of Education and article 244 of the Local Autonomy Law.

#### Article 27

The right of any person to enjoy his own culture, to profess and practise his own religion or to use his own language is ensured under Japanese law. However, minorities of the kind mentioned in the Covenant do not exist in Japan.



Annex: Excerpts from the Laws and Regulations  
related to this Report \*/

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\*/ The English texts of the laws and regulations were supplied by the Japanese Government.

1. The Constitution of Japan

Article 7. The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of State on behalf of the people:

...  
Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.  
...

Article 9. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the State will not be recognized.

Article 11. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article 12. The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article 13. All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Article 14. 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.

Peers and peerage shall not be recognized.

No privilege shall accompany any award of honour, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article 15. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all election, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

Article 16. Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters: nor shall any person be in any way discriminated against for sponsoring such a petition.

Article 17. Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Article 18. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article 19. Freedom of thought and conscience shall not be violated.

Article 20. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article 21. Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article 22. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 23. Academic freedom is guaranteed.

Article 24. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual co-operation with the equal rights of husband and wife as a basis.

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Article 25. All people shall have the right to maintain the minimum standards of wholesome and cultured living.

In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Article 27. ... Children shall not be exploited.

Article 28. The right of workers to organize and to bargain and act collectively is guaranteed.

Article 31. No person shall be deprived of life or liberty nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 32. No person shall be denied the right of access to the courts.

Article 33. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offence with which the person is charged, unless he is apprehended, the offence being committed.

Article 34. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article 35. The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33.

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Article 36. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article 37. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.

Article 38. No person shall be compelled to testify against himself.

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article 39. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Article 40. Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

Article 44. The qualifications of members of both Houses and their electors shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education property or income.



Article 73. The Cabinet, in addition to other general administrative functions, shall perform the following functions:

....

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article 76. The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law.

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.

All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

Article 77. The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

Public procurators shall be subject to the rule-making power of the Supreme Court.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article 78. Judges shall not be removed except by public impeachment unless judicially declared mentally or physically incompetent to perform official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

Article 79. The Supreme Court shall consist of a Chief Judge and such number of judges as may be determined by law; all such judges excepting the Chief Judge shall be appointed by the Cabinet.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment, and shall be reviewed again at the first general election of members of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters favours the dismissal of a judge, he shall be dismissed.

Matters pertaining to review shall be proscribed by law.

The judges of the Supreme Court shall be retired upon the attainment of the age as fixed by law.

All such judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 80. The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.

The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 81. The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article 82. Trials shall be conducted and judgement declared publicly.

Where a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offences, offences involving the press or cases wherein the rights of people as guaranteed in Chapter III of this Constitution are in question shall always be conducted publicly.

Article 98. This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force of validity.

...

## 2. The Nationality Law

Article 2. A child shall, in any of the following cases, be a Japanese national;

- (1) When, at the time of its birth, the father is a Japanese national;
- (2) When the father who died prior to the birth of the child was a Japanese national at the time of his death;
- (3) When the mother is a Japanese national in case the father is unknown or has no nationality;
- (4) When both parents are unknown or have no nationality in a case where the child is born in Japan.

## 3. The Habeas Corpus Law

Article 2. Any person who is physically restrained without due legal procedure may apply for its recovery in accordance with the provisions of this law.

2. Any person may present the application referred to in the preceding paragraph on behalf of the person who is held under such restraint.

Article 10. In case of necessity, the Court may, in order to relieve the restrained person of the restraint temporarily, release him either under oath that he will present himself at any time when summoned or on the conditions deemed proper or otherwise take appropriate steps by means of a ruling, before it renders the judgment provided for in Article 16.

2. In case the restrained person referred to in the preceding paragraph has failed to appear, ignoring the summons, he may be arrested.

Article 16. If the Court, upon examination, finds such application groundless, it shall dismiss it by a judgement, and deliver to the restrainer the person so detained.

2. In the case of the preceding paragraph, the provisions of Article 11 paragraph 2 shall apply mutatis mutandis.

3. In case the application is based on sufficient grounds, the Court shall immediately release the person under restraint by a judgement.

#### 4. The Law Concerning Elections for Public Offices

Article 1. The purpose of this law is to establish an election system for publicly electing members of the House of Representatives and the House of Councillors and members of local assemblies as well as heads of local authorities, to ensure that such elections are held fairly and justly based on the freely expressed will of the electors and, thereby, to aim at sound development of democratic government, in accordance with the spirit of the Constitution of Japan.

Article 36. A person with suffrage may cast only one ballot at each election, provided that in the case of the election of Members of the House of Councillors, one ballot each may be cast for a locally elected Member and a nationally elected Member.

Article 46. The voter shall, at the polling place, write himself the name of only one candidate for a public office in the election concerned on a ballot paper and deposit it in the ballot box.

2. The name of the voter shall not be written on the ballot paper.

Article 52. No person shall be obligated to declare the name of the candidate for whom the elector voted.

#### 5. The Court Organization Law

Article 1. The Supreme Court and the inferior courts prescribed in the Constitution of Japan shall be provided for by this Law.

Article 2. The inferior courts shall mean High Courts, District Courts, Family Courts and Summary Courts.

2. The establishment, abolition and territorial jurisdiction of inferior courts shall be provided for elsewhere by law.

Article 3. Courts shall, except as expressly provided for in the Constitution of Japan, decide all legal disputes and shall possess such other powers as are specifically provided for by law.

2. The provisions of the preceding paragraph shall in no way prevent preliminary determinations by executive agencies.

3. The provisions of this Law shall in no way prevent the establishment of a jury system for criminal cases elsewhere by law.

Article 4. A conclusion in a decision of a superior court shall bind courts below in respect of the case concerned.

Article 5. The judges of the Supreme Court shall be a chief judge who is called the Chief Justice of the Supreme Court and other judges who are called the Justices of the Supreme Court.

2. The judges of inferior courts shall be a chief judge of a High Court who is called the President of High Court and other judges who are called judges, assistant judges, and judges of the Summary Court.

3. The number of the Justices of the Supreme Court except the Chief Justice shall be 1; and the number of the judges of inferior courts shall be fixed elsewhere by law.

Article 48. A judge shall not, against his will, be dismissed, or be transferred from one court to another, or be suspended from exercising his judicial function, or have his salary reduced, except in accordance with the provisions of law relating to public impeachment or national review, or unless, in accordance with provisions made elsewhere by law, he is declared mentally or physically incompetent to perform official duties.

Article 49. When a judge has swerved from his duty, neglected his duty or degraded himself, he shall be subjected to disciplinary punishment by decisions as provided for elsewhere by law.

Article 52. Judges shall not, while in office, do any of the following acts:

- (1) To become members of the Diet or of assemblies of local public entities or actively to engage in political movements;
- (2) To hold another salaried position without obtaining the permission of the Supreme Court;
- (3) To carry on any commercial business or a business which aims at pecuniary gain.

#### 6. The National Public Service Law

Article 27. In the application of this Law, all of the people shall be accorded equal treatment and shall not be discriminated against by reason of race, religious faith, sex, social status, family origin, or political opinions or affiliation except as provided in item 5 of Article 33.

Article 33. Appointment of an employee shall, as provided by this Law and the rules of the Authority, be made entirely on the basis of the result of his examination and the merit of his performance of duties or other demonstrated abilities.

#### 7. The Local Public Service Law

Article 15. Appointments of the personnel must be made in accordance with the provisions of this Law on the basis of the record of examination, merits in the performance of duty, or other demonstrations of ability.



8. The Local Autonomy Law

Article 244. Each ordinary local public body shall establish facilities for public use (referred to as "public facilities") with a view to promoting the welfare of its inhabitants.

2. No inhabitant shall be refused to use public facilities of the ordinary local public body without due reason.

3. The ordinary local public body shall make no unreasonable discrimination of inhabitants using its public facilities.

9. The State Redress Law

Article 1. When a governmental official who is in a position to wield governmental powers of the State or of a public body has, in the course of performing his duties, illegally inflicted losses upon another person either intentionally or negligently, the State or the public body concerned shall be liable to compensate such losses.

2. If, in the case mentioned in the preceding paragraph, the Government official involved was intentional or guilty of gross negligence, the State or the public body concerned shall have the right to obtain reimbursement from such official.

Article 3. If, in cases where the State or a public body assumes responsibility for compensation of losses, the person in charge of selection or supervision of the government official or the establishment or management of public installations is not the same person who is to bear the stipend, allowances and other expenditures of the government official or expenses of establishment or management of public installations, the person who is to bear such expenditures or expenses shall also be liable to compensate losses.

2. In the case mentioned in the preceding paragraph, the person who has compensated losses shall have the right to obtain reimbursement from the person who, because of internal relationship, is responsible for compensation of losses.

10. The Law Concerning the Procedures for Administrative Litigations

Article 25. The effect and execution of a disposition and the continuance of procedure shall not be affected by institution of suit for rescission of a disposition.

2. Should it deem it necessary to do so, a court may, on application or ex-officio, suspend the whole or a part of the effect or execution of a disposition or of the continuance of procedure (hereinafter referred to as "suspension of execution").

3. Suspension of execution may not be ordered in case the suspension of execution is likely to inflict a material adverse effect upon public welfare or the main action seems groundless.

## 11. The Administrative Complaint Law

Article 34. The effect and execution of a disposition and the continuance of procedure shall not be affected by a request for appeal.

2. Should it deem it necessary to do so, the office for appeal which is superior to the disposing office may, on application of a person requiring for appeal or ex-officio, suspend the whole or a part of the effect or execution of a disposition, or of the continuance of procedure, and take other measures (hereinafter defined as "suspension of execution").

3. Should it deem it necessary to do so, the office for appeal which is other than the superior office to the disposing office may, on application of a person requiring for appeal, make the suspension of execution, after having heard the opinion of the disposing office. But it shall not take other measures but suspending the whole or a part of the effect or execution of the disposition, or of the continuance of procedure.

