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

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Committee against Torture

Third periodic report submitted by Japan under article 19 of the Convention, due in 2024*, **, ***

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* The present document is being issued without formal editing.

** The present document was submitted pursuant to the simplified reporting procedure. It contains the responses of the State party to the Committee's list of issues prior to reporting (CAT/C/JPN/QPR/3).

*** The annexes to the present document may be accessed from the web page of the Committee.

Replies to the list of issues prior to reporting (CAT/C/JPN/QPR/3)

Reply to paragraphs 7 and 8 of the list of issues Articles 1 and 4

1. Under the Penal Code of Japan, the aforementioned acts of torture (including attempts and complicity) fall under crimes of assault and cruelty by specialized public employees, crimes of abuse of authority causing death or injury by specialized public employees, and also, depending on the content of the acts, fall under various crimes under the Penal Code and other laws, or complicity in those crimes, including crimes of abuse of authority by public employees, crimes of assault, crimes of injury, crimes of abandonment, crimes of unlawful capture and confinement, and crimes of intimidation, as well as, crimes of homicide, crimes of indecency through compulsion, crimes of forcible sexual intercourse, crimes of compulsion, and attempts at those crimes. As these acts have been covered under various provisions of crime, there is no need to take further measures to provide new definitions of torture under the Convention into Japan's domestic law. In addition, from the perspective of clarity of elements and in order to avoid confusion due to overlapping of punishments, no measures have been taken to provide new definitions of torture in addition to the existing definitions.

2. Under the Japanese law, the period of statute of limitations for serious crimes is adequate. Moreover, the statute of limitations has been abolished for serious crimes that caused death, which are punishable by death penalty. Accordingly, measures have been taken to abolish the statute of limitations for crimes of homicide (including attempts).

Reply to paragraph 10 of the list of issues Article 2[1]

3. Article 30 (1) of the Code of Criminal Procedure guarantees the rights for all suspects to obtain legal counsel. A suspect may appoint legal counsel at any time, before or after detention, or regardless of detention.

4. Moreover, following the amendment of the Code of Criminal Procedure in 2016, the scope of the system of court-appointed counsel was extended to include suspects in all types of cases, from suspects in cases where the punishment is death penalty, or life imprisonment, or imprisonment for more than three years with work, or imprisonment without work, to all suspects detained with detention warrants. It was made mandatory that when notifying a detained suspect of his/her right to defense counsel, the suspect must also be informed about the method of applying for a defense counsel (already enforced).

5. With regard to the right to communicate confidentially with lawyer, Article 39 (1) of the Code of Criminal Procedure guarantees that a suspect in custody (including an arrested person) may, without any official being present, have an interview with the defense counsel or a prospective defense counsel upon the request of a person entitled to appoint a defense counsel.

6. With regard to a suspect's right to be presented to a judge immediately after the deprivation of liberty, the suspect must be brought to a judge for initial appearance within

[1] The issues raised under Article 2 could also be addressed under other articles of this Convention, including Article 16. Paragraph 3 of the Committee's General Comment No. 2 (2007) on the implementation of Article 2 by States Parties reads: "The obligation to prevent torture in [A]rticle 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under [A]rticle 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear." Also see Chapter V of the same General Comment.

72 hours of being placed under physical restraint. Articles 207 and 61 of the Code of Criminal Procedure prescribe that the suspect may not be detained unless a statement has been taken from the suspect.

7. With regard to the custody of suspects prior to indictment, the Code of Criminal Procedure of Japan requires strict judicial review at each stage of arrest, detention and the extension of a detention period, so that investigations to reveal the facts of cases can be sufficiently performed, while guaranteeing the human rights of suspects. Specifically, (1) no arrests can be made without an arrest warrant from a judge, except in cases where the suspect is caught in the act of committing the crime, (2) if the suspect is to be detained in custody, a prosecutor must request a judge to detain the suspect within 72 hours of being placed under physical restraint and a warranty must be issued with review by a judge, (3) the detention period permitted by such warranty issued must not exceed ten days, however, when the detention period is required to be extended, a request must be made to the judge to review the circumstances for the extension of detention period, (4) even if an extension is granted, the total period of extension must not exceed ten days (a judge may further extend the period with regard to some cases of serious crimes such as the crime of insurrection, however the total extension period must not exceed 15 days). The content of the provisions of the said Act is appropriate and rational.

8. In Japan, voluntary investigations are the principle. In many criminal cases, investigations are conducted without detaining or arresting a suspect. The arrest or detention of a suspect is conducted only after going through an advance review by a judge. In addition, a sufficient level of judicial review about the necessity of detention is also conducted during a short pre-indictment detention period. The Code of Criminal Procedure also prescribes that when it is believed that the grounds for or the necessity of detention no longer exist, the judge must make a ruling to rescind the detention under the request of the suspect, the defense counsel of the suspect, or ex officio, and must release the suspect. The judge may, when it is deemed necessary, suspend the execution of detention and release the suspect, while maintaining the validity of the detention warrant. The Act, thus, provides sufficient release measures, in case where it is necessary.

9. With regard to the separation of investigation and detention functions by the police, the Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (hereinafter referred to as the “Penal Detention Facilities Act”) indeed prescribes that detention officers must not be engaged in criminal investigations of detainees held at the detention facility under their authority. Moreover, the Rule of Criminal Investigation, which is a National Public Safety Commission Rule, prohibits an investigation officer who is currently conducting the criminal investigation of a detainee from engaging in the treatment of that detainee.

10. The police of Japan have been continuously providing the treatment, which gave due consideration to the human rights of the detainees, including by thoroughly separating investigation and detention functions through prohibiting investigation officers from being involved in the treatment of detainees and having detention officers who belong to general affairs (administration) divisions who does not take a part in investigation. Particularly, the Penal Detention Facilities Act, which came into force in June 2007, put the principle of separation of investigation and detention functions in the statutory form and prescribed measures such as establishing a system whereby the Detention Facilities Visiting Committees, composed of external third parties, inspect detention facilities, interview detainees, and provide a statement of their opinions to the detention services manager; setting up appeals system; providing the treatment equal to the treatment provided to inmates in penal institutions with regard to, including, provisions of meals, delivery of cash and articles, medical measures, visits and correspondence; and providing human rights education to detention officers.

11. As explained in the preceding paragraphs, the substitute detention system in Japan, which detains detainees in detention facilities, does not increase the possibility of the detainees’ rights being violated and the complete separation of investigation and detention functions has already been fully ensured in Japan through legislative and other measures.

12. The Penal Detention Facilities Act establishes three systems for appeals on detention facilities: claims for review of acts such as of disposition; report of cases for illegal use of physical force against body, etc.; and filing of complaints with regard to treatment in general.

13. Out of these systems, regarding further claim for review and report of a case, a detainee who is being detained in a detention facility in the pretrial phase may file a claim for re-evaluation with or report the case to the Prefectural Public Safety Commission, and the detainee may file a complaint with the Prefectural Public Safety Commission in accordance with the Police Act.

14. The Prefectural Public Safety Commissions, established as the council system in each prefecture, which represent good sense of residents in order to ensure the democratic operation of prefectural police, supervise prefectural police from a third party standpoint. Therefore, a review of appeals by the Prefectural Public Safety Commissions, as a matter of course, is conducted in an objective and fair manner from a third party standpoint.

15. Moreover, the Penal Detention Facilities Act establishes three systems, specifically the Claims for Reviews, the Reporting of Case Facts, and the Filing of Complaints, as appeal systems relating to penal institutions as well. Regarding the Claims for reviews and the report of cases where any person who is dissatisfied with an administrative disposition by the Superintendent of the Regional Correction Headquarters, he/she may file a claim for re-evaluation with and report the case to the Minister of Justice respectively.

16. With regard to the filing a claim for re-evaluation and reporting a case to the Minister of Justice, where the Minister of Justice intends to dismiss the claim filed by the claimant , which is groundless and intends to notify that the reported case has not been recognized, the Minister shall consult with the Study Group on Review of Appeals Filed by Inmates of Penal Institutions which is composed of external experts, including jurists, attorneys, and medical doctors. Thereby, the fairness and impartiality of dispositions is secured.

17. The meeting of the said Study Group has been basically held twice a month since its first meeting on January 12, 2006, and 273 meetings in total have been held as of the end of December 2019 (For details, see Attachment 1). At the said Study Group, all the materials requested by the members are provided to them, thereby securing the members' sufficient access to all related information so that they can perform their roles effectively.

18. Moreover, although not established for the direct purpose of securing rights and interests of a specific inmate in an individual case, a Penal Institution Visiting Committee composed of external experts, including attorneys and medical doctors, has been established at penal institutions. This Committee contributes to improving the overall administration of penal institutions as its duties include inspecting institutions, interviewing inmates, and accepting proposals from inmates, as well as providing its opinions on the administration of penal institutions to the wardens of penal institutions after gaining a precise understanding of the circumstances of the administration of the penal institutions.

19. Similarly, with regard to detention facilities, the Detention Facilities Visiting Committees, composed of third parties from outside such as attorneys and medical doctors, have been established to increase the transparency of operational status of detention facilities and to ensure the appropriate treatment of detainees. The Committees' duty is to provide a statement of their opinions on the administration of detention facilities to the detention services managers based on the actual circumstances of detention facilities they precisely understood, including by inspecting detention facilities and conducting interviews with detainees.

20. An audio/video recording system was introduced in the amendment of the Code of Criminal Procedure in June 2016, whereby, when a suspect in custody is interrogated in a case subject to citizen judge trial or a case investigated by a prosecutor's initiative, in principle, an audio/video recording of the entire process of the interrogation of a suspect must be made, and where it is suspected at trial that a statement by the suspect is not being made voluntarily, the statement shall not be adopted as evidence unless a request is made for examination of the audio/video recording medium on which the statements made by the suspect at the time of the interrogation were recorded (enforced).

21. The police ensure that suspects are appropriately interrogated in accordance with the Code of Criminal Procedure and the internal rules related to the investigation of suspects.

22. Since the first trial of audio/video recording of interrogation in September 2008 (all the prefectural police began implementing audio/video recording of interrogations in cases subject to citizen judge trial in April 2009), audio/video recording of interrogations has been implemented in 26,611 cases subject to jury trial during a period of 10 years and 7 months between September 2008 to March 2019. Audio/video recording is also implemented in interrogations of suspects suffering from mental disabilities, and 24,483 such cases have been audio/video recorded over a period of 6 years and 11 months between May 2012 to March 2019.

(1) The Public Prosecutors Office had already implemented this practice of audio/video recording of the interrogation of the suspect in custody as appropriate since before. As reported previously, during the period of two years between April 2008 and March 2010, 3,791 cases were audio/video recorded at the Public Prosecutors Office. Since then, the scope of trials has been gradually expanded. Since October 2014, the practice of audio/video recording of investigation of suspects has been implemented in all cases subject to citizen judge trial, cases where the suspect has difficulty in the ability to communicate due to intellectual disability, cases where it is suspected that the suspect's capacity to appreciate their own liability to their acts has declined or lost due to mental disability and all cases where the suspect has been arrested by the public prosecutor and is investigated by the public prosecutor's initiative. In addition, audio/video recording of investigation has also been increasingly implemented in other types of cases apart from the aforementioned, depending on the facts of the particular case. Moreover, from April 2017, in order to ensure fair and smooth audio/video recording of investigations with regard to cases subject to citizen judge trial and cases investigated by public prosecutor's initiative, ahead of the enactment of a law, the same scope of obligations as the revised law was implemented with regard to the aforementioned legally mandated cases. The aforementioned act for partial amendment of the Code of Criminal Procedure, etc., which came into full effect in June 2019, introduced the system of audio/video recording of investigation. A steady increase in the number of cases where audio/video recording was implemented has been observed in the recent years, with a total of 102,154 cases between April 2018 to March 2019, 103,380 cases between April 2019 to March 2020, and 96,840 cases between April 2020 to March 2021.

