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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Initial report of States parties due in 1996

JAPAN*

[20 December 2005]

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

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TABLE OF CONTENTS

The First Report of the Japanese Government under Paragraph 1 of Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Part I. General Information

1. Japan deposited the instrument of accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention") with the Secretary-General on June 29, 1999 and became a Contracting State of the Convention. The Convention was promulgated on July 5, 1999 and entered into force for Japan in accordance with paragraph 2 of Article 27 on July 29, 1999. The time frame that this first report of the Japanese Government covers is from July 29, 1999 to March, 2004.

Note : The term "he" as used in this report refers to persons of either gender.

2. Article 36 of the Constitution of Japan absolutely forbids the infliction of torture and cruel punishment by any public official. Articles 13 and 38 of the Constitution are also in line with the spirit of the Convention. Under these provisions of the Constitution, the Penal Code prescribes, inter alia, the crime of violence and cruelty by a special public official (Article 195) and its aggravated crime of causing death or injury (Article 196). For these crimes, a fair trial is guaranteed not only by normal criminal procedures but also by the special criminal procedures provided for in Articles 262 to 269 of the Code of Criminal Procedure. In Japan, it is ensured that all acts of torture, attempts to commit torture and acts by any person which constitute complicity or participation as defined in paragraph 1 of Article 1 of the Convention are offences under various laws including the Penal Code as described below, even if such acts do not fall under Article 195 or Article 196 of the Penal Code.

3. In addition, all other obligations in the Convention are to be implemented in accordance with the existing domestic laws and regulations as described in detail in Part

4. (All the domestic laws and regulations cited in this report are provisional translations.)

5. Japan concluded in 1979 the International Covenant on Civil and Political Rights, which has a close relationship with the Convention, and prohibits torture in its Article 7. All acts which fall under the torture of the Convention are offences under Japanese domestic laws as described below in the section of Article 4.

The Constitution of Japan

Article 13

6. 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 36

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

Article 38

8. 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.

The Penal Code

Article 193

9. When a public official abuses the official's authority and causes another to perform an act which the person has no obligation to, or hinders another from exercising the person's right, imprisonment with appointed work or imprisonment without appointed work for not more than 2 years shall be imposed.

Article 194

10. When a person performing or assisting in judicial, prosecution or police functions, abuses the person's authority and detains or confines another, imprisonment with appointed work or imprisonment without appointed work for not less than 6 months but not more than 10 years shall be imposed.

Article 195

11. When a person performing or assisting in judicial, prosecution or police functions commits, in the performance of the person's duties, an act of physical violence or physical or mental cruelty upon the accused, suspect etc., imprisonment with appointed work or imprisonment without appointed work for not more than 7 years shall be imposed.

12. The same shall apply when a person who is guarding or escorting another person detained or confined in accordance with laws commits an act of physical violence or physical or mental cruelty upon the person.

Article 196

13. A person who commits a crime prescribed for in the preceding two Articles and thereby causes death or bodily injury of another shall be dealt with by the punishment prescribed for the crimes of bodily injury or the Articles whichever is the graver.

The Code of Criminal Procedure

Article 262

14. 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 Article 45 of the Subversive Activities Prevention Act (Law No.240 of 1952) or Articles 42 to 43 of the Act Regarding the Control of Organizations Which Committed Indiscriminate Mass Murder (Law No.147 of 1999), 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.

15. The application mentioned in the preceding paragraph shall be made by submitting a written application to a public prosecutor from the day on which the notice mentioned in Article 260 was received.

Article 263

17. The application mentioned in Paragraph1 of the preceding Article may be withdrawn before ruling of Article 262 is rendered.

17. The person who made the withdrawal as provided in the preceding paragraph shall not make anew the application mentioned in Paragraph1 of the preceding Article in respect to the same case.

Article 264

18. A public prosecutor shall institute prosecution if he considers the application mentioned in Paragraph1 of Article 262 well-founded.

Article 265

19. Trial and decision on the application mentioned in Paragraph1 of Article 262 shall be conducted and delivered by a collegiate court.

20. The court may, if it deems necessary, cause a member of a collegiate court to investigate the fact, or requisition a judge of a District or Summary Court to do so. In this case a commissioned judge or a requisitioned judge shall have the same authority as the court or a presiding judge has.

Article 266

21. On receipt of the application mentioned in Paragraph1 of Article 262, a court shall

render a ruling according to the following classification:

(a) In the event of the application having been made contrary to the form fixed by law or ordinance or after the rights of application has extinguished or of its being without grounds, it shall be dismissed:

(b) If the application is well-founded, the case shall be committed to a competent District Court for trial.

Article 267

22. 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

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

24. The practicing 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 practicing 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

25. The practicing 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.

26. A court may cancel the designation of the practicing 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.

27. The practicing attorney designated in accordance with the first paragraph shall be given allowances as fixed by Cabinet Order.

Article 269

28. When a court dismisses the application mentioned in Paragraph1 of Article 262 or when the application is withdrawn, the court may, by means of a ruling, order the person who made the application to compensate for the whole or a part of the costs arising form the procedure relating to the application. An immediate *Kokoku* appeal may be filed against the ruling.

International Covenant on Civil and Political Rights

Article 7

29. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

30. In Japan, the main authorities in charge of matters concerning the Convention are as follows:

(a) Ministry of Foreign Affairs

31. The Ministry of Foreign Affairs is in charge of matters concerning the conclusion, interpretation, and implementation of the Convention as well as other treaties and international agreements.

(b) Ministry of Justice

32. The Ministry of Justice is in charge of the following matters concerning the Convention:

(i) Planning and drafting of criminal legislation, prevention of crime and other criminal affairs matters, extradition and assistance for mutual legal assistance;

(ii) Investigation, relief, and prevention of human rights infringements;

(iii) Execution of sentences and detention, and other matters concerning corrections (as described in Paragraph 101, wardens of prisons and branch prisons and other designated officials are authorized to investigate crimes committed in prisons or branch prisons as judicial police officials);

(iv) Control of the departure from and return to Japan of Japanese nationals and entry into and departure from Japan of foreign nationals;

(v) Planning and drafting of civil legislation and other civil affairs matters;

(vi) Matters concerning disputes relating to the interests of Japan.

33. In the area of criminal affairs, public prosecutors investigate and institute public prosecutions, request fair application of laws to courts, and supervise the enforcement of adjudication. With regard to other matters which come under the authority of the courts, public prosecutors will seek notification from the court, express their opinions, and

conduct, in their role of representing the public interest, other matters designated by other laws and regulations if they deem it necessary for execution of their official duties.

(c) Police

34. Responsibilities and duties of the police are to protect the life, body and property of an individual, and take charge of the prevention, suppression and investigation of a crime, as well as the apprehension of a suspect, traffic control and other affairs concerning the maintenance of public safety and order. A police official as a judicial police official, when deeming a crime has been committed, is to investigate the criminal and evidence thereof pursuant to paragraph 2 of Article 189 of the Code of Criminal Procedure (refer to paragraph 39), which also applies to the offences referred to in Article 4 of the Convention. The police are also in charge of matters concerning international assistance in investigation.

(d) Ministry of Health, Labour and Welfare

35. The Ministry of Health, Labour and Welfare is in charge of the following in relation to the Convention:

(i) matters concerning the prevention of outbreaks and spread of infectious diseases;

(ii) matters concerning the promotion of welfare for and the improvement of health of persons with disabilities;

(iii) matters concerning quarantine at ports and airports; and

(iv) matters concerning the direction and supervision of medical services.

36. With regard to the measures against infectious diseases, based on the Law Concerning the Prevention of Infections and Medical Care For Patients of Infection, prefectural governors may recommend a patient of new infections, category 1 infections and category 2 infections as specified in the law to be hospitalized and, when he refuses such recommendation, may take measures to hospitalize him.

37. With regard to mental health, based on the Law on Mental Health and Welfare for People with Mental Disorders (hereinafter "Mental Health Law") prefectural governors, mayors of cabinet-order designated cities, or managers of mental hospitals may take measures to hospitalize or restrict behaviours of a patient. Compulsory hospitalization, for example, may be carried out only when two or more designated mental health doctors agree, as a result of their medical examinations, that the patient may harm himself or others due to his mental disorder unless hospitalized for medical care and protection.

38. With regard to quarantine, based on the Quarantine Law, the directors of quarantine stations may isolate a patient of category 1 infections or cholera and have suspected patients of category 1 infections stay.

(e) Defense Agency

39. The Defense Agency is in charge of matters concerning the activities of Self-Defense Forces (SDF). Police affairs officers and assistant police affairs officers of the SDF conduct the duties as judicial police officials in accordance with the Code of Criminal Procedure concerning:

(i) the offences committed by the members of the SDF, offences against the members of the SDF in duty, offences committed by non-members of the SDF concerning the duty of the members of the SDF,

(ii) offences committed in vessels, office buildings, residential quarters and other facilities used by the SDF; and

(iii) offences against the facilities or properties owned or used by the SDF.

(f) Japan Coast Guard

40. The Japan Coast Guard is responsible to secure safety and security at sea by conducting matters concerning the prevention and suppression of crimes at sea and the investigation and arrest of offenders at sea. Pursuant to Article 31 of the Japan Coast Guard Law (see Paragraph 101), Coast Guard officers and assistant officers conduct, subject to the terms and conditions set forth by the Director-General of the Japan Coast Guard, the duties as judicial police officials in accordance with the Code of Criminal Procedure concerning the offences committed at sea.

(g) Other investigative organs

41. In Japan, in addition to police officials acting as judicial police officials, public prosecutors and their assistant officers may also investigate offences. Other specific administrative officers may act as judicial police officials for specific matters in accordance with their respective laws (Among such officers are, as mentioned above, the wardens of prisons and branch prisons, other designated prison officials, police affairs officers and assistant police affairs officers of the SDF, coast guard officers and assistant coast guard officers, regional and district forestry officers, Hokkaido prefectural government officials in charge of public forests and fields, captains of ships and high-ranking crew members, Imperial guards, prefectural government officials in charge of the protection of animals and birds or the control of hunting, labor standards inspectors, mariners labor inspectors, narcotics control officers, prefectural narcotics officials, postal inspectors, mine work inspectors, and fishery inspectors and fishery inspection officials). The inspectors for the National Tax Agency are vested with the authority to investigate offenders and evidence on offences committed by officials of the National Tax Agency with regard to their official duties. Though descriptions of these officials will not appear in Part 2, the provisions of the Code of Criminal Procedure and

other relevant laws, will apply to their exercise of public authority as judicial police officials.

42. Since Japan is able to fulfill the obligations under the Convention with the existing domestic laws and regulations, it did not adopt new laws or change existing laws and regulations at the time of conclusion of the Convention. However, Japan is making efforts to fully observe the Convention by appropriate application of domestic laws and regulations.

43. Furthermore, Japan is carrying out comprehensive reform of correctional administration (see paragraphs 84 and 85), and making further efforts to protect and promote human rights, inter alia, the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

Part 2 Information on each article of Part I of the Convention

A. Article 1

44. Article 36 of the Constitution absolutely prohibits torture by public officials by stipulating that "the infliction of torture by any public official and cruel punishments are absolutely forbidden". It is ensured by criminal laws such as the Penal Code that all acts of torture, attempts to commit torture and acts which constitute complicity or participation in torture as defined in paragraph 1 of Article 1 of the Convention are punishable (see "**D. Article 4**").

45. Japan maintains the death penalty as a statutory penalty, and has no corporal punishment. With regard to the death penalty in Japan, see "Q. Others (d) Death penalty system".

B. Article 2

46. The legislative, administrative, judicial or other measures taken in Japan to prevent acts of torture in any territory under its jurisdiction are described in the following sections corresponding to the respective articles.

47. As described above, Article 36 of the Constitution absolutely prohibits the infliction of torture by any public official and cruel punishment, and there is no domestic law that allows anyone to invoke, as a justification of torture, exceptional circumstances such as a state of war, a threat of war, internal political instability or any other public emergency.

48. No domestic law stipulates that an order from a superior officer or a public authority may be invoked as a justification of torture.

C. Article 3

Deportation

49. Paragraph 1 of Article 53 of the Immigration Control and Refugee Recognition Act stipulates that any person subject to deportation shall be deported to a country of which he is a national or citizen. Paragraph 2 of that Article stipulates that, if a person cannot be deported to such a country as provided for in paragraph 1, such person shall be deported to one of the following countries in accordance with his wishes: (1) a country in which he had been residing immediately prior to his entry into Japan; (2) a country in which he once resided before his entry into Japan; (3) a country to which the port, where he boarded the vessel or aircraft departing for Japan, belongs; (4) a country where his place of birth is located; (5)a country to which his birthplace belonged at the time of his birth; and (6) any country other than those given in the preceding items. Therefore, when it is judged that there are substantial grounds for believing that he would be in danger of being subjected to torture in the country provided for in paragraph 1 of that Article, his case would fall under the provision of paragraph 2 of that Article where the "person cannot be deported" and therefore he will be deported, in accordance with his wishes, to any one of the countries provided for in paragraph 2.

Immigration Control and Refugee Recognition Act

Article 53

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

51. If a person cannot be deported to such a country as provided for in the preceding paragraph, such a person shall be deported to one of the following countries in accordance with his wishes:

(a) A country in which he had been residing immediately prior to his entry into Japan;

(b) A country in which he once resided before his entry into Japan;

(c) A country to which the port, where he boarded the vessel or aircraft departing for Japan, belongs;

(d) A country where his place of birth is located;

(e) A country to which his birthplace belonged at the time of his birth; and

(f) Any country other than those given in the preceding items.

52. With regard to the procedures for deportation of foreign nationals, the Immigration Control and Refugee Recognition Act stipulates that, if a foreign national who is a suspect agrees with the findings of an immigration inspector that the suspect comes under any one of the grounds for deportation (paragraph 4 of Article 47), if the suspect

agrees with the findings of a special inquiry officer that there is no error in the findings of the immigration inspector (paragraph 8 of Article 48), or if the suspect receives notification from the Minister of Justice of his decision that the objection to the findings of the special inquiry officer filed by the suspect has no grounds (paragraph 5 of Article 49), then a supervising immigration inspector shall issue a written deportation order, which an immigration control officer shall execute or, if the deportee is to be sent back by the carrier, the immigration control officer shall deliver him to the carrier (paragraph 3 of Article 52). It is the Ministry of Justice that is responsible for the procedures for the decisions on "deportation".

53. The Immigration Control and Refugee Recognition Act further stipulates that, if a foreign national who is a suspect has any objections to the findings of an immigration inspector that the suspect comes under any one of the grounds for deportation, he may request a special inquiry officer for an oral hearing (paragraph 1 of Article 48); and, if the suspect does not accept the findings of the special inquiry officer that there is no error in the findings of the immigration inspector (namely the suspect comes under any one of the grounds for deportation), he may file an objection with the Minister of Justice by submitting to a supervising immigration inspector a written statement containing the grounds for his complaint (paragraph 1 of Article 49). Accordingly this allows the filing of an objection in the procedures for deportation.

54. When an immigration inspector has found that a foreign national who is a suspect does not come under any one of the grounds for deportation or when a special inquiry officer finds that such findings are not supported by factual evidence, that foreign national shall be released.

55. When the Minister of Justice has decided that the objection filed by the foreign national is well-grounded, that foreign national shall be released. When the Minister has decided the objection has no grounds, a written deportation order shall generally be issued; however, he may grant the foreign national special permission to stay in Japan if he finds special grounds for such grant (paragraph 1 of Article 50).

56. In addition, the foreign national may file a lawsuit to seek revocation of the written deportation order pursuant to the Code of Administrative Case Procedure.

Immigration Control and Refugee Recognition Act

Article 47

57. An Immigration Inspector shall release a suspect without delay when he has found, as a result of examination, that the suspect does not come under any one of the items of Article 24.

58. If an Immigration Inspector finds, as a result of examination, that the suspect comes under any one of the items of Article 24, such an Immigration Inspector shall immediately notify a Supervising Immigration Inspector and the person concerned of his findings in writing together with the statement of grounds for such findings.

59. If an Immigration Inspector submits a notification in accordance with the preceding paragraph, he shall notify the suspect that he may request a hearing pursuant to the provisions of Article 48.

60. In the case of Paragraph 2, if the suspect agrees with the findings, the Supervising Immigration Inspector shall, after having the alien sign a document with a statement that he will not request a hearing, issue without delay a written deportation order pursuant to the provisions of Article 51.

Article 48

61. A suspect who has received a notification provided for in Paragraph 2 of the preceding article may, if he has any objections to the findings provided for in the same paragraph, orally request a Special Inquiry Officer for a hearing within 3 days from the date of notification.

62. An Immigration Inspector shall, when a request has been made for a hearing under the preceding paragraph, submit a record provided for in Article 45 Paragraph 2 and other pertinent documents to a Special Inquiry Officer.

63. A Special Inquiry Officer shall, when a request is made for the hearing in accordance with Paragraph 1, notify the suspect of the time and place of hearing and conduct the hearing without delay.

64. A Special Inquiry Officer shall, when a hearing is held in accordance with the preceding paragraph, prepare a record of the hearing.

65. The provisions of Article 10, Paragraphs 3 to 6 shall apply mutatis mutandis to the proceedings of a hearing under Paragraph 3.

66. If a Special Inquiry Officer finds, as a result of the hearing, that the findings mentioned in Paragraph 2 of the preceding article are not supported by factual evidence, he shall immediately release the person concerned.

67. When a Special Inquiry Officer finds, as a result of a hearing, that there is no error in the findings mentioned in Paragraph 2 of the preceding article, he shall immediately notify the Supervising Immigration Inspector and the suspect to that effect, and at that time notify the suspect that he may file an objection pursuant to the provisions of Article 49.

68. If the suspect, upon receipt of the notification mentioned in the preceding paragraph, agrees to the findings mentioned in the paragraph, the Supervising Immigration Inspector shall have him sign a document with a statement that he will not file an objection and immediately issue a written deportation order provided for in Article 51.

Article 49

69. A suspect who has been notified in accordance with Paragraph 7 of the preceding article, may, in case he does not accept the findings under the same paragraph, file an objection with the Minister of Justice by submitting to a Supervising Immigration Inspector, within 3 days from the date of receipt of the notification, a written statement containing the grounds for his complaint in accordance with the procedures provided for by the Ministry of Justice Ordinance.

70. When the objection provided for in the preceding paragraph has been filed, a Supervising Immigration Inspector shall submit to the Minister of Justice a record of the examination mentioned in Article 45, Paragraph 2, and a record of the hearing mentioned in Paragraph 4 of the preceding article and other pertinent documents.

71. When the Minister of Justice has received the objection filed under Paragraph 1, he shall decide whether the objection is well-grounded and notify a Supervising Immigration Inspector of his decision.

72. 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.

73. 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.

Article 50

74. The Minister of Justice may, even if he finds that the objection filed is groundless in making a decision under Paragraph 3 of the preceding article, grant the suspect special permission to stay in Japan if:

(a) He has obtained permission for permanent residence;

(b) He has had in the past a permanent domicile in Japan as a Japanese national; or

(c) The Minister of Justice finds grounds for granting special permission to stay, other than the previous two subparagraphs.

75. In the case of the preceding paragraph, the Minister of Justice may impose conditions which he may deem necessary, such as period of stay etc., in accordance with the Ministry of Justice Ordinance.

76. The permission in accordance with Paragraph 1 shall be regarded as the decision that the objection filed is well-grounded with respect to the application of Paragraph 4 of the preceding article.

Article 52

77. A written deportation order shall be executed by an Immigration Control Officer.

78. A Police Official or Maritime Safety Official may, at the request of a Supervising Immigration Inspector who finds it necessary due to shortage of Immigration Control Officers, execute a written deportation order.

79. In executing a deportation order, an Immigration Control Officer (including a Police Official or Maritime Safety Official who executes a written deportation order pursuant to the provision of the preceding paragraph; the same shall apply in this article) shall produce the deportation order or its copy to a deportee and have him be deported without delay to the destination as provided for in Article 53. However, an Immigration Control Officer shall hand him over to a carrier if the deportee is to be sent back by such a carrier in accordance with Article 59.

80. In the case of the preceding paragraph, if a person against whom a deportation order has been issued desires to leave Japan voluntarily at his own expense, a Director of an Immigration Center or a Supervising Immigration Inspector may permit him to do so upon application by the said person.

81. If, in the case of the main sentence in Paragraph 3, a deportee cannot be deported immediately, an Immigration Control Officer may detain him in an Immigration Center, detention house, or other places designated by the Minister of Justice or by a Supervising Immigration Inspector commissioned by the Minister of Justice until such time as deportation becomes possible.

82. In the case of the preceding paragraph, a Director of an Immigration Center or a Supervising Immigration Inspector may, if it is found that a deportee cannot be deported, release him under conditions deemed necessary such as restrictions on place of residence and area of movement and duty of appearing at a summons.

