

JFBA/8/15

March 19, 2015

Japan Federation of Bar Associations

Report by the Japan Federation of Bar Associations on the
“Seventh and eighth periodic reports of States parties due in
2014, Japan”

Proposed questions and their background information that should be
included in the List of Issues to be Prepared by the Pre-Sessional
Working Group

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Chapter1 General Remarks (summary of past and present discrimination against women)

Section 1 Situation since the Ratification of the Convention on the Elimination of All Forms of Discrimination against Women

1. After the ratification of the Convention on the Elimination of All Forms of Discrimination against women in 1985, the idea of equal participation of men and women (although in a much narrower concept than “elimination of discrimination against women in all areas”) has been playing a certain role in policy with the adoption of the Basic Act for Gender Equality (The government uses the term ”Gender Equality” in English document in the sence of equal participation of men and women,although there is much difference between them, as described in “Basic Act for Gender Equal Society”, http://www.gender.go.jp/english_contents/about_danjo/lbp/laws/pdf/laws_01.pdf . However, we use the term ”Gender Equality” as a word which means only “equal participation of men and women” in this report hereinafter, in accordance with the government translation.) in 1999, the establishment of a Gender Equality Bureau¹ in the Cabinet Office and the formulation of Basic Plans for Gender Equal Society , among others. On the other hand, however, the policies on gender equality as well as the recent policies to “utilize” women have inherent limitations. The achievement of elimination of discrimination against women is being hampered by the worsening situation of women as a result of general neo-liberal policies, the low priority given to gender equality in the policy agendas, and the statements by government and Diet members sympathizing with deep-rooted ignorance towards elimination of discrimination against women held by some parts of the general public, as well as the government’s attitude of doing nothing about such discriminatory statements and acts. The legislation and amendments of laws given in paragraph 26 of the government Report² were accomplished, but there are many areas where the elimination of discrimination against women regressed as a result. In particular, since the amendment of the Act on Securing, etc. of Equal **Opportunity** and Treatment between Men and Women in Employment (hereinafter the Equal Employment Opportunity Act) in 1985, women were provided with employment “opportunities” but because the law itself was insufficient, and because of neo-liberal deregulation of labor laws as well as the lack of progress in gender equality in other areas, women’s employment became increasingly non-regular and unstable. The poverty of single parent families with women as the only adult, and that of elderly women are serious issues³.

¹ The Bureau was created in the Cabinet Office based on the Basic Act on Gender Equal Society.

² Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, (CEDAW/C/JPN/7-8, September 5, 2014), Para.26, <http://www.mofa.go.jp/mofaj/files/000051247.pdf>

³ As of 2011, the poverty rate of women living alone was 32% for working age women and 52% or over half for those 65 years of age or older. The poverty rate for single parent families headed by women with

Section 2 Overview of the Policies under the Abe Government established in 2012

2. The Abe government, which was established in 2012, promotes policies calling for “promotion of women’s active participation,” and there is a possibility that it may lead to some progress in participation of women, particularly in decision-making positions. However, the “women’s active participation” envisaged by the government is seen more as a means within Japan’s economic growth strategy and less as part of a human rights protection or public policy. “Women’s active participation” as a part of and implemented in a way to benefit economic growth does not lead to the protection of human rights of all women. There is concern that it would increase the burden on women and worsen their economic situation. Reports on issues of poverty of women as well as issues of minority women have been omitted from the report on the situation in the White Paper on Gender Equal Society.⁴ Mention of poverty rates were omitted from the 2014 White Paper, indicating that the issues of women’s poverty were being neglected.

Section 3 General Problems of the “Women’s Active Participation”

3. The “employment reform” that the current government is trying to push through goes against the Abe Cabinet’s policy to promote women’s active participation, and may even promote women’s “active participation in low paying, long-hour work.” The law on women’s active participation that the government is trying to promote does not integrate the elimination of the gaps in treatment between men and women with work-life-balance. For details, please refer to the section on Article 11 Elimination of Discrimination in the Area of Employment.
4. A member of the nationalistic Nippon Kaigi⁵ Diet Members group which strongly denounces the concept of “gender-free,⁶” reports that the second Abe Cabinet formed in 2014 was more conservative, and that of the 19 Cabinet members, 15 were proponents of nationalism. There is concern that this might lead to strengthening negative gender stereotypes.
5. On ideas of gender roles and division of labor (as well as awareness), the Japanese government has requested the business sector to allow easier access to child-care leave or shorter working hours for mothers until the child is 3 years old⁷. But some Ministers has insisted that the mothers should “sing lullabies to their children and should breastfeed them.” Other members of the Diet are fixated on the

children 19 years of age or younger was 57%, indicating that poverty is concentrated in families in which women are the main supporters of livelihood.