(2) In addition, in order to secure further appropriate interrogation procedures, the following measures were introduced in 2008: interrogation shall not be conducted at midnight or over long periods of time; efforts shall be made to give a break during the interrogation at least every four hours; where, with regard to the interrogation of a suspect, the defense counsel has filed a complaint, or the suspect has made a statement of dissatisfaction., the official in a supervisory position shall make him/herself aware of the content thereof and promptly conduct the required inspection and as well as take necessary measures.

23. The Penal Detention Facilities Act clearly prescribes that police officers who engage in detention-related affairs in detention facilities must not be engaged in criminal investigations of detainees held at the detention facility under their authority.

24. Moreover, the Penal Detention Facilities Act establishes following measures as to strengthen the function to keep the separation of investigation and detention in check:

- The system whereby the Detention Facilities Visiting Committees, independent of the police, inspect detention facilities which are situated within each prefecture, and issue a statement of their opinions on the detention affairs; and
- The systems for appeals on the treatment of detainees.

25. In addition, efforts are being made to promptly transfer the detainees, whose investigation has been completed, from detention facilities to penal institutions, and therefore, the concerns by NGOs that the substitute detention system encourages the police to torture and inhumanely treat the detainees in an attempt to obtain confession are not warranted.

26. In addition, the Public Prosecutors Office has set the rule that, where, with regard to the interrogation of a suspect by a public prosecutor, the defense counsel has filed a complaint or the suspect has made a statement of dissatisfaction, the public prosecutor in a supervisory position shall make him/herself aware of the content thereof and promptly conduct the required inspection as well as take the necessary measures.

27. Moreover, when the defense counsel files a complaint with, or the suspect makes a statement of dissatisfaction to a public prosecutor, with regard to the interrogation of the suspect by a police officer, the public prosecutor makes the required communication with the police, and the police take the necessary measures.

Reply paragraph 16 of the list of issues[2]

28. The framework of the human rights remedy system is under constant review, taking into account the discussions that have been held.

Reply to paragraph 20 of the list of issues, paragraphs 31–34 of the (CEDAW/C/JPN/CO/6) and paragraph 17 of the (CERD/C/JPN/CO/7-9)

29. Japan understands that Article 16 of the Convention does not cover violence by a private individual, including domestic violence. However, as declared in the G7 Summit 2017 in Taormina and the G7 Summit 2019 in Biarritz, Japan is committed towards eliminating violence against women, and with regard to domestic violence, sexual violence including gender-based violence and violence against women, a variety of initiatives are being conducted to prevent violence against women and provide protection to all women, including women belonging to immigrant, minority and indigenous groups.

30. In order to comprehensively and systematically promote the formation of a gender equal society, Japan formulated the Fourth Basic Plan for Gender Equality and the Fifth Basic Plan for Gender Equality in December 2015 and December 2020, respectively, based on the Basic Act for Gender-Equal Society, and “elimination of all forms of violence against women” was one of the main focus areas of these plans. Specifically, Japan is working on strengthening the foundation to eradicate violence against women, which includes cultivation of social norms that do not tolerate violence, and is comprehensively promoting far-reaching initiatives that cover all forms of violence such as spousal violence, sexual crimes, prostitution, trafficking in persons, sexual harassment, and stalking activities.

31. With regard to spousal violence, Japan has taken measures to prevent spousal violence and to protect victims, as also to provide victims with support for self-reliance based on the “Act on the Prevention of Spousal Violence and the Protection of Victims”. The Act provides for Spousal Violence Counseling and Support Centers which undertake activities such as consultation and counseling for victims, temporary protection, and offering of various kinds of information. The Act also sets out a system whereby the court orders, upon a petition from a victim, prohibiting the spouse of the victim from approaching to the victim, etc. if certain requirements are fulfilled. The Act has been amended four times so far, in order to ensure sufficient protection to the victims of spousal violence responding changing social needs. Besides, it is currently under consideration for a future amendment especially on the court orders system etc. at a commission in the political executive, under the Council for Gender equality, Expert Committee on Violence against Women.

32. Moreover, in line with the aforementioned plan, the establishment of One-stop Support Centers, which provide consultation, medical assistance, psychological support and all the possible support to the victims of sexual crimes and sexual violence at one location, soon after they are victimized, to reduce the physical and emotional stress of the victims, was also achieved. The original goal was to set up at least one center in each prefecture by year

[2] See CCPR/C/JPN/CO/6, para.7; CEDAW/C/JPN/CO/6, paras. 23 and 24; CERD/C/JPN/CO/7-9, para. 9.

2020. Japan accelerated its efforts to achieve the original goal, which was actually realized in October 2018. In order to ensure stable operation of these centers, we are supporting efforts that are tailored to the actual situation of each prefecture, using the subsidy for victims of sexual crimes and sexual violence established in 2017. In addition, Japan complied the "Policy for Strengthening Measures against Sexual Crimes and Sexual Violence" in June 2020, setting the period of three years until 2022 as the "period for focused strengthening" of measures against sexual crimes and sexual violence.

33. In consideration of the fact that the production, online publication and diffusion of porn videos against the performers' own will has caused serious violation of human rights, including lasting harm to their physical and mental health and to their private lives, Japan have been working on prevention and remedy of harm associated with performing in porn videos based on Act on Prevention and Remedy of Harm Associated with Performing in Porn Videos (enacted and enforced in June 2022), through clarification of rules for performing contract conclusion and fulfillment process, provision of rights on contract cancellation and demand for an injunction of porn video production and publication, and development of consultation system for porn video performers, etc.

34. As one of the preventive measures, Japan has worked on awareness raising activities to create social environment that does not tolerate gender-based violence. Every year, the two-week period (from November 12 to 25) is dedicated to "Campaign for Eliminating Violence against Women." During this period in 2021, in coordination/cooperation with local governments, corporations and other related organizations, approx. 310,000 posters, leaflets, cards, and stickers were distributed to nearly 5,000 local public organizations and related organizations, and posted at stations.

35. With the perspective of preventing anyone from becoming perpetrators or victims of violence against women and in order to effectively raise awareness among young people, April (the first month of Japanese school year) is designated as "Month for Prevention of Sexual Violence against/among Young People," and training is provided to instructors at educational institutions, local government officers in charge of conducting awareness raising programs, NGOs conducting awareness raising programs, and such other bodies and individuals who have the opportunity to provide guidance and raise awareness among young people.

36. Under the spread of COVID-19, in April 2020, a new service platform for counselling on spousal violence was released, which provides consultations in 10 foreign languages, web counselling, and counselling via e-mail and online chat etc. In October 2020, the abbreviated dialing number "#8008" was introduced, which connects to the nearest Spousal Violence Counselling and Support Centers. Plus, in October 2020, a new online chat consulting service (including a service of consultations in 10 foreign languages) for victims of sexual crimes and sexual violence was introduced, and a nationwide abbreviated dialling number "#8891" which connects the nearest One-stop Support Center for Victims of Sexual Crimes and Sexual Violence, started its operation.

37. The police have set up a system for unitarily handling the cases of spousal violence and the like at the police headquarters across the nation and promote to take swift and precise measures, including the arrests of perpetrators and the protective measures for victim, etc. while putting safety of the victims and other such persons first.

38. In 2019, the police received 82,207 cases of consultation on spousal violence and the like, and made arrests in 9,161 cases, and both are at their highest since the Act on the Prevention of Spousal Violence and the Protection of Victims came into force in 2001.

39. Particularly, in order to alleviate the burden and prevent secondary damage of the victims, efforts are being made to prepare the environment which makes it easier for the victims to consult with the police. Some of the measures include handling consultations by female police personnel and conducting consultations while ensuring that the victim and perpetrator do not encounter each other during the consultations. Moreover, the police supports the victims so that they can make their own decisions through explaining to the victims who came to the police for consultation about the dangers of the case and the possible measures to be taken, including by the police, while describing them graphically and in an easy-to-understand manner.

40. Moreover, in the case where emergent and temporary evacuation of the victim and other such persons is needed to secure the safety of persons who are victims of highly dangerous and imminent cases, the police are to cover the cost for using accommodation facilities such as hotels at the public expenses.

41. In addition, when information about suspected child abuse, such as physical abuse or sexual abuse, is known to the police, the police take actions such as visiting the scene, interviewing nearby residents, and inquiring about various information in order to directly confirm the safety of the child. Also, the police handle the cases securing the safety of children as a top-priority, including by appropriately opening an investigation into the case considering the emergency and severity of each case, and by taking custody of a child and giving notification to the child guidance center.

42. In 2019, notification on 98,222 children related to child abuse, such as physical abuse and sexual abuse were given by the police to the child guidance centers, which was the highest since statistics began to be collected in 2004. In 2019, 1,972 cases related to child abuse, such as physical abuse and sexual abuse were cleared, which was the highest since statistics began to be collected in 2003.

43. To help the juvenile victims of crime, the services of juvenile guidance officials are employed to provide continued support while ensuring the emotional wellbeing of juvenile victims and maintain close coordination with the child guidance centers. These juvenile guidance officials are experts who possess specialized knowledge in areas concerning the psychology and special characteristics of children.

44. With regard to the handling of cases related to stalking activities, a unitary system is followed throughout the police headquarters across the nation. Protection of the victim's safety is prioritized and prompt and appropriate response, including arrest of perpetrator and protective measures for the victim, is promoted by the organization.

45. In 2019, the police received 20,912 cases for consultation on stalking activities, and cleared 2,355 cases for violation of the Anti-Stalking Act, which remains at a high level.

46. Since 2014, the police have been conducting research on the various psychiatric and psychological approaches to handling perpetrators in cases of stalking. Based on the results of these studies, since 2016, the police have been fostering coordination with community psychiatrists by seeking their advice on how to deal with perpetrators and the need for treatment and counseling, and by recommending the perpetrators to see a psychiatrist.

47. Moreover, in order to prevent young people from becoming victims of stalking, educational materials (pamphlets, DVDs, etc.) are prepared for high school and university students. These materials make use of illustrations, etc. to explain the nature of damage caused by stalking, and are used to conduct crime prevention classes. Furthermore, a web portal has been created to share stalking-related information.

48. In addition, in cases posing high risk and imminent danger to the victim, when it is required to immediately evacuate the victim to a temporary accommodation in order to secure the victim's safety, the expenses required for hotels or other accommodation facilities are covered under public expenses.

49. The 193rd session of the National Diet, held in June 2017, enacted the act amending a part of the Penal Code, which focused on stricter handling of sexual crimes and alleviating the burden of victims. The said amendment was enforced in July the same year.

50. Specifically, the following amendments were made: (1) The stipulation that the victims of rape shall press charges themselves was removed, thus enabling the defendant to be prosecuted without requiring the victims to press charges; (2) Prior to the amendment, the elements of the offence of rape was applied only to sexual intercourse with a female, through assault or intimidation; the amendment expanded the scope of rape to include victims regardless of gender. Anal and oral sexual intercourse were also recognized as forcible sexual intercourse, heavily punishable offense. And the minimum penalty of forcible sexual intercourse was increased as well; (3) A new provision was established to try person having custody of person under 18 who have sexually abused children under the age of 18 by taking

advantage of their psychological control over the children in the same manner as for crimes of indecency through compulsion and forcible sexual intercourse.