4. Where such application has been made by a person requiring for appeal under the preceding two paragraphs, the office for appeal must make the suspension of execution when it deems it urgently necessary to prevent the irreparable damages which may be caused by the disposition, its execution or the continuance of procedure. But this shall not apply in case the suspension of execution is likely to inflict a material adverse effect upon public welfare or it is likely to make the execution of disposition or the continuance of procedure impossible or the main action of the request for appeal seems groundless.

5. In the case of the preceding three paragraphs, it shall not be made to suspend the effect of the disposition if it can attain the object by any other measures.

6. In case the application of the suspension of execution has been made, the office for appeal must, without delay, decide whether to suspend the execution or not.

## 12. The Passport Law

Article 13. The Minister for Foreign Affairs or the Consular Official may refuse the issuance of an ordinary passport or the entry into an ordinary passport of the names of additional countries to be visited in the case the applicant falls under any one of the following items:

- (1) A person whose admission into the country to be visited is not granted under the laws in force of that country;
- (2) A person under prosecution for a crime punishable with death penalty or with a penalty for life term or limited term penal servitude of which the maximum period is prescribed not less than two years, or a person against whom a warrant of arrest, order of temporary detention to bring a suspect to court, order of custody or writ of detention for examination of his mental or physical state by experts has been issued under suspicion of having committed above-mentioned crimes and information to that effect having been communicated to the Minister for Foreign Affairs by the concerned authorities;
- (3) A person, who having been sentenced to a penalty not lighter than imprisonment does not have the execution of the sentence completed or is not freed therefrom;

- (4) A person who has been sentenced under the provisions of Article 23 of this Law;
- (4-2) A person who has returned to Japan as coming under Article 1 of the Law concerning Assistance for Repatriation of Japanese People (Law No. 236 of 1955) and to whom the measures mentioned in paragraph 1, Article 2 of the said Law have been applied, or to whom the Government has loaned money in order to have him repatriated in accordance with the provisions of paragraph 1, Article 3 or Article 4 of the said Law, and who is liable to be a public charge when he travels to foreign countries;
- (5) Any person other than those who come under any of the above-mentioned items, about whom there exists sufficient grounds for the Minister for Foreign Affairs to recognize him as being liable to commit acts grossly and directly detrimental to the national interest or the public safety of Japan.

2. When deciding upon a case mentioned under item (5) of the preceding paragraph, the Minister for Foreign Affairs shall consult the Minister for Justice in advance.

### 13. The Immigration Control Order

Article 13. The supervising immigration inspector may, in case he finds it specifically necessary during the process or the procedures for landing provided for in this Chapter, give permission of provisional landing to the alien before such procedures are completed.

3. In case the permission provided for in paragraph 1 is given, the supervising immigration inspector may subject the alien concerned to restrictions on residence and area of movement, duty to appear at a summons or other necessary conditions in accordance with the provisions of Ministry of Justice Ordinance, and have him deposit a bail bond in Japanese currency of an amount fixed by Ministry of Justice Ordinance within the limit of two hundred thousand yen or in foreign currency in the equivalent amount.

Article 14. In case an alien aboard a vessel, etc. desires to land and stay for not more than 72 hours at an area in the neighbourhood of the port of entry and departure while his vessel, etc. is in the same port of entry and departure, the immigration inspector may give him permission of port-of-call landing upon application of the master of the vessel, etc; provided however, that this shall not apply to the alien coming under any one of the items of Article 5 paragraph 1.

3. In giving the permission provided for in paragraph 1, the immigration inspector may have the alien subjected to such restrictions as the length of time of stay on shore of landing, area of movement and others which he may deem necessary and if he finds it necessary, take the fingerprints of the alien concerned in accordance with Ministry of Justice Ordinance.

Article 15. In case an alien (excluding a crewman) aboard a vessel desires temporarily to land at a port of entry and departure and pass through Japan for sightseeing so that he may return to his vessel at another port of entry and departure at which the vessel is scheduled to call, the immigration inspector may give him permission to land in transit for sightseeing, upon application of the master of the vessel or the carrier who operates the vessel.

3. In giving the permission provided for in paragraph 1, the immigration inspector may impose upon the alien concerned such restrictions as period of stay in Japan, route to be followed in transit and others which he may deem necessary, in accordance with Ministry of Justice Ordinance.

Article 16. The immigration inspector may, in case an alien crewman desires to pass through Japan in order to reship on board another vessel in another port of entry and departure in Japan, upon application of the carrier operating the vessel on which the alien crewman has arrived, and in case an alien crewman desires, in order to become a crewman of a vessel in Japan, to land from another vessel, etc. and pass through Japan, upon application of the carrier operating the vessel in Japan, permit the landing for reshipping respectively.

3. In case the permission provided for in paragraph 1 is given, the immigration inspector may impose upon the crewman such restrictions as period of stay in Japan, route to be followed in transit and others which he may deem necessary in accordance with Ministry of Justice Ordinance.

Article 18. In case the immigration inspector deems it urgently necessary, in the event of a vessel's distress, for carrying out the relief and protection of alien victims on board the vessel or for any other cause, he may give the aliens concerned permission to land on account of disaster at sea upon application of the mayor of the city or the headman of the town or village who carries out the relief and protection under the provisions of the Sea Casualties Rescue Law (Law No. 95 of 1899), or the master of the vessel who has afforded relief and protection to the aliens concerned.

2. In case the immigration inspector has taken delivery of the aliens mentioned in the preceding paragraph from the maritime safety official, he shall immediately give permission to land on account of disaster at sea referred to in the same paragraph.

4. In giving the permission provided for in paragraph 1 or paragraph 2, the immigration inspector may impose upon the alien such restrictions as the period of stay in Japan, area of movement and others which he may deem necessary in accordance with Ministry of Justice Ordinance.

Article 24. Any alien who comes under any one of the following items may be deported from Japan in accordance with the procedures provided for in Chapter V of this Order:

- (1) Any person who has entered Japan in violation of the provision of Article 3;
- (2) Any person who has landed in Japan in violation of the provision of Article 9 paragraph 5;
- (3) Any person, other than those coming under the preceding two items; who has landed in Japan without obtaining the permission of port-of-call landing, permission of landing in transit for sightseeing, permission of landing for reshipping, permission of emergency landing or permission of landing on account of disaster at sea;



- (4) Any alien staying in Japan (excluding those to whom permission of provisional landing, permission of port-of-call landing, permission of landing in transit for sightseeing, permission of landing for reshipping, permission of emergency landing, or permission of landing on account of disaster at sea has been given) who comes under any one of the following subitems;
- a. Any person who is clearly found to be engaged solely in an activity to be conducted by the person under the status of residence other than that mentioned in his passport without having his status of residence changed;
  - b. Any person who stays in Japan over period of stay entered in his passport;
  - c. Any invalid to whom the Leprosy Prevention Law is applied;
  - d. Any person who is afflicted with a mental disease specified by the Mental Hygiene Law and has been placed in a lunatic asylum or a designated hospital prescribed by the same Law;
  - e. A pauper, vagrant, or physically handicapped person, etc. who has become a charge on the State or a local public entity;
  - f. Any person who has been sentenced to imprisonment without forced labour or a heavier penalty for violation of the provision of laws and ordinances relating to the registration of aliens, other than one who has been sentenced guilty with the suspension sentence;
  - g. Any person who is a juvenile provided for by the Juvenile Law (Law No. 160 of 1948) and who has been sentenced, after the effective date of this Cabinet Order, to imprisonment at or without forced labour a maximum period exceeding three years;
  - h. Any person who has been convicted, after the effective date of this Cabinet Order, of violation of the provision of the Narcotics Control Law, Taima Control Law, Opium Law or Chapter XIV of the Penal Code (Law No. 45 of 1970);
  - i. Excepting those under subitems f to h inclusive, any person who has been sentenced, after the effective date of this Cabinet Order, to imprisonment at or without forced labour for life or for a period exceeding one year; provided, however, that this shall not apply to those who have been granted the suspension of the execution of sentence;
  - j. Any person who is engaged in prostitution or procuring prostitutes for other persons, solicitation, furnishing the place for prostitution or any other business directly connected with prostitution;
  - k. Any person who has abetted, instigated or aided the illegal entry or illegal landing of an alien into Japan;
  - l. Any person who attempts or advocates the overthrow of the Constitution of Japan or the Government formed thereunder by means of force or violence, or who has organized, or is a member of a political party or other organization which attempts or advocates the same;

m. Any person who organizes, or is a member of, or is closely associated or affiliated with, any of the political parties or other organization specified below;

i. Any political party or any organization that encourages the unlawful assaulting, killing or injuring of officials of the Government or local public entities for the reason of their being such officials;

ii. Any political party or any organization that encourages an act of labour dispute which may stop or prevent the normal maintenance or operation of security equipments of a plant or a place of work;

n. Any person who has prepared, distributed or displayed printed matters, motion pictures, or any other documents or drawings in order to attain the objective of the political party or other organization provided for in subitem 1 or subitem m;

o. Any person other than any of those coming under subitems a to n inclusive, who the Minister of Justice finds has committed acts detrimental to the interests of Japan or security thereof.

- (5) Any person who has been given permission of provisional landing and escapes in violation of the conditions imposed under Article 13 paragraph 3 or fails to comply with summons without good reason;
- (6) Any person who has been given the permission of port-of-call landing, permission of landing in transit for sightseeing, permission of landing for reshipping, permission of emergency landing, permission of emergency landing or permission of landing on account of disaster at sea, and stays in Japan over the period mentioned in his permit.
- (7) Any alien who stays in Japan over the period provided for in Article 22-(2) paragraph 1 without having the status of residence and period of stay entered in his passport under the provision of Article 20 paragraph 4 applicable mutatis mutandis under Article 22-(2) paragraph 3, or without receiving the certification by stamping for permission of permanent residence under the provision of Article 22 paragraph 3 applicable mutatis mutandis under Article 22-(2) paragraph 4.

Article 25. Any alien (excluding crewmen, but including those departing with re-entry permits provided for in Article 26) who desires to depart from Japan with the intention to proceed to an area outside Japan shall have his passport stamped for certification of his departure by the immigration inspector at any one of the port of entry and departure at which he departs from Japan.

2. Any alien mentioned in the preceding paragraph shall not depart from Japan unless he has passport stamped for certification of his departure.