⁴ An annual report published by the Gender Equality Bureau of the Cabinet Office based on the Basic Act on Gender Equal Society. “White Paper on Gender Equal Society”, http://www.gender.go.jp/about_danjo/whitepaper/

⁵ Nippon Kaigi website, <http://www.nipponkaigi.org/about>

⁶ A Japanese term for describing the movement to eliminate negative gender stereotypes

⁷ Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.7

'3-year-old myth'. There is concern that ideas of gender roles and division of labor (as well as awareness) will be strengthened, increase the burden of care work on women, and make it difficult for women to attain economic independence.

6. Moreover, there is danger that because of the position that women's right to decide for themselves and other rights are limited by the need to maintain sexual moral order, sex education, birth control and abortion may be further restrained, and as a result, young women, women living in poverty or women subject to violence may be placed in desperate situations.
7. Also, due to strengthening of the marital relationship based on the family value in which wives are socially and economically dependent on their husbands, there is concern that the Civil Code amendment based on gender equality will not progress. For details, please refer to the section on Article 16 Elimination of Discrimination regarding Marriage and Family Matters.
8. The Japanese government is considering abolishing the spousal deduction in income tax and the Category III insurance in the pension scheme to achieve a system that is neutral in gender and forms of family. But because of a lack of awareness in gender equality, it is uncertain whether the changes will be achieved, and depending on the way the change is achieved, there is concern that it may lead to increased burden on the poor in particular.
9. Regarding the status of women in marriage, a gap in economic situation has grown among women, and there is concern that there may be a trend in which unmarried women including divorced women may find themselves in poverty, while their access to welfare may be restricted. For details, please refer to the section on Article 3 Elimination of Discrimination in Economic and Social Areas.
10. Regarding the sexual slavery by the former Japanese military, or the so-called "comfort women" of the Japanese military, the Ministry of Foreign Affairs consistently stated its position within and outside of the country that the issues is "legally resolved." The Prime Minister insists that there is no evidence of coercion and denies that the government is responsible. There have been almost no investigations, prosecutions or punishment of those responsible, and the victims have been denied justice and full recovery. There has been no progress in other ongoing issues such as disclosure of all available evidence, education to children, students and the general public including full explanation in the textbooks, public apology, and public recognition of Japan's responsibility. Rather, the situation may have regressed. Moreover, speeches denying the coercion of the "comfort women" of the Japanese military, and insulting the victims have been increasing and becoming more vicious in recent years. The government has done almost nothing to address this situation. Considerably radical, organized and incendiary speech that amount to racist hate speech, including those targeting the victims of the "comfort women" system of the Japanese military, as well as xenophobia is increasing along with this development. For more on the issue of "comfort women" of the Japanese military, please refer to the section on Article 6 Prohibition of Trafficking in Women, and on the issue of foreign women, to the section on Article 3 Ensuring the Development and Advancement of Women.

Section 4 Specific Issues on Matters Included in the General Remarks

A. Population

11. The major reason for the low birth rate is the lack of social or work environment which enables women to give birth and raise families, and that the burden on women is too great. In Japan, although the term “reproductive rights” barely appears in policy papers, it is not explicitly guaranteed in law. Under these circumstances, the Japanese government has set the goal of raising the birth rate to 1.8 to maintain a population of 100 million. Creation of jobs to enable young people to settle in regions away from the capital, child-care support for the purpose of raising the birth rate, and support for local governments for regional revitalization can be expected. On the other hand, there are concerns that it may lead to policies simply urging women to have children. For example, in 2013 the Japanese government tried to include in the government report information on the creation of “handbook on life and women (provisional title)” that was proposed by the government expert meeting. The contents of the handbook were to encourage all women to have children. Because of public opinion protesting the handbook as interference in the choice in lifestyle of individual women among others, plans to distribute these handbooks to all women were suspended.

B. Education

12. While 95% women are enrolling in senior high schools, what is important is the enrollment in higher education institutions and its contents. There is a wide gender gap in the rate of enrollment in universities and graduate schools, as well as in the areas of studies the students choose. Moreover, although the employment rate of university graduates are given in the government report⁸, many women enroll in junior colleges which are included in tertiary education institutions and it needs be noted that the employment rate of junior college graduates is lower than those of university graduates. For problems regarding education, please refer to the section on Article 10 Elimination of Discrimination in the Area of Education.