51. The victim's cooperation is considerably important in the prosecution of any type of abuse. In order to ensure that a case is fairly and properly prosecuted, the Public Prosecutors Office makes full use of the following systems and takes as much efforts as possible to alleviate the burden and suffering faced by the victim in cooperating with the trial and investigation.

(1) The partial amendment of the Code of Criminal Procedure, which came into force in 2016, introduced measures related to disclosure of names and addresses of witnesses. The system provides that, when such circumstances arise where the public prosecutor provides the defendant or the defense counsel the opportunity to learn the name and address of a witness or the opportunity to inspect documentary evidence or an article of evidence, if the public prosecutor finds that the body or property of the person or the person's relative is likely to be harmed or either of these persons is likely to be threatened or confused, the public prosecutor may, unless in cases where there is a risk of substantial disadvantage to the defense of the defendant.

- After giving the defendant's defense counsel the opportunity to learn the person's name and address, set a condition that the defense counsel must not notify the defendant of such name or address, or designate the time or method of notification to the defendant.
- When a public prosecutor finds that it is likely impossible to prevent the aforementioned acts, the public prosecutor does not have to give the defendant and the defense counsel an opportunity to learn the name and address of the witness if the public prosecutor gives the defendant or the defense counsel an opportunity to learn of a pseudonym in lieu of the name, or a contact address in lieu of the address.

(2) The Public Prosecutors Office has been making efforts to properly implement each of the systems introduced to protect the victims during trial, such as the system of concealing the particulars of the victim, accompanying the witnesses during witness examination, making the witnesses out of sight of others, and conducting examination of witness through video-conferencing system.

(3) With regard to the investigation of sexual crimes, the Public Prosecutors Office appoints female prosecutors to conduct the questioning of victims or female public prosecutor's assistant officers to attend the questioning of victims, as needed. In addition, in order to alleviate the burden and anxiety of victims, "victim supporters" engaged in supportive activities for crime victims are allocated to each public prosecutors office, and they introduce related organs and groups that provide mental, everyday and economic support in accordance with the situation of the victim.

52. The human rights bodies of the Ministry of Justice have set on "Protect Women's Human Rights" as a priority target of their human rights awareness-raising activities and are conducting various human rights awareness-raising activities, such as holding lectures and distributing awareness-raising materials. For example, a human rights awareness video based on the theme of domestic violence is available on rent at Legal Affairs Bureaus and District Legal Affairs Bureaus, and is also available on the MOJ's official You-Tube channel.

53. Also, the human rights bodies of the Ministry of Justice established permanent and ad-hoc human rights counseling centers and provide counseling for various human rights problems affecting women. Moreover, to extend human rights counseling services to foreigners, a nation-wide "Foreign -language Human Rights Hotline" was set up in April 2017 and the number of "Human Rights Counseling Centers for Foreigners" was expanded from 10 to 50 locations. At present, the hotline extends services in 10 languages (English, Chinese, Korean, Filipino, Portuguese, Vietnamese, Nepali, Spanish, Indonesian and Thai). Furthermore, "Foreign-Language Human Rights Counseling Service on the Internet" was also launched in above 10 languages in 2021.

54. If a case of suspected human rights infringement is recognized during these sessions, it is promptly investigated and appropriate measures are taken according to the facts of the case.

55. If the Immigration Services Agency of Japan recognizes a foreign national who is a victim of domestic violence, its official carefully understands the situation of the victim, such as if the victim is forced to live separately from her/his spouse due to incidents of domestic violence, and takes appropriate measures by taking into account the individual circumstances of the victim, while giving full consideration to the victim's position. The number of foreign national victims of domestic violence recognized by the Immigration Services Agency of Japan between the years 2013 to 2020 is as follows: 78 victims in 2013, 75 victims in 2014, 95 victims in 2015, 64 victims in 2016, 94 victims in 2017, 108 victims in 2018, 82 victims in 2019 and 110 victims in 2020.

56. The Agency also conducts "Training on handling cases of domestic violence" for its officials every year, and the officials who participate in the training make efforts to pass on the training details to their subordinates.

57. When a foreign national who has married a Japanese national or a permanent resident of Japan, and has entered Japan and continues to reside with the status "Spouse or Child of Japanese National" or "Spouse or Child of Permanent Resident" wishes to continue to reside in Japan for whatever reason, even after the death or divorce from the spouse, the Immigration Services Agency of Japan determines whether or not such foreign national may continue to stay in Japan, based on a comprehensive assessment of various factors such as the reason for application by the foreign national, the status of residence of the foreign national, his/her relationship with the family and the circumstances leading to the death of or divorce from the spouse. Particularly, foreign national parents who wish to continue to stay in Japan to support their Japanese children in need of care and custody, may be permitted to change their status of residence to "Long-term Resident", if the parent-child relationship, the fact that the foreign national parent has the custody of the child and the fact that the foreign national parent is currently caring for and taking care of the child can be confirmed.

58. Paragraph 1 item 7 of Article 22-4 (Revocation of Status of Residence) of the Immigration Control and Refugee Recognition Act (hereinafter, Immigration Control Act) stipulates that, if a foreign national is residing in Japan with the status of residence of 'Spouse or Child of Japanese National' or 'Spouse or Child of Permanent Resident' and has been residing for six months or more without continuously engaging in activities as a person with the status of a spouse, except when " justifiable reasons" exist, the residential status of such foreign national may be revoked. Being a victim of domestic violence is recognized as a "justifiable reasons", and the status of residence is not revoked in cases where the foreign national has been a victim of domestic violence. Article 22-5 of the said Act stipulates that, where the residential status of foreign national is to be revoked due to the revelation of the fact set forth in paragraph 1 item 7 of Article 22-4, consideration must be given to granting an opportunity to the foreign national to file an application for a change of the status of residence or an application for permanent residence (for reference, see case in Attachment 2).

59. The Ministry of Health, Labour and Welfare of Japan works closely with relevant organizations to ensure that women victimized by domestic violence and trafficking in persons are referred to the protection and support of Women's Consulting Offices established by local governments. Every year, the National Police Agency produces leaflets in 10 languages and distributes them to the victims through the local government officials in charge of protection of women, and the local governments also distribute these to the Women's Consulting Offices.

Reply to paragraph 19 of the list of issues

60. The Government of Japan has no intention of denying or trivializing the comfort women issue. On the 70th anniversary of the end of the war, then Prime Minister Abe expressed Japan's determination, in a statement announced on August 14, 2015, that "[w]e will engrave in our hearts the past, when the dignity and honour of many women were

severely injured during wars in the 20th century" and that "Japan will lead the world in making the 21st century an era in which women's human rights are not infringed upon."

61. Since the Convention is not applied retrospectively to any issues that occurred before the date of its entry into force for Japan (29 July 1999), the Government of Japan considers that it is not appropriate to take up the comfort women issue in the implementation status report of the Convention. Having said that, the Government of Japan recalls the information that it provided (i.e., follow-up information within one year in response to the previous concluding observations of the Committee (CAT/C/JPN/CO/2/Add.1); additional information provided to the Committee after the Japan-Republic of Korea (ROK) agreement in December 2015 (CAT/C/JPN/CO/2/Add.2); and comments by the Government of Japan regarding the concluding observations on the periodic reports of the ROK by the Committee in May 2017). Referring to comfort women as "sex slaves" contradicts the facts, and therefore it should not be used. This point was confirmed with the Government of the ROK on the occasion of the Japan-ROK agreement in December 2015. In accordance with the agreement, the Government of the ROK established a foundation to carry out projects for former comfort women on July 28, 2016, and the Government of Japan contributed one billion yen to this foundation on August 31. The Japan-ROK agreement achieved by the two governments with great diplomatic efforts is not only welcomed and appreciated highly by the international community, including then Secretary-General of the United Nations Ban Ki-moon and the U.S. Government, but was also received positively by many former comfort women in the ROK. With the aforementioned in mind, replies to the list of issues are as follows.

62. First, regarding (a) and (b), the Government of Japan has sincerely dealt with issues of reparations, property, and claims pertaining to the Second World War under the San Francisco Peace Treaty, which the Government of Japan concluded with 45 countries, including the United States, the United Kingdom, and France, and through other bilateral treaties, agreements, and instruments. These issues including those of claims of individuals have already been legally settled with the parties to these treaties, agreements, and instruments. In particular, Article 2.1 of the Agreement on the Settlement of Problem Concerning Property and Claims and on the Economic Co-operation between Japan and the Republic of Korea stipulates that "[t]he Contracting Parties confirm that [the] problem concerning property, rights and interests of the two Contracting Parties and their nationals (including juridical persons), and concerning claims between the Contracting Parties and their nationals, including those provided for in Article IV, paragraph (a) of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, is settled completely and finally." "Forceful taking away" of comfort women by the Japanese military and government authorities could not be confirmed in any of the documents that the Government of Japan was able to identify through a series of investigations that the Government of Japan conducted in the early 1990s such as research and investigation on related documents owned by relevant ministries and agencies of the Government of Japan, document searches at the U.S. National Archives and Records Administration, as well as hearings of relevant individuals including former military parties and managers of comfort stations and analysis of testimonies collected by the Korean Council.

63. With regards to the war crimes committed by Japanese citizens during the Second World War, we are aware that there have been the International Military Tribunal for the Far East, held in Tokyo, and tribunals held by the Allied countries. For example, in the Dutch East Indies, some former military officials coerced foreign women into prostitution. In this case, after the (former Japanese) military found out about the situation, the military shut down the comfort station, and the officials involved in the case were tried in a BC-level court martial after the war. Of the 12 defendants, one was sentenced to death, and 8 were sentenced to imprisonment.

64. That said, it is extremely difficult for the Government of Japan to investigate the facts of individual cases retrospectively.

65. Next, regarding (c), from the perspective of offering realistic relief to former comfort women, the Government of Japan has actively taken measures to recover the honor of former comfort women and to provide assistance for them, which is stated in the follow-up information submitted within one year in response to the previous concluding observation of the Committee against Torture, additional information provided to the Committee in

March 2016 after the Japan-ROK agreement in December 2015, and as stated in the comments regarding the concluding observations on the periodic reports of the ROK by the Committee in May 2017. The "Asian Women's Fund (AWF)" was formed cooperatively by the Government and the people of Japan with the sincere desire to convey their goodwill and to reach out to assist former comfort women to the greatest extent possible, and as a result, our feelings were transmitted to many of them. The dedicated efforts by the AWF should not be lost in the annals of history.

66. In addition, regarding the Japan-ROK agreement in December 2015, as mentioned above, on July 28, 2016, the government of the ROK established "the Reconciliation and Healing Foundation" to carry out projects for former comfort women, and on August 31, the Government of Japan contributed 1 billion yen to this foundation. The foundation has implemented projects to restore the honor and dignity of former comfort women, and to heal their emotional scars. Funding has been provided to 35 out of 47 former comfort women who were alive at the time of the agreement, as well as to the bereaved families of 65 out of 199 deceased, which was widely acclaimed by the former comfort women. It is important for the ROK to implement the Japan-ROK agreement, which is an official agreement between the two governments, and has been appreciated by the international community.

67. Regarding (d), under Japan's examination system for school textbooks, specific description in the textbooks, such as which item and how to include it, is left to the discretion of the publishers, provided that they are in line with the national curriculum standards and there are no factual errors.