Article 27. The immigration control officer may, in case he deems that there is an alien who comes under any one of the items of Article 24, conduct investigation of violation of the alien (hereinafter referred to as "suspect").

Article 39. An immigration control officer may, if he has sufficient reason to suspect that the suspect comes under any one of the items of Article 24, detain him under the written detention order.

2. The written detention order mentioned in the preceding paragraph shall be issued upon application of the immigration control officer by the supervising immigration inspector of the government office to which the former belongs.

Article 45. The immigration inspector shall, when a suspect has been delivered to him pursuant to the provision of the preceding Article, promptly examine as to whether or not the suspect comes under any one of the items of Article 24.

2. The immigration inspector shall, in case he has held the examination under the preceding paragraph, prepare the protocol thereof.

Article 46. Any of the suspects subjected to the examination under the preceding Article who is held to come under any one of the items from (1) to (3) inclusive of Article 24 shall prove for himself that he does not come under the item.

Article 47. The immigration inspector shall, when he has found, as the result of the examination, that the suspect does not fall under any one of the items of Article 24, release him without delay.

2. In case the immigration inspector has found, as the result of the examination, that the suspect falls under any one of the items of Article 24, he shall immediately notify the supervising immigration inspector and the person concerned to that effect in writing together with the statement of grounds for his finding.

3. In case the immigration inspector submits a notification under the preceding paragraph, he shall notify the suspect of his right to request a hearing under the provisions of Article 48.

4. In case the suspect admits the finding in the case of paragraph 2, the supervising immigration inspector shall, after causing him to sign a document having a statement that he will not request a hearing, issue without delay a written deportation order under the provisions of Article 51.

Article 48. The suspect who has received the notification provided for in paragraph 2, of the preceding Article may, if he has an objection to the finding provided for in the same paragraph, orally request the special inquiry officer for a hearing, within three days from the date whereon he has received the notification.

2. The immigration inspector shall, when a request has been made for the hearing under the preceding paragraph, submit to the special inquiry officer the protocol provided for in Article 45 paragraph 2 and other pertinent documents.

3. The special inquiry officer shall, when the request is made for the hearing under paragraph 1, notify the suspect of time and place of hearing and conduct the hearing without delay.

4. The special inquiry officer shall, when the hearing has been held under the preceding paragraph, prepare the protocol of such hearing.

5. The provisions of Article 10 paragraph 3 to 5 inclusive shall apply mutatis mutandis to the procedure of hearing under paragraph 3.

6. In case the special inquiry officer finds, as the result of the hearing, that the finding under paragraph 2 of the preceding Article is contrary to the facts, he shall immediately release the person concerned.

7. In case the special inquiry officer finds, as the result of the hearing, that there is no mistake in the finding under paragraph 2 of the preceding Article, he shall immediately notify the supervising immigration inspector and the suspect to that effect and at the same time notify the suspect of his right to file an objection pursuant to the provisions of Article 49.

8. In case the suspect, upon receipt of the notification under the preceding paragraph, admits the finding under the same paragraph, the supervising immigration inspector shall cause him to sign a document having a statement that he will not file an objection and immediately issue a written deportation order provided for in Article 51.

Article 49. A suspect who has received the notification under paragraph 7 of the preceding Article may, in case he has an objection to the finding under the same paragraph, file an objection with the Minister of Justice by submitting to the supervising immigration inspector within three days from the date of his receipt of the notification, a written statement containing the ground for his complaint in accordance with the procedures prescribed by Ministry of Justice Ordinance.

2. When the objection provided for in the preceding paragraph has been filed, the supervising immigration inspector shall submit to the Minister of Justice the protocol of examination under Article 45 paragraph 2, the protocol of the hearing under paragraph 4 of the preceding Article and other pertinent Documents.

3. In case the Minister of Justice has received the objection filed under paragraph 1, he shall decide whether or not the objection is well ground and notify the supervising immigration inspector of his decision.

4. The supervising immigration inspector shall, upon receipt of the notification from the Minister of Justice of his decision that the objection is well grounded, immediately release the suspect.

5. The supervising immigration inspector shall, upon receipt of the notification from the Minister of Justice of his decision that the objection is groundless, immediately notify the suspect to that effect and issue a written deportation order under the provision of Article 51.

Article 50. The Minister of Justice may, even in case he finds that the objection filed is groundless when he gives the decision under paragraph 3 of the preceding Article, give the suspect special permission to stay in Japan if he comes under any one of the following items.

- (1) In case he has obtained permission of permanent residence;
- (2) In case he has once had a permanent domicile in Japan as a Japanese national;

- (3) In case the Minister of Justice finds grounds for especially giving permission of stay.

2. In the case of the preceding paragraph, the Minister of Justice may make condition with respect to the period of stay and other matters which he may deem necessary in accordance with Ministry of Justice Ordinance.

3. The permission under paragraph 1 shall be regarded, for the purpose of paragraph 4 of the preceding Article, as decision that the objection filed is well grounded.

Article 51. The deportation order issued in accordance with this Cabinet Order shall contain the name in full, age and nationality of the deportee, reason for deportation, date of issuance of the deportation order and such other matters as prescribed by Ministry of Justice Ordinance, and the supervising immigration inspector shall affix his name and seal thereto.

Article 53. Any person subject to deportation shall be deported to the country of which he is a national or citizen.

2. In case the deportation to the country provided for in the preceding paragraph cannot be effected, the subject person shall be deported to any of the following countries according to his desire:

- (1) The country in which he has been residing immediately before his entry into Japan;
- (2) The country in which he has resided once before his entry into Japan;
- (3) The country to which belongs the port at which such person has boarded a vessel etc. for Japan;
- (4) The country where his place of birth is located;
- (5) The country to which his birth place has belonged at the time of his birth;
- (6) Any country other than those mentioned in the preceding items.

Article 54. The person detained under a written detention or deportation order, his proxy, curator, spouse, lineal relative or brother or sister may apply for the provisional release of such person to the Chief of the Immigration Centre or supervising immigration inspector in accordance with the procedures prescribed by Ministry of Justice Ordinance.

2. In case the application stipulated in the preceding paragraph has been filed, the Chief of the Immigration Centre or supervising immigration inspector may accord provisional release to the person detained under a written detention order or deportation order consideration of the circumstances, evidences produced in support of the application for provisional release, his character, assets, etc. in accordance with Ministry of Justice Ordinance, upon his depositing a bail bond specified by Ministry of Justice Ordinance within the limits of three hundred thousand yen and under such conditions as restrictions on place of residence and area of movement, duty of appearing at the summons and others as he may deem necessary.



3. The Chief of the Immigration Centre or the supervising immigration inspector, if he deems it proper, may permit that a letter of guarantee submitted by a person other than the person detained under a written detention order or deportation order be substituted for the bail bond. Such letter of guarantee shall have the mention of the amount of the bail bond of which he guarantees the payment and have the statement to the effect that the bail bond will be paid at any time.

14. The Civil Code

Article 90. A juristic act which has for its object such matters as are contrary to public policy or good morals is null and void.

Article 709. A person who violates intentionally or negligently the right of another is bound to make compensation for damage arising therefrom.

Article 710. A person who is liable in damages in accordance with the provisions of the preceding Article must make compensation therefore even in respect of a non-pecuniary damage, irrespective of whether such injury was to the person, liberty or reputation of another or to his property rights.

Article 711. A person who has caused the death of another is liable in damages to the parents, the spouse and the children of the deceased, even in cases where no property right of theirs has been violated.

Article 723. If a person has injured the reputation of another, the Court may on the application of the latter make an order requiring the former to take suitable measures for the restoration of the latter's reputation either in lieu of or together with damages.

Article 731. A man may not marry until the completion of his full 18 years of age, nor a woman until the completion of her full 16 years of age.

Article 752. Husband and wife shall live together, and shall co-operate and aid each other.

Article 766. In case a father and mother effect a divorce by agreement, the person who is to take the custody of their children and other matters necessary for the custody shall be determined by their agreement, and if no agreement is reached or possible, such matters shall be determined by the Family Court.

The Family Court, if it deems necessary for the benefit of the children, may change the person to take the custody of them or order such other disposition as may be appropriate for the custody.

The provisions of the preceding two paragraphs shall not cause any change in the rights and duties of father and mother outside the scope of the custody.

Article 818. A child who has not yet attained maturity is subject to the parental power of its father and mother.

If such child is an adopted one, it is subject to the parental power of its parents by adoption.

When father and mother are in matrimonial relation, they jointly exercise the parental power. But, if either the father or the mother is unable to exercise the parental power, the other parent exercises it.

Article 819. If father and mother have effected divorce by agreement, they shall determine one of them to have the parental power by agreement.

In cases of judicial divorces the Court determines a father or mother to have the parental power.

If the father and mother have effected divorce before the birth of a child, the parental power is exercised by the mother. But the father may be determined to have the parental power by agreement between father and mother, after the birth of a child.

The parental power over a child recognized by its father shall be exercised by its father, only if the father has been determined to have the parental power by agreement between father and mother.

If no agreement mentioned in any of paragraphs 1 and 3 and the preceding paragraph is reached or possible, the Family Court may render judgement in place of agreement on application of the father or mother.

If it deems necessary for the benefit of a child, the Family Court may transfer the parental power from one of the parents to the other on application of any relative of the child.

Article 820. A person who exercises parental power has the rights and incurs the duty of providing for the custody and education of his or her child.

Article 877. The lineal relatives by blood and brothers and sisters shall be under duty to furnish support to each other.

If there are special circumstances, the Family Court may impose a duty to furnish support as between the relatives within the third degree other than those mentioned in the preceding paragraph.

If, after the decision pursuant to the provisions of the preceding paragraph had been rendered, any change has taken place in the circumstances, the Family Court may revoke the decision.

15. The Family Registration Law

Article 18. A child who assumes the surname of its father and mother shall be entered in the family-register of the father and mother.

2. Except in cases mentioned in the preceding paragraph, a child who assumes the surname of its father shall be entered in the family-register of the father, and a child who assumes the surname of its mother shall be entered in the family-register of the mother.