C. Employment

13. For problems regarding employment and related matters, please refer to the section on Article 11 Elimination of Discrimination in the Area of Employment.

⁸ Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.15

Chapter2 Individual Articles and Other Matters

14. The text below lists the issues according to the Articles of the Convention. Issues that involve multiple Articles are presented in one place, with references indicating the relevant sections.

Article 1 Definition of Discrimination against Women

Section 1 Definition of Discrimination against Women

A. Proposed Questions for List of Issues

Please report on what concrete steps were taken to address the Committee's request in the previous Concluding Observation, "to take urgent steps to incorporate the Convention and the definition of discrimination against women, as contained in article 1 of the Convention, fully into domestic legislation and to report on progress made in this regard in its next periodic report."⁹

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

15. There is nothing in the Report that clearly addresses the contents of the above request.

C. Current Situation and Issues

16. A concrete definition of discrimination against women as contained in Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (Hereinafter, the Convention) was not incorporated, and a narrow definition of indirect discrimination was adopted in the amendment of the Equal Employment Opportunities Act in 2006. This was "regretted" by the Committee, and led to the above-mentioned request¹⁰.
17. Regarding the request, after the amendment of the Equal Employment Opportunities Act in 2006, this Federation has pointed out in relation to indirect discrimination covered by the guidelines of the Act that indirect discrimination was not clearly defined in the Act, and therefore the remedies available for the increasingly complicated discrimination cases were insufficient¹¹. Since then, this

⁹ CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", (CEDAW/C/JPN/6, August 7, 2009), Para.22, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/JPN/CO/6&Lang=En

¹⁰ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.21, 22

¹¹ JFBA, "Update Report on Issues and Questions from the Committee on the Elimination of Discrimination against Women with regard to the Sixth Periodic Report of the Japanese Government" May 2009, Para. 22 http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/da

Federation has published its views calling for abolishing the exhaustive list of cases of indirect discrimination that is “specified by the Ministry of Health, Labor and Welfare” as stipulated in Article 7 of the Act¹².

18. However, there has been no legislation or amendment addressing the above indication and request in the previous Concluding Observation as well as the above indication and views of this Federation. Also, the contents of the current report remain almost the same as the previous report, and do not provide a straightforward answer to the issues pointed out.
19. There is no basic law prohibiting gender discrimination in the domestic laws to begin with, and even the Basic Act for Gender Equal Society lacks a definition of discrimination.

Section 1 The Status of the Convention

A. Proposed Questions for List of Issues

- A1. Please indicate the Japanese government's position whether it supports the view that treaties concluded by Japan have the effect of domestic law with legally binding force, and that the substantive provisions of the Convention that are self-executing can be applied by the courts. If the government supports these views, please identify the articles it considers are self-executing.
- A2. Please provide information on whether there are any Supreme Court judgments that recognize application of the Convention itself. Please indicate when and by what process the government plans to realize the individual communication system including the Optional Protocol of this Convention. Also, please identify concrete obstacles to and unsolved issues to be discussed on the inability in realizing the individual communication system in spite of repeated recommendations from the UN treaty bodies including the UN Committee on the Elimination of Discrimination against Women (hereinafter, the Committee), as well as when and how the problems can be solved.
- A3. Regarding a national human rights institution consistent with the Principles relating to the status of national institutions (hereinafter, Paris Principles) a draft Bill on the Establishment of a Human Rights Commission (hereinafter, Human Rights Commission bill) was submitted, but was later abandoned. Since then there has been no progress in the legislation of a law forming the basis of a national human rights institution. Please indicate whether the government has the intention to establish such an institution, and if it does, please provide information on concrete schedules for establishing the institution.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

20. On the Optional Protocol of the Convention, the Report does not recognize the necessity of the ratification and indicates a reluctant view, stating that the government “continues to seriously consider whether or not to accept the procedure, while taking into account opinions from various sources.”¹³
21. On the national human rights institution, the Report does not recognize the necessity of creating such an institution, and indicates a reluctant view, stating, “(a)ppropriate consideration as to what

¹³ Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.113

the human rights remedy system ought to be is underway, with a review of various discussions made thus far.¹⁴

22. Meanwhile, remedies for discrimination is mentioned to some extent in paragraphs 32 to 34¹⁵, but there are no references to effective means to remedies, and in particular, there is no mention of the status of the Convention in domestic laws or judicial remedies.