Reply to paragraph 21 of the list of issues

68. Measures taken to counter human trafficking:

On June 15, 2017, the domestic law necessary to conclude the United Nations Convention against Transnational Organized Crime (Palermo Convention) was enacted. On July 11, the same year, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime was concluded, along with the Convention.

69. Status of arrest:

- As per the police, the number of cases and persons arrested for human trafficking crimes are as shown in Attachment 3 (1).

70. Number of prosecutions:

- As per the Public Prosecutors Office, the number of persons prosecuted for human trafficking crimes are as shown in Attachment 3 (1).

71. Number of persons identified as victims of human trafficking:

- 2010: 37 persons, 2011: 25 persons, 2012: 27 persons, 2013: 17 persons, 2014: 25 persons, 2015: 54 persons, 2016: 50 persons, 2017: 46 persons, 2018: 27 persons, 2019: 47 persons.

72. At the Women's Consulting Office, the Ministry of Health, Labor and Welfare protect victims of human trafficking irrespective of their nationality or age, and provide psychological care and medical services according to the needs.

73. In 2016, all of the 18 victims who were protected at the Women's Consulting Office needed medical support, and 3 of them needed psychological care, in 2017, 15 out of 16 victims needed medical support, and 2 of them needed psychological care, in 2018, 9 out of 10 victims needed medical support, with 2 of them needing psychological care, in 2019, all 9 victims needed medical support, with as many as 6 needing psychological care, thus medical and psychological care were being provided as and when needed.

74. As per the Immigration Services Agency of Japan, victims who fall under the definition of human trafficking, etc. as specified in Immigration Control and Refugee Recognition Act, Article 2, Item 7, (see Attachment 3 (2) for details) which covers the

definition of human trafficking in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Unite Nations Convention against Transnational Organized Crime, are identified as victims of human trafficking.

75. In addition, the Immigration Services Agency, with the cooperation of related ministries, IOM (International Organization for Migration), NGOs, and other external lecturers, conducts every year for mid-level officials who directly handle human trafficking cases, specialized training related to human trafficking measures and issues of human rights. Those officials who have taken such trainings are expected to provide feedback training to other officials. The Immigration Services Agency also conducts training in accordance with the length of employment, and lectures on issues of human rights are given to raise knowledge and awareness about human trafficking measures.

76. Lectures on human trafficking, etc. are given to prosecutors such as newly appointed prosecutors or those who have been prosecutors for about three years through training provided in accordance to their number of years of experience.

77. In the Ministry of Health, Labor and Welfare, the Director of National Women's Consulting Office as well as the Chief of Women's Protection hold a research council every year, and invite lecturers from the IOM (International Organization for Migration) to provide training on support for human trafficking victims.

78. The Japan Coast Guard provides lectures on the actual situation of human trafficking crimes and the importance of protecting victims, etc. in the training for working-level staff, so that they can recognize human trafficking offenses in the process of crackdown.

79. The police provide education on measures against human trafficking to newly hired police personnel as well as promoted police personnel, at police schools for each level.

80. In order to elevate the specialist skills of the police personnel, the National Police Agency has designated two people as national experts for human trafficking and provide lectures and such by the said experts, taking every opportunity in imparting various training.

81. In addition, the National Police Agency make efforts by preparing a leaflet in several languages every year which call for victims to report to the police, and putting the leaflets in places where they are easily seen by the victims. The agency also provide trainings of national executives who are in charge of enforcing laws on amusement and its related business, etc., on measures against human trafficking., on measures against human trafficking.

82. Every year, the Ministry of Foreign Affairs, while training the newly appointed consular officers, gives lectures with measures to prevent human trafficking, including the role of visa as border control measures, and to be considerate when interviewing former victims. Similar lectures were given to security officers at diplomatic establishments. The number of participants in each training is as follows.

Year / *Classification*	*2016*	*2017*	*2018*	*2019*
Training of newly appointed consular officers	52 persons	60 persons	66 persons	89 persons
Training of security officers	81 persons	79 persons	84 persons	65 persons

83. From the perspective of prevention of human trafficking, lectures are also given to consular staff before and during their assignment to the diplomatic mission abroad, including those trainees mentioned above, regarding cooperation with related organizations in their host countries of assignment.

84. The Public Prosecutors Office is working to impose strict punishment by precisely establishing proof of the characteristics and maliciousness of human trafficking crimes based on the law and evidence.

85. The list of crime charges of human trafficking prosecuted in 2020 and the results of the trial are as shown in Attachment 3 (3) (as of March 31, 2021).

Reply to paragraph 9 of the list of issues
Article 3

86. Regarding the application for recognition of refugee status and lodging an appeal in writing, we have prepared translated versions in more than 21 languages for acceptance, and moreover, even if they are written in a foreign language, we accept the same without insisting on attaching a Japanese translation. In addition, A Guide to the Procedure for Recognition of Refugee Status translated into 13 languages is posted on the website. In addition, applications by proxy shall be accepted for persons under the age of 16 or those who cannot appear on their own due to illness or other reasons, at the time of the interview, the presence of doctors, counselors, lawyers, etc., shall be allowed, and the applications shall be processed properly by giving appropriate consideration according to the situation of the applicant with regards to the procedure for recognition of refugee status for children unaccompanied by parents, persons with severe physical disabilities, and persons with mental disabilities.

87. In order to hear the content of the claim accurately, inquiry into facts by refugee inquirers are conducted through an interpreter as well as oral statement of opinion for lodging an appeal, when the applicant wishes to have an interpreter.

88. On issuance of a notice of refusal of refugee status and its reasons/decision regarding the appeal, the procedure shall be instructed when the applicant is dissatisfied with the disposition in addition to explaining the contents of all cases through an interpreter, if the applicant wishes to have an interpreter and consideration shall be given to the right to a trial.

89. In the procedure for lodging an appeal regarding refusal of refugee status, to provide appropriate asylum for refugees through fairer and more neutral procedures, a refugee examination counselor system has been established since May 2005.

90. Under this system, the Minister of Justice must hear the opinions of refugee examination counselors in all cases when making a decision on request for administrative review of the disposition of refusal of refugee status. Refugee examination counselors are experts in a neutral position from a wide range of fields, including those recommended by the Japan Federation of Bar Associations, UNHCR (United Nations High Commissioner for Refugees), and those who have been recommended by NGOs with abundant experience in refugee support, are appointed. The matter shall be investigated as a fair and neutral third party, and as the Minister of Justice draws conclusions after respecting the opinions of refugee examination counselors, the fairness, neutrality and transparency of the procedure for lodging an appeal are sufficiently ensured.

91. To ensure that Article 53, Paragraph 3 of the Immigration Control and Refugee Recognition Act, which stipulates the principle of non-refoulement, is effectively implemented, when investigating a suspect for deportation, the customs, practices and language, etc. of that person should be considered. For those who do not fully understand Japanese, investigations into violations shall be conducted by communicating with each other through an interpreter in a foreign language that the person can understand.

92. In addition, whether or not the country to which the person is deported falls under the countries listed in each item of Article 53, Paragraph 3 of the Immigration Control and Refugee Recognition Act (see Attachment 4) is determined at each stage of the deportation procedure, namely, in a violation investigation by an immigration control officer, an examination by an immigration officer, or an oral inquiry by a special inquiry officer, and the chief immigration officer, who is a senior immigration officer, finally issues a written deportation order after collecting information on the domestic situation of the deportation destination as and when necessary, and accordingly makes an appropriate decision.

93. Article 52, Paragraph 3 of the Immigration Control and Refuge Recognition Act stipulates that a person for whom a deportation order has been issued must be repatriated promptly. For those who have been issued deportation orders, it has been given in writing that, pursuant to the provisions of Article 46 of the Administrative Case Litigation Act, they can file a revocation suit against the disposition. For all refugee disqualified persons, including those for whom a deportation order has been issued, it has been given in writing that, according to the provisions of Article 82 of the Administrative Complaint Review Act,

they can file a request for examination within 7 days from the date of receiving the notification of disapproval, and secure opportunities for judicial review and appeal. In addition, those who do not indicate their intention to request an administrative review will not be repatriated within the same period.

94. Also, in September 2010, the Immigration Bureau of the Ministry of Justice (at that time) and the Japan Federation of Bar Association agreed to have a place to discuss various issues related to detention in immigration control administration. The bar association also agreed to provide legal advice free of charge to detainees detained in immigration detention center. Based on this agreement, the bar association has begun free legal advice, working to make it easier for detainees to access lawyers and legal assistance.

95. The number of applicants for recognition of refugee status and the number of minors among applicants for recognition of refugee status are as shown in Attachment 5 (1).

96. As a result of procedure for recognition of refugee status, 54 people have been granted residence in Japan, as those who have been recognized as refugees and those who have not been recognized but granted residence due to humanitarian considerations based on the situation in home countries.

97. No statistics have been prepared for those cases where the applications were recognized, because these persons would have been tortured or at risk of torture.

98. After the deportation procedure is conducted by the investigation into violation by an immigration control officer, the examination by an immigration inspector, the hearing by a special inquiry officer and the decision by the Minister of Justice for an objection filed by a foreign national, and as a result if a written deportation order is issued, the foreign national shall be deported. In the above procedure, if the foreign national has an objection to finding, as a result of the hearing by the special inquiry officer, the objection can be filed with the Minister of Justice, and the number and results of the objections filed are as shown in Attachment 5 (2).

99. There is no statistics on the average processing time for deportation procedures.

100. Between 2014–2019, for statistics on deported individuals by various deportation methods and as per deportation procedures, is as shown in 5 (3) a of the attached document.

101. Looking at the deportees in 2019 by various methods of deportation, “deportation at their own expense” was the most common, accounting for about 93% of the total, and it is recognized that the deportees voluntarily left the country. When it comes to deportation at national expense, most of the cases were such that the deportees could not afford to pay the return fee and it was not the case of deportees refusing to repatriate.

102. The reason for deportation is comprehensively listed in Article 24 of the Immigration Control and Refugee Recognition Act. Statistics on the number of persons deported by deportation cause-wise is shown in Attachment 5 (3) b, and Article 24 of the Immigration Control and Refugee Recognition Act is as in Attachment 5 (3) C.

103. Looking at the number of persons deported in 2019 by grounds for deportation, illegal stay was the most common, accounting for about 80% of the total.

104. In Japan, the country of repatriation is determined based on the provisions of Article 53 of the Immigration Control and Refugee Recognition Act, and in the past, if the deportee is at risk of being tortured in a country of nationality or citizenship, he/she has not been repatriated to that country.

105. Furthermore, due to the revision of the Immigration Control and Refugee Recognition Act in 2009, in Article 53, Paragraph 3, Item 2 of the Immigration Control and Refugee Recognition Act, when deporting a person it shall be clarified that the deportation destination is not part of “another State where there are substantial grounds for believing that he would be in danger of being subjected to torture” as stipulated in Article 3.1 of the United Nations Convention Against Torture, and we shall strive for proper operation in accordance with the non-refoulement principle.

106. In the past, there has been no example of deportation of any person being carried out by the Government of Japan, after diplomatically assured that the said person will not be tortured by the government of the deportee's nationality.

Articles 5 and 7

107. In Japan, there have been no case of initiating prosecution proceedings of those suspected of having committed torture as a result of refusing the extradition request from another country.