83. In order to determine whether there exist the "substantial grounds" referred to in paragraph 1 of Article 3 of the Convention, it is necessary to be fully familiar with and to analyze accurately all matters as may become a cause of torture such as the internal political situation, public security and infringement upon human rights in the country concerned.

84. Therefore, the Immigration Bureau of the Ministry of Justice has been providing its officials with appropriate lectures to enhance their knowledge and ability at every possible opportunity such as training courses.

85. During the period from July 29, 1999, when the Convention entered into force in Japan, to March 31, 2004, of the administrative lawsuits seeking revocation of written

deportation orders there were no rulings to revoke such order by reason of violating the Convention.

Extradition

86. Items 3 and 4 of paragraph 1 of Article 4 and paragraph 1 of Article 14 of the Law of Extradition stipulate that, if the Minister of Justice "deems it inappropriate to surrender the fugitive", the fugitive shall not be extradited. Cases where there are substantial grounds for believing that the fugitive would be in danger of being subjected to torture in the country requesting the extradition will fall under the cases where the Minister of Justice "deems it inappropriate to surrender the fugitive".

Law of Extradition

Article 3

87. When a request for the surrender of a fugitive is made, the Minister of Foreign Affairs shall, except in any of the following circumstances, forward to the Minister of Justice the written request or a certificate which he has prepared stating that the request for extradition has been made, together with the related documents:

(a) When, in the case of a request which has been made pursuant to a treaty of extradition, it is deemed that the form of the request is not consistent with the requirements of the treaty of extradition;

(b) When, in the case of a request which has not been made pursuant to a treaty of extradition, the requesting country has not assured that it would honor a request of the same kind made by Japan.

Article 4

88. Upon receiving the documents concerning a request for extradition from the Minister of Foreign Affairs as provided for in Article 3, the Minister of Justice shall, except in any of the following circumstances, forward the related documents to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and order him to apply to the Tokyo High Court for examination as to whether the case is one in which the fugitive can be surrendered:

(a) In addition to cases falling under Item (2) above, when a case falls under a provision of a treaty of extradition which leaves the determination as to whether the fugitive shall be surrendered to the discretion of Japan and it is deemed to be inappropriate to surrender the fugitive;

(b) In the case of a request for surrender which is not made pursuant to a treaty of extradition, when it is deemed to be inappropriate to surrender the fugitive.

Article 14

89. When the Minister of Justice deems it to be appropriate to surrender the fugitive, in the case of a decision rendered as provided for in Article 10, Paragraph 1, Sub-paragraph (3) (Note: Decision of the Tokyo High Court that the case falls under the category where a fugitive can be surrendered), he shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to surrender the fugitive, and at the same time notify the fugitive to that effect; however, when he deems it to be inappropriate to surrender the fugitive, he shall immediately notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the fugitive to that effect, and at the same time order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the fugitive who is detained under a permit of detention. (The rest omitted)

90. The Minister of Justice determines whether a particular case falls under items 3 and 4 of paragraph 1 of Article 4 and paragraph 1 of Article 14 of the Law of Extradition.

91. Against an extradition order made by the Minister of Justice pursuant to paragraph 1 of Article 14 of the Law of Extradition, an appeal for an objection based on the Administrative Appeal Law and a lawsuit for revocation based on the Code of Administrative Case Procedure may be filed.

92. During the period from July 29, 1999, when the Convention entered into force in Japan, to March 31, 2004, neither such an appeal nor lawsuit was filed.

D. Article 4

93. Any person who commits an act of torture, including an attempt to commit torture, an act which constitutes complicity or participation in torture, is punishable under the Penal Code and other criminal laws for various offences and their complicity (see below) including violence and cruelty by a special public official or causing death or injury thereby as described below and depending on the kinds of acts, abuse of authority by a public official, violence, injury, abandonment, arrest, detention, intimidation, and murder, forcible obscenity, rape, coercion and attempts thereof. These offences punish a wider range of acts of torture in that they do not require as their constituent element the "purposes" or "reason" referred to in paragraph 1 of article 1 of the Convention. In this regard, it can be said that a wider range of acts of torture is punishable.

The Penal Code

(Abuse of Authority by a Special Public Official)
Article 194

94. When a person performing or assisting in judicial, prosecution or police functions,

abuses the person's authority and detains or confines another, imprisonment with appointed work or imprisonment without appointed work for not less than 6 months but not more than 10 years shall be imposed.

(Violence and Cruelty by a Special Public Official)
Article 195

95. When a person performing or assisting in judicial, prosecution or police functions commits, in the performance of the person's duties, an act of physical violence or physical or mental cruelty upon the accused, suspect etc., imprisonment with appointed work or imprisonment without appointed work for not more than 7 years shall be imposed.

96. The same shall apply when a person who is guarding or escorting another person detained or confined in accordance with laws commits an act of physical violence or physical or mental cruelty upon the person.

(Causing Death or Injury Thereby)
Article 196

97. A person who commits a crime prescribed for in the preceding two Articles and thereby causes death or bodily injury of another shall be dealt with by the punishment prescribed for the crimes of bodily injury or the Articles whichever is the graver.

(Complicity)
Article 60

98. Two or more persons who commit a crime in connected action are all principals.

Article 61

99. A person who induces another to commit a crime shall be dealt with in sentencing as a principal.

100. The same shall apply to a person who induces another to induce.

Article 62

101. A person who aids a principal is an accessory.

102. A person who induces an accessory shall be dealt with in sentencing as an accessory.

Article 63

103. The punishment of an accessory shall be reduced from the punishment of the

principal.

Article 65

104. When a person collaborates in a criminal act in which the status of the criminal establishes the criminal's punishability, the person is an accomplice even without such status.

105. When the gravity of a punishment varies depending upon whether a criminal has a certain status or not, a normal punishment shall be imposed on a person without such status.

106. As stated above, all acts of torture, attempts to commit torture and acts which constitute "complicity" or "participation" in torture under the Convention, including those by order of a competent person, constitute an offence under criminal law. Furthermore, it is guaranteed that appropriate prosecution shall be instituted, taking into consideration the gravity of the offence and circumstances, and that appropriate penalties shall be imposed in courts, taking into account the gravity of the offence.

E. Article 5

107. "When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State" (sub-paragraph 1(a) of Article 5 of the Convention), Japan establishes its jurisdiction in accordance with Article 1 of the Penal Code (Crimes within Japan).

108. "When the alleged offender is a national of that State" (sub-paragraph 1(b) of Article 5 of the Convention), Japan establishes its jurisdiction in accordance with Article 3 (Crimes committed by Japanese outside Japan), Article 4 (Crimes by a public official outside Japan) and Article 4bis (Crimes committed outside Japan made punishable by a treaty) of the Penal Code as well as paragraph 3 of Article 1bis of the Law concerning Punishment of Physical Violence and Others and Article 5 of the Law for Punishing Compulsion and Other Related Acts Committed by Those Having Taken Hostages.

109. Since the amendment of the Penal Code in July 2003, "when the victim is a national of that State if that State considers it appropriate" (sub-paragraph 1(c) of Article 5 of the Convention), Japan establishes its jurisdiction over certain offences in accordance with Article 3bis (Crimes by non-Japanese outside Japan) of the Penal Code, paragraph 3 of Article 1bis of the Law concerning Punishment of Physical Violence and Others and Article 5 of the Law for Punishing Compulsion and Other Related Acts Committed by Those Having Taken Hostages.

110. In "cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article" (Paragraph 2 of Article 5 of the Convention), Japan establishes its jurisdiction in accordance with Articles 1, 3, 3 bis, 4, and 4 bis of the

Penal Code, paragraph 3 of Article 1bis of the Law Concerning Punishment of Physical Violence and Others and Article 5 of the Law for Punishing Compulsion and Other Related Acts Committed by Those Having Taken Hostages.

The Penal Code

Article 1

111. This Code shall apply to anyone who commits a crime within the territory of Japan.

109. It shall also apply to anyone who commits a crime on board a Japanese vessel or air craft outside the territory of Japan.

Article 2

112. This Code shall apply to anyone who commits one of the following crimes outside the territory of Japan:
(The rest omitted)

Article 3

113. This Code shall apply to the nationality of Japan who commits one of the following crimes outside the territory of Japan:
(The middle omitted)

114. The crimes provided for in Articles 176 through 179 (Forcible Obscenity; Rape; Quasi Forcible Obscenity and Quasi Rape; Attempts),181 (Causing Death or Injury Resulting by Rape, etc), and 184 (Bigamy);

115. The crime provided for in Articles 199 (Homicide) and attempt thereof;

114. The crimes provided for in Articles 204 (Bodily Injury) and 205 (Causing Death by Bodily Injury);
(The middle omitted)

116. The crime provided for in Article 218 (Abandonment by Person Responsible for Protection; etc.) and the crime of causing death or injury through the commission of the above-mentioned crime;

117. The crimes provided for in Articles 220 (Detention; Confinement) and 221 (Causing Death or Bodily Injury by Unlawful Detention or Confinement);
(The rest omitted)

Article 3bis

118. This code shall apply to anyone without the nationality of Japan who commits an act of the following crimes against a person with the nationality of Japan outside the

territory of Japan.

119. The crimes provided for in Articles 176 through 179 (Forcible Obscenity; Rape; Quasi Forcible Obscenity and Quasi Rape; Attempts), 181 (Causing Death or Injury Resulting by Rape, etc.) and 184 (Bigamy);

120. The crime provided for in Articles 199 (Homicide) and attempt thereof;

121. The crimes provided for in Articles 204 (Bodily Injury) and 205 (Causing Death by Bodily Injury);

122. The crimes provided for in Articles 220 (Detention; Confinement) and 221 (Causing Death or Bodily Injury by Unlawful Detention or Confinement);

123. The crimes provided for in Articles 224 through 228 (Kidnapping; Kidnapping for Profit, etc.; Kidnapping for Ransom, etc.; Kidnapping for Transportation to Foreign Country, etc. Receiving Kidnapped Person, etc.; Attempts);

124. The crimes provided for in Articles 236 (Robbery), 238 through 241 (Robbery by Thief; Robbery by Causing Unconsciousness; Death or Injury caused by Robber; Rape on the Scene of Robbery; Causing Death thereby), and 243 (Attempts).

Article 4

125. This Code shall apply to a public official of Japan who commits one of the following crimes outside the territory of Japan:
(The middle omitted)

126. The crimes provided for in Articles 193 (Abuse of Authority by Public Official), Paragraph 2 of Article 195 (Violence and Cruelty by a Special Public Official) and Articles 197 through 197-4 (Acceptance of Bribe; Acceptance with Request ; Acceptance in Advance of Assumption of Office; Bribe to Third Person; Aggravated Acceptance; Acceptance after Resignation of Office; Acceptance for Exertion of Influence), and the crime of causing death or injury through the commission of the crime provided for in Paragraph 2 of Article 195.

Article 4bis

127. Besides Article2 through the preceding Article this Code shall also apply to anyone who commits outside the territory of Japan those crimes provided for in Book II which are made punishable by treaty even if committed outside the territory of Japan.

Law concerning Punishment of Physical Violence and Others

Article 1bis

128. A person who inflicts bodily injury on another person by using a firearm or sword

shall be punished with imprisonment with appointed work for not less than one year nor more than ten years.

129. Attempts of the offences provided for in the preceding paragraph shall be punished.

130. The offences provided for in the preceding two paragraphs are subject to the examples in Articles 3, 3bisand 4bisof the Penal Code.

Law for Punishing Compulsion and Other Related Acts Committed by Those Having Taken Hostages

Article 1

131. A person who seizes, confines, or takes hostage of another person and demands a third party to perform an act which the party has no obligation to perform or obstructs the party from exercising a right which the party is entitled to shall be punished with imprisonment with labor for not less than six months nor more than ten years.

132. The same shall apply to a person who seizes, confines, or takes hostage of another person for the purpose of requesting a third party to perform an act which the party has no obligation to perform or obstructs the party from exercising a right which the party is entitled to exercise.

133. The attempt of the offence provided for in the preceding paragraph shall be punished.

Article 3

134. When a person who committed the offence provided for in Article 1 Paragraph 1 of the Law Concerning Punishment of Unlawful Seizure of an Aircraft (Law No. 68 of 1970) takes hostage of a person or persons in the aircraft and demands a third party to perform an act which the party has no obligation to perform or obstructs the party from exercising a right which the party is entitled to the person shall be punished with imprisonment with labor for life or for no less than ten years.

Article 5

135. The offences mentioned in Article 1 shall be subject to the examples in Articles 3, 3bis, and 4bisof the Penal Code (Law No. 45 of 1907) and the offences in the preceding three Articles shall be subject to the examples in Article 2 of the Penal Code.

F. Article 6

136. The Japanese government has taken the following legislative and other measures to fulfill its obligations prescribed in this Article of the Convention.

Custody and other legal measures

137. Japan, when a suspect of the offence referred to in Article 4 of the Convention is present in its territory and when it is satisfied, after examination of the information available to it that the circumstances so warrant, shall promptly take the following measures to ensure his presence.

(a) In cases where the country concerned requests extradition or provisional detention of the suspect, the authorities may place him under detention or provisional detention pursuant to the Law of Extradition;

(b) On the assumption that Japan has jurisdiction over the case in accordance with its domestic laws, the authorities may investigate the whereabouts of the suspect and request him to voluntarily cooperate with investigation, as well as arrest or detain him pursuant to the Code of Criminal Procedure.

Law of Extradition

Article 5

138. Upon receiving an order from the Minister of Justice as provided for in Paragraph 1 of Article 4 (Note: refer to Paragraph 27), the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, except when the fugitive is detained under a permit of provisional detention or except when his detention under a permit of provisional detention is suspended, cause a public prosecutor of the Tokyo High Public Prosecutors Office to detain the fugitive under a permit of detention which shall have been issued in advance by a judge of the Tokyo High Court. Provided that this provision shall not apply when the fugitive has a fixed residence and the Superintending Prosecutor of the Tokyo High Public Prosecutors Office deems that there is no apprehension that the fugitive will escape.

139. A permit of detention provided for in Paragraph 1 above may be issued on request from a public prosecutor of the Tokyo High Public Prosecutors Office.

140. The permit of detention shall contain the full name of the fugitive, the name of the offence for which extradition is requested, the name of the requesting country, the effective period of the permit, a statement that after the expiration of the effective period no detention may be commenced and the permit must be returned, and the date of issue of the permit, and shall bear the name and seal of the issuing judge.

Article 23

141. When the Minister of Foreign Affairs receives a request pursuant to a treaty of extradition from a contracting country for the provisional detention of an offender whose surrender by Japan may be requested under the treaty of extradition, for an offence (for

which the contracting country may request the offender's surrender by Japan under the treaty of extradition), the Minister of Foreign Affairs shall, except in any of the following circumstances, forward to the Minister of Justice a certificate stating that the request for provisional detention has been made, together with the related documents:

(a) When there has been no notification either that a warrant has been issued for the arrest of the person concerned or that a sentence has been imposed on him;

(b) When there has been no assurance that a request for the extradition of the person concerned will be made.

142. When a request for the provisional detention of an offender is not made pursuant to a treaty of extradition, Paragraph 1 above shall apply only if the requesting country has assured that it would honor a request of the same kind made by Japan.

Article 24

143. When the Minister of Justice receives the documents provided for in Article 23 and deems it to be appropriate to provisionally detain the offender concerned, he shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to provisionally detain the offender concerned.

Article 25

144. The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, when he receive the order from the Minister of Justice provided for in Article 24, cause a public prosecutor of the Tokyo High Public Prosecutors Office to detain the offender concerned under a permit of provisional detention which is to be issued in advance by a judge of the Tokyo High Court.

The Code of Criminal Procedure

Article 199

145. Where there exists any reasonable cause enough to suspect that an offence has been committed by the suspect, a public prosecutor, public prosecutor's assistant officer or judicial police official may arrest him upon a warrant of arrest issued in advance by a judge. However, in respect to the offences punishable with a fine not exceeding 300,000 yen (20,000 yen as a temporary measure, for offences other than those prescribed in the Penal Code, the Law Concerning Punishment of Physical Violence and Others (Law No.60 of 1925) and the Law for Improvements of Penal Regulations of Economic Relations (Law No.4 of 1944)., penal detention or a minor fine, such arrest may be effected only in cases where the suspect has no fixed dwelling or where he fails to appear without good reason notwithstanding that he has been called in accordance with the provision of the preceding Article.

146. In case a judge deems that there exists reasonable cause enough to suspect that the suspect has committed an offence, he shall issue a warrant of arrest mentioned in the preceding paragraph, upon request of a public prosecutor or a judicial police officer (in the case of a judicial police officer who is police official, only the person designated by the National Public Safety Commission or the Prefectural Public Safety Commission and ranking as or above the police inspector; the same shall apply hereinafter in this Article). However, this shall not apply in case he deems that there is evidently no necessity for arresting the suspect.

147. When asking for a warrant mentioned in the first paragraph, a public prosecutor or judicial police official shall inform the court of all the requests or issuance of warrants, if any, that have been made previously against the same suspects for the same offence.

Article 203

148. 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 defense 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 restrains, when he believes it necessary to detain him.

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

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

Article 204

151. 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 defense 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.

152. 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

153. The provisions of Paragraph2 of the preceding Article shall apply mutatis mutandis to the cases of Paragraph1 of this Article.

Article 205

154. 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.

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

156. 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.

157. 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 subject shall immediately be released

Article 206

158. When unavoidable circumstances prevented a public prosecutor or judicial police officer from complying with the time limitations provided for in the preceding three Articles, a public prosecutor may, offering presumptive proof of the grounds thereof, request a judge to detain the suspect.

159. The judge who has been requested as prescribed in the preceding paragraph shall not issue a warrant of detention, unless he recognizes that the unavoidable circumstances have justified the delay involved.

Article 207

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

161. 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 Paragraph2 of the preceding Article, he shall immediately order to release the suspect without issuing a warrant of detention.

Article 210

162. When there are sufficient grounds to suspect the commission of an offence

punishable by the death penalty, or imprisonment with/without forced labor 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 therefore, 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. (The rest omitted)

Article 213

163. Any person whosoever may arrest a flagrant offender without warrant.

Preliminary inquiry

164. In Japan, the offences referred to in Article 4 of the Convention are investigated by judicial police officials or public prosecutors in accordance with the Code of Criminal Procedure. Therefore, the obligation of making a preliminary inquiry prescribed in paragraph 2 of the Article is fulfilled by such investigation.

The Code of Criminal Procedure

Article 189

165. A police official shall perform his duties as a judicial police official as authorized by law, or regulations of the National Public Safety Commission or of the Prefectural Public Safety Commission.

166. A judicial police official shall, when he deems an offence has been committed, investigate the offender and evidence thereof.

Article 191

167. A public prosecutor may, if he deems necessary, investigate an offence himself.

168. A public prosecutor's assistant officer shall investigate an offence under the instruction of a public prosecutor.

Assistance for communication with representatives of the State of nationality

169. It will be decided in accordance with Articles 80 and 81 of the Code of Criminal Procedure whether a representative of the State of which the detained defendant or suspect is a national is allowed to interview him. It will be decided in accordance with Article 45 of the Prison Law whether a representative of the State of which the person detained pursuant to the Law of Extradition is a national is allowed to interview him. Upon concluding the Convention, the relevant authorities such as the National Police Agency and the Ministry of Justice sent the wardens and other officials of detention facilities written instructions to observe the Convention.

The Code of Criminal Procedure

Article 80

170. The accused who has been detained may, subject to the relevant legislation, have an interview or deliver/receive documents or articles with a person other than as stipulated in Paragraph 1 or Article 39. The same applies to the accused who has been detained in a prison by the warrant of bringing to the court.

Article 81

171. When there are reasonable grounds to suspect that the accused who has been detained escapes or that he/she destroys or conceals evidence, the court may, upon the request of a public prosecutor or *ex-officio*, prohibit such accused from having an interview or from delivering/receiving documents or other articles with a person other than as stipulated in Paragraph 1 of Article 39, or inspect or seize such documents or articles. However, the court may neither prohibit the delivery/receipt of food nor seize such food.

The Prison Law

Article 45

172. A person applying for permission to interview an inmate shall be given it.

173. No convicted person or person under "Kanchi" confinement shall be permitted to have an interview with any person other than a relative; provided that the same shall not apply if it is deemed necessary especially to permit his interview with such person.

Notification to the country concerned

174. The Ministry of Foreign Affairs will make notifications or reports to the country concerned under paragraph 4 of this Article through diplomatic channels after receiving relevant information from the relevant authorities such as the Ministry of Justice and the National Police Agency. During the period from July 29, 1999, when the Convention entered into force for Japan, to March 31, 2004, there were no cases where Japan gave such notification.