C. Current Situation and Issues

23. The implementation of the Convention in Japan is extremely insufficient.
- C1. In Japan, treaties that are concluded have the effect of domestic law, and substantive provisions of the Convention that are self-executing should be applicable in the courts.
24. However, in reality, there are few cases in which individual rights were recognized based on treaty provisions. In particular, the Supreme Court has never recognized a violation of the Covenant. The courts in Japan are extremely reluctant to apply treaty provisions. Also, there are few cases in which the Convention or other international human rights treaties are referred to or quoted as basis in recommendations for policies and legislation by executive organs, legislative organs or local governments.
25. Moreover, the position of the Japanese government regarding the self-executing nature of the provisions or the duty to implement them without delay remains unclear. The government's views on these points are unclear also in the government Report. Further, if it does recognize the self-executing nature of the provisions, the Japanese government's views on which provisions of the Convention are directly applicable are also not clarified.
26. A violation of a treaty is not recognized as grounds for appeal, and in many cases, the Supreme Court does not determine whether there is a violation of a treaty.
- C2. In Japan, the individual communication system including the Optional Protocol of the Convention has not been realized. The Japanese government had set up a Division for Implementation of Human Rights Treaties in 2010 within the Ministry of Foreign Affairs. The Ministry explains that this Division was established for the introduction of the individual communication system, and that the examinations necessary prior to introducing the system are completed. But 5 years have passed since then, and the individual communication system remains unrealized.
- C3. A national human rights institution consistent with the Paris Principles is also not yet established.
27. In November 2011, the Cabinet of the Democratic Party-led government that was in power at that time, decided on the Human Rights Commission bill and submitted it to the Diet. But the bill was

¹⁴ Op. cit., Government of Japan, "Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.34

¹⁵ Op. cit., Government of Japan, "Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women," Para.32-34

abandoned due the dissolution of the House of Representatives and the general election. The attitude of the present government towards a draft human rights commission bill may be discerned from the fact that the Liberal Democratic Party, which is the current ruling party has publicly committed itself not to establish a national human rights institution.

C4. A regional human rights protection system that includes Japan has also not been established.

Section 2 Minority Women

A. Proposed Questions for List of Issues

- A1. Please provide information on the situation of minority women in Japan, in particular, the results of the statistical survey on education, employment, health, social welfare, and effects of violence. If such surveys have not been conducted, please explain about concrete plans for conducting such surveys.
- A2. The Specialist Committee on Basic Issues and Gender Impact Assessment and Evaluation¹⁶ of the Japanese Government expressed its views that “when considering a policy for measures mainly for so-called minority groups, it is necessary to pay attention to a balance between men and women in selecting representatives, as well as making efforts to ensure that the parties concerned can participate in discussions at conferences and other opportunities.” Please explain how the view is actually implemented, by showing concrete numbers.
- A3. Please indicate the existence as well as the impact of concrete measures to evaluate and support political participation of minority women. If such measures are not yet taken, please clarify the concrete schedules for such measures.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)¹⁷

28. There is no mention of women of Okinawa or sexual minority women.

C. Current Situation and Issues(On women with disabilities, please refer to the section on Article 3 Ensuring the Development and Advancement of Women, Part 2 Measures for Women with Disabilities, and Part 3 Measures for Elderly Women)

C1. Regarding women who are subject to multiple discrimination for being of Republic of Korea /Korean (hereinafter, Korean) origin, of being Ainu, or of Buraku origin as well as for being a woman, understanding the situation in detail, including the situation of the women as well as the causes of the difficulties they are facing, is necessary to implement concrete measures to eliminate

¹⁶ Specialist Committee on Basic Issues and Gender Impact Assessment and Evaluation, http://www.gender.go.jp/kaigi/senmon/kansi_senmon/index.html

¹⁷ Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.103-110

discrimination and to promote their rights.