Reply to paragraph 17 of the list of issues
Article 10

108. At the Legal Training and Research Institute, which is in charge of training judges every year, including at the time of appointment, makes sure that they give various training to judges in new duties or posts, regarding the application of various international laws and regulations, including the International Bill of Human Rights. They invite as lecturers, graduate school professors who specialize in international human rights issues and staff of institutions involved in human rights protection.

109. Among the various trainings conducted according to the number of years of experience, such as training for newly appointed prosecutors and for prosecutors about three years after the appointment, lectures are held based on these characteristics, such as "international human rights treaties and international cooperation on criminals", "concerns and prosecution practices regarding children and women, and human trafficking."

110. Regarding education and training for correctional institution officials, as described in the last periodic report 12 (a), in addition to systematic and intensive collective training based on the annual plan conducted at the Training Institute for Correctional Personnel and its branches, various types of practical training are also conducted at each correctional institution according to the actual situation of each institution.

111. In these training courses, a large number of subjects related to human rights, ethics, and public services are incorporated for respecting human rights and preventing improper treatment of inmates, and lectures and practical training on related domestic regulations, international treaties and guidelines, etc. are conducted. For example, introducing advanced private programs, such as incorporating behavioral science techniques into human rights training, distributing human rights training materials created by training institutes for correctional institution officials to each agency, and inviting external lecturers who are familiar with human rights issues are undertaken. Efforts are being made to enhance the research effect of teaching methods, training materials, and instructors.

112. In the training for the staff of the Immigration Services Agency, in accordance with the length of employment, lectures by external lecturers are given to acquire specialized knowledge regarding the Convention against Torture and the regulations concerning women's rights. In addition, the officials attended one of such trainings have made their contents well known amongst the on-site staff members.

113. The police provide education to newly hired police personnel and promoted police personnel on respecting human rights, which include summaries of various human rights treaties such as the Convention against Torture, during classes of law such as the Constitution and the Code of Criminal Procedure, and ethical principles for the workplace at the police academy. In addition, for police personnel who are dedicated to criminal investigation, detention service, victim support, etc., the police provide specialized education to acquire the required knowledge and skills for properly executing their respective duties in consideration of the human rights of suspects, detainees, victims, etc.

114. The Legal Training and Research Institute, which is in charge of training judges, reviews the training curriculum every year based on the results of questionnaires for participants. Through referencing activities at academic societies and the content of the work,

experts who have a deep knowledge of the field and reasonable name recognition are selected each time as instructors.

115. After the training of prosecutors is completed, each trainee is given a questionnaire about the training, to measure its effectiveness.

116. As the answers were also given in Q13 and Q15, the Inspection and Supervision Division of the Supreme Public Prosecutors Office focuses on illegal/improper acts by public prosecutors and public prosecutor's assistant officers in investigations and trials, and acts that could be suspected of being illegal or improper, as well as grasp, aggregate, analyze and examine information from inside and outside of an institution regarding general misconduct on the job, and conduct inspections when necessary to improve and provide guidance to prevent recurrence of similar cases.

117. The effectiveness of training for correctional institution officials is reviewed from time to time, by measuring the level of understanding of the trainees through examinations, questionnaires, reports, etc., depending on the content and purpose of the training.

118. After the training for the official of Immigration Services Agency, a questionnaire is given to each trainee, The Immigration Services Agency makes appropriate revisions to the content of training, using the result of questionnaire to formulate training programs for the next year.

119. The police are conducting education on various human rights issues, and its effect is measured and evaluated through examinations and questionnaire surveys, and the training content is reviewed accordingly.

120. As the medical professionals working in correctional institutions are not stationed there for investigation purposes, no training is conducted for them under the Istanbul Protocol, which is a guideline for effective investigation and document preparation for those involved in the investigation. However, for employees working in correctional institutions, including medical professionals, the content related to the code of ethics and code of conduct in the Istanbul Protocol is taught through current training. In addition, the outline of the Istanbul Protocol is well known to the employees who are not medical experts but are expected to be promoted to executives of correctional institutions, through the lectures on international treaties and guidelines in the training course.

Reply to paragraph 11 of the list of issues

121. Regarding interrogation by the police, the police are to avoid interrogation of suspects late at night or for a long time, except in cases where it may be unavoidable, and in addition, the rules clearly prescribe that the approval of the chief of a prefectural police headquarter or the chief of a police station shall be obtained in the case where the interrogation of a suspect is conducted between 10 p.m. and 5 a.m. the next day or in the case where the interrogation of a suspect is conducted more than 8 hours a day. As for the methods of interrogation, the rules clearly state that coercion, torture, intimidation or other ways which may raise a doubt about the voluntariness of statements shall not be used and that measures such as recording the interrogation in writing making the suspect to confirm its contents and obtaining his/her signature and seal. In addition, the system of supervision by bureaus other than the investigation bureau is in place.

122. The Public Prosecutors Office issued official notifications, etc. and strive for proper interrogation in accordance with these notifications in order to further ensure the appropriateness of interrogation, for example:

(1) As a further consideration in interrogation, care shall be given to sleeping and eating at the designated time slot in penal detention facilities, etc., and late-night or long duration interrogation shall be avoided; and

(2) Prosecutors shall carry out appropriate response to dissatisfaction with the interrogation and give further consideration for the interview between the suspect and the defense counsel, etc.

123. Under the legal framework of Japan, the confession of the defendant alone is considered not sufficient evidence to convict him/her. In terms of operation too, investigations aimed at proof and support based on objective evidence have been conducted for some time. In order to prevent the harmful effects of excessive reliance on interrogations and written statements, the 2016 Code of Criminal Procedure was amended. With the said code amended n 2016, when investigating a suspect in custody in a citizen judge trial case or a case investigated by prosecutor's initiative, in principle, in addition to requiring audio/video recordings of the entire process of the interrogation, when establishing the voluntariness of the statements in these cases, a system that requires prosecutors to request the examination of the recording medium in the trial was introduced. (enforced).

124. After 3 years of enforcement of this system, the government shall review for audio/video recordings of interrogations, and based on the results, where needed, necessary measures shall be taken.

125. The police has been promoting efforts to respond to new systems such as audio/video recording for interrogating a suspect and streamlined/optimized communication interception introduced by the Code of Criminal Procedure Amendment, in addition to promoting measures to improve investigative methods, from a viewpoint of striving to precisely substantiate a charge by objective evidence, including by efforts to effectively utilize DNA profiling and DNA databases for criminal investigations.

Replies to paragraph 12 of the list of issues
Articles 12 and 13

126. The systems of appeals on the detainees under the Penal Detention Facilities Act is as described in Q2 (b) (iv) in Paragraph 12.

127. As for Claims for Review and Review of Cases of these systems, if dissatisfied with a decision of the chief of police on the claim filed for review or the case reported, the detainee may file a claim for re-evaluation or appeal the case to the Prefectural Public Safety Commission. In such case, the Public Safety Commission may, if necessary for conducting an inquiry, order the detention services manager to make reports or submit materials, or have a designated staff member ask questions to the claimant or other persons concerned.

128. The Prefectural Public Safety Commission is appointed by the prefectural governor with the consent of the prefectural assembly among persons who have the eligibility to be elected as a member of the said prefectural assembly, and who do not have previous experience as professional public employee to perform the duties of the police or the public prosecutors in the 5 years prior to the appointment. Therefore, the reviews of appeals filed with the Prefectural Public Safety Commission are, naturally, conducted from a third-party standpoint, in an objective and fair manner. Under the Penal Detention Facilities Act, a detention services manager is obliged to take necessary measures so that the content of an appeal can be kept secret from personnel engaged in the detention service and the said personnel is also prohibited from subjecting the person who filed an appeal to disadvantageous treatment for having made such appeal.

129. In addition, the police have established, in accordance with the rule of the National Public Safety Commission, a system for supervising the interrogation of suspects by bureaus other than the investigation bureau.

130. Under the supervisory system, when the Prefectural Public Safety Commission receives a complaint regarding the interrogation of a suspect, etc., and based on the said complaint, if there is sufficient reason to believe that an inappropriate act related to the interrogation of the suspect has been performed, a police officer who works for the section in charge of the supervisory system, nominated by the chief of police, shall conduct the investigation. The police officer in charge of the inspection can, when deemed necessary for performing the inspection, request the chief of police station or relevant officers in charge of directing the interrogation of the suspect under the inspection, to submit an explanation or materials, or have the police officer or relevant police officers in charge of the concerned interrogation of the suspect appear at the designated date, time and place to provide an

account. After the inspection is over, the police officer in charge of the inspection shall promptly report to the chief of police, and shall notify the relevant bureaus, when deemed necessary.

131. The chief of police reports to the Prefectural Public Safety Commission at least once a year, on the implementation status of supervision of the interrogation of the suspects. Detainees or interrogated suspects whose rights have been violated illegally, of course, may file a case in the court.

132. Under the Penal Detention Facilities Act, those who are incarcerated in the penal institutions, may file a claim for review, report the case and file a complaint with regard to treatment in penal institutions (including those related to torture and inhumane treatment by civil servants). Since this system aims to aid the rights and interests of inmates through simple and quick procedures, with the purpose of ensuring proper operation of the administration, the appeals shall be processed quickly by providing a measure including the targeted time of the process.

133. With regard to the filing a request for re-evaluation and reporting a case to the Minister of Justice, where the Minister of Justice intends to dismiss the claim filed by the claimant, which is groundless and intends to notify that the reported case has not been recognized, the Minister shall consult with the Study Group on Review of Appeals Filed by Inmates of Penal Institutions which is composed of external experts, including jurists, attorneys, and medical professionals. Thereby, fair and impartiality of dispositions is secured.

134. Also, to ensure that inmates can fully exercise their right to appeal, if an inmate in a correctional institution claims to have been tortured etc., an appeal can be filed with an investigative agency. In addition to requesting a prompt and impartial investigation, a civil and administrative lawsuit can also be filed. Regarding actions taken by the warden of the penal institution against oneself, or any other treatments received by oneself, though taking assistance from an attorney is not prohibited. Unless there are special circumstances that should be acknowledged as having the potential to impair the discipline and order of the penal institutions (for inmates awaiting judgment, unless there are special circumstances that shall be acknowledged as having the potential to result in the destruction of evidence.), while communicating with people outside the penal institution such as an attorney who acts as an agent, audio/video recording by a designated staff member or the attendance of the visit, are prohibited. Also, inspections of letters sent and received are limited to making sure that they are to or from an attorney.

135. Regarding measures to protect the complainant from being subjected to retaliation for lodging an appeal, Article 170 of the Penal Detention Facilities Act clearly stipulates that retaliatory measures are prohibited. Penal institution officials must not treat inmates in a detrimental manner on the grounds that the inmate has filed an appeal (Claims for reviews, Reporting of a Case Facts or Filing of Complaints).

136. The status of appeals lodged by the inmates in the penal institution is shown in Attachment 6 (1). The number of appeals is not limited to those related to torture etc.

137. The status of relief petitions lodged by the inmates in the penal institution facility is shown in Attachment 6 (2). The appeals are not limited to torture, but include dissatisfaction with all treatments, such as grievances that include demands, opinions, and impressions.

Reply to paragraph 24 of the list of issues

138. The number of indictments for assault and cruelty (including fatal injuries) by specialized public employees in 2013 was 0, 1 in 2014, 0 in 2015 and 2016, 1 in 2017, 0 in 2018, 4 in 2019, and 2 in 2020.