3. An adopted child shall be entered in the family-register of its parents by adoption.

16. The Code of Civil Procedure

Article 281. A witness may refuse to testify:

2. When he is questioned as to facts which he, being or having been, a doctor, dentist, apothecary, druggist, midwife, advocate patent attorney, counsel, notary public or an occupant of a post connected with religion or worship, has obtained knowledge of in the exercise of his professional duties and which he should keep secret.

17. The Rules for Family Affairs Proceedings

Article 6. The proceedings of the Family Court shall not be open to the public; provided that the court may permit persons whom it deems suitable to attend them.

18. The Penal Code

Article 6. When a punishment is changed by law after the commission of a crime, the lesser punishment shall be applied.

Article 9. Principal punishments are classified as death, imprisonment at forced labour, imprisonment without forced labour, fine, penal detention, and minor fine, and confiscation is a supplemental punishment.

Article 28. When a person sentenced to imprisonment at or without forced labour evinces genuine reformation he may be paroled by an action of the administrative authorities after he has served one-third of the sentence for limited term or 10 years of a life sentence.

Article 130. A person who, without good reason, intrudes upon a human habitation or upon the premises, structure or vessel guarded by another, or who refuses to leave such a place upon demand shall be punished with imprisonment at forced labour for not more than three years or a fine of not more than 50 yen.

Article 134. When a doctor, pharmacist, druggist, midwife, lawyer, defence counsel, notary, or any other person formerly engaged in such profession without good reason discloses another person's secret which has come to his knowledge in the course of the conduct of his profession, imprisonment at forced labour for not more than six months or a fine of not more than 100 yen shall be imposed.

2. The same shall apply in the case where a person who is or was engaged in the religious or spiritual profession discloses without good reason another person's secret which has come to his knowledge in the course of such professional activities.

Article 175. A person who distributes or sells an obscene writing, picture, or other object or who publicly displays the same, shall be punished with imprisonment at forced labour for not more than two years or a fine of not more than 5,000 yen or a minor fine. The same shall apply to a person who possesses the same for the purpose of sale.

Article 193. When a public officer abuses his authority and causes a person to perform an act which he has no obligation to perform, or obstructs a person from exercising a right which he is entitled to exercise, imprisonment at or without forced labour for not more than two years shall be imposed.

Article 194. When a person performing or assisting in judicial, prosecutive or police functions abuses his authority and arrests or detains another, imprisonment at or without forced labour for not less than six months nor more than 10 years shall be imposed.

Article 195. When a person performing or assisting in judicial, prosecutive, or police functions, in the performance of his duties, commits an act of violence or cruelty upon the defendant in a criminal action or another person, imprisonment at or without forced labour for not more than seven years shall be imposed.

2. The same shall apply when a person who is guarding or escorting another person detained in accordance with law or ordinance commits an act of violence or cruelty upon him.

Article 199. A person who kills another shall be punished with death or imprisonment at forced labour for life or for not less than three years.

Article 204. A person who inflicts a bodily injury upon another shall be punished with imprisonment at forced labour for not more than 10 years or a fine of not more than 500 yen or a minor fine.

Article 206. When a person uses violence against another without injuring him, imprisonment at forced labour for not more than two years or a fine of not more than 500 yen, penal detention or a minor fine shall be imposed upon him.

Article 222. A person who intimidates another through the threat to his life, person, liberty, reputations, or property, shall be punished with imprisonment at forced labour for not more than two years or a fine of not more than 500 yen.

2. The same shall apply to a person who intimidates another through the threat to his relative's life, person, liberty, reputation or property.

Article 223. A person who by intimidating another through the threat to his life, person, liberty, reputation, or property or by the use of violence causes such person to perform an act which he is not bound to perform or hinders him in the exercising of a right to which he is entitled, shall be punished with imprisonment at forced labour for not more than three years.

2. The same shall apply to a person who, by intimidating another person through the threat to the life, person, liberty, reputation, or property of a relative of such person, causes such person to perform an act which he is not bound to perform or hinders him in the exercising of a right to which he is entitled.

3. Attempts of the crimes provided in the preceding two paragraphs shall be punished.

Article 226. A person who kidnaps another by force, threat, fraud or enticement for the purpose of transporting the same person out of Japan shall be punished with imprisonment at forced labour for limited term of not less than two years.

2. The same shall apply to a person who buys or sells another for the purpose of transporting the same person out of Japan, and to a person who transports out of Japan another who has been kidnapped or sold.

Article 230. A person who defames another by publicly alleging facts shall, regardless of whether such facts are true or false, be punished with imprisonment at or without forced labour for not more than three years or a fine of not more than 1,000 yen.

2. A person who defames a dead person shall not be punished unless such defamation is based on a falsehood.

Article 230-2. When the act provided for in paragraph 1 of the preceding Article is found to relate to matters of public interest and to have been done solely for the benefit of the public and, upon inquiry into the truth or falsity of the alleged facts, the truth is proved, punishments shall not be imposed.

2. For the purpose of the provision of the preceding paragraph, matters concerning the criminal act of a person for which a prosecution has not yet been instituted shall be deemed to be matters of public interest.

3. When the act provided for in paragraph 1 of the preceding Article is done with regard to matters concerning a public official or a candidate for elective public office, and, upon inquiry into the truth or falsity of the alleged facts, the truth is proved, punishment shall not be imposed.

Article 231. A person who publicly insults another person shall be punished with penal detention or a minor fine even if he commits such act without alleging facts.

Article 232. The crimes provided for in this Chapter shall be prosecuted only upon complaint.

2. When the person who may make a complaint is the Emperor, Empress, Grand Empress Dowager, Empress Dowager or the Imperial Heir, the Prime Minister shall make it in his or her behalf, and when such person is a sovereign or president of a foreign country, a representative of the country concerned shall make it on his or her behalf.

Article 233. A person who injures the credit of another or obstructs his business by spreading false rumour or by the use of fraudulent means shall be punished with imprisonment at forced labour for not more than three years or a fine of not more than 1,000 yen.



## 19. The Subversive Activities Prevention Law

Article 5. 1. Whenever the Public Security Examination Commission shall have sufficient ground to find that there is clear danger of an organization which has performed any terroristic subversive activity by way of its activity to perform again in the future any such subversive activity continuously or repeatedly by way of the activity of the organization, the Commission may take any of the following actions to such organization; Provided, however, that such action shall not exceed the necessary and reasonable limits for the elimination of such danger:

- (1) in the case such terroristic subversive activity has been performed in a mass demonstration or procession or public gathering, to prohibit the carrying out of any demonstration, procession or public gathering in any place fixed for a period not exceeding six months;
- (2) in the case such terroristic subversive activity has been performed by means of any organ of the organization (any publication continuously issued by the organization to advocate, communicate or propagate the objective, doctrine or policy of the organization), to prohibit for a period fixed not exceeding six months to continue to print such journal or distribute its copies to a number of persons; and
- (3) to prohibit for a period fixed not exceeding six months to cause any particular officer, official (the representative, executive officer or any other person engaged in the business of the organization: Hereinafter the same) or member of the organization who shall have taken part in such terroristic subversive activity to perform any act in the interest of the organization.

Article 7. The Public Security Examination Commission may take action to declare any organization coming under any of the following categories to be dissolved, if there is sufficient ground to find that there is clear danger of such organization to perform again in the future any terroristic subversive activity continuously or repeatedly by way of the activity of the organization and in the opinion of the Commission any action under Article 5 paragraph 1 will be unable to effectively eliminate such danger:

- (1) organizations which have performed by way of their activity any such terroristic subversive activity as referred to in Article 4 paragraph 1 (1);
- (2) organizations which have performed by way of their activity any such terroristic subversive activity as mentioned in Article 4 paragraph 1(2)(i) to (ix) inclusive or which have started but not accomplished such activity, or have incited or, with a view to causing such activity to be performed, instigated persons to such activity and caused them to perform such activity; and
- (3) organizations to which any action under Article 5 paragraph 1 has been taken and which have again performed any terroristic subversive activity by way of their activity.

## 20. The Prostitution Prevention Law

Article 7. Any person who makes a person commit prostitution by deceiving or embarrassing or by taking advantage of a relational influence upon the person shall be punished by imprisonment at forced labour for not more than three years or a fine not exceeding 100,000 yen.

2. Any person who makes a person commit prostitution by threatening or using violence shall be punished by imprisonment at forced labour for not more than three years, or by both imprisonment at forced labour for not more than three years and a fine not exceeding 100,000 yen.

3. The attempt of the crimes referred to in the preceding two paragraphs shall be punished.

Article 10. Any person who concludes a contract for making a person commit prostitution (with any other person than himself) shall be punished by imprisonment at forced labour for not more than three years or a fine not exceeding 100,000 yen.

2. The attempt of the crime referred to in the preceding paragraph shall be punished.

Article 12. Any person who makes it his business to let one live at the place possessed or controlled by himself or at the place designated by himself and to make one commit prostitution shall be punished by imprisonment at forced labour for not more than ten years or a fine not exceeding 300,000 yen.

## 21. The Minor Offences Law

Article 1.

...

(23) A person who, without good reason, stealthily peeps into a house, a bath house, a dressing room, a water-closet, or other place where normally clothes are not worn or are in disarray;

## 22. The Code of Criminal Procedure

Article 30. The accused or the suspect may select defence counsel at any time.

2. The legal representative, curator, spouse, lineal relatives, brother or sister of the accused or the suspect may independently select defence counsel for the accused or the suspect.

Article 31. Defence counsel shall be selected from among practising attorneys.

2. In the Summary Court, Family Court or District Court, defence counsel may be selected from among persons who are not practising attorneys, with the permission of the court.

However, this shall apply, in the District Court, only in cases where there is another defence counsel selected from among practising attorneys.

Article 36. Where the accused is unable to select his defence counsel for poverty or some other reasons, the court shall assign defence counsel on behalf of the accused upon his request. However, this shall not apply where defence counsel has been selected for him by some person other than the accused.