G. Article 7

175. The "competent authorities" referred to in paragraph 1 of Article 7 of the Convention are public prosecutors for Japan. If a suspect is present in Japan and if Japan does not extradite the suspect concerned, the public prosecutors shall take the case and determine whether or not to institute criminal prosecution.

176. In Japan, public prosecutors determine whether or not to institute criminal prosecution for the offences referred to in Article 4 of the Convention, treating them in the same manner as any other offence of a serious nature.

177. With regard to the standards of evidence required for prosecution and conviction concerning the offences referred to in Article 4 of the Convention, no distinction is made between the cases referred to in paragraph 1 of Article 5, and those in paragraph 2 of Article 5.

178. In Japan, any person against whom a proceeding is instituted in connection with any of the offences referred to in Article 4 of the Convention is, regardless of his nationality, guaranteed the "fair treatment" referred to in paragraph 3 of Article 7 of the Convention at all stages of the proceedings pursuant to relevant domestic laws such as the Code of Criminal Procedure and by their proper application.

The Code of Criminal Procedure

Article 242

179. On receipt of a complaint or accusation, a judicial police official shall promptly forward the documents and piece of evidence pertaining thereto to public prosecutor.

Article 246

180. Except as otherwise provided in this Law when a judicial police official has conducted the investigation of a crime, he shall send the case together with the documents and pieces of evidence to a public prosecutor. However, this shall not apply to the case which is specially designated by a public prosecutor.

Article 247

181. Prosecution shall be instituted by a public prosecutor.

H. Article 8

182. With regard to extradition in Japanese domestic law, there is the Law of Extradition. Although Japan does not require a treaty as a prerequisite for extradition, as is stipulated in paragraph 2 of Article 3 of the Law of Extradition, when a request for extradition is made without a treaty, one of the requirements the requesting country has to meet is the assurance that the country will honor a request of the same kind made by Japan.

183. Paragraphs 3 and 4 of Article 2 of the Law of Extradition stipulate requirements for the statutory penalties concerning extraditable offences. However, the proviso of the article stipulates "this shall not apply when a treaty of extradition provides otherwise", and therefore, upon conclusion of the Convention, the offences referred to in Article 4 of the Convention have all become extraditable offences in Japan even if they do not meet

the requirements for the statutory penalties as referred to in paragraphs 3 and 4 of Article 2 of the Law of Extradition.

184. As a result of conclusion of the Convention, when a State Party of the Convention requests Japan to extradite any fugitive of the offences referred to in Article 4 of the Convention, Japan will deal with the case in accordance with the Law of Extradition and other related laws.

185. During the period from July 29, 1999 when the Convention entered into force in Japan, to March 31, 2004, there were no fugitives of the offences referred to in Article 4 of the Convention extradited from Japan or to Japan pursuant to Article 8 of the Convention.

Law of Extradition

Article 2

186. A fugitive shall not be surrendered in any of the following circumstances, provided that this shall not apply, in cases falling under items (3), (4), (8), or (9), when the treaty of extradition provides otherwise:

(a) When the offence for which extradition is requested is a political offence;

(b) When the request for extradition is deemed to have been made with a view to trying or punishing the fugitive for a political offence which he has committed;

(c) When the offence for which extradition is requested is not punishable by death, or by imprisonment for life or for a maximum term of three years or more by the laws, regulations or ordinances of the requesting country;

(d) When the act constituting the offence for which extradition is requested would not be punishable under the laws, regulations or ordinances of Japan by death or by imprisonment with or without forced labor for life or for a maximum term of three years or more if the act were committed in Japan;

(e) When it is deemed that under the laws, regulations or ordinances of Japan it would be impossible to impose or to execute punishment upon the fugitive, if the act constituting the offence for which extradition is requested were committed in Japan, or if the trial therefore were held in a court of Japan;

(f) Except in the case of a fugitive who has been convicted of an offence for which extradition is requested by a court of the requesting country, when there is no probable cause to suspect that the fugitive has committed an

act which constitutes an offence for which extradition is requested;

(g) When a criminal prosecution based on the act constituting an offence for which extradition is requested is pending in a Japanese court, or when a judgment in such a case has become nonappealable;

(h) When a criminal prosecution for an offence committed by the fugitive other than an offence for which extradition is requested is pending in a Japanese court, or when the fugitive has been sentenced to punishment by a Japanese court for such an offence and the execution of his sentence has not been completed or he may not yet no longer be subjected to the execution of the sentence;

(i) When the fugitive is a Japanese national.

Article 3

187. When a request for the surrender of a fugitive is made, the Minister of Foreign Affairs shall, except in any of the following circumstances, forward to the Minister of Justice the written request or a certificate which he has prepared stating that the request for extradition has been made, together with the related documents:

(a) When, in the case of a request which has been made pursuant to a treaty of extradition, it is deemed that the form of the request is not consistent with the requirements of the treaty of extradition;

(b) When, in the case of a request which has not been made pursuant to a treaty of extradition, the requesting country has not assured that it would honor a request of the same kind made by Japan.

I. Article 9

188. Japan has the Law for International Assistance in Investigation and Other Related Matters regarding mutual legal assistance in criminal investigation procedures and the Law for Judicial Assistance to Foreign Courts regarding mutual judicial assistance to be provided when requested by a foreign court.

189. Under the Law for International Assistance in Investigation and Other Related Matters, if there is a request by a foreign country for the provision of evidence necessary for investigation of a criminal case in the requesting country, if the request meets the requirements set out in the Law such as the non-political nature of the offence, double criminality, and the assurance of reciprocity (Article 2) and if it is considered appropriate to accept the request (Article 5), then the Law allows the competent authorities to collect and provide the foreign country with evidence by interviewing the persons concerned, requesting expert examinations, conducting on-the-spot investigations, requesting submission of documents and other items from the owners, making inquiries of public

and private organizations, search, seizure, and inspection (Article 8), and examining witnesses (Article 9).

190. Furthermore, according to Article 17 of the Law for International Assistance in Investigation and Other Related Matters, if a request for cooperation to investigate a criminal case in a foreign country is received from the International Criminal Police Organization (ICPO), and if the request meets the requirements set out in the Law for International Assistance in Investigation such as the non-political nature of the offence and double criminality, then the Law allows the police to ask questions to the persons concerned, conduct on-the-spot investigations, request submission of documents and other items from the owners, make inquiries to public and private organizations, and provide the collected materials and information to ICPO.

191. Based on the Law for Judicial Assistance to Foreign Courts, a Japanese court may examine the evidence when requested by a foreign court.

192. During the period from July 29, 1999 when the Convention entered into force in Japan, to March 31, 2004, there were no requests for assistance in investigation or requests for judicial assistance either received or made based on Article 9 of the Convention with regard to the offences referred to in Article 4 of the Convention.

(The full texts of the Law for International Assistance in Investigation and the Law for Judicial Assistance to Foreign Courts are attached.)

J. Article 10

Education, Training, Rules and Directions

(a) Public officials in general

193. Article 36 of the Constitution stipulates that "the infliction of torture by any public official and cruel punishments are absolutely forbidden." Article 99 of the Constitution also provides that public officials have obligations to respect and uphold the Constitution. Paragraph 1 of Article 98 of the National Public Service Law and Article 32 of the Local Public Service Law provide the obligations of public officials to comply with laws and regulations. Accordingly, any public official who committed violence against a person arrested, taken into custody, or detained is subject to not only penalties under the Penal Code but also strict disciplinary measures by clarifying his fault pursuant to the laws such as the National Public Service Law.

194. The public officials including local government officials have been provided with education on the importance of human rights, including the prohibition of torture, through various training programs. The Japanese government attaches importance to human rights education and has formulated Japan's National Plan of Action for "the United Nations Decade for Human Rights Education" in July 1997. It was decided, in

line with this plan, to improve the human rights education of public officials as they are engaging in the occupations closely connected with human rights. For central government officials, human rights education is given through various training courses in each ministry and agency including the courses by the National Personnel Authority provided for separate levels of officials. For local government officials, the human rights education is given at local municipal entities as well as through various training courses carried out by the Ministry of Internal Affairs and Communications at the Local Autonomy College and the Fire and Disaster Management College.

The Constitution of Japan

Article 36

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

Article 99

196. The Emperor or the Regent as well as Ministers of State, members of the Diet, judges, and all other public officers have the obligation to respect and uphold this Constitution.

National Public Service Law

Article 98

197. In carrying out their duties, public officials shall obey laws and ordinances and faithfully follow the orders of their superiors. (The rest omitted)

Local Public Service Law

Article 32

198. The officials shall, in the performance of their duties, comply with laws and ordinances, regulations, rules of local public bodies and regulations made by organizations of local municipal entities and shall faithfully observe the orders on the duties by their superiors.

(b) Police

199. The police give continuously all police personnel education on the prohibition of "torture and other cruel, inhuman or degrading treatment" at various levels of police academies and at working places such as police stations.

200. For example: (1) in police academies, , law including Constitution, Penal Code and Code of Criminal Procedure, police ethics , and disciplines by academy's principals and other senior police officials are taught to newly recruited and promoted police officials;

(2) technical training courses are provided to those engaged in criminal investigations and prison work; and (3) various training courses and discussions on the police ethics are held at working places such as police stations.

201. In particular, at prefectural police academies, training is provided for police officials to be appointed in charge of detention to acquire the knowledge and skills necessary for proper management of detainees and prevention of accidents. At the National Police Academy, training is provided for senior police officials who supervise at prefectural police headquarters the detention work of each police station to acquire advanced knowledge necessary for the supervision and management of detention work.

202. Major rules or instructions concerning the prohibition of torture in the police include paragraph 1 of Article 168 of the Rule of Criminal Investigation, Articles 2, 19 and 21 of the Rules for Detaining Suspects, and Article 3 of the Instructions on the Standard and Procedures to Use Restraining Devices in Police Detention Cells. Upon the entry into force of the Convention in Japan on July 29, 1999, the National Police Agency issued written instructions to the police nationwide to inform the contents of the Convention and draw attention to: (1) further promoting education on the prohibition of torture; (2) strengthening direction and supervision concerning proper investigations; and (3) promoting treatment of detainees taking into due consideration their human rights.

203. The officials in charge of detention are trained to check whether detainees have any bodily injury whenever the detainees are in or out of the police detention cell.. When the officials discover new external injuries on the body of the detainees or are informed by the detainees that there were inappropriate examinations such as assaults, intimidations and forcible demands, the officials are to record the facts and report them to the chief of police station, who is to examine them and take appropriate measures.

The Rule of Criminal Investigation

Article 168

204. In case of examination, no such measure as to make the voluntariness seem doubtful including compulsion, torture, intimidation, etc. shall be taken.

205. In case of examination, no measures which could cause the trust of statement to be lost shall be taken, such as leading the suspect to state what a police officer himself expect or desires by indicating such a statement, or promising to give him an advantage in exchange for a statement.

206. Examination shall not be made at midnight unless there is the unavoidable reason for doing it.

The Rules for Detaining suspects

Article 2

207. The suspect under detention (thereinafter called "detainee") shall be treated properly according to this law as well as other laws and orders, and any abuse of his/her fundamental human right shall be strictly prohibited.

Article 19

208. A guard shall, when a detainee makes request regarding his/her treatment, selection of defense counsel, etc., forthwith report it to the detention chief, and cause necessary measures to be taken.

Article 21

209. A guard shall, when he finds something unusual about the detainee or the cell, take a temporary measure and forthwith report it to the chief of the police station via detention chief.

210. The chief of the police station shall, when he receives the report provided for in the preceding paragraph, forthwith report it to the Chief of Prefectural Police Headquarters if it is concerned with suicide, death by disease, escape, or any other serious accident of a detainee.

Instructions on the Standard and Procedures to Use Restraining Devices in Police Detention Cells

Article 3

211. Among the restraining devices, handcuffs and arresting ropes may be used for detainees who might escape, commit violence or suicide, gags may be used for detainees who cry out neglecting inhibitions recklessly, and straight jacket may be used for detainees who might commit violence or suicide.

(c) Public prosecutors

212. Public prosecutors are appointed when they have studied the Constitution, have received human rights education and have appropriate knowledge on human rights. Furthermore, they are instructed, by superiors in daily work and through training courses on the Convention and other human rights conventions, that torture and inhuman treatment are prohibited and that they should give full consideration to the human rights of suspects in carrying out their duties.

(d) Correctional institutions

213. Systematic and intensive training is given to correctional institution officials at the

Training Institute for Correctional Personnel, such as basic educational training for newly recruited officials (7 months), educational training necessary to become lower level senior officials (3 months), educational training necessary to become upper level senior officials (6 months), and special educational training in specific fields (up to 3 months). Of the correctional institution officials, medical assistants (practical nurses) are given educational and practical training for two years at the practical nurses' training center annexed to a medical prison. During the course of such educational training, lectures are given on the legal framework for the prohibition of torture, the fundamental human rights of inmates, human rights conventions including this Convention, international guidelines such as the United Nations Standard Minimum Rules for the Treatment of Prisoners and the requirements and limits on the use of force based on the laws and regulations on prisons. Furthermore, practical education and training are provided in each correctional institution.

214. Through such educational training, efforts have been made towards proper execution of duties by officials. After eight prison officials of Nagoya Prison were prosecuted for causing death or injury by violence and cruelty by a special public official (one of them was found guilty in the first trial and the trials for the other seven are pending) as described in Paragraph 106 below, training courses for better practices on compliance with various human rights conventions including the Convention and on performance of duties taking human rights into full consideration have been introduced. In addition, from the perspective of social psychology, efforts are being made to improve the contents of human rights education programs and expand the opportunities to participate in such programs by, for example, introducing classes on human rights issues in correctional institutions and to further improve human rights education, which is necessary for appropriate treatment of inmates.

215. The Regulations for the Duties of Prison Officials to Maintain the Discipline of Penal Institutions are one of the major rules or instructions concerning the prohibition of torture in correctional institutions. The Regulations stipulate that, when taking measures to restrain inmates' actions that may hinder the maintenance of discipline and order in penal institutions, such measures shall not exceed the limit that is deemed reasonable to achieve the purpose, and body searches of inmates shall be conducted in a manner that will not degrade the inmates.

216. The above-mentioned body searches are conducted when they are necessary to maintain the discipline and order of penal institutions, and at the same time, serve the purpose of checking whether there are any abnormal symptoms such as external injuries. When such symptoms are found, the prison officials are to report them to the warden, who shall examine them and take appropriate measures including investigation as a criminal case.

Regulations for the Duties of Prison Officials to Maintain Discipline of Prison Facilities

Article 7

217. When an inmate inflicts injury on himself or others, escapes, obstructs the official duties of the officials of the prison facility, or commits an act that may hinder the maintenance of discipline and order of the prison facility, or attempts to commit the aforementioned acts, prison officials shall suppress such act, restrain the inmate and take other measures to deter the act.

218. The measures referred to in the preceding paragraph shall not exceed the limit that is deemed rationally necessary to achieve the purpose depending on the situation.

Article 8

219. When conducting the inspection in the preceding paragraph by having the inmate take off his/her clothes, the prison official shall give consideration not to embarrass the inmate, by a method such as conducting it at a place others cannot see him/her.

Article 20

220. When a prison official uses a restraining device, a gun, a tear-gas gun, or a truncheon, the use shall not exceed the limit deemed to be reasonably necessary to achieve the purpose in accordance with its use and the situation.

Prison Law Enforcement Regulation

Article 46

221. The warden shall cause prison officials to search the bodies and clothing of prisoners on their return from workshops or from outside the prison.

(e) Immigration Centers

222. In the treatment of detainees in the detention facilities of the Immigration Bureau (immigration centers), the human rights of the detainees are always taken into full consideration. Education and enlightenment activities to instill respect for the human rights of detainees are provided at every possible opportunity such as training programs for newly recruited immigration control officers, officials who have been employed for several years and officials in charge of the treatment of detainees (conducted annually).

223. Major rules or instructions for the prohibition of torture in the immigration centers include Articles 3 and 4 of the Duties and Instructions for Immigration Control Officers and the Regulations for Treatment of Detainees.

Duties and Instructions for Immigration Control Officers

Article 3

224. (An Immigration Control Officer) shall respect basic human rights and shall not abuse his/her authority and power such as interfering with freedom and rights of

individuals.

Article 4

225. An Immigration Control Officer shall strictly observe the following items:

(1) An immigration Control Officer shall always be calm, polite, and orderly. When executing duties, he/she shall keep a calm attitude, make right decisions and be patient. The official shall refrain from using a rude and humiliating language or taking such attitude to any person.

Regulations for Treatment of Detainees

Article 1

226. The purpose of these regulations is to execute the appropriate treatment of foreign nationals with respecting their human rights, who are detained (hereinafter referred to as "detainees") in the Immigration Centers or detention houses (hereinafter referred to as "Immigration Centers, etc") under the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951).

Article 2-2

227. The director, etc. (the Director of an Immigration Center and of a Regional Immigration Bureau) shall expect to ensure the appropriate treatment of detainees by hearing the opinions from the detainees concerning their treatments, patrolling the Immigration Centers, etc, and taking other measures.

(f) Medical personnel

228. With regard to education and training for the medical personnel concerning the prohibition of torture, as a result of the inclusion of enhancement of human rights education at schools and training schools for medical personnel in the National Action Plan for "the UN Decade for Human Rights Education", education on human dignity, as a part of human rights education, has been conducted mainly in the training courses of medical personnel.

229. In the Mental Health Law, it is prescribed that the findings of designated psychiatrists are the conditions to isolate or restrain a patient and to hospitalize a patient for mental disorder without the person's consent (see Paragraph 92). Accordingly, the designated psychiatrists are obliged to receive training courses on human rights before and once in every five years after being designated.

(g) Self-defense personnel

230. In each course of the educational training provided to police affairs officers and

assistant police affairs officers, education is given to place importance on human rights during investigations based on the Constitution, and the Code of Criminal Procedure, and the purpose of the Convention is thoroughly instructed.

231. Human rights education including the prohibition of torture is provided in the curriculums of the National Defense Academy and the National Defense Medical College as well as the officer candidate schools for Ground, Maritime and Air Self-Defense Forces.

232. Major rules or instructions concerning the prohibition of torture and respect for human rights for police affairs officers and assistant police affairs officers including Article 56 of the Self-Defense Forces Law, which stipulates the obligations to comply with laws and regulations, as well as paragraph 2 of Article 4 and Article 5 (basic principles for investigation), Article 92 (implementation of investigation) and Article 266 (examination) of the Code of Conduct for Self-Defense Forces Criminal Investigations.

Self-Defense Forces Law

Article 56

233. Any member of the Self-Defense Forces shall obey laws and ordinances, execute his duty faithfully, never evade danger or responsibility in the line of his duty, and never quit his duty without receiving orders from superiors.

Code of Conduct for Self-Defense Forces Criminal Investigations

Article 4

234. In conducting any investigation, the basic human rights of individuals shall be respected and the power of investigation shall be used fairly and faithfully.

Article 5

235. In conducting any investigation, a police affairs official, etc. shall strictly observe the Self-Defense Force Law, the Code of Criminal Procedure and other laws, ordinances, and regulations and shall be careful not to unfairly infringe the freedom and rights of individuals.

Article 92

236. In conducting any investigation, a police affairs official, etc. shall take a moderate and reasonable approach, and in conducting any investigation by compulsory measures (hereinafter referred to as “compulsory investigation"), shall be specially careful not to exceed the necessary limit and, in addition, not to infringe the basic human rights of the suspect and other people concerned.

Article 266

237. In conducting any interview, a police affairs official, etc. shall not use any method that may arouse suspicion as to the voluntariness of the statement, considering that any statement based on compulsion, torture, or intimidation and any other statement that arouses suspicion as to its voluntariness is inadmissible as an evidence.

(h) Coast Guard officers

238. The Japan Coast Guard has been providing human rights education including the prohibition of torture at the Coast Guard schools and in level-specific training courses for Coast Guard officers.

239. Major rules or instructions of Japan Coast Guard concerning the compliance with the Constitution and other laws, the respect for human rights and the prohibition of torture include Article 134 of the Code of Coast Guard Criminal Investigations, and paragraph 2 of Article 1 and Article 20 of the Japan Coast Guard Detention Administration Regulations.

Code of Coast Guard Criminal Investigations

Article 134

240. In conducting an interview, compulsion, torture, intimidation or any other method that would arouses suspicions as to the voluntariness of the statement shall not be used.

241. In conducting interviews, methods that may cause the statement lose its credibility, such as making leading questions without a reason or promising a profit in return for a statement, shall not be used.

242. Interviews shall not be conducted late at night except in unavoidable cases.

Japan Coast Guard Detention Administration

Article 1

243. In the treatment of detainees, laws, ordinances and this regulation shall be observed and a particular attention shall be paid so as not to unfairly infringe the human rights of the detainees.