139. The Inspection and Supervision Division of the Supreme Public Prosecutors Office focuses on illegal/improper acts by public prosecutors and public prosecutor’s assistant officers in investigations and trials, and acts that could be suspected of being illegal or improper, as well as grasp, aggregate, analyze and examine information from inside and

outside of an institution regarding general misconduct on the job, and conduct inspections when necessary to improve and provide guidance to prevent recurrence of similar cases.

140. The status of appeals lodged by the detainees in the police detention facilities is as shown in Attachment 7 (1). The numbers of each appeal are those reported from the prefectural police to the National Police Agency, based on the Penal Detention Facilities Act, and are not limited to the appeals for torture and inhumane treatment.

141. The status of the system to lodge an appeal and the relief neutrality system by the detainees in the penal detention facility is as per the reply to Q12.

142. The police collect statistical data on the disciplinary actions taken, for the police personnel's job-related as well as personal conducts in violation of rules and regulations, categorized by the grounds for disposition. However, no such data disaggregated by crime, ethnicity, age or gender is available.

143. The status of the filing of claim and appeals by detainees of the immigration detention facilities in relation to the measures taken by immigration control officers concerning their treatment is as shown in Attachment 7 (2).

144. The number of appeals lodged is based on the detainee treatment rules, which is an ordinance of the Ministry of Justice, as well as the filing of objections, and are not limited to torture and inhumane treatment. No statistics based on crime, ethnicity, age or gender is available, and no data can be provided regarding disciplinary sanctions taken.

Reply to paragraphs 18 and 19 of the list of issues
Article 14

145. With regards to the question in Para 18 of the previous concluding observation, as to whether there were cases when the court has recognized that a person has been tortured, which falls under the Convention against Torture, and if yes, whether the government has been ordered to provide relief measures, there were no such cases between 2014 to 2019.

146. If the question is intended to include victims of improper handling, the reply is as follows. The number of lawsuits filed by the detainees in the penal detention facility between 2014 and 2019 are as per the replies to Q12 and Q13, and the number of civil lawsuits seeking reparation of damages and the number of judgments ordering the government to pay damages are shown in Attachment 8.

147. Between 2014 and 2019, the number of lawsuits filed claiming damages due to improper treatment at the Immigration Bureau of Japan detention facility has been 16. Of these, 3 cases were won by the national government and confirmed, 1 case was settled with the plaintiff, 4 cases were withdrawn by the plaintiff, and the remaining 8 cases are currently (as of the end of December 2019) on trial. Therefore, there were no cases that the court ordered the government to pay damages.

148. As for Para 19 of the previous concluding observation, it is as answered in Q5.

149. At correctional institutions, all measures are taken to prevent inappropriate conduct such as torture. In case of suspicion of conducting torture, psychological experts, etc. shall provide mental support such as understanding the mental state of the subject and providing psychological counseling, depending on individual needs.

150. In processing review of appeals stipulated by the Penal Detention Facilities Act, not only when the disposal of such appeals is found illegal, but also when unfair means are found, proper measures, such as canceling or changing the disposition, shall be undertaken. In addition, when it is deemed necessary, essential measures are taken to prevent recurrence.

151. The police have established a counseling system for crime victims, etc. Counseling shall be provided after judging the status of crime victims, etc. and the impact on their mental status.

152. As for Para 19 of the previous concluding observation, it is as answered in Q5.

153. If a private person commits an act of torture or improper treatment, the victim may claim compensation for damages from the private person pursuant to the provisions of Article 709 of the Civil Code.

154. When a public employee who exercises the public authority of the country or of a public entity, commits an act of torture or improper treatment in the course of their duties, the victim may claim compensation for damages from the country or the public entity, pursuant to the provisions of Article 1 of the State Redress Act. In addition, when a public employee cannot prevent the act of torture or improper treatment because of his violation of duty, if there is a nexus between the consequences of a private act and the breach of a civil servant's duty, based on the provisions of Article 1 of the State Redress Act, damages may be claimed by the victim against the country or public entity.

155. According to the provisions of Article 3, Paragraph 2 of the Civil Code, foreigners shall enjoy their private rights, except when prohibited by law or treaty regulations. If a private person commits torture or metes out improper treatment, the victim, who is a foreigner, may claim compensation for damages from the private person in accordance with the provisions of Article 709 of the Civil Code.

156. On the other hand, if the person who committed the act of torture or metes out improper treatment is a public employee, Article 6 of the State Redress Act states, "In cases where the victim is a foreign national, this Act applies only when a mutual guarantee exists." The above-mentioned State Redress Act shall be applied only when the legal system of the foreigner's home country has a mutual guarantee system regarding national compensation, or when the foreigner's country makes state compensation to its foreigners to the same extent as Japan. In such cases, the foreigner may claim damages from the state or public entity.

157. For the Penal Detention Facilities Act, it is as answered in Q14 (b).

158. The counseling described in Q14 (b) is provided, as needed, to victims of crime and their families who have expressed their wishes to receive counseling supports from the police, and thus the victims of torture and their families too are covered. There is no bearing for nationality of the victim, etc. on the counseling measures.

159. If state redress and relevant compensation are not approved, there is a possibility of benefits to crime victims, etc. being paid to them. To receive the benefits to crime victims, etc., the crime victim or bereaved families shall file an application with the Prefectural Public Safety Commission which has jurisdiction over the place of domicile of them, and receive a payment ruling. There is no bearing for nationality to file an application for the benefits to crime victims, etc., but it is necessary to have an address in Japan at the time of the criminal act that caused the damage is committed.

160. For Para 19 of the previous concluding observation, it is as answered in Q5.

Reply to paragraph 11 of the list of issues
Article 15

161. In Japan, as per Article 76, Paragraph 3 of the Constitution, judges are bound only by the Constitution and the law, and are therefore bound by Article 38, Paragraph 2 of the Constitution and Article 319, Paragraph 1 of the Code of Criminal Procedure.

162. Any confession obtained through illegal interrogation is excluded from the evidence, and such illegal evidence is also stringently scrutinized in appeal trials in the high court and the Supreme Court. In Japan, due process is ensured by such a multiple judicial check system.

163. Though provisional numbers, please find attached the data on the number of confessions that were not recognized as evidence under Article 319, Paragraph 1 of the Code of Criminal Procedure, among the cases in which the sentence of the first hearing was given between 2017 and 2019.

164. In addition, as per the reply to Q2 (c) 1, the Public Prosecutors Office has been audio/video recording a wide range of cases when interrogating the suspects who were in custody. In July 2011, the Supreme Public Prosecutors Office established the Inspection and

Supervision Division, to incorporate an inspection system in order to investigate and take appropriate measures towards illegal/improper acts in investigations and trials, and acts that could be suspected of being illegal or improper. They are making various efforts to ensure the appropriateness of interrogation and are taking action to prevent improper interrogations including those involving coercion or torture.

165. As per the previous concluding observation, the number of indictments for acts of assault and cruelty (including fatal injuries) by specialized public employees was 0 in 2013, 1 in 2014, 0 in 2015 and 2016, 1 in 2017, 0 in 2018, 4 in 2019 and 2 in 2020. The number of indictments for abuse of the authority of specialized public employees (including fatal injuries) has been throughout the same period.

166. Since the establishment of the Inspection and Supervision Division in July 2011, during the ten years and two months till September 2021, there were 1527 cases of "dissatisfaction with interrogations, etc." that were reported to the said Division.

Reply to paragraph 13 of the list of issues
Article 16

167. Maintaining the health of inmates and treating illnesses is an important responsibility of the detaining country and the Penal Detention Facilities Act stipulates that appropriate measures shall be taken to maintain the health of inmates and the hygiene of the institutions, in light of public standards of hygiene and medical care.

168. Medical staff, including doctors, are assigned to the penal institution and provide timely and appropriate support, such as conducting regular medical examinations at the time of admission as well as providing medical care promptly when an inmate is injured or has an illness.

169. In principle, medical treatment of inmates is provided by a staff doctor of each penal institution. However, patients requiring exclusive care that is not covered by the medical system of respective penal institution are examined by a doctor who is not the staff of the penal institution. If necessary, they are transferred to a medical prison or are examined and hospitalized at an external medical institution. Medical treatment and health management for inmates are being conducted appropriately.

170. In order to improve the overcrowding situation of women's prisons, from 2014 to 2017, the capacity for female inmates was increased by 336, by diverting men's prisons to women's prisons. Currently, no institutions are overcrowded, and the imprisonment rate is generally appropriate.

171. The use of restraining devices such as class 2 handcuffs, which are made of two bracelets joined by a connecting plate and covered by fabric on the surface, and body restraint suits are stipulated in Article 30 of the "Instructions on the Execution of Duties by Prison Officers" and in Article 78 of the Act on Penal Detention Facilities respectively. The training and induction for staff regarding these usage requirements are thoroughly enforced so that they are not used for punishment.

172. In addition, when body restraint suits and class 2 handcuffs are used on inmates, their use is strictly monitored by recording and verifying them with portable video cameras.

Reply to paragraph 14 of the list of issues

173. Under the Penal Detention Facilities Act and other relevant laws and regulations, life in a penal institution is mainly based on collective living working in a factory. However, some inmates are given correctional treatment in single cells because among the prisoners, they find communal life difficult due to mental and physical problems, some themselves refuse to work in a factory because they avoid collective living, some repeatedly cause trouble with their surroundings when they enter a group, and others have difficulty adapting to group treatment.

174. With regard to these prisoners, depending on the disposition and behavior of each prisoner, the physical facilities of each institution, and the staffing situation, the staff actively encourages the implementation of group treatment, such as through individual interviews, group counseling, and opportunities for group exercise, in order to stimulate the prisoners' motivation for improvement and rehabilitation and to develop their ability to adapt to social life, so that they can be shifted to group treatment at an early stage.

175. The Act also provides for isolation to maintain discipline and order in penal institutions or to protect the prisoners concerned.

176. The isolation is necessary because either (i) if there is a risk of disrupting the discipline and order of the penal institution through contact with other inmates, or (ii) if there is a risk of being exposed to harm by other inmates and no other measures are available to avoid it.

177. In principle, the period of isolation is less than three months, and if there is a particular need to continue, the period may be renewed every month. Compared to the fact that the period of solitary confinement for treatment under the previous law was, in principle, limited to six months, and the period could be renewed every three months, the new law tightens the operation by increasing the frequency of determining the necessity of isolation.

178. If the isolation is no longer necessary, it must be discontinued immediately, even if it is still within the period.

179. Furthermore, if a prisoner is kept in isolation, the warden of the penal institution shall periodically, at least once every three months, obtain the opinion of a medical doctor on the staff of the penal institution regarding the health condition of that prisoner.

180. In addition to the application for Claims for Review, which is one of the appeals system stipulated by the Penal Detention Facilities Act, isolation is subject to various measures, such as on-the-spot inspection by the Ministry of Justice and the Regional Correction Headquarters, and inspection by the Penal Institution Visiting Committee consisting of external members such as lawyers and doctors, etc., in order to ensure the proper operation of such system.

181. It is, legally, unavoidable to continue the treatment for living single day and night as long as there is a need, and it is not appropriate to set a limit on the period. Nevertheless, the long-term treatment or isolation in a single cell day and night may adversely affect inmates' minds and bodies. In addition, we fully understand that it is important to cultivate sociality by living with others in groups in order to reform and rehabilitate inmates, and we will continue to strive for appropriate correctional administration.