Article 37. If the accused is not represented by defence counsel, the court may, ex-officio, assign a defence counsel to him in the following cases:

- (1) Where the accused is a minor;
- (2) Where the accused is not less than 70 years of age;
- (3) Where the accused is deaf or mute;
- (4) Where the accused is suspected to be insane or weakminded;
- (5) Where it is deemed necessary for any other reasons.

Article 39. The accused or the suspect placed under physical restraint in any way may, without having any official watchman present, have an interview with his defence counsel or any other person who is going to be his defence counsel upon request of the person who is entitled to select defence counsel (in case a person other than a practising attorney is going to be selected as a defence counsel, this shall apply only after the permission prescribed in Paragraph 2, Article 31 has been obtained), and may deliver or receive any documents or any other things.

2. With regard to the interview and delivery or receipt of things mentioned in the preceding paragraph, such measures may be provided by law or ordinance (including the Rules of Court. The same shall apply hereinafter) as are necessary for preventing the escape of the accused or the suspect, the destruction or alteration of evidence, or the delivery or receipt of those things which may hinder the safe custody of the accused or the suspect.

3. The public prosecutor, public prosecutor's assistant officer and judicial police official (this includes both judicial police officer and constable. The same shall apply hereinafter) may, when it is necessary for investigation, designate the date, place and time of interview and delivery or receipt of things mentioned in Paragraph 1 only prior to the institution of prosecution, provided that such designation does not unreasonably hold the suspect in check when he exercises his rights for the defense.

Article 60. The court may detain the accused when there is reasonable ground enough to suspect that he has committed a crime and the case falls under any one of the following items:

- (1) If he has no fixed dwelling;
- (2) If there is reasonable ground enough to suspect that the accused may destroy evidence;
- (3) Where the accused escapes or there is reasonable ground enough to suspect that he may escape.

2. The term of detention shall not exceed two months after the day of the institution of prosecution. Where there is special necessity for continuing further detention, the term may be renewed every last day of one month period by means of a ruling with a statement of the concrete reasons for the renewal. However, the renewal of the detention term may be rendered only once except in the cases which fall under Items 1, 3, 4 or 6, Article 89.

3. In respect to a case involving a crime which shall be punished with a fine not exceeding 500 yen, penal detention or minor fine, the first paragraph of this Article shall apply only where the accused has no fixed dwelling.

Article 82. The accused who is under detention may request a court to indicate the reason for his detention.

2. The defence counsel, legal representative, curator, spouse, lineal relative, brother or sister of the accused under detention, or other interested persons may make the request mentioned in the preceding paragraph.

3. The request mentioned in the two preceding paragraphs shall lose its effect, when the release on bail or suspension of execution of detention has been effected, when the detention has been rescinded, or when the warrant of detention has lost its effect.

Article 83. The indication of the reason for detention shall be held in open court.

2. The court shall be opened in the presence of judges and court clerks.

3. The court shall not be opened if the accused and his defence counsel do not appear. However, this shall not apply to the case, regarding the appearance of the accused, where the accused is unable to appear by such unavoidable reasons as illness and there is no objection on the part of the accused, nor to the case, regarding the appearance of his defence counsel, where there is no objection on the part of the accused.

Article 84. In the court a presiding judge shall give notification of the reasons for detention.

2. A public prosecutor or the accused, his defence counsel and the other persons who have made the request may state their opinions. However, the presiding judge may, when he deems appropriate, order them to submit a written statement of their opinions in lieu of an oral statement of the opinions.

Article 87. When the grounds or necessity for detention have ceased to exist, the court shall, upon request of a public prosecutor, the accused under detention or his defence counsel, legal representative, curator, spouse, lineal relatives, brother or sister, or ex-officio, rescind the detention, by means of a ruling.

2. The provision of Article 82, Paragraph 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 88. The accused under detention or his defence counsel, legal representative, curator, spouse, lineal relatives, brother or sister may request release on bail.

2. The provision of Article 82, Paragraph 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 89. When the request for release on bail has been made, it must be allowed except in the following cases:

- (1) Where the accused is charged with an offence punishable with death penalty, or imprisonment with or without forced labour for life or for minimum period of more than one year;
- (2) Where the accused was previously convicted of an offence punishable with death penalty, or imprisonment with or without forced labour for life or for maximum period of more than 10 years;
- (3) Where the accused has habitually committed an offence punishable with imprisonment with or without forced labour for maximum period of three years or more;
- (4) Where there is reasonable ground enough to suspect that the accused may destroy evidence;
- (5) Where there is reasonable ground enough to suspect that the accused may injure the body or damage the property of the injured party or some other person who is considered to have knowledge necessary for trial of the case or his relative, or may do a threatening act towards him;
- (6) Where the name or dwelling of the accused is unknown.

Article 90. A court may, if it deems it proper, grant release on bail ex-officio.

Article 91. When detention upon a warrant of detention has been effected for an unreasonable long period, the court shall, by means of a ruling, rescind the detention or allow the release on bail, upon request of the person mentioned in Article 88, or ex-officio.

2. The provision of Article 82, Paragraph 3 shall apply mutatis mutandis to the request mentioned in the preceding paragraph.

Article 95. A court may, by means of a ruling, if it deems it proper, suspend the execution of detention by entrusting the accused under detention to the charge of his relative, a protective institution and the like, or restricting his dwelling.

Article 149. A person who is, or was, a doctor, dentist, midwife, nurse, practising attorney, patent agent, notary public or a religious functionary may refuse testimony in respect to facts of which he has obtained knowledge in consequence of a mandate he has received in professional lines and which relate to secrets of other persons. However, this shall not apply if the client has consented, or if the refusal of testimony is deemed as nothing but an abuse of the right intended merely for the interest of the accused when he is not the principal or if there exist any special circumstances which shall be provided by the Rules of Court.



Article 157. A public prosecutor, the accused or his defence counsel may be present at the examination of witness.

2. Notice of the date and place of the examination of witness shall be given in advance to the persons who are entitled, by provision of the preceding paragraph, to be present at the examination. However, this shall not apply if a person who is entitled to be present at the examination clearly expresses his will in advance, to the court, not to be present there.

3. When the persons mentioned in the first paragraph are present at the examination of a witness, they may, upon notifying a presiding judge, examine a witness.

Article 188-2. When a judgement of "not guilty" rendered by the court becomes final, the State shall indemnify the person who was the accused in the case concerned for the costs of trial which he incurred. However, the State may not indemnify him for any costs which have arisen from a course imputable to the accused himself.

2. If it is found that the person who was accused in the case concerned was prosecuted on the basis of a false confession or other proof of guilt which he made for the purpose of misleading the investigation or trial, the State may not indemnify the whole or part of the cost under the preceding paragraph.

3. In cases where an application for indemnification has been made under Paragraph 1 of Article 188.5, the indemnification as prescribed in the first paragraph shall not be made, with regard to the cost to be indemnified under Article 188.4.

Article 198. A public prosecutor's assistant officer and judicial police official may ask any suspect to appear in their offices and question him, if it is necessary for pursuing criminal investigation. However, the suspect may, except the case where he is under arrest or under detention, refuse to appear or after he has appeared, may withdraw at any time.

2. In the case of questioning mentioned in the preceding paragraph, the suspect shall, in advance, be notified that he is not required to make a statement against his will.

Article 201. When the suspect is arrested upon a warrant of arrest, the warrant shall be shown to him.

2. The provisions of Article 73, Paragraph 3 shall apply mutatis mutandis to the case where the suspect is arrested upon a warrant of arrest.

Article 203. When a judicial police officer has arrested a suspect upon a warrant of arrest or received a suspect who was arrested upon a warrant of arrest, he shall immediately inform him of the essential facts of crime and the fact that he is entitled to select a defence counsel, and then, giving him an opportunity for explanation, he shall immediately release the suspect when he believes there is no need to detain him, or take steps to transfer the suspect together with the documents and evidence to a public prosecutor within 48 hours after the person of the suspect was subjected to restraints, when he believes it necessary to detain him.

2. In the case of the preceding paragraph, the suspect shall be asked whether or not he has a defence counsel and, if he has, he need not be informed of his right to select a defence counsel.

3. If the suspect is not transferred within the time limitation mentioned in the first paragraph, he shall be released immediately.

Article 204. When a public prosecutor has arrested the suspect upon a warrant of arrest or received the suspect who was arrested upon a warrant of arrest (excluding such suspect as was delivered in accordance with the preceding Article), he shall immediately inform him of the essential facts of crime and the fact that he is entitled to select a defence counsel, and then, giving him an opportunity for explanation, shall immediately release him when he believes there is no need to detain him, or shall request a judge to detain him within 48 hours after his person was subjected to restraints, when he believes it necessary to detain him. However, the request for detention is not necessary, in case a prosecution has been instituted within the limitation of time.

2. If the request for detention or the institution of prosecution is not made within the time limitation mentioned in the preceding paragraph, the suspect shall be released immediately.

3. The provisions of Paragraph 2 of the preceding Article shall apply mutatis mutandis to the cases of Paragraph 1 of this Article.

Article 205. When a public prosecutor has received the suspect delivered in accordance with the provisions of Article 203, he shall give the suspect an opportunity for explanation, and immediately release the suspect if he believes there is no need to detain him, or shall request a judge to detain him within 24 hours after he received the suspect, if he believes it necessary to detain the suspect.

2. The time limitation mentioned in the preceding paragraph shall not exceed 72 hours after the person of the suspect was subjected to restraints.

3. When a prosecution is instituted with the time limitation provided by the preceding two paragraphs, a request for detention need not be made by the public prosecutor.

4. If the request for detention or the institution of prosecution is not made within the time limitation mentioned in the first and second paragraphs, the suspect shall immediately be released.

Article 207. The judge who has received the request for detention mentioned in the preceding three Articles shall have the same power as a court or presiding judge, regarding the disposition thereof. However, this shall not apply to release on bail.

2. A judge shall promptly issue a warrant of detention when he has received the request mentioned in the preceding paragraph. However, when he recognizes that there are no grounds for detention or when a warrant of detention cannot be issued in accordance with the provisions of Paragraph 2 of the preceding Article, he shall immediately order to release the suspect without issuing a warrant of detention.