Article 20

244. When a detainee makes a request on an appointment of a defense council or on his/her treatment, the detention chief shall take an appropriate measure in response, such as reporting it to the investigation chief.

K. Article 11

245. Interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under Japan's jurisdiction are systematically reviewed by the relevant organizations, and revisions are made to relevant regulations as necessary.

(a) Criminal justice

Regulations on interrogations

246. Rules on supervision and direction for criminal investigations by the police include Articles 16, 17, 18 and 20 of the Rule of Criminal Investigation. The National Police Agency instructs the sections in charge of investigation management at prefectural police departments to strengthen operation management with a view to ensuring proper examination.

Rule of Criminal Investigation

Article 16

247. Chief of Prefectural Police Headquarters (including Superintendent General) is responsible for supervising and directing criminal investigation as a whole, allocating officials rationally, giving them guidance and training, and making preparation for investigation by providing resources and facilities in order to carry out reasonable and fair investigation.

Article 17

248. Chief of division or section responsible for investigation including Criminal Division Chief and Security Division Chief shall assist Chief of Prefectural Police Headquarters and supervise the criminal investigation under his direction.

Article 18

249. Chief of Police Station is responsible not only for direction and supervise with regard to the Police Station thereof, but also reasonable and fair investigation under direction of Chief of Prefectural Police Headquarters.

Article 20

250. Chief of Prefectural Police Headquarters or Chief of Police Station shall appoint an investigation chief for the investigation concerned.

251. The investigation chief shall, under the direction provided for in Article 16 to the preceding Article (direction and supervision by the Chief of Prefectural Police Headquarters, Chief of the department in charge of the investigation, or Chief of Police Station), conduct the following duties on the concerned investigation:

a) decide the matter to be investigated and the division of duties for each investigator;

b) approve confiscated materials and accounts for the amounts converted into money, and always know their condition of custody;

c) make the investigation plan in accordance with the provision in Article 3 Paragraph 5 (investigation policy)

d) request investigators to report on the status of the investigation;

e) discuss with the detention chief (the detention chief provided for in Article 4, Paragraph 2 of the Rules for Detaining Suspects - Rule No. 4 of the National Public Safety Commission in 1957. Same in Article 136-2, Paragraph 1) when making a plan provided for in Article 136-2 about the suspect detained in a police detention cell (called "detained suspect" in Paragraph 1 of Article 136-2 Note for crime scene inspection with the suspect).;

f) give instructions and educations to investigators on appropriate execution of the investigation and on prevention of escape and suicide of the suspect and other accidents;

g) in addition to the duties provided for in each proceeding item, the matters under his jurisdiction in accordance with laws and ordinances and the matters specially ordered by Chief of Prefectural Police Headquarters or Chief of Police Station.

252. Chief of Prefectural Police Headquarters or Chief of Police Station shall, when appointing an investigation chief pursuant to the provision in Paragraph 1, appoint a person deemed to be capable of conducting the duties provided for in the preceding paragraph, considering content of the case, investigative ability of his subordinate officials, his knowledge, experience, and job performance.

253. When the investigation chief is changed, handover shall be done carefully to avoid its affect on the subsequent investigation by ensuring the handover of related documents and proofs and clarifying necessary matters such as the progress of the investigation.

Arrangements for the custody and treatment

254. With regard to the examination on suspects, the Constitution, the Code of Criminal Procedure and other laws provide: (1) obligations to inform the suspect of the right to

remain silent; (2) prohibition of compulsion and torture; and (3) procedures for preparing a written statement which is to be read out or shown to the suspect and to be signed and sealed by the suspect after the interrogator makes an addition if the suspect so requests and after the suspect confirms that the contents are correct. The Police supervise and instruct the interrogators to observe these provisions. Should any violation are found, such violator will be severely sanctioned to prevent recurrence of such violation.

255. A rule on the supervision and direction at police detention cell is Article 4 of the Rules for Detaining Suspects. Directors or chief officials of police detention cells management section of prefectural police headquarters make regular inspections of police detention cells at police stations under their jurisdiction from coast to coast and provides individual guidance to officials in charge of police detention cells. In addition, the chief official of prison management and his staff members at the National Police Agency make regular inspections of police detention cells from coast to coast to ensure proper management and operation of police detention cells.

The Rules for Detaining Suspects

Article 4

256. Chief of Police Station (or a concerned section chief with regard to a detention house established at Prefectural Police Headquarters; the same as follows) shall take charge of direction and supervision as a whole, with regard to the detention of a suspect and management of a detention house, assuming responsibility to Chief of Prefectural Police Headquarters (who is either Superintendent General or Chief of Do-Fu-Ken Police Headquarters; the same as follows).

257. A chief of the section or sub-section responsible for General Affairs or the one responsible for Police Administration of a Police Station (or a chief of police box with regard to a detention house established at a Prefectural Police Headquarters) shall, as a detention chief, assist the Chief of Police Station, take charge of direction and supervision of the police official in charge of guarding (hereinafter "guard"), and administer on the detention of suspects and the detention house.

258. When a detention chief is absent, the person in charge of watch or the person the Chief of Police Station specified shall perform the duties instead of the detention chief.

259. Detention houses accommodate unconvicted inmates such as suspects and defendants awaiting trial, where careful consideration is given to ensure the right to defense and a fair criminal trial. The unconvicted inmates are treated in an appropriate manner in accordance with relevant laws, such as the Code of Criminal Procedure and the Prison Law, and regulations which are supplemented by official instructions.

(b) Correctional institutions

260. Supervisory systems for correctional institutions include inspections by officials

designated by the Minister of Justice (Article 4 of the Prison Law and paragraph 2 of Article 3 of the Juvenile Training School Law) and inspections by the regional correction headquarters which are middle-level supervisory institutions.

261. Under these supervisory systems, senior officials of the Ministry of Justice and the regional correction headquarters inspect the facilities under their respective jurisdictions on a regular basis, give appropriate guidance for the overall operation of the facilities, recommend necessary correctional measures, report the results of their inspections to the Minister of Justice or the Director-General of the Correction Bureau of the Ministry of Justice, and monitor subsequent improvements. In particular, focused investigations are conducted for matters that may seriously affect the mind and body of inmates, such as the use of disciplinary punishments, restraining devices and solitary confinement, nutrition, medical and hygiene conditions, as well as matters that are related to instructions and training for prison officials. The results of such focused investigations are examined from a comprehensive and systematic viewpoint at the Correction Bureau of the Ministry of Justice and regional correction headquarters, and necessary directions are given to the correctional institutions under their respective jurisdictions.

262. With regards to the supervisory systems, recommendations were made at the Correctional Administration Reform Council (consisting of private experts) held under the direction of the Minister of Justice in 2003 attaching importance to enhancing the supervisory function of the Correction Bureau and regional correction headquarters in order to ensure the transparency of prison administration. In particular, expansion of on-site inspections and publication of the results are sought in order to enhance the function of internal inspections.

The Prison Law

Article 4

263. The Minister of Justice shall cause officials to inspect the prisons at least once every two years.

The Juvenile Training School Law

Article 3

264. The Minister of Justice shall be responsible for the appropriate maintenance and thorough inspection of the Juvenile Training Schools.

265. The officials of the correctional institutions in Japan provide proper treatment for inmates in accordance with laws and regulations, giving full consideration to their human rights. However, it is true that there are some cases, although very rare, where officials are sanctioned for having committed illegal or wrongful acts towards inmates. If such cases occur, the Inspection Office in the Correction Bureau of the Ministry of Justice, which is established solely for the purpose of handling such cases, investigates the case.

When it is found that the official performed an illegal or wrongful act on an inmate, the Office takes measures, when necessary, to provide relief to the inmate from damages, reviews penalties imposed on the official concerned, carries out overall analysis of the causes and problems of each case, and immediately notifies the correctional institutions across the country of the results, making the results widely available through various consultative meetings and training programs at the Training Institute for Correctional Personnel in order to prevent the recurrences of similar incidents. The regional correction headquarters, middle-level supervisory institutions, also provide proper directions or supervision to prevent recurrences.

266. In addition to constant overcrowding, the Japanese correctional administration faces difficulties related to an increase in the number of elderly prisoners, foreign prisoners and prisoners who are difficult to deal with, and thus the environment for detention in our country's prisons is worsening in both quality and quantity. To achieve the purposes of prison administration under such severe circumstances, it is necessary to administer prisons using well-designed methods enabling appropriate handling of diversified prisoners. Under the present condition of overcrowding, both the human capacity such as the prison officials and the physical capacity such as the facilities accommodating the prisoners have reached their limits and such lack has caused problems in various aspects of prison administration.

267. The Ministry of Justice has been endeavoring to improve prison administration and has taken necessary measures. However, in response to the fact that prison officials of Nagoya Prison were prosecuted for causing death or injury by violence and cruelty by a special public official as described below (see Paragraph 106), intensive discussions on the role of prison administration were held in the Diet, and based on the results of these discussions, the Ministry of Justice is taking further steps to improve prison administration.

268. The main measures taken so far to improve prison administration include the improvement of training programs on human rights for the officials of penal institutions (see Paragraphs 63 and 64), abolishment of the use of leather handcuffs and the introduction of a new restraining device carefully designed to ensure the safety of inmates (see Paragraphs 150 to 152), and reexamination of the procedures for petition to the Minister of Justice by inmates (see Paragraph 115).

269. In addition, to examine reform of prison administration from a broad viewpoint, the Correctional Administration Reform Council consisting of private experts was established. The Council examines the actual conditions by interviewing NGOs and by conducting questionnaires given to prisoners and prison officials, and holds discussions from various viewpoints such as: (1) proper treatment in the prison regulations and disciplinary punishment system; (2) securing transparency through the system of information disclosure and filing of complaints; and (3) the medical and organizational systems of prisons including improvements in medical standards and the working environment of the officials. In December 2003, the Council released its recommendation report titled "Recommendations by the Correctional Administration Reform Council - Prisons that Gain the Understanding and Support of the Citizens". In

the report, various recommendations on the basic direction for reform of correctional administration were made in order to: (1) achieve real rehabilitation and integration of inmates by respecting their individuality; (2) ease the excessive burden on prison officials; and (3) realize correctional administration open to the public.

270. The recommendations include: (a) review of the proper form of regulations for prisons; (b) improvement in the system for human rights relief; (c) improvement in correctional medical care; (d) an increase in communications with people outside the prisons; (e) clarification of the administrative authority of the officials; (f) establishment of a Penal Institutions Inspection Committee (tentative name), and (g) improvement in information disclosure and cooperation with local communities.

271. Based on the recommendations made by the Correctional Administration Reform Council, the Ministry of Justice set up the Committee for the Promotion of Correctional Administration Reform and makes every effort to carry out the reform. As the first step, measures have already been taken including review of the regulations for prison facilities, review of the specifications of protective cells, introduction of video taping of all cases of use of the protective cells and storing of the recorded materials for a certain period of time, and regular publication of information related to the treatment of inmates. Furthermore, revision of the Prison Law (established in 1908), which is the most important part of reform of correctional administration, is now in progress.

(c) Immigration Centers

272. Based on paragraph 6 of Article 61-7 of the Immigration Control and Refugee Recognition Act, the Regulations for Treatment of Detainees were formulated as the basic law for the treatment of detainees for the purpose of stipulating necessary matters to provide appropriate treatment while respecting the human rights of the detainees. Article 2-2 of the Regulations stipulates that appropriate treatment shall be expected of the directors of the immigration centers by taking measures such as hearing the opinions of the detainees concerning their treatment and patrolling the immigration centers. Paragraph 1 of Article 41-2 of the Regulations stipulates that the detainee can file a complaint with the director when he has a complaint about the treatment administered to him by immigration control officers. Paragraph 1 of Article 41-3 of the Regulations stipulates that when the detainee is not satisfied with the judgment of the director on the filed complaint, he may file a complaint with the Minister of Justice. Furthermore, paragraph 1 of Article 4 of the Duties and Instructions for Immigration Control Officers stipulates that the immigration control officer shall always be calm, polite, and orderly, shall keep a calm attitude, make correct decisions and be patient when executing duties, shall refrain from rude or humiliating language or such attitude toward any person, and shall strive for appropriate treatment of detainees.

273. There are rules for detainees to observe in order to keep safety and order in the immigration centers and facilitate their lives in the center. When a detainee violates or attempts to violate the rules, the officials may order the detainees to stop such act, stop the act when deemed reasonably necessary, or take any other measures to suppress the act. Isolation of a detainee may be carried out based on the decision of the director pursuant

to Article 18 of the Regulations for Treatment of Detainees if the detainee hurts himself, assaults others, yells uncontrollably, displays violent behavior such as kicking the cell door, attacks officials who try to stop such actions or intentionally breaks equipment in the cell. However, such isolation is a measure to be taken when different treatment from other detainees is necessary in order to protect the life or body of the detainee or to maintain discipline in the immigration centers, and is not a punishment against the detainee.

274. When there is suspicion that an official of the immigration center has conducted an illegal or wrongful act against a detainee which may fall under torture, a fact-finding investigation will be carried out. When it is found that such act took place, severe sanctions will be imposed on the official concerned such as referring the matter to the authorities depending on the contents of the act. The causes and problems of the individual incident will be analyzed, and the results will be immediately notified to the detention facilities and immigration centers all over the country, in order to prevent the recurrence of similar incidents.

Immigration Control and Refugee Recognition Act

Article 61-7

275. The person detained in an Immigration Center or detention house (hereinafter referred to as "detainee") shall be given the maximum liberty consistent with the security requirements of the Immigration Center or the detention house.

276. The detainee shall be provided with prescribed bedding and supplied with prescribed food.

277. The supplies furnished to the detainee shall be adequate and the accommodation of the Immigration Center or detention house shall be maintained in sanitary conditions.

278. A Director of the Immigration Center or Regional Immigration Bureau may, when he considers it necessary for security or sanitation purposes of the Immigration Center or detention house, examine the person, personal effects, or clothing of the detainee, and may hold in custody the detainee's personal effects or clothing.

279. Director of the Immigration Center or Regional Immigration Bureau may, when he considers it necessary for security of the Immigration Center or detention house inspect any communications the detainee may dispatch and receive, and may prohibit or restrict such dispatch and receipt.

280. Besides those provided for in the preceding paragraphs, necessary matters concerning the treatment of detainees shall be prescribed by the Ministry of Justice Ordinance.

Regulations for Treatment of Detainees

Article 2

281. The Director of an Immigration Center or a Regional Immigration Bureau (hereinafter referred to as the "director, etc.") shall respect the lifestyle of the detainee, which is based on the manners and customs of the home country of the detainee, within a scope that does not affect the security of the Immigration Center, etc.

Article 2-2

282. The director, etc. shall be expected to ensure the appropriate treatments of detainees by hearing the opinions from the detainees concerning their treatments, patrolling the Immigration Centers, etc., and taking other measures.

Article 7

283. The matters which need to be observed by the detainees in order to maintain safety and order in the Immigration Centers, etc. and to make their lives in the Immigration Centers, etc. smooth (hereinafter referred to as the "Rules for Detainees") shall be as follows:

(a) Not to escape or not to attempt to escape;

(b) Not to harm oneself or not to attempt to harm oneself;

(c) Not to harm others or not to attempt to harm others;

d) Not to disturb others;

(e) Not to damage the facilities, equipments, and other things in the Immigration Centers, etc.;

(f) Not to receive goods from outsiders without permission;

(g) Not to possess or use weapons, firebombs, or any other hazardous materials;

(h) Not to obstruct the duties of the officials;

(i) Try to keep tidy and clean.

284. The director, etc. may, besides the rules in the preceding paragraph, decide additional Rules for Detainees in line with the actual conditions of the Immigration Centers, etc. by getting the approval of the Minister of Justice.

285. When detaining a new person in the Immigration Centers, etc., the director, etc.

shall inform the person of the Rules for Detainees in advance.

286. An Immigration Control Officer may provide necessary guidance to a detainee to have the detainee observe the Rules for Detainees.

Article 17-2

287. When a detainee violates the Rules for Detainees or attempts to do so, an Immigration Control Officer may order the detainee to stop such act, restrain the act within the limit judged to be reasonably necessary, and take any other measures to suppress the act.

Article 18

288. When a detainee commits an act that falls under any one of the following items or attempts to do so, or colludes, incites, abets, or assists such an act, the director, etc. may isolate the detainee from other detainees for a determined period. In such case, however, the director, etc. shall immediately cease the isolation when it became unnecessary regardless of the determined period:

a) To escape, commit an act of violence, damage the properties, or commit any other acts that violate punitive laws and orders;

b) To rebel against or obstruct the execution of duties by an official;

c) To commit suicide or harm oneself.

289. In a case prescribed in the preceding paragraph, when there is no time to get the order of the director, etc., an Immigration Control Officer may isolate the detainee from other detainees on his/her own judgment.

290. In case of implementing the isolation prescribed in the preceding paragraph, the Immigration Control Officer shall immediately report it to the director, etc.

Article 41-2

291. A detainee, when he/she is dissatisfied with the treatment of him/her by an Immigration Control Officer, may file a complaint with the director, etc. in writing by stating the ground for the complaint within seven days from the date the treatment was made.

Article 41-3

292. A detainee who is dissatisfied with the judgment under the provision of Paragraph 2 of the preceding article may file an objection with the Minister of Justice by submitting to the director, etc. a document stating the ground for the complaint within three days

from the date he/she received the notification under the provision of the same paragraph.

Duties Instructions for Immigration Control Officers

Article 4

293. An Immigration Control Officer shall strictly observe the following items:

> An Immigration Control Officer shall always be calm, polite, and orderly. When executing duties, he/she shall keep a calm attitude, make right decisions and be patient. The official shall refrain from using a rude and humiliating language or taking such an attitude to any person.

(d) Medical related matters

294. With regard to hospitalization for infectious diseases, paragraph 5 of Article 20 of the Law Concerning the Prevention of Infections and Medical Care for Patients of Infection stipulates that prefectural governors shall, when recommending hospitalization after emergency hospitalization or extending the period of hospitalization, hear beforehand the opinions of a council concerning the examination of infectious diseases, which consists of academic experts of medical care for the patients of infectious diseases, in order to judge objectively whether such recommendation or extension is necessary.

295. Article 25 of the Law stipulates that, if a request for review was made to the Minister of Health, Labour and Welfare by a patient who has been hospitalized over 30 days after emergency hospitalization, the Minister has to make a decision within five days by hearing the opinions of the Council or other agency.

296. With regard to the stoppage for quarantine, paragraph 2 of Article 16 of the Quarantine Law stipulates maximum period for each disease. Article 16bis of the Law also stipulates that, if a request for review was made to the Minister of Health, Labour and Welfare by a patient who has been hospitalized over 30 days, the Minister has to make a decision within five days by hearing the opinions of the Council or other agency.

297. Article 29 of the Mental Health Law stipulates that, in order for a person to be forcibly hospitalized, the results of examination by at least two designated psychiatrists shall concur that the person is likely to hurt himself or others because of mental disorder unless admitted to a hospital for medical care and protection. Article 36 of the Law stipulates that the judgment on the necessity of restraint or continuation of hospitalization shall be made by designated psychiatrists. Article 19-4-2 stipulates the obligations to record the results of examination used for these judgments in medical examination record.

298. Article 36 of the Law stipulates that the Minister of Health, Labour and Welfare shall hear the opinion of Social Security Council when he establishes the judging standards for restraints.

299. In addition, prefectural governments conduct on-site instructions once a year per facility in principle, and administrators of mental hospitals are to inform a patient of the matters related to a request for release when hospitalizing them (Article 29 of the Law) and regularly report to the prefectural governor the conditions of the patient (Article 38bis of the Law). The prefectural governor is to release the patient immediately when the person is deemed not likely to hurt himself or others if the hospitalization is discontinued (Article 29-4 of the Law).

300. Based on Article 38-5 of the Mental Health Law, when those hospitalized at a mental hospital or those responsible for their custody request to discharge them or to take necessary measures to improve their treatment, the prefectural governor is to the Psychiatric Review Board, consisting of designated psychiatrists and academic experts, for their review, and when such request is accepted as the result of the review, the prefectural governor is to discharge them or take necessary measures to improve their treatment. With regard to compulsory hospitalization, a review pursuant to the Administrative Appeal Law may be sought and a lawsuit pursuant to the Code of Administrative Case Procedure may be filed against the Minister of Health, Labour and Welfare.

301. Law on the Medical Care and Observation for Mentally Incompetent Person Who Committed Serious Harm on Others (hereinafter "Law for Medical Observation on Mentally Incompetent Person") was enacted and promulgated in 2003. The purposes of the Law are to improve the state of disease, to prevent recurrence of similar incidents caused by the disease and to promote the patient's reintegration into society, by stipulating procedures to decide appropriate treatment for the person who did serious harm on others when mentally incompetent, and by providing continuous and appropriate medical care together with observation and instruction to assure the medical care. The Law is to be put in force on the day a Cabinet order stipulates, which is within two years after the date of promulgation.

