**Answer from the Government of Japan to**

**Guiding questions for the normative framework of the issues examined at the IX session of the Open-ended working group on ageing:**

**Autonomy and Independence**

**National legal framework**

1. What are the legal provisions in your country that recognizes the right to autonomy and independence? Do they have a constitutional, legislative or executive foundation?

The Act on the Prevention of Elder Abuse aims to protect the rights and interests of older persons by advancing policy measures including elder abuse prevention and support for elderly persons' caregivers. Article 1 of the Act states that it is extremely important to prevent elder abuse so as to ensure dignity of older persons.

**Normative elements**

2. What are the key normative elements of the rights to autonomy and independence? Please provide references to existing laws and standards where applicable.

According to Article 3 (1) and (2) of the Act on the Prevention of Elder Abuse, it is stipulated that the national and the local governments shall strengthen collaboration among relevant organizations, maintain specialized human resources and improve their capacity in order to prevent elder abuse, protect older persons suffering elder abuse and provide appropriate support for caregivers.

3. How should autonomy and independence be legally defined?

The responsibilities of the national government, local governments, and citizens for the prevention of elder abuse and support to caregiver, etc. are outlined in Article 3 and 4 of the Act on the Prevention of Elder Abuse.

**Implementation**

4. What are the policies and programmes adopted by your country to guarantee older person's enjoyment of their right to autonomy and independence?

The GoJ supports measures of prefectural governments to prevent elder abuse and remedy damages caused by abuse through the Project on Promoting Protection of the Rights of the Elderly.

5. What are the best practices and main challenges in adopting and implementing a normative framework to implement these rights?

Major issues facing elder abuse include exhaustion and mental stress caused by giving long-term care, and problems regarding education, knowledge and skills for long-term care. Based on these issues, local governments are implementing measures according to differing regional situations.

**Equality and non-discrimination**

6. Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to autonomy and independence, paying special attention to vulnerable groups or those in vulnerable situation?

Local governments provide consultations for protection of rights and deploy specialists such as lawyers and social workers in order to prevent and discover elder abuse early.

**Participation**

7. The design and implementation of normative and political framework related to autonomy and independence included an effective and meaningful participation of older persons?

From the viewpoint of residents’ autonomy, local governments establish measures to prevent elder abuse while appropriately reflecting opinions gathered from residents.

**Accountability**

8. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to autonomy and independence?

In cases of abuse by caregivers, Article 9 (2) of the Act on the Prevention of Elder Abuse stipulates that municipal governments shall implement measures to temporarily shelter older persons whose lives or health are likely to have been materially endangered. Further, according to Article 24 of the Act on the Prevention of Elder Abuse, local governments may exercise the authority granted by the Act on Social Welfare for the Elderly or the Long-Term Care Insurance Act such as request for reports, on-site inspections, issue recommendations, public notices and administrative orders, as befitting to the situation.

**Long-term and Palliative Care**

In addition to questions concerning long-term care system, we will also answer questions about palliative care, including cancer treatments.

**National legal framework**

1. What are the legal provisions in your country that recognizes the right to long-term and palliative care? Do they have a constitutional, legislative or executive foundation?

As for long-term care, Article 1 of the Long-term Care Insurance Act states: The purposes of this act are to improve health and medical care and to enhance the welfare of citizens. With regard to people who are under condition of need for long-term care due to disease, etc., as a result of physical or emotional changes caused by aging, and who require care such as for bathing, bodily waste elimination, meals, etc., and require the functional training, nursing, management of medical treatment, and other medical care, these purposes are to be accomplished by establishing a long-term care insurance system based on the principle of the cooperation of citizens, solidarity, and determining necessary matters concerning related insurance benefits, etc., in order to provide benefits pertaining to necessary health and medical services and public aid services so that these people are able to maintain dignity and an independent daily life routine according to each person's own level of abilities.

Palliative care is defined in Article 15 of the Cancer Control Act, and the basic principle is established in Article 2 that cancer patients should be able to live in peace maintaining their dignity.

**Normative elements**

2. What are the key normative elements of the rights to long-term and palliative care? Please provide references to existing laws and standards where applicable.

Article 2 of the Long-term Care Insurance Act stipulated key elements for long-term care such as support for independence, user-oriented and a social insurance system.

3. How should long-term and palliative care be legally defined?

Article 8 of the Long-term Care Insurance Act defines In-Home Service such as home-visit and outpatient days, and Facility Services such as intensive care homes for the elderly as long-term care.

The GoJ is not in a position to describe general conditions for normative elements of palliative care. Palliative care is defined in Article 15 of the Cancer Control Act as follows: palliative care is to conduct treatment, care and the other measures mainly to maintain and improve the quality of life by relieving physical or mental distress, or social concerns among patients who suffer from certain diseases such as cancer and the specific disease.

**Implementation**

4. What are the policies and programmes adopted by your country to guarantee older person's enjoyment of their right to long-term and palliative care?

A social insurance system and a community-based integrated care system were adopted for long-term care.

The Third Basic Plan to Promote Cancer Control Program (decided by the Cabinet in March 2018) describes policies regarding palliative care and cancer control among the elderly. Based on this plan, we conduct projects such as the establishment of a palliative care provision system, palliative care training for medical staff, dissemination and awareness raising of palliative care for citizens and cancer patients, and research to support decision-making for the elderly.

5. What are the best practices and main challenges in adopting and implementing a normative framework to implement these rights?

The GoJ looks into stabilizing a structure called the Community-based Integrated Care System, which comprehensively ensures the provision of health care, nursing care, prevention, housing, and livelihood support by 2025, when the baby boomers in Japan reaches the age of 75 and above. Through this system, the elderly will be able to live the rest of their lives in their own ways in environments familiar to them, even in a situation where they become heavily in need of long-term care.

It is reported that there are some cancer patients who suffer from physical and psychological distress, and that elderly with dementia or terminal patients need decision-making support. The GoJ is promoting establishment of a palliative care provision system, palliative care training for medical staff, dissemination and awareness raising of palliative care for citizens and cancer patients, and guidelines to support decision making for the elderly.

**Equality and non-discrimination**

6. Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to long-term and palliative care, paying special attention to those who are vulnerable or in vulnerable situation?

Insurance premiums for long-term care insurance are decided based on respective income level of care receivers. Moreover, individuals whose income is below a certain level qualify for insurance premium reductions funded by a consumption tax revenue, which is set to expand when the consumption tax rate increases.

Further, out-of-pocket payment is set at 10% in principle, and the GoJ, by setting a maximum upper-limit on out-of-pocket payment, ensures that elderly people who need long-term care services can access the services they need.

Information on palliative care is provided at cancer consultation and support centers at 437 designated cancer care hospitals across the country. These centers are open to all older persons who might need access to the information.

**Participation**

7. Does the design and implementation of normative and political framework related to long-term and palliative care include an effective and meaningful participation of older persons?

Under long-term care insurance system, each local government as an insurer implements measures according to regional situations reflecting the opinions collected from residents.

The GoJ is to hear the opinion of the Cancer Control Promotion Council when formulating the Basic Plan to Promote Cancer Control Programs. Members of the Council consist of cancer patients who are at the age of 65 or older, medical staff engaging in cancer treatments and academic experts.

**Accountability**

8. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to long-term and palliative care?

Article 183 of the Long-term Care Insurance Act stipulates that a person who is dissatisfied with the action executed concerning an Insurance Benefit (including the action pertaining to a request for issuance of a Certificate of Insured Person and action concerning a Certification of Needed Long-Term Care or Needed Support Certification) etc. may apply to a Certification Committee for Long-Term Care Insurance in each prefecture for an examination.