Article 210. When there are sufficient grounds to suspect the commission of an offence punishable by the death penalty, or imprisonment with or without forced labour for life or for a maximum period of three years or more, and if, in addition, because of great urgency a warrant of arrest cannot be obtained beforehand from a judge, a public prosecutor, a public prosecutor's assistant officer or a judicial police official may, upon statement of the reasons therefor, apprehend the suspect. In such cases, measures for obtaining a warrant of arrest from a judge shall be immediately taken. If a warrant of arrest is not issued, the suspect must be released immediately.

2. The provision of Article 200 shall apply mutatis mutandis to the warrant of arrest mentioned in the preceding paragraph.

Article 211. When a suspect has been arrested in accordance with the provision of the preceding Article, the provisions regarding the case where a suspect is arrested in accordance with the provision of Article 199 shall mutatis mutandis apply.

Article 216. The provisions relating to the case where suspect has been arrested in accordance with Article 199 shall apply mutatis mutandis to the case where a flagrant offender has been arrested.

Article 230. A person who has been injured by an offence may file a complaint.

Article 239. Any person who believes that an offence has been committed may lodge an accusation.

2. When a government or public officer in exercise of his functions believes that an offence has been committed, he must lodge an accusation.

Article 262. If, in a case with respect to which complaint or accusation is made concerning the offences mentioned in Articles 193 to 196 of the Penal Code or Article 45 of the Subversive Activities Prevention Law (Law No. 240 of 1952), the complainant or accuser is dissatisfied with the disposition made by a public prosecutor not to prosecute, he may apply to a District Court having jurisdiction over the place of the public prosecutors office to which that public prosecutor belongs for committing the case to a court for trial.

2. The application mentioned in the preceding paragraph shall be made by submitting a written application to a public prosecutor who made the disposition not to prosecute, within seven days from the day on which the notice mentioned in Article 260 was received.

Article 266. On receipt of the application mentioned in Paragraph 1 of Article 262, a court shall render a ruling according to the following classification:

- (1) In the event of the application having been made contrary to the form fixed by law or ordinance or after the right of application has extinguished or of its being without grounds, it shall be dismissed;
- (2) If the application is well-founded, the case shall be committed to a competent District Court for trial.

Article 267. When the ruling mentioned in item (2) of the preceding Article has been rendered, prosecution shall be deemed to have been instituted on the case.

Article 268. When a case has been committed to it for trial in accordance with the provision of Article 266, Item (2), the court shall designate from among practising attorneys one who shall sustain the prosecution on such case.

2. The practising attorney designated as mentioned in the preceding paragraph shall exercise the functions of a public prosecutor in order to sustain the prosecution until the decision has become final. However, the practising attorney mentioned in the preceding paragraph shall commission a public prosecutor to direct public prosecutor's assistant officer or judicial police official for criminal investigation.

3. The practising attorney who exercises the functions of a public prosecutor in accordance with the preceding paragraph shall be deemed to be an official engaged in the public service in accordance with laws or ordinances.

4. A court may cancel the designation of the practising attorney designated in accordance with the first paragraph at any time if it finds that he is not qualified to exercise his functions or there are any other special circumstances.

5. The practising attorney designated in accordance with the first paragraph shall be given allowances as fixed by cabinet order.

Article 271. When prosecution has been instituted, a court shall serve the accused with a copy of the information without delay.

Article 273. The presiding judge shall fix the date for public trial.

2. The accused shall be summoned on the date for public trial.

3. The public prosecutor, defence counsel and assistant shall be notified of the date for public trial.

Article 275. There shall be a reasonable interval prescribed by the Rules of Court between the first date fixed for public trial and the service of the writ of summons on the accused.

Article 283. Where the accused is juridical person, it may always appear by proxy.

Article 284. Where the offence charged is punishable with a fine not exceeding 5,000 yen or a minor fine, the accused need not appear. However, he may appear by proxy.

Article 285. Where the offence charged is punishable with penal detention the accused must be present on the date for public trial when the judgement is rendered. He may be permitted to be absent at any other stage of the public trial, when the court finds that his attendance is not essential for protection of his rights.

2. Where the offence charged is punishable with imprisonment with or without forced labour for a maximum term not exceeding three years or with a fine of more than 5,000 yen, the accused must be present on the date for public trial at the proceedings prescribed by Article 291 and at the rendition of the judgement. As to the other stage of public trial, the last part of the preceding paragraph shall apply.



Article 286. Except as otherwise provided by the preceding three Articles, public trial shall not be held, if the accused is not present.

Article 286-2. When, in a case where public trial shall not be held if the accused is not present, the accused under detention has, when summoned on the date for public trial, refused to appear without good reason, and made it particularly difficult for a prison official to bring him to court, the court may conduct the proceedings of public trial on that date without the presence of the accused.

Article 289. Where the offence charged is punishable with death, or imprisonment with or without forced labour for life or for more than three years of maximum penalty, public trial shall not be conducted without defence counsel.

2. Where the defence counsel does not appear, or no defence counsel has yet been selected for the cases of which the public trial cannot be conducted without the attendance of defence counsel, the presiding judge must, ex-officio, assign defence counsel for the accused.

Article 304. The witness, the expert witness, the interpreter or the translator shall be examined by the presiding judge or by an associate judge first.

2. A public prosecutor, the accused or his defence counsel may, upon notifying the presiding judge, examine the witness, the expert witness, the interpreter or the translator, after the examination mentioned in the preceding paragraph has been completed. In this case, where the examination of the witness, the expert witness, the interpreter or translator is commenced upon the request made by a public prosecutor, the accused or his defence counsel, the person who has made such request shall examine them first.

3. A court may, if it deems proper, change the order of examination mentioned in the preceding two paragraphs, after hearing the opinion of the public prosecutor, the accused or his defence counsel.

Article 304-2. Where a court believes a witness to be unable to testify fully under pressures occasioned by the presence of the accused in the course of the examination of the witness, the court may, providing that the defence counsel is present, order the accused to withdraw from the courtroom during the examination of the witness after hearing the opinions of the public prosecutor and the defence counsel. In this case, the court must make the accused enter into the courtroom after the testimony has been given, inform him of the outlines of the testimony and give him the opportunity to examine the witness.

Article 319. Confession made under compulsion, torture or threat, or after prolonged arrest or detention, or which is suspected not to have been made voluntarily shall not be admitted in evidence.

Article 337. A pronouncement of acquittal shall be made by a judgment in the following cases:

(1) Where a final judgement has already been rendered;

Article 351. Appeal (Joso) may be lodged by a public prosecutor or the accused.



2. When a case committed to the trial of a court in accordance with Item (2), Article 266 has been jointly tried with another case and one decision has been rendered, the practising attorney who exercises the functions of a public prosecutor in accordance with Paragraph 2, Article 268 and the public prosecutor engaged in the latter case may respectively lodge an appeal independently against such decision.

Article 372. Koso appeal may be lodged against a judgement rendered in the first instance by a District Court, Family Court or Summary Court.

Article 405. Jokoku appeal may be lodged against judgement in first or second instance rendered by a High Court in the following cases:

- (1) When there is a violation of the Constitution or an error in construction, interpretation or application of the Constitution;
- (2) When a judgement has been formed incompatible with the judicial precedents formerly established by the Supreme Court;
- (3) When, in cases for which there exist no judicial precedents of the Supreme Court, a judgement has been formed incompatible with the judicial precedents formerly established by the former Supreme Court (Dai Shin In) or by the High Court as the Court of Jokoku appeal or, after the enforcement of this Code, by the High Court as the court of Koso appeal.

Article 419. In addition to the cases where it is specially provided that immediate Jokoku appeal may be made, Jokoku appeal may be made, against a ruling rendered by a court, except as otherwise provided in this Code.

Article 429. Any person dissatisfied with any of the following decisions, may request for rescission or alteration of the decision, in case it has been rendered by a judge of a Summary Court, to the District Court having jurisdiction over it, or in case rendered by a judge of a higher court, to the court to which the judge belongs:

- (2) A decision relating to detention, release on bail, seizure or restoration of articles seized;

Article 433. Against a ruling or order to which no objection is allowed in this Code, a Jokoku appeal may be filed with the Supreme Court only on the ground that there exists a reason provided in Article 405.

Article 435. Request for the reopening of procedure may be made for the benefit of a person against whom a judgement of "guilty" has become final, in the following cases:

- (1) When documentary evidence or pieces of evidence, on which the original judgement was based, has been proved by another finally binding judgement to have been forged or altered;
- (2) When a testimony, expert opinion, interpretation or translation on which the original judgement was based, has been proved by another finally binding judgement to be false;
- (3) When the offence of false accusation committed against a person pronounced guilty has been proved by another finally binding judgement; however, this shall apply only where the judgement of "guilty" was rendered because of such false accusation;

- (4) When the decision on which the original judgement was based has been altered by a finally binding decision;
- (5) When, in a case in which a judgement of "guilty" has been rendered for the offence of infringing a patent right, a utility model right, a design right or a trade mark right, a decision of the Patent Office holding such right to be void has become final or a judgement of a court has been rendered to the same effect;
- (6) When clear evidence has been newly discovered that in regard to a person pronounced guilty a judgement of "not guilty" or acquittal should be pronounced, or in regard to a person condemned a judgement or remission of punishment should be pronounced, or that a lighter offence than that found by the original judgement should be recognized;
- (7) When it is proved by a finally binding judgement that a judge who participated in the original judgement, a judge who participated in making the documentary evidences which formed the basis of original judgement, or a public prosecutor, public prosecutor's assistant officer or judicial police official who made evidential documents or statements which formed basis of original judgement has committed offences in performing his official function in the case concerned. However, this shall apply only where, in case a prosecution was instituted against such judge, public prosecutor, public prosecutor's assistant officer or judicial police official prior to the rendition of the original judgement, the court which rendered the original judgement was unaware of such fact.

Article 436. Request for the reopening of procedure may be made against a finally binding judgement by which Koso appeal or Jokoku appeal was dismissed, for the benefit of the person to whom the judgement was rendered, in the following cases:

- (1) If the causes specified in the preceding Article, Item (1) or (2) exist;
- (2) If the causes specified in the preceding Article, Item (7) exist in regard to a judge who took part in the original judgement or in the preparation of the documentary evidence which was adopted as evidence in the original judgement.