302. The Law for Medical Observation on Mentally Incompetent Person stipulates that a panel consisting of a judge and a mental health judge (psychiatrist) shall agree to decide on the treatment of the person the Law is applied to, on whether to hospitalize him or to make him go to hospital (Article 6, paragraph 1 of Article 11, Article 14, Article 42, etc.)

303. With regard to the treatment of the person hospitalized in a designated medical institution for hospitalization according to the Law (hereinafter referred to as "hospitalized person"), the Law stipulates as follows so that his human rights is well taken into consideration:

a) The administrator of a designated medical institution for hospitalization shall not restrict the activities that the Minister of Health, Labour and Welfare prescribes by hearing the opinions of Social Security Council such as sending and receiving a correspondence and meeting an attorney or official of administrative organ (paragraph 2 of Article 92);

b) The restriction on activities such as the patient's isolation that the Minister of Health, Labour and Welfare prescribes by hearing the opinions of Social Security Council shall not be conducted unless a designated psychiatrist who works at a designated medical institution for hospitalization deems it necessary (paragraph 3 of Article 92);

c) The Minister of Health, Labour and Welfare may set out other necessary standards for treatment of the hospitalized person, and when such standards are set out, the administrator of a designated medical institution for hospitalization shall comply with the standards (paragraphs 1 and 2 of Article 93).

304. Furthermore, the Law for Medical Observation on Mentally Incompetent Person stipulates the following to assure appropriate treatment:

a) The hospitalized person or those responsible for his custody may request the Minister of Health, Labour and Welfare to give an order to the administrator of a designated medical institution for hospitalization to take necessary measures to improve his treatment. When receiving such request, the Minister shall ask the Social Security Council to review the request, and based on the result of the review, the Minister shall, when he deems necessary, give an order to the administrator of a designated medical institution for hospitalization to take necessary measures to improve the treatment (Article 95, paragraphs 1 and 5 of Article 96);

b) The Minister of Health, Labour and Welfare may, when he deems necessary, request the administrator of a designated medical institution for hospitalization to report on the treatment of the hospitalized person , and when he deems that the treatment does not satisfy the standards he set out, may make an order to take necessary measures to improve the treatment.

The Law Concerning the Prevention of Infections and Medical Care For Patients of Infection

Article 6

305. The "infectious diseases" referred to in this Law are Infectious Disease - Type I, Infectious Disease - Type II, Infectious Disease - Type III, Infectious Disease - Type IV, Infectious Disease - Type V, Designated Infectious Disease, and New Infectious Disease.

306. The "Infectious Disease - Type I" referred to in this Law are Ebola hemorrhagic fever, Crimea-Congo hemorrhagic fever, severe acute respiratory syndrome (only the type caused by SARS corona virus), smallpox, plague, Marburg disease, and Lassa fever.

307. The "Infectious Disease - Type II" referred to in this Law are acute anterior poliomyelitis, cholera, bacillary dysentery, diphtheria, typhoid, and paratyphoid.

(4. – 7. omitted)

308. The "New Infectious Disease" referred to in this Law are the diseases that are recognized to be transmitted from person to person, of which medical conditions and therapeutic result obviously differ from those of already known infectious diseases, of which symptoms are severe, and of which spread may exert serious impact on the nation's life and health.

(9. – 14. omitted)

Article 20

309. A prefectural governor, when he considers it necessary for the prevention of the spread of the Infectious Disease - Type I, may advise the patient of the infectious disease who is in hospital in accordance with the preceding article to enter a designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I for a specified period not longer than ten days, or advise the guardian of the patient to have the patient hospitalized at such a medical institution. When there is an unavoidable reason such as an emergency, the prefectural governor may advise the patient to enter a hospital or a medical clinic that he judges as appropriate, other than the designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I, for a specified period not longer than ten days, or advise the guardian of the patient to have the patient hospitalized at such a medical institution.

310. When the person who received the advice based on the preceding paragraph does not follow the advice, the prefectural governor may hospitalize the patient at a designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I, for a specified period not longer than ten days (when the person does not follow the advice based on the proviso of the preceding paragraph, at a hospital or a medical clinic that the governor judges as appropriate, other than the designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I).

311. When there is an unavoidable reason such as an emergency, the prefectural governor may hospitalize the patient at a hospital or a medical institution that the governor judges as appropriate, other than the hospital or medical institution at which the patent is currently hospitalized in accordance with the preceding two paragraphs, for a specified period not longer than ten days counting from the day when the patient was hospitalized in accordance with the preceding two paragraphs.

312. When the patient hospitalized pursuant to the preceding three paragraphs is deemed to require a longer stay in the hospital after the period specified under the same paragraph, the prefectural governor may extend the hospitalization for a specified period not longer than ten days. The same shall apply when the period of hospitalization needs to be further extended after the said extended period.

313. The prefectural governor shall, when he intends to extend the period of the hospitalization made based on the advice provided for in paragraph 1 or on the provision of the preceding paragraph, hear beforehand the opinion of the council that is set up in accordance with Article 24 Paragraph 1 in the public health center having jurisdiction over the hospital or clinic at which the patient is being hospitalized.

Article 24

314. In order to deliberate the necessary matters concerning the advice provided for in Article 20 Paragraph 1 or the extension of the hospitalization period provided for in Paragraph 4 of the same Article in response to a request from the prefectural governor, a council concerning the examination of infectious diseases (hereinafter referred to as the "council" in this article) shall be set up in each public health center.

Article 25

315. The patient who has been hospitalized in accordance with the provision of Paragraph 2 or Paragraph 3 of Article 20 for more than thirty days or his/her guardian may make a request for examination either in writing or orally of the measure of hospitalization taken under the said paragraph (including a request for re-examination, hereinafter the same in this article) to the Minister of Health, Labour and Welfare.

316. When a request for examination under the previous paragraph is made, the Minster of Health, Labour and Welfare shall render a decision on the request for examination within five days from the day on which the request was made.

317. When the patient who has been hospitalized in accordance with the provision of Paragraph 2 or Paragraph 3 of Article 20 for less than thirty days or his/her guardian made a request for examination to the Minister of Health, Labour and Welfare based on the Administrative Appeal Law (Law No. 160 of 1962), the Minister shall render a decision on the request within thirty-five days from the day on which the patient concerned was hospitalized under the provision of the said article.

318. When rendering the decision under Paragraph 2 or the one under Paragraph 3 (limited to the one concerning a patient whose period of hospitalization exceeds thirty days), the Minister of Health, Labour and Welfare shall hear in advance the opinion of the deliberative council, etc. (an organization provided for in Article 8 of the National Government Organization Law - Law No. 120 of 1948).

Quarantine Law

Article 2

319. The "quarantine infectious diseases" referred to in this law mean the following infectious diseases:

a) The Infectious Disease - Type I provided for in the Law Concerning the Prevention of Infections and Medical Care for Patients of Infection (Law No. 114 of 1998);

b) Cholera;

c) Yellow fever;

d) In addition to the ones prescribed in the preceding three items, infectious diseases are those that are not constantly present in Japan and that a government ordinance provides for the inspection of the existence of pathogens to prevent them from entering into Japan.

Article 14

320. The director of a quarantine station may take all or part of the following measures to the extent considered to be reasonably necessary for the vessels that originated from an area where a quarantine infectious disease is prevalent or that made a port call at such an area en route to Japan, for the vessels that produced a quarantine infectious disease patient or dead person en route to Japan, for the vessels on which a quarantine infectious disease patient or dead body, or a rat that holds or is suspected to hold plague bacilli was detected, and for the vessels that are contaminated or suspected to have been contaminated with pathogens of quarantine infectious disease.

a) To isolate or to have a quarantine officer isolate the patient suffering from quarantine infectious disease or cholera referred to in Article 2 Item 1;

b) To stop or to have a quarantine officer stop the person who is suspected to have contracted a pathogen of infectious diseases referred to in Article 2 Item 1 (limited to the case that the infectious disease referred to in the said Item broke out in a foreign country, and that it is considered the pathogens would enter into Japan and exert serious influence on the nation's life and health);

c) - d) omitted)

Article 16

321. The stoppage provided in Article 14 Paragraph 1 Item 2 shall be implemented, by setting the period of time, in the form of hospitalization that is consigned to a designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I. When there is an unavoidable reason such as an emergency, the hospitalization may be consigned to a hospital or a medical clinic that the director of

the quarantine station judges as appropriate other than the designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I, or such persons, with the consent of the captain of the vessel, may be locked within the vessel.

322. The period referred to in the preceding paragraph shall not exceed the period set by government ordinance in accordance with the incubation period of each infectious disease, including a period not exceeding one-hundred and forty-four hours for plague referred to in Article 2 Item 1 and a period not exceeding five-hundred and four hours for the infectious diseases other than plague referred to in the same Item.

Article 16 bis

323. The patient who has been isolated in accordance with the provision of Article 14 Paragraph 1 Item 1 for more than thirty days or his/her guardian may make a request for review either in writing or orally of the measure of isolation (including a request for re-examination, hereinafter the same in the next paragraph and Paragraph 3) to the Minister of Health, Labour and Welfare.

324. When a request for review under the previous paragraph is made, the Minster of Health, Labour and Welfare shall render a decision on the request for examination within five days from the day on which the request was made.

325. When rendering the decision under Paragraph 2 or the one under Paragraph 3 (limited to the one concerning a patient whose period of hospitalization exceeds thirty days), the Minister of Health, Labour and Welfare shall hear in advance the opinion of the deliberative council, etc. (an organization provided for in Article 8 of the National Government Organization Law - Law No. 120 of 1948).

Law related to Mental Health and Welfare of the Person with Mental Disorder

Article 19-4-2

326. The Designated Physician shall promptly describe his/her name and other matters prescribed by the Health and Welfare Ministerial Order in the medical record when he/she has performed the duties under Paragraph 1 of the preceding Article (Note: Judgment on whether it is necessary to continue hospitalization and whether to restrict activities).

Article 29

327. If a prefectural governor recognizes that the person thus examined is mentally disordered and is likely to hurt himself/herself or others because of mental disorder unless hospitalized for medical care and protection based on the result of examination under Article 27 (Note: Examinations of a designated physician performed in accordance

with an application, reporting, or notification), the governor may cause said person to enter a mental hospital established by the national or prefectural government or a Designated Hospital.

328. The prefectural governor shall cause said person to enter the hospital under the preceding Paragraph only when said person has been examined by at least two Designated Physicians and the results of examination by each physician concur in that said person is mentally disordered and that he/she is likely to hurt himself/herself or others because of mental disorder unless admitted to a hospital for medical care and protection.

329. When taking the measure under Paragraph 1, the prefectural governor shall notify in writing to said Person with Mental Disorder that said measure of hospitalization is being taken and the matters related to request for release, etc. under Article 38-4 and other matters prescribed by the Health and Welfare Ministerial Order.

330. The administrator of a mental hospital established by the national or a prefectural government or of a Designated Hospital shall admit the Person with Mental Disorder mentioned in Paragraph 1 unless no bed is available because there are already persons hospitalized under Paragraph 1 or Paragraph 1 of the following Article (beds designated in the hospital where a ward is designated under Article 19-8).

Article 29-4

331. The prefectural governor shall immediately release the person hospitalized under Paragraph 1 of Article 29 (hereinafter referred to as "Involuntary Patient") when said person is deemed not likely to hurt himself/herself or others because of his/her mental disorder even if hospitalization is discontinued. In this case, the prefectural governor shall ask in advance the opinion of the administrator of the mental hospital or the Designated Hospital where said person is being hospitalized.

332. The prefectural governor releasing said person under the preceding paragraph shall base his/her judgment that said person is no longer likely to hurt himself/herself or others because of mental disorder even if hospitalization is discontinued only on the result of examination by the Designated Physician appointed by him/her or the result of medical examination under the following Article (Note: Examination by a designated physician).

Article 36

333. The administrator of a mental hospital may impose necessary restraints on a person hospitalized within the limit essential for his/her medical care and protection.

334. Notwithstanding the preceding paragraph, the administrator of a mental hospital shall not impose restraints that are prescribed in advance by the Minister of Health, Labour and Welfare based on the opinion of the Social Security Council, said restraints

being those on receipt/dispatch of confidential papers, interviews, etc. with the staff of the prefectural governments or other administrative organs.

335. Of the restraints imposed under Paragraph 1, restraints such as isolation, etc prescribed in advance by the Minister of Health, Labour and Welfare based on the opinion of the Social Security Council shall be imposed only when the Designated Physician deems it necessary.

Article 38-2

336. The administrator of a mental hospital or a Designated Hospital where an Involuntary Patient is hospitalized shall regularly report to the prefectural governor via the director of the nearest Health Center the conditions of Involuntary Patient and other matters prescribed by the Health and Welfare Ministerial Order (hereinafter referred to as "the Reported Matters") under the Health and Welfare Ministerial Order. In this case, the matters prescribed by the Health and Welfare Ministerial Order among the Reported Matters shall be based on the result of examination by the Designated Physician.

337. The provisions of the preceding paragraph shall be applied mutatis mutandis to the administrator of a mental hospital where the patient under medical care and protection is being hospitalized. In this case, the term "the Involuntary Patient" shall read as "the Patient Under Medical Care and Protection."

Article 38-4

338. The person hospitalized at a mental hospital or the person responsible for his/her custody may request the prefectural governor under the Health and Welfare Ministerial Order to cause said person to be discharged, order the administrator of the mental hospital to discharge him/her or to take measures necessary for improving his/her treatment.

Article 38-5

339. When a request under the preceding Article is received, the prefectural governor shall notify the content of said request to the Psychiatric Review Board and shall ask for their review to determine whether or not the person concerned with said request requires hospitalization and whether or not his/her treatment is adequate.

340. When the review under the preceding Article is requested, the Psychiatric Review Board shall review whether or not the person concerned with said review requires hospitalization, and his/her treatment is adequate, and notify the result to the prefectural governor.

341. In conducting the review under the preceding paragraph, the Psychiatric Review Board shall ask the opinion of the person making the request for review under the preceding paragraph and the administrator of the mental hospital where the person for

whom the review was requested is being hospitalized. Provided, however, this provision shall not apply if the Psychiatric Review Board specifically recognizes that there is no need for asking their opinions.

342. In addition to those prescribed in the preceding paragraph, if the Psychiatric Review Board recognizes it necessary in conducting the review under Paragraph 2, the Board may cause the committee to examine the person hospitalized, for whom the review is related, with his/her consent, or ask the administrator of the mental hospital where said person is hospitalized or the other person concerned to report, order submission of the medical record and other documents, or order to appear for a hearing.

343. Based on the result of review by the Psychiatric Review Board notified under Paragraph 2, the prefectural governor shall discharge the person for whom hospitalization is deemed not necessary, or order the administrator of said mental hospital to discharge said person or to take necessary measures for improving his/her treatment.

344. The prefectural governor shall notify the person making the request under the preceding Article of the result of the review related to the request by the Psychiatric Review Board and the measure taken based on the review result.

Law on the Medical Care and Observation for Mentally Incompetent Person Who Committed Serious Harm on Others

Article 6

345. A mental health judge shall be appointed by a district court for each treatment case from among the persons listed in the name list of the following paragraph who are selected in advance each year by the district court in accordance with the Supreme Court Rules.

346. The Minister of Health, Labour and Welfare shall, in order to contribute to the selection of those to be appointed as a mental health judge, send to the Supreme Court every year a list of doctors who have the necessary experience and academic background to perform the duties of a mental health judge that are provided for in this law (hereinafter referred to as “mental health judging doctor") pursuant to a government ordinance.

347. A mental health judge shall be paid allowances in accordance with a separate law, and be paid traveling expenses, daily allowances, and accommodation fee in accordance with the Supreme Court Rule.

Article 11

348. Notwithstanding the provisions of Article 26 of the Court Organization Law (Law No. 59 of 1947), a district court shall deal with a treatment case by a collegial body of one judge and one mental health judge. However, this does not apply to the matters that

are otherwise specified under this law.

Article 14

349. The judgment by the collegial body under Article 11 Paragraph 1 shall be rendered by consensus between the judge and the mental health judge.

Article 92

350. The manager of a designated medical institution for hospitalization may impose necessary limitations to the activities of the person who is hospitalized in accordance with the decision under Article 42 Paragraph 1 Item 1 or Article 61 Paragraph 1 Item 1 to the extent that is essential for the medical treatment or protection of that person.

351. Notwithstanding the provision in the preceding paragraph, the manager of a designated medical institution for hospitalization shall not limit sending and receiving of letters, interviews with attorneys and with officials of administrative organs, or any other activities that the Ministry of Health, Labour and Welfare has specified in advance by hearing the opinion of the Social Security Council.

352. Among the limitations of activities under Paragraph 1, isolation of the patient and limitation of other activities that the Ministry of Health, Labour and Welfare has specified in advance by hearing the opinion of the Social Security Council may not be implemented unless a designated mental health doctor working for the designated medical institution for hospitalization judges it to be necessary.

Article 93

353. In addition to those prescribed in the preceding article, the Minister of Health, Labour and Welfare may establish necessary standards on the treatment of a person who is hospitalized in a designated medical institution for hospitalization by the decision made pursuant to Article 42 Paragraph 1 Item 1 or Article 61 Paragraph 1 Item 1.

354. When the standards under the preceding paragraph are established, the managers of designated medical institution for hospitalization shall observe those standards.

355. When establishing the standards prescribed in Paragraph 1, the Ministry of Health, Labour and Welfare shall hear the opinion of the Social Security Council in advance.

Article 95

356. The person who is hospitalized in a designated medical institution for hospitalization by the decision made pursuant to Article 42 Paragraph 1 Item 1 or Article 61 Paragraph 1 Item 1 or his/her guardian may, in accordance with an ordinance of the Ministry of Health, Labour and Welfare, request the Minister of Health, Labour and Welfare to order the manager of the designated medical institution for hospitalization to

take necessary measures to improve the treatment of the hospitalized person.

Article 96

357. When receiving the request under the preceding article, the Minister of Health, Labour and Welfare shall notify the content of the request to the Social Security Council and ask the council to examine whether or not the treatment of the hospitalized person subject to the request is appropriate.

358. The Social Security Council shall, when asked to make the examination of the preceding paragraph, examine whether or not the treatment of the hospitalized person subject to the examination is appropriate and shall notify its result to the Minister of Health, Labour and Welfare.

359. In making the examination under the preceding paragraph, the Social Security Council shall hear the opinion of the person who made the request under the preceding article in relation to the examination and the opinion of the manager of the designated medical institution for hospitalization in which the hospitalized person subject to the examination is hospitalized. However, this does not apply when the Social Security Council specially judges that there is no need to hear the opinions of these persons.

360. In addition to getting the opinions specified in the preceding paragraph, the Social Security Council may, if it considers it necessary in making the examination under Paragraph 2, have a designated mental health doctor examine the hospitalized person subject to the examination with his/her consent, or request the manager of the designated medical institution for hospitalization where the person concerned is hospitalized or other persons concerned to report, to submit records and documents including the medical record, or to submit himself/herself for an inquest.

361. The Minister of Health, Labour and Welfare shall, when judging it necessary based on the result of examination by the Social Security Council informed pursuant to Paragraph 2, order the manager of the designated medical institution for hospitalization to take measures to improve the treatment of the hospitalized person.

362. The Minister of Health, Labour and Welfare shall inform the person who made the request under the preceding article about the result of the examination of the Social Security Council and about the measures taken based on the result.

(e) Self-Defense Forces (SDF

363. The inspection system with regard to the duties of judicial police in the Police Affairs Corps of the SDF is established in accordance with the following internal rules:

Ground Self-Defense Force

Directives concerning the Organization and Operation of the Police Affairs Corps

Article 29

364. The inspection of judicial police duties shall be implemented to examine the propriety of the execution of judicial police duties by the Police Affairs Corps and to make it reasonable and efficient.

Article 30

365. The Chief of Staff of the Ground Self-Defense Force shall conduct inspection of the judicial police duties of the Police Affairs Corps and report its result to the Director General.

366. The District Commending General shall conduct inspection of the judicial police duties of the District Police Affairs Corps in accordance with rules set up by the Chief of Staff of the Ground Self-Defense Force.

Article 31

367. The Chief of Staff of the Ground Self-Defense Force shall determine the matters necessary for the planning and implementation of inspection of judicial police duties every year and obtain approval of the Director General.

Maritime Self-Defense Force

Directives concerning the Organization and Operation of the Police Affairs Corps of the Maritime Self-Defense Force (=Maritime Self-Defense Criminal Investigation Command)

Article 18

368. The Chief of Staff of the Maritime Self-Defense Force shall conduct inspection of the judicial police duties to examine the propriety of the execution of judicial police duties by the Police Affairs Corps and to make it reasonable and efficient.