29. The Committee in its previous Concluding Observations expressed its concern that there were minority women in Japan, who suffer multiple discrimination based on gender and ethnic origin, as well as on the insufficient information and statistical data on their situation. The Committee also regretted the absence of any proactive measures, including a policy framework for each minority group, to promote the rights of minority women. To eliminate the discrimination, it recommended that Japan take effective measures, including the establishment of a policy framework and the adoption of temporary special measures, to eliminate discrimination against minority women, appoint minority women representatives to decision-making bodies, include information on the situation of minority women in Japan, especially with regard to education, employment, health, social welfare and exposure to violence, in its next periodic report, and in this context, called upon to conduct a comprehensive study on the situation of minority women, including indigenous Ainu, Buraku and Zainichi Korean and Okinawa women.¹⁸ The Japanese government has not taken any measures since then.
- C2. However, the government states that the Specialist Committee on Basic Issues and Gender Impact Assessment and Evaluation of the Japanese Government expressed its views that “when considering a policy for measures mainly for so-called minority groups, it is necessary to pay attention to a balance between men and women in selecting representatives, as well as making efforts to ensure that the parties concerned can participate in discussions at conferences and other opportunities.”¹⁹”
30. However, it is highly questionable whether such attention has been paid. For example, of the 14 Members of the Council for Ainu Policy Promotion, there is only one Ainu woman. Since the government figures of the Ainu population show that the gender ratio is approximately equal, there should be more Ainu women members in the Council, but no such “attention” has been paid.
- C3. Participation in the political decision-making process is important in eliminating discrimination against minority women. The UN Human Rights Committee noted that it “regrets the lack of information regarding the participation of minority women, including Buraku women, in policymaking positions” and recommended that Japan “should take concrete measures to assess and support the political participation of minority women, including Buraku women²⁰” in its Concluding Observation to the 6th periodic report of Japan. The Japanese government has not engaged in any examination into taking such steps.

¹⁸ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.51,52

¹⁹ Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women,” Para.105

²⁰ CCPR, “Concluding observations on the sixth periodic report of Japan”, (CCPR/C/JPN/CO/6, August 20, 2014), Para.9, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/JPN/CO/6&Lang=En

Section 3 Sexual Minority Women

A. Proposed Questions for List of Issues

- A1. Please explain the plans for the protection from violence and discrimination based on sexual orientation and gender identity in providing protection from violence, treatment in criminal institutions and recognition of refugee status, for improving measures in order not to discriminate or revising those that have the effect equivalent to discrimination based on sexual orientation and gender identity in providing protection from violence and discrimination, as well as on measures that protect same-sex couples from exclusion from protection under Act on the Prevention of Spousal Violence and the Protection of Victims (hereinafter, the Spousal Violence Act).
- A2. Are there plans to prohibit discrimination based on sexual orientation and gender identity in all areas including employment, housing, social security, education and public health, as well as to introduce legislation to that end?
- A3. Please explain how education and training is conducted for administrative officers, judges, teachers and others in related professions for the purpose of eliminating discrimination based on sexual orientation and gender identity.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

31. There are no specific reports on this matter.

C. Current Situation and Issues

32. The scope of application of the protection order under the Spousal Violence Act was extended to include violence by intimate partners who share a principal residence, but the Japanese government has not made explicit whether same-sex intimate partners may be included. Also, there are few administrative instruments on protection and assistance for same-sex couples, and it is difficult for victims of violence by same-sex partners to use shelters. Access by same-sex couples to the system for protection from spousal violence is not fully ensured.
33. Although there are no laws actively promoting discrimination based on sexual orientation and gender identity, because discrimination and exclusion based on sexual orientation and gender identity is not prohibited, such discrimination is left unchecked. Sexual minorities have difficulty in exercising their social rights and are excluded from employment and education, due to discrimination, such as; being targeted for bullying, as there is no education on sexual orientation in the area of education, being unable to cope and being compelled to resign or be dismissed, as there is no understanding of discrimination based on sexual orientation in employment, and not being able to access medical institutions, as understanding on sexual orientation and gender identity is also low

in these institutions. There is mention of sexual minorities in the measures against suicides, projects for social inclusion and the basic plan for gender equal society, but in substance they remain matters to be considered, rather than form concrete obligations. Moreover, these do not amount to a prohibition of discrimination and improvement of status in all areas. Because the systems such as those for social security and protection from domestic violence are designed with heterosexual persons in mind, LGBTIs are excluded from using the systems.

34. People with sexual identity disorder, who are detained in criminal institutions should be treated with respect to their sexual identity. Currently, consideration is given to their sexual identity, but their treatment remains insufficient.
35. Moreover, in the second round of the Universal Periodic Review of the UN Human Rights Council, Japan has been recommended to strengthen the protection from discrimination based on sexual orientation²¹.