2. After a judgement has been rendered as the result of the reopening of procedure on a case in which the reopening of procedure against a finally binding judgement in the first instance was requested, the reopening of procedure shall not be requested against a judgement dismissing the Koso appeal.

3. After a judgement has been rendered as the result of the reopening of procedure on a case in which the reopening of procedure against a finally binding judgement in the first or second instance was requested, the reopening of procedure shall not be requested against a judgement dismissing the Jokoku appeal.

Article 439. Following persons may request the reopening of procedure:

- (1) A public prosecutor;
- (2) A person who has been pronounced "guilty";

- (3) The legal representative and curator of a person who has been pronounced "guilty";
- (4) The spouse, lineal relatives and brothers and sisters of a person who has been pronounced "guilty", if the latter has died or is in a state of insanity.

2. Request for the reopening of procedure for the causes specified in Article 435, Item (7) or Article 436, Paragraph 1, Item (2) may be made only by a public prosecutor if the offence was instigated by the person who has been pronounced "guilty".

Article 440. When a person other than a public prosecutor requests the reopening of procedure, he may select a defence counsel.

Article 441. Reopening of procedure may be requested even after execution of the punishment has been completed or where the punishment is not to be executed.

Article 448. When a request for reopening of procedure is well-founded, a ruling for commencing reopening of procedure shall be rendered.

2. When a ruling for commencing reopening of procedure has been rendered, the execution of the punishment may be stayed by means of a ruling.

Article 450. Immediate Jokoku appeal may be made against the rulings mentioned in Articles 446, 447, Paragraph 1, Article 448 Paragraph 1 or Article 449, Paragraph 1.

Article 451. With respect to a case in which a ruling for commencing reopening of procedure has become final, a court shall, except in the case of Article 449, conduct a trial anew depending on the instance concerned.

2. The provisions of Article 314, body of Paragraph 1 and Article 339, Paragraph 1, Item (4), however, shall not apply to the trial mentioned in the preceding paragraph in the following cases:

- (1) When a request for reopening of procedure has been made on behalf of a deceased person or a person who is in a state of insanity and for whom there is no hope of recovery;
- (2) When a person who has been pronounced "guilty" has, prior to a judgement being rendered in the reopening of procedure, died or fallen into a state of insanity from which there is no hope of recovery.

3. In the case of the preceding paragraph, trial may be held without the appearance of the accused. However, it shall not be held if his defence counsel does not appear.

4. If, in the case of the second paragraph, the person who has requested reopening of procedure does not select a defence counsel, a presiding judge shall, ex-officio, assign a defence counsel.

Article 452. In reopening of procedure, no punishment heavier than that pronounced in the original judgement shall be imposed.

Article 453. When a pronouncement of "not guilty" has been made as the result of the reopening of procedure, such judgement shall be published in the Official Gazette and newspapers.

Article 454. When it has been discovered after a judgement has become final that the trial or judgement of the case was in violation of law or ordinance, the Prosecutor-General may lodge an extraordinary appeal in the Supreme Court.

Article 471. Except as otherwise provided in this Code, a decision shall be executed after it has become final.

Article 475. The death penalty shall be executed under an order from the Minister of Justice.

2. The order mentioned in the preceding paragraph shall be given within six months from the day when a judgement becomes final. However, in cases where request for the recovery of right of appeal or for the reopening of procedure, or an extraordinary appeal or petition or recommendation for amnesty has been made, the term for finishing the procedure thereof and the term for which the judgements pronounced upon co-defendants, if any, remain not final shall not be calculated in the said term.

Article 479.

2. If a woman condemned to death is pregnant, the execution shall be stayed by order of the Minister for Justice.

## 23. The Rules of Criminal Procedure

Article 277. In the hearing of juvenile cases, caution shall be taken to be kind, and evidence examined by the Family Court shall, to make the true facts of cases clear, be examined as far as practicable.

## 24. The Criminal Compensation Law

Article 1. In case any person who has been acquitted by a decision rendered in the ordinary procedure, the retrial proceedings, or the procedure of extraordinary appeal as stipulated in the Code of Criminal Procedure (Law No. 131 of 1948), had been placed under arrest, or detention in pendency according to the said Code, the Juvenile Law (Law No. 168 of 1948), or the Economic Investigation Agency Law (Law No. 206 of 1948), he may claim against the Government for the compensation for such arrest or detention.

2. In case any person who has been rendered a decision of "not guilty" in the appeal after the recovery of right to appeal, the retrial proceedings, or the procedure of extraordinary appeal, had already suffered the penalty imposed by the original judgement, or had been confined pursuant to the provisions of Article 11 paragraph 2 of the Penal Code (Law No. 45 of 1907), he may claim against the Government for the compensation for such execution of penalty or confinement.

3. Arrest under a writ of commitment as prescribed in Article 484 to Article 486 inclusive of the Code of Criminal Procedure (including cases wherein these provisions apply mutatis mutandis under Article 505 of the said Code), detention pursuant to the provision of Article 481 paragraph 2 of the said Code (including cases wherein this provision applies mutatis mutandis under Article 505 of the said Code), and arrest and detention under a warrant of arrest pursuant to Article 41 of the



Offenders Rehabilitation Law (Law No. 142 of 1949) or Article 10 of the Law for Probationary Supervision of Persons under Suspension of Execution of Sentence (Law No. 58 of 1954), shall be deemed to be the execution of penalty or the confinement for death penalty, in regard to the application of the provisions of the preceding paragraph.

Article 2. In case a person entitled to claim the compensation in accordance with the provisions of the preceding Article died without making such claim, his successor may make such claim for the compensation.

2. In case a decision of "not guilty" in the retrial proceedings, or the procedure of extraordinary appeal has been rendered to the person who already died, such decision of "not guilty" shall be deemed to be rendered at the time of his death in regard to the claim for compensation.

Article 4. With regard to the compensation for arrest or detention the amount of compensation at the rate of not less than 600 yen nor more than 1,300 yen shall be paid according to the number of days thereof, except for the cases as provided for in the preceding Article and paragraph 2 of the following Article. The same shall apply to the compensation for the execution of imprisonment with or without forced labour, or penal detention, or confinement for death penalty.

2. The court shall, when determining the amount of compensation as stipulated in the preceding paragraph, take into consideration the kind of physical restraint and the length thereof, damages on property of the person in question, loss of benefits which were to be obtained by him, his spiritual suffering and physical injuries as well as the existence or non-existence of the intention or negligence on the part of the police, prosecution or judicial authorities, and all other circumstances.

3. With regard to the compensation for the execution of death penalty, the court shall pay such amount of compensation within the limit of 3,000,000 yen as the court may deem reasonable: Provided that, in case damages on property caused by the death of the person in question have been proved, the amount of compensation shall be within the amount of the above damages plus 3,000,000 yen.

4. The court shall, when determining the amount of compensation as mentioned in the preceding paragraph, take into consideration in addition to the amount of damages proved under the proviso to the same paragraph, the age, health, earning capacity of the person in question and other circumstances.

5. With regard to the compensation for the execution of fine or minor fine, the compensation equivalent to the amount of fine or minor fine already collected plus the amount computed at the rate of 5 per cent per annum for the period from the next day of the collection thereof to the day of the ruling on compensation shall be paid. In case detention in a working place has been executed, the provisions of paragraph 1 shall apply mutatis mutandis.

6. With regard to the compensation for the execution of confiscation, the confiscated articles shall, if not disposed of, be returned, and in case the confiscated articles have already been disposed of, the compensation equivalent to the current price thereof shall be paid, and as to the forfeit already collected, the compensation equivalent to the amount of the forfeit plus the amount computed at the rate of 5 per cent per annum for the period from the next day of the collection thereof to the day of the ruling on compensation shall be paid.



Article 5. This Law shall not preclude any person entitled to receive compensation from claiming for compensation for damages in accordance with the provisions of the State Redress Law (Law No. 125 of 1947), and other laws.

2. In case the person entitled to receive compensation has been compensated for damages on the same cause by virtue of other laws, no compensation shall be paid if such compensation for damages is equal to or exceeds the amount of compensation to be paid under this Law. In case such compensation for damages is less than the amount of compensation to be paid under this Law, the amount of compensation shall be determined by subtracting the amount of compensation for damages therefrom.

3. In case a person entitled to receive compensation for damages under other laws has already been compensated in accordance with this Law for the same cause, the court shall fix the amount of such compensation for damages by subtracting the amount compensated therefrom.

## 25. The Regulations for Suspect's Compensation

Article 2. When a public prosecutor makes a disposition not to institute a prosecution against a person who has been arrested or detained and there are sufficient reasons to find that that person has not committed the crime, the public prosecutor may compensate him for his arrest or detention.

Article 3. Compensation shall be made by giving the person an amount not exceeding 1,300 yen per day for the period of his arrest or detention.

2. When the person has died the compensation money may be given to his successor or any other person deemed proper, in case of necessity.

## 26. The Juvenile Law

Article 9. In making investigations stated in the preceding article, every effort shall be made to make efficient use of medical, psychological, pedagogical, sociological and other technical knowledge, especially the result of the physical and mental examination conducted in the Juvenile Classification Home, in regard to the conduct, career, temperament and environment of the juvenile, his guardians or of other persons concerned.

## Article 22.

2. Hearing shall not be opened to the public.

Article 32. The juvenile himself or his legal representative or attendant may appear within two weeks against the ruling of protective measures only on the ground that there has been a violation of law or ordinance which has influenced the ruling or there are material errors in the finding of facts or that the measure taken is remarkably improper. However, the attendant shall not appeal against the clearly expressed will of the guardian who selected him as attendant.

Article 40. Except as otherwise provided in this law, the procedure concerning ordinary criminal cases shall apply to juvenile criminal cases.

Article 48. A warrant of detention shall not be issued to a juvenile unless unavoidable circumstances exist.