369. The Chief of Staff of the Maritime Self-Defense Force shall draw up a police affairs inspection plan every year and obtain approval of the Director General, and report the result of inspection to the Director General.

Air Self-Defense Force

Directives concerning the Duty and Operation of the Police Affairs Corps of the Air Self-Defense Force (Air Self-Defense Force Air Police Group)

Article 12

370. The inspection of judicial police duties shall be implemented to examine the propriety of the execution of judicial police duty by the Police Affairs Corps of the Air

Self-Defense Force and to make it reasonable and efficient.

Article 13

371. The Chief of Staff of the Air Self-Defense Force shall determine the matters necessary for the planning and implementation of inspection of judicial police duties every year and obtain approval of the Director General.

Article 14

372. The Chief of Staff of the Air Self-Defense Force shall conduct inspection of the judicial police duties of the Police Affairs Corps of the Air Self-Defense Corp and report its result to the Director General.

(f) Coast Guard officers

373. With the Japan Coast Guard, Japan Coast Guard Detention Administration Regulations stipulate that appropriate administration on detention is to be carried out under the command of senior officials.

374. The Japan Coast Guard has Administrative Inspector General and Administrative Inspectors who inspect any act of breach by Coast Guard officials and situations of administration under its jurisdiction.

Japan Coast Guard Detention Administration Regulations

Article 3

375. The persons who are the officials of the Regional Coast Guard Headquarters and designated by the Chairman of the Regional Coast Guard Headquarters, the head of the administrative division of the Coast Guard Office, deputy head of the Maritime Guard and Rescue Office or the Coast Guard Station, or the persons who are not engaged in business concerning investigation of offences committed at sea and designated by the head of the Maritime Guard and Rescue Office or the head of Coast Guard Station, or heads of operation groups not engaged in business concerning investigations of offences committed at sea and designated by the captain of a patrol boat (hereinafter referred to as "chief detention officer") shall conduct detention business by respective orders from the Chairman of the Regional Coast Guard Headquarters, the head of the Coast Guard Office, the head of the Maritime Guard and Rescue Office, the head of the Coast Guard Station or the captain of the patrol boat (hereinafter to be called "the head of the Coast Guard Office, etc.").

376. The chief detention officer of the Coast Guard Office shall conduct the detention business of the branch prisons administered by the Coast Guard Office by orders of the head of the Coast Guard Office.

377. When the chief detention officer is absent due to a disease or an official trip, the person who is designated beforehand by the head of the Coast Guard Office, etc. shall act as a proxy.

378. Of the detention officials (the Coast Guard officials other than chief detention officers engaged in detention business, hereinafter the same), those designated by the head of the Coast Guard Office, etc. (hereinafter referred to "persons in charge of detention") shall direct and supervise other detention officials under the command of the chief detention officer.

Japan Coast Guard Law

Article 33

379. Matters other than those provided by this Law, concerning classification of the personnel of the Japan Coast Guard, their functions, and other necessary matters concerning the personnel of the Japan Coast Guard shall be provided by the Cabinet Order.

Coast Guard Law Enforcement Ordinance

Article 6

380. A chief inspector shall be stationed in the Coast Guard pursuant to the provision of Article 33 (government ordinance authorization).

378. The chief inspector, with orders from his superior, shall inspect any act of breach by Coast Guard officials and the actual conditions of administrative affairs under his/her jurisdiction.

Regulations for Coast Guard Organization

Article 2-5

381. An inspection official shall be posted under the chief inspection officer.

382. The inspection official shall conduct, with orders from the chief inspection officer, the business concerning inspection of any act of breach by Coast Guard officials and the actual conditions of administrative affairs under his/her jurisdiction.

L. Article 12

383. In Japan, the competent authorities who conduct an investigation when there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment has been committed are those who have investigative authority based on the Code of Criminal Procedure including public prosecutors, public prosecutors' assistant

officers and judicial police officials (in addition to police officials, wardens of prisons and of branch prisons, other designated prison officials, Coast Guard officers, police affairs officers and assistant police affairs officers of the SDF). The human rights organs of the Ministry of Justice carry out non-compulsory investigation with the cooperation of the people concerned. Furthermore, with regard to administrative organs authorized to detain a certain person in accordance with laws and regulations, the officials with the power of authorization investigate a case upon a petition or ex officio and impose a disciplinary sanction when a violation is found as described in Paragraph 112 below.

384. The investigation procedures based on the Code of Criminal Procedure are as follows:

> When a judicial police official deems an offence has been committed, the official is to investigate the offender and evidence thereof, and, after having conducted investigation of the offence, the official is to promptly refer the case together with the documents and evidence to the public prosecutor (paragraph 2 of Article 189 and Article 246 of the Code of Criminal Procedure). In addition to police officials, judicial police officials include wardens of prisons and of branch prisons, other designated prison officials, Coast Guard officers, and police affairs officers and assistant police affairs officers of the SDF. They are to carry out their respective duties of investigation as judicial police officials for the offences committed in prisons or branch prisons, on the sea, or by the officials of the SDF.

The Code of Criminal Procedure

Article 189

385. A police official shall perform his duties as a judicial police official as authorized by law, or regulations of the National Public Safety Commission or of the Prefectural Public Safety Commission.

386. A judicial police official shall, when he deems an offence has been committed, investigate the offender and evidence thereof.

Article 190

387. Those who are to exercise the functions of judicial police officials in regard to forestry, railways or other special matters, and the scope of their functions shall be provided by other laws.

Article 191

388. A public prosecutor may, if he deems necessary, investigate an offence himself.

Article 246

389. Except as otherwise provided in this Law when a judicial police official has conducted the investigation of a crime he shall send the case together with the documents and pieces of evidence to a public prosecutor. However, this shall not apply to the case which is specially designated by a public prosecutor.

(a) Public prosecutors and public prosecutors' assistant officers

390. Any public prosecutor may, when he deems necessary, investigate an offence by himself, and any public prosecutor's assistant officer is to conduct an investigation under the command of a public prosecutor (Article 191 of the Code of Criminal Procedure).

(b) Police (See Paragraph 8)

(c) Prison officials

391. Wardens of prisons and of branch prisons and other designated prison officials are to conduct investigation as judicial police officials on the offences committed in the prisons and branch prisons pursuant to Article 190 of the Code of Criminal Procedure, Article 1 of the Emergency Measures Act for Designation of Judicial Police Officers and the Ordinance for the Designation of Judicial Police Officers and Those Who Shall Perform the Duties of Judicial Police Officers.

The Emergency Measures Act for Designation of Judicial Police Officers

Article 1

392. Regarding the person who shall execute the duties as a judicial police officer concerning forestry, railways and other specific matters; the scope of the duties shall be in accordance with the provision in the Ordinance for the Designation of Judicial Police Officers and Those Who Shall Perform the Duties of Judicial Police Officers (Imperial Order No. 528 of 1923) for the time being unless otherwise prescribed specifically in other laws.

Ordinance for the Designation of Judicial Police Officers and Those Who Shall Perform the Duties of Judicial Police Officers

Article 2

393. The prison warden or a warden of a branch prison shall execute the duty of a judicial police officer provided for in Article 248 of the Code of Criminal Procedure regarding the offences committed in the prison or in a branch prison.

Article 3

394. A person listed below who is appointed by the discussion between the director and the chief public prosecutor of the district court which has jurisdiction over the area the

governmental office is located shall perform the duty of the judicial police officer provided for in Article 248 of the Code of Criminal Procedure if he/she is listed in (i) to (viii) of the list and the duty of judicial police if he/she is listed in (ix) to (xiv) of the list.

a) Official of an external prison who is a second-grade or third-grade official of the Ministry of Justice except a warden of prison, a warden of branch prison, and a guard;

b) Guard who is an official of the Ministry of Justice;

Article 4

395. The scope of the duty of the person who performs the duties of the judicial public officer pursuant to the preceding article is limited to the duties concerning the following offences:

(iii) The offences in the prison or in a branch prison by the person prescribed in Item 3 and Item 11 of the preceding article.

(d) Coast Guard officers

396. Coast Guard officers and assistant Coast Guard officers are to perform the duties as judicial police officials on the offences committed on the sea (Article 31 of the Japan Coast Guard Law), and when he deems that an act of torture was committed on the sea, he is to conduct investigation for a criminal case pursuant to the Code of Criminal Procedure.

Japan Coast Guard Law

Article 31

397. In regard to crimes committed at sea, a Coast Guard officer and an assistant Coast Guard officer shall, as fixed by the Commandant of the Japan Coast Guard, perform the duties of a judicial police official as provided by the Code of Criminal Procedure (Law No.131 of 1948).

(e) Self-Defense Forces (SDF)

398. Police Officers Corps (Ground SDF), Maritime SDF Police Officers Corps and Air SDF Police Officers Corps are to investigate as judicial police officials on the offences committed within the SDF pursuant to Article 96 of the Self-Defense Forces Law.

Self-Defense Forces Law

Article 96

399. Among the Self-Defense officials, those that perform full-time the duties of maintaining order within departments shall perform the duties of judicial police officials prescribed in the Code of Criminal Procedure (Law No. 131 of 1948) regarding the following offences in accordance with the laws and ordinances unless otherwise provided for in the laws and ordinances.

a) Offences committed by a Self-Defense official, by a member other than an official of the Ground Self-Defense Force staff office, the Maritime Self-Defense Force staff office, the Air Self-Defense Force staff office, of a unit, by a student, by a Self-Defense reserve or an immediate Self-Defense reserve ("sokuou") who is on a training call, by an assistant Self-Defense official who is on a training call (hereinafter referred to as "member"), offences against a member or members of Self-Defense Forces on duty, and offences committed by a person other than the members of Self-Defense Forces regarding the duty of the members;

b) Offences committed on sea vessels, in office buildings, residential quarters or other facilities used by the Self-Defense Forces;

c) Offences against the facilities or properties owned or used by the Self-Defense Forces;

(The rest omitted)

400. As described above, when there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment has been committed, the respective investigative organs are to conduct investigations. Generally speaking, an investigation tends to follow the procedure of acknowledgement; questioning of the victims and persons concerned; collection of other relevant evidence; questioning of the suspect; arrest; and referral to the public prosecutors.

401. Victims of an offence, which includes the offence of torture, may make a complaint to request punishment of the offender. A third party may also make an accusation when he thinks that an offence has been committed.

402. The investigative organ that received the complaint or accusation conducts necessary investigations depending on the nature of the case, such as questioning of victims and others, inspection of the scene of the crime, collection of evidence and questioning of the suspect.

403. When the suspect is not prosecuted, the person who made the complaint or accusation will be notified of the fact and, upon request, the reason. When the person who made the complaint or accusation is not satisfied with the disposition, he may apply to the Committee for the Inquest of Prosecution for review of the disposition. The Committee, consisting of citizens selected from the electoral register, reviews it from an

independent stance and decides whether the disposition is appropriate. When it is decided that the disposition of non-institution of prosecution is inappropriate or that prosecution is appropriate, a public prosecutor conducts investigation for another disposition taking into account the decision.

404. Furthermore, regarding violence and cruelty by a special public official, the person who made the complaint or accusation may, when he is not satisfied with the disposition of non-institution, request that the case be sent to a court for trial. If the request is deemed to be well-grounded by the court, the case will be sent to trial and the prosecution is deemed to have been instituted for the case. This system was established in the Code of Criminal Procedure to make effective the provision of Article 36 of the Constitution, which prohibits torture.

405. Under Japanese domestic laws, as mentioned above in the section of Article 4, any violence by a public official is punishable under offences such as violence and cruelty by a special public official (Article 195 of the Penal Code) or causing death or injury thereby (Article 196 of the Penal Code). The numbers of the cases convicted for the above-mentioned offences from 1999 to 2003 are shown in the table below, and the cases include obscene conduct and violence toward suspects by police officials as well as violence toward prisoners by prison officials.

	1999	2000	2001	2002	2003
Violence and cruelty by a special public official	1	5	3	1	0
Causing death or injury thereby	1	0	1	0	0

406. During the period that this report covers, there were no cases where the court decided to send a case to trial upon a request against a disposition of non-institution of violence and cruelty by a special public official, as described in Paragraph 104.

407. In the case where eight prison officials of Nagoya Prison are alleged to have seriously injured one prisoner and caused the deaths of two other prisoners by assault using leather handcuffs, the prison officials were arrested and investigated from November 8, 2002 to March 20, 2003, and subsequently prosecuted for causing death or injury by violence and cruelty by a special public official. Out of those eight prison officials, one was convicted by the Nagoya District Court on March 31, 2004, and the remaining seven cases are pending at the same court.

Human rights organs

408. Human rights organs of the Ministry of Justice do not have the authority for compulsory investigation. However, pursuant to the Guidelines for Investigation and Resolution of Human Rights Infringement Cases, when they acknowledge a case suspected of being a human rights infringement by receiving a report from a person who alleges to have been subjected to torture or from other sources of information, they

investigate such case and, when the facts of human rights infringement are confirmed, they take appropriate relief measures depending on the case, and urge the persons concerned to have respect for human rights, thereby giving relief to the victims and preventing human rights infringement.

409. After July 29, 1999, when the Convention entered into force in Japan, the case of Nagoya Prison, where prison officials were prosecuted for having abused prisoners and for killing or seriously injuring them, was investigated as required, and recommendations were made to the warden of the prison to thoroughly educate all the prison officials to respect human rights, to establish an effective instruction and supervision system and to take all possible measures to prevent recurrence of similar incidents.

Guidelines for Investigation and Resolution of Human Rights Infringement Cases

Article 2

410. The purpose of investigation and resolution of the case suspected as a human rights infringement is to give relief and to prevent it by taking measures to assist and conciliate the parties concerned, or by confirming the fact of human rights infringement and taking appropriate measures depending on the result of the confirmation, and by encouraging the parties concerned to improve their understanding on the principle of respecting human rights (hereinafter referred to as “encouragement”).

Article 8

411. The Director of Legal Affairs Bureau or the director of District Legal Affairs Bureau shall, when required to take measures to give relief or to prevent human rights infringement by receiving an application from a victim, a victim's attorney, or related parties such as relatives (hereinafter referred to as ”victims, etc.”) which insist that the person suffered damage or might suffer damage from a human rights infringement, conduct necessary investigation without delay and take appropriate measures unless it is considered inappropriate to handle the applied case at the Legal Affairs Bureau or the District Legal Affairs Bureau.

412. When the Director of Legal Affairs Bureau or the director of District Legal Affairs Bureau comes into contact with a fact which is considered necessary to start investigation as human rights infringement case in accordance with a notice or information from a Human Rights Volunteer or related administrative organ, he or she shall conduct necessary investigation without delay and take appropriate measures if he or she considers it appropriate in the light of the purpose provided in Article 2.

Article 14

413. The Director of Legal Affairs Bureau or the director of District Legal Affairs Bureau shall, when he or she confirms the fact of human rights infringement as a result of the investigation of the case, take measures provided in each item of the preceding article or in the following:

a) to request the person who is capable of taking effective measures regarding the relief or prevention of the damages by human rights infringement to take necessary measures (request);

b) to instruct the fact and reason to the opposite party in order to urge them to reflect what they did and to take adequate measures (instruction);

c) to make necessary recommendation in writing to the opposite party by specifying the fact of human rights infringement, in order to stop the human rights infringement or to prevent him or her from recommitting a similar human infringement (recommendation);

d) to inform the fact of human rights infringement to related administrative organs and to request them to exercise appropriate measures in writing (warning);

e) To make an accusation in writing in accordance with the provision of the Code of Criminal Procedure (Law No. 131 of 1948) (Accusation);

(The rest omitted)

M. Article 13

414. As a comprehensive provision of domestic laws regarding this Article, Article 16 of the Constitution stipulates that 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. In addition, the right to complain and the protection of the complainant and witnesses provided for in this Article of the Convention are guaranteed as follows:

Guarantee of the right to complain by any individual who alleges he has been subjected to torture

(a) Measures citizens may take

Filing a complaint

415. Any person who alleges he has been subjected to torture may, as described above, file a complaint (Article 230 of the Code of Criminal Procedure), seek a review by the Committee for the Inquest of Prosecution on the appropriateness of non-institution of prosecution (paragraph 1 of Article 30 of the Law for the Inquest of Prosecution), and request the court for a trial of the case on violence and cruelty by a special public official (paragraph 1 of Article 262 of the Code of Criminal Procedure).

416. Any person whose liberty is deprived without due process of law may request relief

to either a high court or district court in accordance with Article 2 of the Habeas Corpus Act.

The Code of Criminal Procedure

Article 230

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

Article 262

418. 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 Article 45 of the Subversive Activities Prevention Act (Law No. 240 of 1952) or Articles 42 to 43 of the Act Regarding the Control of Organizations Which Committed Indiscriminate Mass Murder (Law No.147 of 1999), 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.

419. The application mentioned in the preceding paragraph shall be made by submitting a written application to a public prosecutor within seven days from the day on which the notification stipulated in Article 260 was received.

Law for the Inquest of Prosecution

Article 2

420. The Committee for the Inquest of Prosecution shall, when receiving a claim from a person who made complaint or accusation, from a person who filed a request of a case to be accepted upon request, or from a person who suffered damage by an offence (in case the person who suffered damage died, the spouse, a lineal relative, brother or sister of the person), conduct the examination provided for in Item 1 of the preceding paragraph.

Article 30

421. The person prescribed in Article 2, Paragraph 2 may, when dissatisfied with the public prosecutor's disposition of not to institute public prosecution, request the Committee for the Inquest of Prosecution having jurisdiction over the place of the public prosecutor's office to which the said public prosecutor belongs, to review the propriety of the said disposition. This provision shall not apply, however, to the case provided for in Article 16, Item 4 of the Court Organization Law and the case regarding violation of the Act concerning Prohibition of Private Monopoly and Maintenance of Fair Trade.

Habeas Corpus Act

Article 2

422. Any person whose liberty of person is under restraint without due process of law may apply for relief pursuant to the provisions of this Act.

423. Any person may make the application mentioned in the preceding paragraph on behalf of the person restrained.

Article 4

424. The application mentioned in Article 2 may be made, either in writing or by word of month, to the High Court or District Court having jurisdiction over the locality in which the person restrained, the person putting him under restraint, or the applicant is found or resides.

(b) Measures detainees may take

Police detention cell

425. When received from a detainee in a Police detention cell reports that he was tortured, the person in charge of the cell is to inform the chief of the police station through the detention chief, and the chief of the police station is to immediately investigate the matter sincerely and inform to the detainee of the result.

The Rules for Detaining Suspe cts

Article 19

426. A guard shall, when detainee makes request regarding his treatment, selection of defense counsel, etc., forthwith report it to the detention chief, and cause necessary measures to be taken.

427. Within the Police, the inspector general system is established to investigate or examine offences, illegal conducts, and accidents during official duties from the standpoint of the administrative supervision in order to ensure the penetration of orders from senior officials to subordinates and maintain the discipline. When there is or is reported a violation of the discipline such as improper treatment of a suspect by a police official, the official in charge of the inspection is to immediately investigate the fact and report the result to the person who appointed the official. When it is deemed that there was a conduct which constitutes a reason for disciplinary sanctions, the person with authority may impose sanctions, such as a reprimand, a pay cut, suspension, or discharge from duty on the said police official.

Correctional institutions

428. When any inmate of a correctional institution claims that he has been tortured, he may file a petition with an investigative organ by using the criminal complaint procedure mentioned above and ask for prompt and fair examination, as well as file a civil or administrative lawsuit.

429. In addition, there is a system of petition for inmates of prisons to file a complaint with the Minister of Justice or a visiting inspector who is an official of the Ministry of Justice, to be appointed by the Minister (Article 7 of the Prison Law). The petition may be made not only for torture and other cruel, inhuman or degrading treatment which is prohibited by the Convention but also for complaints on the treatment in general in prison, which is to be made in writing to the Minister of Justice and either orally or in writing to a visiting inspector. There is no limit on the number of petitions an inmate may make, and the confidentiality of the petition is guaranteed to avoid the contents being known to the officials (paragraph 2 of Article 4 and Article 6 of the Prison Law Enforcement Regulations). The Minister of Justice reads the petition that he receives, and the Correction Bureau, in principle, conducts a detailed investigation. Depending on the contents, however, the Human Rights Bureau may conduct an investigation based on the Minister's direction, in order to review operations and improve the effectiveness of the system. The complaints are thoroughly investigated and examined, the result of which is notified to the complainant. At the time, if it is revealed that an official had engaged in acts of torture, the official is to be subjected to disciplinary sanction and criminal punishment.

430. Furthermore, there is a system for inmates to request an interview with the warden in order to seek redress or advice concerning treatment by a prison official or their personal affairs (Article 9 of the Prison Law Enforcement Regulation).