Section 4 Training for the Members of the Judiciary and other Legal Professionals

A. Proposed Questions for List of Issues

- A1. Regarding training on the Convention for judges and public prosecutors, please provide information on the specific contents of the training, including the attributes of the trainees, specific contents of the training, hours used for training, and frequency.
- A2. Please provide information on the specific contents of efforts made to raise the awareness of the members of the judiciary and other legal professionals for the Convention and the General Recommendations issued by the Committee.
- A3. Please provide information on cases in which the Convention was invoked and referred to in domestic courts as well as the results of the cases.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

36. The Report states that training on international human rights treaties and human rights of women is provided for public prosecutors and judges²².

C. Current Situation and Issues

37. According to the government Report, the training that is provided continues to be general training

²¹ HRC, “Outcome of the Universal Periodic Review: Japan”, A/HRC/22/14, December 14, 2012, Para.147.34, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHR C2214_English.pdf

²² Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.36

on international human rights and human rights of women, and is hardly training along the lines of the previous recommendations.

38. The judiciary has an important function to ensure human rights as well as to realize the human rights of the people. In order for the judiciary to function properly, the trust of the people in the judiciary is crucial. To maintain the trust in the judiciary, it is necessary for the members of the judiciary and other legal professionals to provide fair and high quality judicial service. For that purpose, continuous training for the members of the judiciary and other legal professionals is essential. The Convention, which is the basis of elimination of all forms of discrimination against women and the improvement of the status of women, plays an important role in ensuring the human rights of women and realization of their rights. Therefore, there is a strong need for the members of the judiciary and other legal professionals to properly understand the contents of the Convention.
39. In the previous recommendation, the Committee expressed its concern that the Convention was not being applied effectively, and urged recognition of the Convention as the most pertinent, broad and legally binding international instrument in the sphere of the elimination of discrimination against women²³. It also recommended increasing efforts to raise awareness about the Convention and the Committee's General Recommendations among the members of the judiciary and other legal professionals.
40. Continuous and substantive training on the Convention including the Convention and the General Recommendations issued by the Committee, as well as the recommendations issued by the Committee in its Concluding Observations to Japan, should be conducted as early as possible, so that the members of the judiciary and other legal professionals can properly understand and implement the Convention.

Section 5 Responses to Disaster and Reconstruction

A. Proposed Questions for List of Issues

- A1. Please explain how the government intends to raise the proportion of women in the councils for reconstruction and disaster prevention to 30%. Also, please explain the roles of female leaders in committees in shelters and temporary housing.
- A2. Please explain whether the measures for the victims of disaster published by the Gender Equality Bureau of the Cabinet Office based on the requests (requests based on the needs of women, including those on child care) to relevant organizations are actually being taken, or whether evaluation of the measures taken have been conducted.
- A3. Please provide relevant gender-disaggregated data regarding the employment of women in the areas

²³ Op. cit. CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.19, 20

affected by disaster. Also, please provide information on the gender difference in the number of people who are employed and who left their jobs, as well as the gender difference in the proportion of regular and non-regular workers.

Please provide information on the national and local government measures and their effectiveness in improving the employment of women in areas affected by the disaster.

- A4. Please provide information on measures taken on women's starting their own businesses.
- A5. Please explain what information the government has on the situation of domestic violence and sexual violence in the areas affected by disaster and what measures are being taken to address the situation.
- A6. Regarding residents of areas, in which the annual effective radiation dose exceeds 1mSv, please explain what measures were taken for residents to ensure housing and to support their livelihoods when they wanted to evacuate.
- A7. Please provide information on measures taken for the health of pregnant women, children and women who have concerns about having children from the perspective of reproductive health/rights since the accident at the Fukushima Daiichi Nuclear Power Plant.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan²⁴
(CEDAW/C/JPN/7-8)

- 41. The government Report states that it will establish disaster prevention (reconstruction) plans under the Third Basic Plan for a Gender Equal Society that adopt the perspective of gender equality and notes that the proportion of women in regional disaster management councils are increasing. It also states that it has taken measures including giving consideration to women and children and providing consultations on violation against women immediately after the disaster regarding life in shelters.

C. Current Situation and Issues

- 42. The massive earthquake of magnitude 9.0 and tsunami that struck eastern Japan on March 11, 2011 caused horrific damages. The number of deaths and missing amount to 20,000, and most of them were caused by the tsunami. On the coast of northeastern Japan, houses were swept away and the ground was submerged. Farmlands, fishing boats and ports and other production bases were completely lost and in some areas, communities were destroyed and local governments ceased to function.
- 43. The Fukushima Daiichi Nuclear Power Plant of the Tokyo Electric Power Company suffered a severe accident involving meltdowns and hydrogen gas explosions, emitting massive volumes of radioactive material as well as leaking contaminated water into the ocean. There is no prospect of

²⁴ Op. cit., Government of Japan, "Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.114-122

solving the problem of the contaminated water.