Reply to paragraph 15 of the list of issues

182. Regarding the mandatory review system in capital cases, under Japan's criminal proceedings, appeal is widely accepted for recognition of guilt, determination of punishment, etc. under the three-tiered judicial system. And the right to appeal is also granted to defense counsels in capital cases. Therefore, even without a mandatory review system, those who wish can receive two reviews at the high court and the Supreme Court. So we believe that it is not necessary to establish a mandatory review system.

183. In our laws, although requests for retrial or pardon do not constitute grounds for suspension of execution of the sentence, when the Minister of Justice issues an order to execute the death penalty, he/she shall carefully consider whether or not there are grounds for retrial and whether or not there are circumstances in which pardon is appropriate, taking into consideration the serious results of the execution.

184. As of October 30, 2020, as far as the Ministry of Justice is aware, the number of inmates sentenced to death who have not yet been executed is as follows:

- The number of males is 104, and the number of females is 7.
- The composition by age group is as follows.
- Over 80 years old 4 inmates.

- 70 to 80 years old 27 inmates.
- 60 to 70 years old 18 inmates.
- 50 to 60 years old 33 inmates.
- 40 to 50 years old 18 inmates.
- Under 40 years old 11 inmates.
- The number of foreign nationals is six. Furthermore, the composition of different ethnic groups is unknown.
- 53 inmates who committed homicide and 58 people committed robbery murder (those who committed homicide and robbery murder are reported as those who committed robbery murder bear a higher statutory penalty.).

185. The execution of the death penalty shall be notified to the inmates sentenced to death on the day of the execution before the execution. This is because there are concerns that if the notification was made to the inmate before the day of execution, it might impair the person's mental stability, and it might also cause him/her excessive pain.

186. In addition, if the family members are given advance notice of the execution, it would cause them unnecessary mental anguish, and if the family members who received the notification were to meet with the inmate and the inmate found of the scheduled execution, the same adverse effects might be brought, therefore, the current timing of notification could be justifiable.

187. Furthermore, after the execution, the person designated (family members, lawyers, etc. may also be designated.) in advance by the inmates sentenced to death shall be notified promptly in accordance with laws and regulations.

Reply to paragraph 9 of the list of issues

188. In Japan, Article 53, Paragraph 3, Item 2 of the Immigration Control and Refugee Recognition Act clearly stipulates that, in the case of repatriation of a person subject to deportation, the repatriation destination shall not include "another State where there are substantial grounds for believing that he would be in danger of being subjected to torture" as stipulated in Article 3.1 of the Convention, and we shall strive for proper operation in accordance with the non-refoulement principle.

189. With regard to the detention and deportation of applicants for refugee status, appropriate measures are taken based on their status and in accordance with laws and ordinances. Specifically, when a foreigner without status of residence applies for refugee status, in order to stabilize his/her legal status, he/she shall be granted provisional stay except for certain cases such as when he/she applies for refugee status after 6 months of landing in Japan pursuant to Article 61-2-4 of the Immigration Control and Refugee Recognition Act. (Note: Refugee status applicants are not detained during their legally qualified stay in Japan).

190. In addition, in cases where a person falls under the grounds for exclusion from provisional permission to stay, such as applying for refugee status after a deportation order has been issued, the procedures for refugee status and deportation will proceed in parallel, but repatriation will be suspended in accordance with the provisions of Article 61-2-6 of the Immigration Control and Refugee Recognition Act.

191. As an operational measure, among the cases of applications for temporary asylum landing permits, temporary stay permits and provisional release permits related to refugee status applications that have arisen at the Narita, Haneda, Chubu and Kansai Airport Bureaus, the authorities have taken measures to grant temporary asylum landing permits, temporary stay permits or provisional release permits to foreign nationals who are eligible for such permits but whose housing is an obstacle to the granting of such permits by providing them with housing by NGOs.

192. In March 2023, a Cabinet decision was made on the Amendment Bill of the Immigration Control and Refugee Recognition Act. The bill establishes a system for

recognition of persons eligible for complementary protection as a mechanism that further provides more stable protection for those who should be protected alongside convention refugees. Moreover, for preventing long-term detention, the bill establishes alternatives to detention which enables deportation procedures without detaining those who are subject to deportation.

193. Although there are no statistics on the total number of asylum seekers detained, as of the end of December 2019, there were 1,054 people in detention, of whom 406 were in the process of refugee status determination.

194. According to the provisional release permit, there are no statistics on the number of detainees pending applications for refugee status who have been granted provisional release to leave the detention facilities, as of the end of December 2019, there were 2,217 inmates on provisional release after receiving issuance of deportation warrant, of which 1,412 were in the process of refugee status.

195. The total number of asylum seekers who have been granted provisional stay, an alternative to detention, since 2012 is shown in Appendix 9.

196. According to the Immigration Control and Refugee Recognition Act, the detention period under a detention order is within 30 days, but if the supervising immigration inspector finds unavoidable circumstances, it can be extended to 30 days. In addition, if there is little need for detention based on individual circumstances, taking into consideration whether or not there is a danger of escape, the provisional release shall be granted from the beginning of the deportation procedure. In addition, although detention under a deportation order is limited to the time when a person can be repatriated, provisional release is flexibly utilized in cases where there is no prospect of prompt repatriation, or in cases of illness or other unavoidable circumstances, regardless of the length of detention.

197. The period during which a person may be detained under a written order of detention or deportation and the use of provisional release are as described in the reply to Q19 (a). The Immigration Services Agency conducts appropriate deportation procedures in accordance with the law, and strives for prompt deportation to avoid prolonged detention, as well as appropriate treatment respecting the human rights of detainees until deportation.

198. In March 2023, a Cabinet decision was made on the Amendment Bill of the Immigration Control and Refugee Recognition Act. For preventing long-term detention, the bill establishes alternatives to detention to proceed with deportation procedures without detention. In deciding whether to grant alternatives to detention or to detain them, the likelihood of absconding and the disadvantages of detention must be individually taken into account. Furthermore, for those who are detained, the necessity for detention is reviewed every three months. With regard to detainees who apply for provisional release for health reasons, the bill stipulates that the decision shall be made after giving sufficient consideration to their health condition by hearing professional opinions of doctors.

199. Although the Immigration Detention Facilities Visiting Committee is not a body that examines complaints, its duties are to receive information from the heads of immigration detention facilities, conduct inspections, interview detainees, and express opinions to the heads of the facilities in order to contribute to the proper operation of immigration detention facilities.

200. The head of the immigration detention facility is legally required to provide the Committee with information on the operation of the facility (see note) and to cooperate as necessary with the Committee’s inspection visits and interviews with detainees. Therefore, the opportunity for the Committee to access information on the status of the operation of the facility is fully guaranteed by the provisions of the law. (Note) The information provided by the head of the immigration detention facility covers the overall operation of the facility. In addition to providing information on a regular basis, information necessary to understand the situation is provided in a timely manner when explanations are requested by the Committee.

201. In addition, the Immigration Detention Facilities Visiting Committee may, with regard to the management of the immigration detention facility, express its opinions to the head of the immigration detention facility, etc., based on the opinions and suggestions from the detainees, etc., by implementing interviews with the detainees, etc. and collecting the

written documents posted in the suggestion box without the intervention of the officials of the Immigration Services Agency. In addition, a summary list of reports on measures taken in response to each opinion of Immigration Detention Facilities Visiting Committee is published on the website of the Immigration Services Agency (https://www.moj.go.jp/isa/publications/press/01_00172.html).

Reply to paragraph 22 of the list of issues

202. For a person who has been found not guilty or not prosecuted for committing a serious harmful act while in a state of insanity or diminished capacity, the public prosecutor must file a petition with the court on whether or not the person should receive medical treatment and observation based on the “Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases Under the Condition of Insanity, etc.”. In that case, a panel of judges and mental health judges will decide whether the subject should be hospitalized or not.

203. The subject, etc., who is dissatisfied with the decision may file an appeal with the High Court, and may also file a second appeal with the Supreme Court against the decision.

204. The Psychiatric Review Board consists of designated mental health doctors, academic experts in the field of health care and well-being of persons with a mental disorder, and persons with academic experience in law (Article 12 of the Act on Mental Health and Welfare for the Mentally Disabled). The Psychiatric Review Board examines the necessity of hospitalization for all cases of involuntary hospitalization, without waiting for the patient’s request, by reviewing the regular reports of the patient’s medical condition and hospitalization records (Article 38 (3) of the law). In addition, the said third-party organization examines all requests for discharge or improved treatment options made by patients or their families (Article 38 (5) of the law).

205. The Psychiatric Review Board has the authority to seek information from hospitalized persons if needed during the review of regular medical condition reports and hospitalization records. In addition, when examining a request for discharge or a request seeking improved treatment, the board must, in principle, hear the opinions of the requesting person and the superintendent of the psychiatric hospital where the concerned patient is hospitalized. Also, the review board can have a committee member carry out a medical examination of the hospitalized person by first getting their consent. For such persons whose request has been approved as a result of the examination carried out by the Psychiatric Review Board, the prefectural governor shall take necessary measures to discharge the patient from the hospital or improve his/her treatment.

206. In this way, the Psychiatric Review Board conducts careful examinations based on the opinions of hospitalized persons and related parties.

207. Furthermore, regarding involuntary hospitalization, the Minister of Health, Labor and Welfare can be requested to carry out an administrative review based on the Administrative Complaint Review Act, and a lawsuit can be instituted based on the Administrative Case Litigation Act. The current law thus guarantees procedures that give due consideration to human rights.

208. In January 2014, we revised the operation manual of the Psychiatric Review Board to promote the institution and employment of reserve members for hearing opinions, which is a prerequisite for examinations by the panel and conducting medical examinations, and are working to strengthen the functions of the board by ensuring expertise and independence of examinations, making maximum efforts to protect the human rights of persons with mental disorders, and by reviewing the number of panels that actually conduct examinations according to the number of cases examined by the Psychiatric Review Board of each local government.

209. Article 16 of the Act on Prevention of Abuse of Persons with Disabilities and Support for Caregivers, imposes an obligation to report to the municipalities the abuse of persons with disabilities who are believed to have been abused by an employee of a welfare institution for disabled persons, and the disabled person who has been abused can also by his/her own self notify the municipalities to that effect.

210. After fact-checking, if it is confirmed that the disabled person has been abused by an employee of a welfare institution for disabled persons, the municipality that received the report notification shall then report it to the prefectures of Japan. Prefectural governments have appropriate authority under the Social Welfare Act and the Act on Providing Comprehensive Support for the Daily Life and Life in Society of Persons with Disabilities, to prevent abuse, protect and support the independence of persons with disabilities by ensuring the proper operation of welfare facilities for persons with disabilities.

211. Guidance and supervision for psychiatric hospitals is primarily carried out by each prefecture and government-designated city, and although the Ministry of Health, Labor, and Welfare has not conducted individual investigations of the cases where physical restraints led to patient injuries, national surveys have been conducted in June 2017 and November 2019 to understand the actual situation of isolation and physical restraints in psychiatric hospitals. We will consider necessary measures based on the results onward.

212. Under the Act on Mental Health and Welfare for the Mentally Disabled, a doctor who is recognized as having the necessary experience, knowledge, and skills to determine whether or not hospitalization is required and whether or not the patient has been hospitalized with his/her consent, is considered to be a designated mental health doctor by the Minister of Health, Labor and Welfare. Based on this law, physical restraint in a psychiatric hospital shall be carried out only if it is thought to be necessary for the medical treatment and protection of the patient as per the medical examination carried out by the designated mental health doctor unless it is within the minimum necessary range. In addition, when suicide attempts or self-harm are extremely imminent, when hyperactivity or restlessness is prominent, or when there are other mental illnesses which if left untreated might be life-threatening to the patient, physical restraint shall be enforced as an unavoidable measure until an alternative method is found. Also, as a general rule when using physical restraint, regular clinical observation must be performed to ensure appropriate medical treatment and safeguards, and the doctor must carry out frequent medical examinations so as to prevent the physical restraint from being used indiscriminately.