431. With regard to the system of petition for redress, the Correctional Administration Reform Council (consisting of private experts) established under the direction of the Minister of Justice held discussions for fundamental reform of the system and made its recommendations in December 2003. At present, reviews on improvement measures are in progress (see Paragraph 85).

432. The system of petition for redress was utilized in 2003 for 466 criminal complaints, 37 accusations, 217 lawsuits, and 5,884 petitions to the Minister of Justice. However, these petitions included not only cases related to torture but other complaints on treatment including requests, opinions and comments.

The Prison Law

Article 7

433. If an inmate is dissatisfied with the disposition of the prison, he may petition the

competent minister or a visiting inspector in accordance with the provisions of the ordinances by the Ministry of Justice.

Prison Law Enforcement Regulation

Article 9

434. The warden shall grant an interview to an inmate who makes a petition to him regarding the treatment of in the prison or his personal affairs.

435. In case an inmate offers to make a petition to the warden according to the preceding paragraph, his name shall be entered in the interview book. After having an interview with an inmate in the order of the name listed, the warden shall write the summary of his opinion given to the inmate in the interview book.

Immigration Centers

436. In addition, any detainee of an immigration center who claims that he has been tortured may file a petition with an investigative organ by using the above-mentioned criminal complaint procedure, ask for prompt and fair examination, and file a civil or administrative lawsuit. In addition, when a detainee has complaints about the treatment in the center, the director of the center who is not an immigration control officer (Note: Only the immigration control officer is authorized to detain persons who are subject to the execution of written detention orders or deportation orders - Article 61-3-2 of the Immigration Control and Refugee Recognition Act) is to hear the opinions of the detainee concerning the treatment, and to examine the actual facts of the treatment and ensure appropriate treatment by taking measures such as inspection of the site of treatment in the immigration center (Article 2-2 of the Regulations for Treatment of Detainees). The method of filing a complaint is either in writing addressed to the director, which may be filed anonymously, or orally in the meeting with the director. The filing of opinions or complaints shall not be grounds for unfair treatment, and notice to this effect is made widely known to the detainees by posting as such in the immigration centers. The director of the immigration center, on receiving a complaint shall, when deemed necessary, ask the detainee and the officials concerned to explain the contents of the complaint, and shall take necessary measures. In addition, when a detainee has a complaint about the treatment by an immigration control officer, such complaint may be filed with the director of the center (paragraph 1 of Article 41-2 of the Regulations for Treatment of Detainees), and when the detainee is not satisfied with the judgment of the director on the filing of the complaint, he may file a complaint with the Minister of Justice (paragraph 1 of Article 41-3 of the Regulations).

437. Any detainee may send letters, the contents of which are not subject to change unless they contain inappropriate contents for the security of the facility and, in some well-equipped immigration centers, phone calls may be made freely during certain hours, and detainees can speak to any organization (Article 37 of the Regulations for Treatment of Detainees).

438. The number of complaints filed in 2003 was 28, the reasons of which were not only torture, but included complaints unrelated to measures taken by immigration control officers and those not covered by the system of filing complaints.

Immigration Control and Refugee Recognition Act
Article 61-3-2

439. The duties of an Immigration Control Officer shall be as follows:

a) To conduct investigations with regard to cases of violation of the provisions of laws and ordinances relating to entry, landing, or residence;

b) To detain, escort, and send back those persons who are subject to execution of written detention orders or deportation order;

c) To guard Immigration Centers, detention houses, or any other facility.

Regulations for Treatment of Detainees

Article 2-2

440. The director, etc., (the Directors of Immigration Center and of Regional Immigration Bureaus) shall expect to ensure the appropriate treatments of detainees by hearing the opinions from the detainees concerning their treatments, patrolling the Immigration Centers, etc. and taking other measures.

Article 37

441. The director, etc. shall, upon censoring letters a detainee intends to send and finding that there is a part which hinders the security of the Immigration Center, notify it to the detainee and have him correct it or delete it before sending it. If the detainee does not follow the instruction, the letter shall be retained. (The rest is omitted.)

Article 41-2

442. A detainee may, when he/she is dissatisfied with the treatment of him by an Immigration Control Officer, may file a complaint to the director, etc. in writing by stating the ground for the complaint within seven days from the date of the treatment was made.

443. The director, etc. shall, when the filing is made pursuant to the preceding paragraph, conduct the necessary investigation immediately, judge within fourteen days after the day the filing was made whether or not the complaint is well-grounded, and notify the result in writing to the person who filed the complaint pursuant to the preceding paragraph (hereinafter referred to as "complainant"). However, if the complainant has been released before receiving the notification, director, etc. may send the notice within fourteen days after the day the filing was made to the address the person informed the

director, etc. as the place of residence or place to contact after the release.

444. In the notice provided for in the preceding paragraph, it shall be written when the complainant is still in the center that a demurral may be made pursuant to paragraph 1 of the following article.

Article 41

445. A detainee who is dissatisfied with the disposition under the Paragraph 2 of the preceding article may file an objection with the Minister of Justice by submitting a document stating the ground for the complaint to the director, etc. within three days after the date he/she received the notification under the provision of the same paragraph.

446. The director, etc. shall, when the demurral is made pursuant to the preceding paragraph, send the said petition of the demurral and the documents concerning the investigation of the Paragraph 2 of the preceding article immediately to the Minister of Justice.

447. The Minister of Justice shall, when the demurral is made pursuant to the preceding paragraph, judge immediately whether or not the demurral is well-grounded, and notify it in writing to the person who made the demurral (hereinafter referred to as "demurrer") via the director, etc. However, if the demurrer has been released before receiving the notification, it may be sent to the address the person informed the director, etc. as the place of residence or place to contact after the release.

Infectious diseases

448. Patients who are hospitalized on the ground of infectious diseases may request the prefectural governor to discharge them from hospital in accordance with the Law Concerning the Prevention of Infections and Medical Care For Patients of Infection. According to the Law, the governor is to, when such request is made, find out whether the person has pathogens, and, if it is confirmed that he does not have pathogens, discharge him from the hospital.

449. Any person who is separated or suspended for quarantine may petition to be released to the director of quarantine center in accordance with the Quarantine Law. When such petition is made, the director of quarantine center is to, in accordance with the Law, find out whether the person has pathogens, and, if it is confirmed that he does not have pathogens, release him from the separation or suspension.

The Law Concerning the Prevention of Infections and Medical Care For Patients of Infection

Article 22

450. It is confirmed that a patient hospitalized pursuant to the provisions of Article 19 or

Article 20 does not have the pathogen of the category 1 infection for which such patient was hospitalized, the prefectural governor shall discharge said patient from hospital..

451. The patient who has been hospitalized pursuant to the provisions of Article 19 or Article 20, or the parent of such patient may file a request for discharge form the hospital with the prefectural governor.

The Quarantine Law

Article 15 bis

452. The chief of the quarantine station who has implemented any of the procedures provided in the preceding paragraph shall discountinue isolation immediately after it is confirmed that any patient of any of the infectious diseases specified in Article 2 item(1) does not have the causative agent of the quarantinable disease for which such patient was isolated, or that the patient does not have the causative agent or the symptoms of cholera have disappeared in the case of a cholera patient.

453. The person who is being isolated pursuant to the provisions of paragraph 1 item (1) of the preceding Article (Note: Refer to the end of K.(d)) or the parent of such person (hereinafter referring to the person in parental authority or the guardian) may request the chief of the quarantine station to release such person from isolation..

Article 16

454. The stoppage provided in Article 14 Paragraph 1 Item 2 shall be implemented, by setting the period of time, in the form of hospitalization that is consigned to a designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I. When there is an unavoidable reason such as an emergency, the hospitalization may be consigned to a hospital or a medical clinic that the director of the quarantine station judges as appropriate other than the designated medical institution for special infectious disease or a designated medical institution for Infectious Disease - Type I, or such persons, with the consent of the captain of the vessel, may be locked within the vessel.

455. When the director took the measure provided for in Paragraph 1, the director of quarantine shall forthwith release the suspension of the said person when it is confirmed that the said person does not have the pathogens of the infectious disease for the said stoppage.
(The middle omitted)

456. The person kept pursuant to the provision of Article 14 Paragraph 1 Item 2 or his/her guardian may request the director of quarantine to release the person from the stoppage.

Mental patients

457. As described in Paragraph 93, based the Mental Health Law, those hospitalized at a mental hospital or those responsible for their custody may request the prefectural governor to discharge them or to take necessary measures to improve their treatment, and if, the Psychiatric Review Board consisting of designated psychiatrists and academic experts deems that hospitalization is not necessary or that the treatment is not appropriate, the prefectural governor is to discharge them or order to take necessary measures to improve their treatment. With regard to compulsory hospitalization, a petition for review based on the Administrative Appeal Law and a lawsuit based on the Code of Administrative Case Procedure may be filed against the Minister of Health, Labour and Welfare.

458. As described in Paragraph 94, Law for Medical Observation on Mentally Incompetent Person stipulates the following to assure appropriate treatments:

a) Those hospitalized at a mental hospital or those responsible for their custody may request that the Minister of Health, Labour and Welfare order the administrator of a designated medical institution for hospitalization to take necessary measures to improve their treatment. When receiving such a request, the Minister of Health, Labour and Welfare requests the Social Security Council to review the said request, and, based on the result of the review, the Minister, when deems necessary, gives an order to the administrator of the designated hospital to take necessary measures to improve the treatment.

b) The Minister of Health, Labour and Welfare may request a report concerning treatment on those hospitalized to the administrator of a designated medical institution for hospitalization, and when he thinks that the treatment does not meet the standards set out by him, he may make an order to take necessary measures to improve the treatment.

Conducts by officials of the Self-Defense Forces or by the Coast Guard officers

459. With regard to the conduct by officials of the Self-Defense Forces or by the Coast Guard officers, upon complaint of a person who alleges that he has been tortured, police affairs officers, or assistant police affairs officers of the Self-Defense Forces or Coast Guard officers conduct investigations within their respective authorities as judicial police officers.

Protection of complainants and witnesses

460. With regard to protection of complainants and witnesses, the following measures are taken:

a) A person who intimidates or inflicts other harmful conduct upon a complainant or a witness is punishable, depending on the case, under intimidation of a witness (Article 105bis of the Penal Code), physical

violence (Article 208 of the Penal Code), intimidation (Article 222 of the Penal Code), or other offences.

b) The existence of reasonable grounds to suspect that the defendant may harm the body or the property of the victim or any other person are grounds for refusal of bail (Item (5) of Article 89 of the Code of Criminal Procedure)

c) When a witness or his family members is injured or killed, payment is made by the State for medical treatment and other related expenses. (Article 3 of the Law on the Benefits for Damages of Witnesses)

d) When a public official who received a petition treats the complainant unfairly, the official may be subject to disciplinary sanctions even if such conduct does not constitute an offence (paragraph 1 of Article 82 of the National Public Service Law, paragraph 1 of Article 29 of the Local Public Service Law

e) In the examination of a witness, when it is deemed that the witness may feel considerable anxiety or tension, the court may allow a person, who is deemed to be appropriate to relieve such anxiety or tension, to accompany the witness during the examination (Article 157bis of the Code of Criminal Procedure).

f) In order to alleviate the psychological burden on a witness testifying in front of the defendant and the courtroom spectators, the court may set up a shield that separates the witness from the defendant and the spectators (Article 157 of the Code of Criminal Procedure).

g) In order to ease the psychological burden on a witness testifying in an open court, examination of the witness may be made by the method of having a witness in a place other than the courtroom and using devices that allow communications while recognizing the appearance of each other by images and sound (video link system) (Article 157quat of the Code of Criminal Procedure).

The Penal Code

Article 105 bis

461. A person who in relation to the person's own or another's criminal cases, forcibly demands without justifying reason an interview with any person, or intimidates any person deemed to have knowledge necessary for investigation or trial of such case, or the person's relative, shall be punished by imprisonment with appointed work for not more than 1 year or a fine of not more than 200,000 yen.

Article 208

462. When a person uses physical violence against another without bodily injury, imprisonment with appointed work for not more than 2 years, a fine of not more than 300,000 yen, minor penal detention or a minor fine shall be imposed.

Article 222

463. A person who intimidates another through the threat to the another's life, body, freedom, fame or property, shall be punished by imprisonment with appointed work for not more than 2 years or a fine of not more than 300,000 yen.

464. The same shall apply to a person who intimidates another through the threat to the life, body, freedom, fame or property of the other's relative.

The Code of Criminal Procedure

Article 89

465. The request for bail shall be granted, except when:

> there is a reasonable cause to suspect that the accused may harm the body or property of the victim or any other person who is deemed to have knowledge necessary for the trial of the case, or his/her relatives, or threatens them.

Article 157-2

466. In the examination of a witness, when it is deemed that the witness may feel the considerable anxiety or tension in the light of his/her age, mental or physical situation or other circumstances, the court may, after hearing the opinions of the public prosecutor and the accused or his/her counsel, allow a person who is deemed to be appropriate to relieving such anxiety or tension to accompany the witness during the examination unless it is feared that such person may disturb the examination by a judge or other party concerned or the testimony by the witness, or that such person may give inappropriate influence on the statement.

467. The person who is allowed to accompany the witness in accordance with the preceding paragraph shall not behave during the testimony in the manner which may disturb the examination by a judge or other party concerned or the testimony by the witness or may give an inappropriate influence on the statement.

Article 157-3

468. In the examination of a witness, when it is deemed that the witness would feel pressure and his/her peace of mind would be seriously harmed while testifying in the presence of the accused (including the case under the method provided in the Paragraph 1 of the following article), due to the nature of the alleged crime, his/her age, mental or physical situation, relationship with the accused or other circumstances, and when it is deemed appropriate, the court may, after hearing the opinions of the public prosecutor

and the accused or his/her counsel, take measures to prevent the accused and the witness from recognizing the state of others either from one side or from both sides. However, the measures to prevent the accused from recognizing the state of the witness may be taken only when the counsel is present.

469. In the examination of a witness, when it is deemed appropriate in the light of the nature of the crime, his/her age, mental or physical situation, effects upon his/her reputation or other circumstances, the court may, after hearing the opinions of the public prosecutor and the accused or his/her counsel, take measures to prevent the galleries and the witness from recognizing the state of each other.

Article 157-4

470. In the examination of a witness stipulated in the following sub-paragraphs, when it is deemed appropriate, the court may, after hearing the opinions of the public prosecutor and the accused or his/her counsel, have the witness be present in a place other than where the judge or other parties concerned are present (but within the same premises), and examine the witness by using devices that allows communications, while recognizing the state of each other by transmitting the picture and sound:

a) The victim of crimes or attempts of crimes provided in Article 176 to 178, 181, 225 (limited to the case under the purpose of obscenity or marriage; the same shall apply in this sub-paragraph hereafter), Paragraph1 (limited to the case under the purpose of aiding the person who commits the crime provided in Article 225) or 3 (limited to the case under the purpose of obscenity) of Article 227, or the first part of 241 of Penal Code.

b) The victim of crimes provided in Paragraph1 of Article 60 or Paragraph2 of Article 60 on Sub-paragraph9, Paragraph1 of Article 34 of Child Welfare Law (Law No.164, 1947), or Article 4 to 8 of Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children (Law No.512, 1999).

c) In addition to those as stipulated in the preceding two sub-paragraphs, the person who is deemed, due to the nature of the crime, hiss/her age, mental or physical situation, the relationship with the accused, or other circumstances, feel pressure and whose peace of mind be seriously harmed while testifying at the place where the judge and the other party concerned are present.

471. In the examination of a witness by the measure as stipulated in the preceding paragraph, the court may, when it is considered that the witness will be requested to testify the same fact again in the criminal procedure which may be held afterward and when the witness consents, record the examination and the testimony in the recordable-media (It means material that is able to record the picture and the sound simultaneously. The same shall apply hereinafter.) after hearing the opinions of the public prosecutor and the accused or his/her counsel.

472. The recordable-media in which the witness examination, the testimony and those situations are recorded in accordance with the preceding paragraph shall be attached to the trial record as part of the minutes.

Law on the Benefits for Damages of Witnesses, etc.

Article 3

473. If a witness, an official state counsel, or a spouse of any of them (including a person who is in a de facto marriage relationship regardless of marriage registration), lineal consanguinity or a relative living together (hereinafter referred to as "witness, etc.,") suffered damage to his/her life or body by another person or persons due to the fact that the witness, etc. gave a statement (including statements made in writing in the case of a witness, hereinafter the same), appeared, or intended to appear to give a statement to the court, to a judge, or to the investigative organ regarding a criminal case, or due to the fact that the official state counsel conducted or intended to conduct his/her duty, the State shall make the payment of the benefits to the victim and others in accordance with the provision of this law.

National Public Service Law

Article 82

474. When he/she falls under one of the following cases, an employee may, as disciplinary punishment, be dismissed, suspended from duty, suffer reduction in pay or administration of a reprimand:

a) When he/she has acted contrary to this law, the National Public Service Ethics Law, or orders issued thereunder;

b) When he/she breached official responsibilities or neglected duties;

c) When he/she committed misconduct not suitable as a servant of the entire people.
(The rest omitted)

Local Public Service Law

Article 29

475. When an official falls under any of the following items, the local municipal entity may give the said official disposition such as reprimand, wage cut, suspension from duty or discharge:

a) When the official violates this law, or laws prescribing special cases provided in Article 57 (Note: The Special Law for Educational Public Officers, etc.) or ordinances based on the said laws, regulations of local

municipal entities, or rules of organs of local municipal entity;

b) When the official violates or neglects the official duties;

c) When the official did misconduct not suitable for a public servant of the nation.

N. Article 14

476. In Japan, Article 1 of the State Redress Law stipulates the compensation for damages inflicted by a public official who exercises public authority. In addition, Article 709 of the Civil Code stipulates the compensation for damages inflicted when a private person is involved.

477. With regard to the compensation for damages to a victim of an act of torture, as mentioned above, the State or a private person may have liability for damages based on the State Redress Law or the Civil Code.

478. When a victim is a foreign national, the provisions concerning the right to claim damages under the State Redress Law apply only if there is the guarantee of reciprocity (Article 6 of the State Redress Law). The provisions concerning the right to claim damages under the Civil Code apply equally to foreign and Japanese nationals.

479. Such right to claim damages is inherited if the victim dies (Article 896 of the Civil Code).

480. When a person who is liable for damages based on a court decision does not fulfill the obligation, the victim may enforce the right to claim damages in accordance with judicial procedures.

481. The compensation to a victim is, in principle, pecuniary. The expenses for rehabilitation in medical and mental treatment required for recovery from harm inflicted by an act of torture are also subject to such compensation. Under Japanese laws, there is no upper limit for damages.

482. In addition, based on the society's spirit of mutual cooperation and for the purpose of alleviating damages of criminal victims, the Crime Victims Benefit Payment Law was enacted in 1980. The system was established by this Law that the State provides the benefits for criminal victims to a bereaved family member of a person who unexpectedly died or to a person badly injured due to criminal acts. Any Japanese national or foreign national who has residence in Japan at the time when the criminal acts that caused the criminal damage took place is entitled to receive such payment.

State Redress Law

Article 1

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

Article 6

485. When a victim is a foreign national, this law is applied only when there is the guarantee of reciprocity.

The Civil Code of Japan

Article 709

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

Article 715

487. A person who employs another to carry out an undertaking is bound to make compensation for damage done to a third person by the employee in the course of the execution of the undertaking; however, this shall not apply, if the employer has exercised due care in the appointment of the employee and in the supervision of the undertaking or if the damage would have ensued even if due care had been exercised.

Article 896

488. A successor succeeds, as from the time of the opening of the succession, to all the rights and duties pertaining to the property of the person succeeded to; excepting, however, such as are entirely personal to that person.

The Crime Victims Benefit Payment Law

Article 3

489. The State shall, when there is a person who is damaged by an offence (hereinafter referred to as "a victim"), provide the "benefits for criminal victims" to a criminal victim or the bereaved family member (Among these persons, a person who did not have Japanese nationality and did not have the residence in Japan at the time when the offence that caused the said damage took place is excluded.) according to the prescription of this law.

O. Article 15

490. It is ensured that any statement which is found to have been made as a result of torture shall not be used as evidence in any proceedings, under paragraph 2 of Article 38 of the Constitution which stipulates, “Confession made under compulsion, torture or

threat, or after prolonged arrest or detention shall not be admitted in evidence", as well as the Code of Criminal Procedure as described below.