44. More than 3 years have passed since the earthquake and tsunami, yet approximately 260,000 people are still living as evacuees²⁵. Approximately 100,000 are still living in temporary housing. In particular, the number of evacuees in and from Fukushima Prefecture due to the nuclear power plant accident still exceeds 100,000.
 45. In the rebuilding efforts in areas affected by the disaster, the recovery in production and employment as well as rebuilding of housing are of primary concern, yet only about 10% of the planned public housing for reconstruction has been completed. Because of the lack of progress in the recovery in production and employment, many more people, mainly of the younger generation, are leaving the areas affected by the disaster. The effective opening-to-application ratio exceeds 1.0 in the 3 prefectures affected by the disaster (Miyagi, Iwate, and Fukushima), because of the decrease in the number of effective job seekers due to the decrease in population among other reasons, but it has been pointed out that there was a mismatch in which the jobs sought by the disaster-affected people and the job openings do not match. Also, there is a high possibility that employment as a whole will be temporary, being dependent on the demands created by the reconstruction. The outlook for rebuilding the regional economy after the demand for reconstruction is over remains bleak.
- C1. “participation”
- a. Government efforts in disaster prevention and reconstruction
46. The government efforts include efforts for the “period immediately after the disaster – those that have very little to do with reconstruction and rebuilding, and those that are for the period where people have to live in shelters, namely the period in which disaster relief is necessary” as well as those for the “latter half of the period after the disaster – efforts for the period in which reconstruction and rebuilding efforts are fully implemented.” It is necessary to organize the issues accordingly.
 47. Disaster prevention is comprised of disaster prevention, risk reduction, and preparation. These are on a different dimension compared with efforts after the disaster.
- b. Rehabilitation of the communities (reconstruction), disaster prevention
48. Women are required to exercise their abilities as agents of policy implementation in all levels of

²⁵Toshiyuki Tanaka, Research Bureau, Committee on Land and Transport, “Higashi Nihon Dai-sh insai kara no Fukkou ni okeru Kongo no Houkousei – Genka no Kadai to Ryuui-ten (Future Direction of Reconstructions after the Great Eastern Japan Earthquake – Current Challenges and Considerations), (June 2014), P.3, http://www.sangiin.go.jp/japanese/annai/chousa/rippou_chousa/backnumber/2014pdf/20140602003.pdf

House of Councillors, “Rippo to Chousa No.353, Tokushuu: Shinsai Fukkou no Kasokuka ni Mukete Genjou to Kongo no Kadai (Legislation and Research No.353 Special Edition: Towards Accelerating the Reconstruction after the Earthquake Current Situation and Future Challenges)”, (June 2, 2014), http://www.sangiin.go.jp/japanese/annai/chousa/rippou_chousa/backnumber/20140602.html

disaster relief, reconstruction, rebuilding and disaster prevention²⁶.

49. In the areas affected by the disaster, the material basis that forms the conditions for the “human existence” was destroyed. Houses, families, jobs and local communities were lost while there was progressive decrease in population, increase in non-regular employment, increase in the working poor, and shrinking families. Meanwhile, male-centered legal systems and attitudes as well as ideology still remain, causing continuous conflicts over gender issues.
50. In areas that lost everything to the disaster, those who survived must work to rehabilitate their communities. Women have to take part in all aspects of society as the agents of community rehabilitation. They have to play a major role to change and overcome gender issues.
51. In modern theories on equality-oriented justice, the “range of physical possibilities from which a person can choose” = “freedom as power” (Hayek) was important along with the “political freedom,” namely the participation of citizens in the legislative process and control of the executive. Amartya Sen²⁷ called this “capability” and stated that when government intends to seek the equality in wellbeing between each of its citizens, it should seek the equality of capabilities (=range of ways to live).
52. Under the situation in which women’s “participation (in all areas as a full member of the community, in production, work, such as employment, livelihood, family life, local activities, and in community decision-making)” is hampered by the male-centered laws and systems, attitudes and ideology the state and society should remove all barriers to women’s “participation” in all process of disaster relief, reconstruction, rebuilding, and disaster prevention. The state and society should also ensure women the “freedom as power” and “equality of capacity.”²⁸
53. Ms. Keiko Endo of Tohoku Gakuin University noted that, “whether gender had any effect on the actions of people at the time the disaster occurred, depends very much on what ‘place’ a person was at that moment. There was a tendency for people in their workplaces to prioritize their work responsibilities regardless of gender.” She pointed out that, “the first problem that became apparent from the Great Eastern Japan Earthquake was that although women acted in the same way as men in the workplaces at the time of the disaster, it was completely ignored.”²⁹
54. It is likely that there are prejudices such as “women cannot be depended on in times of emergencies” or “you cannot give women work with responsibilities” even in normal times. These