213. Also, in each prefecture/government-designated city, on-the-job guidance is given in principle to psychiatric hospitals within the jurisdiction once a year, and the use of physical restraints on hospitalized patients is included in the guidance terms. Furthermore, if the treatment of hospitalized persons is found to be treated inappropriately, the on-the-job guidance of local governments requires that based on Article 38 (7) of the Act on Mental Health and Welfare for the Mentally Disabled, necessary measures be taken such as giving order to the superintendent of the psychiatric hospital to improve the treatment.

214. Furthermore, Article 38 (5) of the same law requires that, if a person who is hospitalized in a psychiatric hospital or his/her guardian requests discharge or seeks necessary measures for improving treatment, the prefectural governor must request the Psychiatric Review Board to carry out an examination, and based on the results of this examination, if the patient’s request is approved, the prefectural governor must then take measures to discharge the patient or offer him/her improved treatment options.

215. Thus, the current law provides a mechanism for identifying inappropriate physical restraints and correcting them.

216. Mental disorder is a familiar illness to all, and as such, it is necessary to promote building community where everyone can line their own life with peace of mind regardless of the presence and extent of mental illness. Also, there is a limit to the efforts of psychiatric hospitals and community support providers in promoting the transition of long-term hospitalized people with mental disorder. In addition to promoting integrated efforts for community mental health care and well-being centered on local governments, it is necessary to build an inclusive society where everyone can coexist without discrimination or prejudice, with the cooperation of local residents.

217. For this reason, we are building the community-based integrated care system focusing on mental health care so that people with mental disorder can live their own lives with peace of mind as part of the community.

218. Specifically, the "5th Disability Welfare Plan (FY2018-FY2020)" implemented by prefectures and municipalities, defines the amount of infrastructure development that promotes community transition during the implementation period of the plan with the goal of increasing the early discharge rate in case of mental illness. Furthermore, the "6th Disability Welfare Plan (FY2021-FY2023)", in addition to the efforts so far, promotes further systematic infrastructure development, with the goal of increasing the average number of days lived by the persons with mental disorder in the region within one year after discharge from hospital.

219. Also, as part of our community transition/community settlement support venture, we have established a multidisciplinary support system (outreach team) consisting of health care staff and welfare staff, in order to establish a community life for persons with mental disorder. As a system to appropriately provide the necessary support tailored to the situation of the person, we are subsidizing the expenses of the mental health consultation and support services offered by prefectures 24 hours a day, 365 days a year. At the same time, prefectures, and cities with health care centers are committed to proactively implementing a peer support system from the perspective of enhancing support that focuses on the opinion of the person with mental disorder, and from the perspective of encouraging such persons to correctly understand their own illness and medical conditions.

220. Furthermore, prefectures, cities with public health centers, etc. take the lead in implementing the project to promote the construction of the community-based integrated care system focusing on a mental health care, which has been implemented since FY2017, through holding discussions with health/medical/welfare personnel in the group of municipalities organized to accommodate disability health and welfare, and by sharing regional issues and promote the following initiatives for a smooth community transition.

- Providing support to people with mental disorder for securing housing by constructing a system to provide information on privately rented housing so as to enable smooth move-in and a system to match them with vacant rooms.
- A comprehensive community life support program for patients hospitalized in psychiatric hospitals, for providing consultation and support for discharge from the hospital, implemented by a team consisting of doctors, nurses, and mental health welfare workers from the psychiatric hospital and community workers such as care managers and consultation managers.
- Providing assistance for families whose family member is a mentally disabled person in order for them to support the person with mental disability with peace of mind.

221. In addition, all persons with disabilities, including persons with mental disabilities can receive welfare services such as residential care or cohabitation support from the municipalities, etc. based on the Act on Providing Comprehensive Support for the Daily Life and Life in Society of Persons with Disabilities, so that they can live their daily or social life in a place that is convenient for them as much as possible. For persons with mental disabilities who have shifted from psychiatric hospitals and support facilities and are living life by themselves, we have been further enhancing their support system by establishing independent living support in FY2018 as part of a new service that supports community living by respecting the intentions of the concerned person.

Reply to paragraph 23 of the list of issues

222. In Japan, Article 3 of the Child Abuse Prevention and Treatment Act states that "No person is to abuse a child" and prohibits the abuse of children. In addition, due to the revision of the Child Welfare Act, which was enacted in June 2019 and came into effect in April 2020, Article 14, Paragraph 1 of the Child Abuse Prevention and Treatment Act stipulates that parents and legal guardians of children shall not administer corporal punishment when disciplining their children.

223. In addition, Article 11 of the School Education Act strictly prohibits the principal and teachers from administering corporal punishment to children and students, and as such the

principal and teachers shall in no event administer corporal punishment to children and students as part of academic instruction.

224. Furthermore, it is difficult to give a clear answer as it is not clear what "all forms of degrading treatment of children in all settings" indicates. However, under the Civil Code, parents and legal guardians of children have the right to provide care and education to their children and the obligation to do so (Article 820 of the Civil Code), and it is generally considered that such degrading action is not acceptable as part of care and education provided for the benefit of the child.

225. In addition, we would like to highlight that Article 16 of the Convention states that "other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

Reply to paragraph 26 of the list of issues

226. Regarding the Optional Protocol of the Convention, the government is currently examining the relationship between the provisions of the Optional Protocol and domestic law including periodic monitoring of the detention sites by contracting states to prevent the practices of torture stipulated by the Optional Protocol more effectively, and we would like to continue proceeding with our considerations on whether or not to become a party to the Optional Protocol.

227. We are aware that the communications stipulated in Article 22 of the Convention is a noteworthy system for the purpose of effectively ensuring the implementation of this Convention.

228. We are aware that while accepting communication, certain issues need to be considered, such as whether there are any problems related to Japan's judicial system and legislative policy, and the set-up for implementing this system.

229. We will continue to seriously consider whether or not to accept the procedure, while taking into account opinions from various sources.

Replies to the other issues

230. Whether to retain or abolish the death penalty is basically an issue that should be determined by each country at its discretion with careful examination from various viewpoints, such as the realization of justice in society, taking public opinion into full account.

231. The majority of citizens in Japan consider that the death penalty is unavoidable for extremely malicious and atrocious crimes (in the latest opinion poll conducted in November 2019, 80.8% said "death penalty is unavoidable.") In light of the current situation in Japan, where there is no sign of decline in atrocious crimes such as murder or robbery-murder, it is considered unavoidable to impose the death penalty on the offender who has committed an atrocious crime and bears serious criminal responsibility. Therefore, the government is of the view that it is not appropriate to abolish the death penalty.

232. As it is a critical issue constituting the backbone of Japan's criminal justice system, it is desirable to hold discussions among the general public from a wide range of perspectives. The government also notes that the crimes for which the death penalty may be imposed in Japan are limited to only extremely serious crimes such as intentional homicide.

233. For the reasons given above, the careful examination is also necessary for the accession to the Second Optional Protocol to the Covenant on Civil and Political Rights.

234. The government fully understands the principle of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. At the same time, considering that the Convention includes the guaranteeing more rights to migrant workers than those guaranteed in Japanese domestic systems to citizens and foreigners other than migrant workers, the government recognizes the need for through and careful consideration

of whether or not to conclude the Convention from the perspectives of the principle of equality and Japan's various domestic systems, among others.

235. In January 2014, Japan ratified the Convention on the Rights of Persons with Disabilities. Based on the Basic Act for Persons with Disabilities revised in 2011 to take into account the purpose of the Convention, the government is comprehensively and systematically promoting measures to support the independence and social involvement of people with disabilities, by implementing the Third Basic Programme for Persons with Disabilities (approximately five years from FY2013 to FY2017) and the Fourth Basic Programme for Persons with Disabilities (five years from FY2018 to FY2022).

236. In June 2017, the Act Partially Amending the Act on Punishment of Organized Crimes and Control of Proceeds of Crime was enacted, which is a relevant domestic law to conclude the United Nations Convention against Transnational Organized Crime, enabling international cooperation to combat and prevent organized crime including terrorism. As a result, a domestic law to criminalize agreeing with one or more other persons to commit a serious crime has been enacted, which is required to establish as criminal offences in Article 5.1 (a) (i) of the Convention.

237. By limiting the scope of this crime to "organized criminal groups", it has been clearly identified that this crime does not cover general companies, civic groups, labor unions, and other organizations that are engaged in legitimate activities. Also, the scope of punishable crimes was limited, and it was clarified that this crime does not punish the inner mind by clarifying that the act of planning a crime is not punishable, but the act of preparation and execution of crime will be subject to punishment. For this reason, the crime is not originally related to torture, and it does not unreasonably restrict human rights. Ever since the enactment of the law, no one has been convicted of the crimes enacted in this law.

238. Also, in November 2014, a Law to partially revise the Act on Punishment of Financing to Offences of Public Intimidation was enacted, which expands the scope of criminalization to include indirect support of terrorism by adding benefits other than funds such as land, buildings, goods services and other benefits to the object of sponsoring crime, in order to appropriately implement measures to prevent the provision of funds and other benefits to terrorism.

239. Furthermore, based on the Foreign Exchange and Foreign Trade Act and the Act on Special Measures Concerning International Terrorist Assets-Freezing, etc. Conducted by the Government Taking into Consideration United Nations Security Council Resolution 1267, etc., as of October 2020, international terrorists including 404 individuals and 120 organizations have been declared against whom measures such as assets freezing will be enforced.

240. The Constitution and Code of Criminal Procedure guarantees various rights to suspects and defendants, including the right to remain silent and the right to appoint a defense counsel. Furthermore, even if a person is found guilty, appeals are widely accepted under the three-tiered judicial system regarding the guilty convict and the assessment of sentence. In addition, if a person arrested or detained is acquitted of the crime, the Criminal Compensation Act states that reparations for physical restraint can be demanded from the government.

241. The police are strongly promoting counter-terrorism measures such as information gathering/analysis, border control, vigilance and security, situation response, and public and private partnership, based on the "National Police Agency Counter International Terrorism Reinforcement Guidelines" and such.

242. Regarding training to law enforcement officials, we are also working to promote a wide understanding of human rights by providing lectures that includes coursework to appropriately deal with organized crime and focus on the international human rights treaties to public prosecutors depending on their years of experience.

243. Although we do not provide training on counter-terrorism measures to correctional officers, we are conducting various forms of training considering the years of experience of the concerned officer in order to ensure the proper performance of duties. We are also working to broaden their understanding of human rights by carrying out training based on

the issue of human rights as per the international human rights treaty and various related treaties.

244. The training given to the young officials of the Immigration Services Agency includes coursework related to terrorism. In order to ensure proper performance of duties, the Immigration Services Agency tries to broaden its staff's understanding of human rights in the training which is designed according to the length of employment by delivering lecture on issues of human rights as per the international human rights treaty and other related treaties.

245. The police are conducting trainings on counter terrorism measures at each level of police schools.

246. The measures taken by Japan regarding the implementation of the Convention are listed in the reply to questions 1 to 24. In view of the importance of preventing torture, Japan has supported resolutions on the prevention of torture, which has been discussed by the United Nations Human Rights Council.