491. In criminal proceedings, confessions made under compulsion, torture or threat, or after prolonged arrest or detention, or which are suspected of not having been made voluntarily shall not be admitted in evidence (paragraph 1 of Article 319 of the Code of Criminal Procedure). Public prosecutors are to prove that the confession was made voluntarily, and courts shall not admit the confession as evidence unless such proof is made. In addition, the defendant will not be convicted if the confession is the only proof against him (paragraph 2 of Article 319 of the Code of Criminal Procedure). Such confession includes any admission of the defendant which acknowledges himself to be guilty of the offence charged (paragraph 3 of Article 319 of the Code of Criminal Procedure). Even when a document or statement is admissible as evidence in accordance with other provisions of the Code of Criminal Procedure, the court shall not admit it as evidence, unless the court believes after investigation that the document or statement has been made voluntarily (Article 325 of the Code of Criminal Procedure). Any document or statement which public prosecutors and defendants have consented to for use as evidence may be admitted only if the court finds it proper after considering the circumstances under which the document or statement was made (paragraph 1 of Article 326 of the Code of Criminal Procedure).

492. In addition, it is understood and is the practice that public prosecutors have the responsibility of checking that judicial police officials do not conduct inappropriate investigations and of preventing such investigations from occurring.

493. In Japan, as described above, confessions made under compulsion, torture or threat, or after prolonged arrest or detention are not admitted in evidence, but there are no statistics available on the number of cases in which confessions were denied as evidence because they were deemed to have been made under torture.

494. In the Code of Civil Procedure, there is no explicit provision that restricts the admissibility of a statement which is deemed to have been made under torture. The prevailing view, however, is that evidence gained through extremely antisocial means that violate constitutional rights should not be admitted in civil proceedings. Since a statement made under torture by a public official is a typical example of such evidence, it is therefore understood that such statement would not be admitted as evidence.

The Constitution of Japan

Article 38 bis

495. Confession made under compulsion, torture or threat, or after prolonged arrest or detention cannot be used as evidence.

The Code of Criminal Procedure

Article 319

496. 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.

497. The accused shall not be convicted in cases where his own confession, whether made in open court or not, is the only proof against him.

498. Confession mentioned in the preceding two paragraphs includes any admission of the accused which acknowledges himself to be guilty of the offence charged.

Article 325

499. Even when a document or statement is admissible as evidence in accordance with Articles 321 to 324, it shall not be used as evidence by the court, unless it believes after investigation that the statement described in the document or the statement of a person contained in oral statement by another on the date either for the preparation for public trial or for the public trial has been made voluntarily.

Article 326

500. Despite Articles 321 to 325, any document or statement may be used as evidence only when a public prosecutor and the accused give consent thereto and the court finds it proper after considering the circumstances under which the document of statement was obtained.

501. In cases where examination of evidences may be carried out in spite of nonattendance of the accused and the accused does not appear, he shall be deemed to have given the consent mentioned in the preceding paragraph. However, this shall not apply where his proxy or defense counsel appears for him.

P. Article 16

502. In Japanese domestic law, torture is not defined as a separate offence, and the offences referred to in Paragraph 31 above concerning Article 4 of the Convention apply not only to acts of torture as defined by the Convention, but also to acts of other forms of cruel, inhuman or degrading treatment or punishment by public officials. In particular, the obligations provided for in Articles 10, 11, 12 and 13 of the Convention are fulfilled with respect to acts of other forms of cruel, inhuman or degrading treatment or punishment by public officials in the same way as acts of torture.

Q. Others

(a) Cooperation with NGOs

503. The Japanese government fully acknowledges the significance of various activities of civil society for the implementation of the Convention and other human rights

conventions, has frequent dialogues with non-governmental organizations whenever necessary and takes their views into consideration in making relevant policies. It intends to build constructive relationships with civil society by exchanging views in order to effectively implement the Convention.

(b) So-called substitute prisons

504. In Japan, approximately 1,300 police detention cells are established in police stations. Detainees in police detention cells include suspects arrested pursuant to the Code of Criminal Procedure, and pretrial detainees held in custody on a warrant of detention issued by a judge based on the Code of Criminal Procedure. The number of suspects detained in police detention cells was approximately 190,000 during the year of 2003.

505. An arrested suspect is, unless released, brought before a judge upon the request of custody made by a public prosecutor and the judge determines whether or not the suspect is to be taken into custody. The place of detention for suspects is stipulated as a prison in the Code of Criminal Procedure (paragraph 1 of Article 64 of the Code of Criminal Procedure), and the Prison Law stipulates that a police detention cell may be used as a substitute for a prison (paragraph 3 of Article 1 of the Prison Law). This system to use a police detention cell as a substitute for a prison is the so-called "substitute prison system". With regard to the place of detention, there is no provision in the Code of Criminal Procedure stipulating selection of a detention house or police detention cell, and a judge, upon a request from a public prosecutor, makes a decision case by case, taking various conditions into consideration (paragraph 1 of Article 64 of the Code of Criminal Procedure).

506. Even after a prosecution has been instituted, the court may detain the defendant when there is reasonable ground to suspect that the defendant may destroy or alter evidence, or escape (Article 60 of the Code of Criminal Procedure). The place of detention for this case is specified as a prison similarly to the case of suspects, and a police detention cell may be used as a substitute.

507. This system falls under the lawful sanctions referred to in paragraph 1 of Article 1 of the Convention and the detention itself in a so-called substitute prison does not fall under the torture referred to in the Convention. In the so-called substitute prison system, officials in charge of detention who belong to a department not in charge of investigation supervise detainees, taking their human rights into consideration in accordance with relevant laws and regulations, and do not conduct treatment or punishment as may be deemed inhumanly cruel with unnecessary mental or physical pain. Therefore, it is understood that the so-called substitute prison system does not cause any problems of cruel, inhuman or degrading treatment or punishment under the Convention as long as it is operated appropriately.

508. With regard to living conditions in police detention cells, see Paragraphs 118 to 133 of the fourth report of Japan pursuant to subparagraph 1(b) of Article 40 of the International Covenant on Civil and Political Rights. With regard to the separation of

investigation and detention, see Paragraphs 134 to 143 of the said report.

The Code of Criminal Procedure

Article 64-1

509. A warrant of bringing to the court or detention shall contain the name and domicile of the accused; the name of offence; the substance of the prosecuted offence; the place where to bring him/her or the prison where to detain him/her; effective period and a statement that the warrant shall not be executed after such period and shall be returned to the court; the date of issue; other matters as stipulated in the rules of the courts as well as the name seal of the presiding judge or the commissioned judge.

Article 203-1

510. 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 defense 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.

The Prison Law

Article 1-3

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

(c) The individual communication system provided for in Article 22

512. Although this system is considered noteworthy in terms of effective implementation of the Convention, it has also been pointed out that the system needs careful examination as it may cause problems in relation to the judicial system including the independence of the judiciary guaranteed by the Constitution. Considering it necessary to further examine the operation of this system by the Committee against Torture from various viewpoints, Japan did not make the declaration provided for in Article 22 at the time of accession to the Convention. Japan intends to continue serious and careful consideration, while examining operation of the system.

(d) Death penalty system

513. The death penalty system in Japan is a punishment provided for in the Penal Code. It falls under the lawful sanctions referred to in paragraph 1 of Article 1 of the Convention and does not constitute the torture referred to in the Convention. Furthermore, hanging, presently practiced in Japan, is not considered to be inhumanly cruel compared to other methods, and does not fall under cruel, inhuman or degrading punishment. The death penalty system is strictly administered as stated below.

514. The offences to which the death penalty applies as a statutory penalty are limited to 18 serious offences such as murder, robbery causing death, and rape on the scene of robbery causing death. For the 17 offences, other than inducement of foreign aggression, imprisonment with or without appointed work is provided for as an optional punishment. For all the 18 offences, mitigating circumstances such as diminished capacity and extenuations are also provided for. Application of the death penalty for individual cases is made carefully and strictly based on the standard established by a Supreme Court judgment, which states, "Under the present legal system which retains the death penalty, the death penalty may apply when criminal responsibility is extremely significant and capital punishment is considered unavoidable in terms of the balance between a crime and its punishment and of the general prevention of crimes, when considering various circumstances such as the nature and motive of the crime, the method of the crime, in particular the pertinacity and brutality of the method of murder, the seriousness of the result, in particular the number of murdered victims, the suffering of the bereaved family, social effects, the offender's age, his criminal records, and the circumstances after the crime." Therefore, in Japan today, the death penalty applies only to those who have committed atrocious crimes of extremely significant responsibility.

515. The defendant against a judgment of guilty including the death penalty has the right to appeal and may file an appeal to the high courts or the Supreme Court depending on the instance. Even after the above mentioned appeal against the judgment of guilty has been exhausted, the person sentenced as guilty may request reopening of the proceedings.

516. If a person was under 18 years of age at the time of commission of the crime, the death penalty may not apply. For such a person, even when the death penalty would otherwise apply, a life sentence will be imposed (paragraph 1 of Article 51 of the Juvenile Law). If a woman sentenced to death is pregnant, the execution will be stayed by the order of the Minister of Justice (paragraphs 2 and 3 of Article 479 of the Code of Criminal Procedure).

517. In 2003, the death penalty of two persons who committed murder and other crimes became final, and one death row inmate was executed.

(Reference) Crimes committed by the two persons whose death penalty became final in 2003

a) Murder in the course of robbery, and fraud

b) Murder, attempted murder, unlawful entry, violation of the Firearms and Swords Control Law, violence, injury, and destruction of property

Juvenile Law
(Mitigation of Death Penalty and Penalty for Life)

Article 51

518. In case a person who is under 18 years of age at the time of his commission of an offence is to be punished with death penalty, the person shall be sentenced to penalty for life.

The Code of Criminal Procedure

Article 479

519. If a person condemned to death is in a state of insanity, the execution shall be stayed by order of the Minister of Justice

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

521. When the execution of the death penalty has been stayed under the provision of the preceding two paragraphs, the penalty shall not be executed unless an order is given by the Minister of Justice subsequent to recovery from the state of insanity or delivery.

(The rest omitted)

(e) Use of restraining devices and custodial cells (rooms)

Correctional institutions

522. When there is the risk of escape, violence or suicide, or when an inmate does not follow the directions of officials to stop shouting or making unnecessary noise, or when there is the risk that an inmate may repeat abnormal behavior such as contaminating the cell, then he may be housed in a protective cell (solitary cell with an appropriate structure or equipment which has been designed to calm and protect inmates), as far as it is deemed inappropriate to house him in an ordinary cell. In addition, when there is the risk of escape, violence or suicide, instruments of restraint (handcuffs) may be used. A protective cell is designed for such specific purpose, and its structure is built to stand noise and destruction, by eliminating fixtures, equipment and protrusions as may be used for suicide and using soft materials for the walls and floor. Accommodation in a protective cell is a type of solitary confinement in cases where isolation is necessary based on laws and regulations.

523. Both protective cells and restraining devices are used based on relevant laws and regulations, only when there is the risk of escape, violence or suicide and when they are

necessary for the prevention of such acts. Therefore, as long as such use is appropriate, it does not fall under the torture referred to in paragraph 1 of Article 1 of the Convention, since there are no purposes or reasons which are required to constitute torture. In addition, such measures do not give unnecessary pain to the inmate and, as described below, due consideration is given so as not to harm the inmate's dignity and integrity, which is why use of these measures does not fall under the cruel, inhuman or degrading treatment referred to in the Convention.

524. In particular, the use of restraining devices or protective cells is to be based on relevant laws and regulations, and based on official instructions, should not exceed the limit, depending on the situation, reasonably necessary to achieve its purpose. For the inmate on whom a restraining device is used or the inmate in a protective cell, encouragement is given so that such restrictions can be lifted as soon as possible, and a doctor, when necessary, shall monitor his mental and physical conditions.

525. Leather handcuffs, a kind of restraining device used until recently (handcuffs made of a leather band with cylindrical leather bangles to fix both wrists), were abolished on October 1, 2003, because of the above-mentioned case where prison officials of Nagoya Prison were prosecuted for causing death or injury by violence and cruelty by a special public official as the leather handcuffs tightly squeezed the abdomen of the inmate. As an alternative, a new type of handcuffs has been adopted, which restrains only the wrists without squeezing the abdomen. The new type of handcuffs is considered safer than conventional leather handcuffs because they do not restrain parts other than the wrists.

526. Furthermore, to secure appropriate and safe operation, the following guidelines have been clearly set out and officials are made fully aware of the guidelines through drills and training. The new type of handcuffs can be used on an inmate housed in a protective cell only when housing him in it is not enough to prevent violence or suicide; and the new type of handcuffs may not be used in a way that harms the inmate's body.

The Prison Law

Article 15

527. The prison inmate may be placed in solitary confinement, except if he is deemed unfit for such treatment because of his mental or physical condition.

Article 19

528. In case there is a fear of escape of an inmate or of his committing violence or suicide, or in case an inmate is outside the prison, instruments of restraint may be used.

The Prison Law Enforcement Regulations

Article 47

529. Prisoners considered necessary to be isolated from others for security shall be

placed under solitary confinement.

Article 48

530. The instruments of restraint shall be of the following four kinds:

a) Straight Jacket;

b) Gag;

c) Handcuff;

d) Arresting rope.

Article 49

531. No restraining devices shall be used without the order of the warden, provided that this shall not apply in case of emergency.

532. In the case of the proviso to the preceding paragraph, the use of devices shall immediately be reported to the warden.

Immigration Centers

533. The use of restraining devices is permitted but kept to a minimum, in accordance with the Regulations for Treatment of Detainees formulated based on the Immigration Control and Refugee Recognition Act, only when there is the risk of escape, violence or suicide by the detainees and it is considered that there is no other way to prevent such acts.

534. In addition, when based on the Regulations isolation is deemed necessary to protect the life and body of the detainees and to maintain order within the facility, those detainees may be housed in protective cells.

536. Therefore, both restraining devices and protective cells, as long as they are used appropriately, do not fall under the torture referred to in article 1, paragraph 1 of the Convention because there are no purposes or reasons, which are required to constitute torture. In addition, these restraining devices and protective cells do not give unnecessary pain as long as they are used appropriately in accordance with the Regulations, and in March 2003 the Immigration Bureau revised the guidelines for using restraining devices and for isolation in order to enhance appropriate usage; thus giving due consideration to avoid harming the dignity and integrity of detainees. Therefore they do not fall under the cruel, inhuman or degrading treatment or punishment provided for in the Convention.

537. Isolation is conducted according to the decision of the director based on Article 18

of the Regulations and the period of isolation is decided by the director depending on the case. As soon as it becomes unnecessary to isolate the detainee, he is released from isolation.

538. A protective cell is designed with a structure which eliminates protrusions as much as possible and uses soft material for the walls and floor to protect the detainee's life and body.

Regulations for Treatment of Detainees

Article 18

539. When a detainee commits an act that falls under any one of the following items or attempts to do so, or colludes, incites, abets, or assists such an act, the director, etc. may isolate the detainee from other detainees for a determined period. In such case, however, the director, etc. shall immediately cease the isolation when it became unnecessary regardless of the determined period:

a) To escape, commit an act of violence, damage property, or commit any other acts that violate punitive laws and orders;

b) To rebel against or obstruct execution of duties by an official;

c) To commit suicide or harm oneself.

540. In a case prescribed in the preceding paragraph, when there is no time to get the order of the director, etc., an Immigration Control Officer may isolate the detainee from other detainees on his/her own judgment.

541. In case of implementing the isolation prescribed in the preceding paragraph, the Immigration Control Officer shall immediately report it to the director, etc.

542. The use of restraining devices and protective cells is allowed when the director orders as such in accordance with laws and regulations. When there is no time to get an order from the director for use of a restraining device or a protective cell, this shall be reported to the director immediately after the use, thus ensuring careful and appropriate decisions on the use of restraining devices and protective cells. Leather handcuffs, a kind of restraining device formerly used in immigration centers, whose use has been suspended since March 10, 2003, were abolished totally on January 28, 2003 due to the introduction of a new type of handcuffs as a substitute, which does not restrain parts of the body other than the wrists.

Regulations for Treatment of Detainees

Article 19

543. The director, etc. (Director of the Immigration Center or of a Regional Immigration

Bureau) may give an order to an Immigration Control Officer to use to the minimum necessary extent a restraining device on an inmate who might commit any of the following acts when it is considered that there is no other way to prevent such attempt. When there is no time to get the order of the director, etc., an Immigration Control Officer may make a decision himself to use a restraining device.

a) To escape;

b) To harm himself/herself or others;

c) To damage the facilities, equipment, and other articles in the Immigration Center, etc.

Article 20

544. The restraining devices shall be the following four types:

a) Type I handcuff;

b) Type II handcuff;

c) Type I arresting rope;

d) Type II arresting rope.

(f) Solitary confinement in the treatments

Correctional institutions

545. Inmates in correctional institutions, when isolation is necessary for detention in accordance with laws and regulations, are to be put in solitary confinement, for a period within six months, in principle, and this period can be extended every three months where extraordinarily necessary. The final decision as to whether solitary confinement is necessary and whether to extend the period is made by the warden of the correctional institution, in practice, after careful examination of the necessity by the classification examination committee established in the institution and after taking the inmate's mental and physical conditions into due consideration.

546. Long-term solitary confinement has, of course, the possibility of exerting a negative influence on the physical and mental health of the inmates. In order to promote inmates' rehabilitation, it is important to facilitate their socialization through living and interacting in a group with other people. Prison facilities therefore would like inmates to go out and work in factories as much as possible. From this viewpoint, at every possible opportunity, prison facilities try to transfer inmates from solitary confinement to group cells by such methods as prison officials in charge giving guidance to the inmates in solitary confinement and senior officials having interviews with them. However, there are still a small number of cases where long-term solitary confinement is

inevitable.

The Prison Law

Article 15

547. The prison inmate may be placed in solitary confinement, except if he is deemed unfit for such treatment because of his mental or physical condition.

The Prison Law Enforcement Regulation

Article 47

548. Prisoners considered necessary to be isolated from others for security shall be placed under solitary confinement.

Article 27

549. The period of solitary confinement shall not exceed 6 months; provided that in case its special extension is required, the renewal of the period may be effected every 3 months.

Immigration Centers

550. The purpose of detention in an immigration center is to facilitate deportation procedures in accordance with the Immigration Control and Refugee Recognition Act and to prohibit residence and activity in Japan. The Immigration Control and Refugee Recognition Act stipulates that detainees are to be given as much freedom as possible unless this causes a problem for the security of the facility. In principle, detainees are housed in a group room for two or more people. However, there are some detainees who wish to be housed in single rooms due to various reasons such as differences in nationality and culture and an inability to adjust to living in a group, and these detainees are, in principle, housed in single rooms in accordance with their wishes. Even in such cases, there are no restrictions on communication among the detainees, and when a detainee requests to be housed in a group room this is also granted.

(g) Disciplinary Punishments

Correctional institutions

551. In penal institutions, it is necessary to keep discipline and order appropriately so that many inmates may be managed as a group, they can be prevented from escaping and kept in custody, and so that the purpose of detention depending on the legal status of the respective detainee may be achieved. To this end, the acts prohibited in the facilities are stipulated in the "Rules for Inmates", which are made known and easily comprehensible, in advance, to the detainees. By punishing persons who violate the

rules, the recurrence of prohibited acts is prevented, and discipline and order in the facilities are maintained.

552. Among the punishments, there are reprimands, prohibition of reading documents and looking at pictures for up to three months, docking of part or all of the remuneration for prison work, and minor solitary confinement for up to two months.

553. Minor solitary confinement is when a detainee is kept in a single cell with the same structure as an ordinary cell, communication with other inmates is cut off, and the detainee is made to sit in the cell and is given the chance for self-reflection in order to encourage penitence. This is the severest form of punishment actually practiced. When minor solitary confinement is conducted, a medical examination by a doctor is required beforehand, and minor solitary confinement may not commence unless it is deemed that there will be no harm to the inmate's health. During the confinement, medical examinations by a doctor are also conducted, and the confinement is suspended if there are any special factors which may cause harm to the health of the inmate, which is why consideration is given so as not to harm the health of the inmate.

554. The procedures of punishment conform to the official directions of the Minister of Justice. First, the person who is suspected of having violated the rules is informed of the suspicion of such violation and interviewed on the facts and background. Then other information is collected such as reports from officials who witnessed the violation, and interviews of other inmates who saw or heard about the violation. Afterwards, a punishment examination committee consisting of senior officials of the penal institution is convened, where the suspicion of violation is notified to the suspect who is present at the meeting. After giving the suspect an opportunity to defend himself, a senior official who plays the role of supporting the suspect gives his opinion on behalf of the suspect. The committee forms an opinion taking into account all the factors such as whether the act falls under a violation of the rules, the cause, contents, and circumstances, the suspect's behavior and the progress of treatment, and the security conditions of the prison facility concerned. The warden of the penal institution, based on the opinion reported by the committee and considering all of the various factors, decides whether to give a punishment and what punishment is to be given. In this way, the decision for the punishment meets the requirement for securing fairness.

Appendix: Relevant domestic laws

- Law of Extradition
- Law for International Assistance in Investigation
- Law for Judicial Assistance to Foreign Courts