2. In case a juvenile is to be detained, he may be confined in a Juvenile Classification Home.

2. Even after he has become 20 years of age, the provisions of the preceding paragraph may continue to apply.

Article 49. As far as possible, a juvenile suspect or an accused juvenile shall be separated from other suspected or accused persons so that he may not be in contact with them.

2. Even in cases where an accused juvenile case is connected with other accused cases, the proceedings for the juvenile criminal case shall be separated in so far as the separation does not obstruct the trials.

3. Juveniles shall be separated from adults in a jail for unconvicted detention, etc.

Article 50. Trials for juvenile criminal cases shall be conducted in compliance with the purport of Article 9.

Article 51. In case a person who is under 18 years of age at the time of commission of an offence is to be punished with death penalty, he shall be sentenced to a penalty for life, and in case he is to be punished with the latter he shall be sentenced to imprisonment with or without forced labour for not less than 10 years nor more than 15 years.

Article 56. In regard to a juvenile who is sentenced to imprisonment with or without forced labour, his sentence shall be executed in prisons specially established for the purpose, or in special compartments provided in prisons.

2. Even after he has become 20 years of age, the execution may be continued under the provisions of the preceding paragraph until he becomes 26 years of age.

## 27. The Extradition Law

Article 5. On receipt of the order of the Minister of Justice issued in accordance with paragraph 1 of the preceding Article, the Superintending Prosecutor of the Tokyo High Public Prosecutor's Office shall, except in the case where the fugitive is detained under the permit of provisional detention or his detention under the permit of provisional detention is suspended, cause the public prosecutor of the Tokyo High Public Prosecutor's Office to detain the fugitive under the permit of detention issued in advance by the judge of the Tokyo High Court. However, this shall not apply in the case where the fugitive has a fixed residence and the Superintending Prosecutor of the Tokyo High Public Prosecutor's Office deems that there is no apprehension of the fugitive's escape.

2. The permit of detention referred to in the preceding paragraph shall be issued on the request from the public prosecutor of the Tokyo High Public Prosecutor's Office.

3. The permit of detention shall contain the name in full of the fugitive, the extradition crime, the requesting State, the effective period of the permit,

the statement to the effect that after the expiration of the effective period no detention may be commenced and the permit of detention must be returned and the date of issuance, and shall bear the name and seal of the judge.

Article 25. The Superintending Prosecutor of the Tokyo High Public Prosecutor's Office shall, when he has received the order of the Minister of Justice provided for in the preceding Article, cause the public prosecutor of the Tokyo High Public Prosecutor's Office to detain the criminal concerned under the permit of provisional detention which is to be issued in advance by the judge of the Tokyo High Court.

2. The provisions of Article 5 paragraphs 2 and 3, Articles 6 and 7 shall apply mutatis mutandis to the detention under the permit of provisional detention.

## 28. The Amnesty Law

Article 2. General amnesty shall be granted with respect to crimes, types thereof being specified by Cabinet Order.

Article 4. Special amnesty shall be granted with respect to specific persons of whom judgement of conviction has been rendered.

Article 6. Reduction of punishment shall be granted with respect to those crimes or types of punishments which have been specified by Cabinet Order for persons of whom sentence of punishment has been rendered, or with respect to specific persons of whom sentence of punishment has been rendered.

## 29. The Prison Law

Article 1. The prisons shall be of the following four kinds:

- (1) Prison for imprisonment at forced labour to confine convicted persons sentenced to imprisonment at forced labour;
- (2) Prison for imprisonment without forced labour to confine convicted persons sentenced to imprisonment without forced labour;
- (3) House of penal detention to confine convicted persons sentenced to penal detention;
- (4) House of detention to detain accused persons, persons detained under the permit of detention, permit of provisional detention or writ of detention or detained upon the warrant of arrest (Inchi-jo) and convicted persons sentenced to death.

2. In the house of detention, convicted persons sentenced to imprisonment at forced labour, imprisonment without forced labour or penal detention may also be detained temporarily;

3. The police jail may be substituted for a prison provided that a convicted person sentenced to imprisonment at forced labour or imprisonment without forced labour shall not be detained therein continuously for one month or more.

Article 2. The persons under 18 years of age sentenced to imprisonment at forced labour for two months or more shall be confined in the prison specially established for them or in a specially partitioned part of a prison.

Article 3. There shall be the male and female sections in the prison segregated from each other.

2. The prison for imprisonment at forced labour, prison for imprisonment without forced labour, house of penal detention and house of detention within the same compound shall be set apart from one another.

Article 24. Prison labour shall be imposed upon inmates, the sanitary condition and general economy of the prison being taken into consideration, and also with due attention paid to the term of their penalty and to their health, ability, occupation and future life, etc.

Article 29. The convicted persons shall be given preaching, and any other inmates may be permitted to receive it upon their application.

Article 30. All the convicted persons under 18 years of age shall be educated, and any other inmate, if it is deemed especially necessary, may be also educated irrespective of their age.

### 30. The Offenders Rehabilitation Law

Article 45. In case the Commission recommends to the Minister of Justice the effectuation of special amnesty, commutation of punishment for a specific person, excuse from the execution of sentence, or restoration of right for a specific person, it shall make investigations in advance into the character of the person to recommend, his behaviour, whether he is apprehended to do illegal acts, or public sentiment and other pertinent matters.

2. In case the recommendation of special amnesty, commutation of punishment or excuse from the execution of sentence is made for a prison inmate, his fitness for being released without becoming a threat to the security and welfare of the society shall be investigated.

### 31. The Labour Standards Law

Article 4. The employer shall not discriminate against women in the matter of wages. (Prohibition of Forced Labour)

Article 5. The employer shall not force workers to work against their will by means of violence, intimidation, imprisonment, or any other unfair restraint on the mental or physical freedom of the workers.

Article 69. The employer shall not exploit the apprentice, pupil, student or other workers under whatever name he may call them, on the score of the worker purporting to learn the skill.

Article 117. A person who has violated the stipulations of Article 5 be punished with a penal servitude not less than one year and not exceeding years, or with a fine not less than 2,000 yen and not exceeding 30,000 yen.

### 32. The Employment Security Law

Article 63. Any person who falls under any one of the following items, shall be punished with imprisonment at forced labour for not more than ten years and not less than one year or a fine not more than 30,000 yen and not less than 2,000 yen:

- (1) one who carries on or engages in employment exchange, labour recruitment or labour supply by means of violence, intimidation, imprisonment or any other restraint on his mental and physical freedom;
- (2) one who carries on or engages in employment exchange, labour recruitment or labour supply with an intention of inducing workers to do work injurious to the public health or morals.

### 33. The Fundamental Law of Education

Article 3. The people shall all be given equal opportunities of receiving education according to their ability, and they shall not be subject to educational discrimination on account of race, creed, sex, social status, economic position or family origin.

2. The State and local public bodies shall take measures to give financial assistance to those who have, in spite of their ability, difficulty in receiving education for economic reasons.

### 34. The Child Welfare Law.

Article 34. The following acts are prohibited:

- (6) inducing children to practice obscene acts
- (7) acts transferring custody of a child to a person who is liable to practice any of the acts described in the preceding items, or who is liable to violate any of the penal laws and regulations concerning children, knowing such fact, or acts transferring custody of such a child to any other person, knowing that the child will be handed over to others for such purposes.

Article 60. Any person who violates the provision of Article 34, clause 1, item (6), shall be punished with imprisonment at forced labour for a period of not longer than ten years or fined over 2,000 yen and not more than 30,000 yen.

2. Any person who violates any of the provisions of Article 34, clause 1, items (1) to (5), or items (7) to (9), or clause 2 of the same Article shall be punished with imprisonment at forced labour for a period of not longer than one year or fined not more than 10,000 yen.

### 35. The Contagious Disease Prevention Law

Article 19. The governor of To, Do, Fu or prefecture may, if he deems it necessary for prevention of infectious diseases, carry into effect the whole or a part of the following matters:

- (3) To restrict or prohibit the gathering of people for festivals, memorial services, entertainments, meetings, and such like.

### 36. The Postal Law

Article 9. The privacy of correspondence being handled by the Ministry of Posts and Telecommunications shall not be violated.



2. Each and every person engaged in the Postal Service shall refrain from disclosing any private matters concerning the mail which may have come to their knowledge during their tenure of office. The same shall continue to apply after leaving the Postal Service.

Article 80. Any person who violates the privacy of correspondence being handled by the Ministry of Posts and Telecommunications is punishable by a maximum of one year's imprisonment with hard labour, or a maximum fine of 20,000 yen.

2. Any person who, while acting on behalf of the Postal Service, commits the offence mentioned in the preceding paragraph, is punishable by a maximum of two years' imprisonment with hard labour, or a maximum fine of 50,000 yen.

### 37. The Public Telecommunication Law

Article 5. The secrecy of communications in the course of handling by the Corporation or the Company shall not be violated.

2. Any person engaged in the public telecommunication business affairs shall, during his tenure of office, preserve any secret of other persons which has come to his knowledge with respect to the communications in the course of handling by the Corporation or the Company. This shall also apply to the person after he has retired from office.

Article 110. Any person engaged in the public telecommunication business who fails to perform public telecommunication service without justifiable reason or performs improper service shall be punished by penal servitude for a term not exceeding three years or by a fine not exceeding 50,000 yen.

2. In the case of the preceding paragraph, money or articles received, if any, shall be confiscated. If it is impossible to confiscate them in whole or in part, their value shall be collected.

Article 111. Any person who, without justifiable reason, opens, destroys, conceals or throws away any telegram which is in the course of handling by the Corporation or the Company or delivers the same to any person other than its addressee, shall be punished by penal servitude not exceeding three years or by a fine not exceeding 50,000 yen, provided that such acts falling under Article 258 or 259 of the Criminal Code (Law No. 45 of 1907) are subject to the penalties provided for in the said Articles.

Article 112. Any person who violates the secrecy of communication which is in the course of handling by the Corporation or the Company shall be punished by penal servitude not exceeding one year or by a fine not exceeding 50,000 yen.

2. Any person engaged in the public telecommunication service who commits the act mentioned in the preceding paragraph shall be punished by penal servitude not exceeding two years or by a fine not exceeding 100,000 yen.