²⁶ JFBA ed., “Saigai Fukkou Higashi Nihon Dai Shinsai go no Nihon Shakai no Arikata o Tou – Josei koso Shuyaku ni! (Disaster Reconstruction, Reviewing the Japanese Society after the Great Eastern Japan Earthquake – Women should play the main role!)” February 2012, Nihon Kajo Shuppan.

²⁷ An Indian economist, and first Asian Nobel Prize on Economics recipient.

²⁸ Taeko Kojima, “Higashi Nihon Dai Shinsai to Jendaa (The Great Eastern Japan Earthquake and Gender)” Association of Gender Law ed., *Koza Gendaa to Hou (Course Gender and Law Vol. 1 Gendaa Hougaku no Inpakuto (Impact of Gender Law))*, 2012, Nihon Kajo Shuppan, P.179

²⁹ GEMC journal No.7, Keiko Endo, “Saigai to Jendaa o meguru Sho Mondai (Issues involving Disasters and Gender)”p. 9,10, http://www.law.tohoku.ac.jp/gcoe/wp-content/uploads/2012/04/gemc_07J1.pdf

prejudices have a negative effect on women's will to work, and lead to underestimation of their achievements.

55. It is paramount that gender prejudices are removed even in normal times, and women be equally ensured of the "freedom as power."
56. Also, in the 3 prefectures affected by the disaster, the proportion of women in local councils is particularly low even compared to the national average. It is paramount that the equal participation of men and women be further promoted in normal times³⁰.
- c. Participation of women in reconstruction planning and disaster prevention conferences
57. The Third Basic Plan for a Gender Equal Society sets "promoting gender equality in the area of regional development, disaster prevention, environment, and others³¹" as one of the priority fields. The Plan notes the importance of equal participation of men and women in the local regions, and states that it is necessary to reflect the perspective of equal participation of men and women through increasing participation of women in the local decision process of policies and directions, and participation of women in local community-building as well as disaster prevention.
58. Also, the Third Basic Plan for a Gender Equal Society clearly sets the target to increase the proportion of women in leading positions by 30% by 2020. It further states that it will "promote women's participation in all areas and organizations of reconstruction from the perspective of equal participation of men and women."
59. However, there is only one female member among 15 members in the Reconstruction Design Council in response to the Great East Japan Earthquake of the government, while there are 3 women among 15 members of the Reconstruction Promotion Committee of the Reconstruction Agency. There are 5 women among the 27 members in the Central Disaster Management Council (as of December 2014) but in the Prefectural Disaster Management Councils 6 Prefectures had no women among their members as of October 2012. The percentage of women among the members is 5.1% in prefectures, and 10.0% in designated cities.
- d. Participation of women in management of shelters (period of disaster relief)
60. There have been calls to "include the voices of women in the management of shelters," and to "place women leaders in shelters," even before the disaster struck, but these views were almost never heeded. The vast majority of leaders of shelters are male, and there were cases in which requests from women, such as "I want cardboard screens for changing clothes," would be dismissed by the male leaders' views that "everyone in the shelter is like a member of the family."³²

³⁰ GEMC journal No.7, Miyoko Tsujimura "Ningen to shite no Heiwa to Seizon ken – Kenpou no Senkusei kara Shinsai Fukkou o kangaeru (Peace as a Human Being and Right to Life – Reconstruction after the Earthquake from the Perspective of the Constitution as a Pioneer)" P.56, http://www.law.tohoku.ac.jp/gcoe/wp-content/uploads/2012/04/gemc_07J1.pdf

³¹ Op cit. Cabinet Office, "The Third Basic Plan on a Gender Equal Societ", P106

³² Op. cit. JFBA ed., "Saigai Fukkou Higashi Nihon Dai Shinsai go no Nihon Shakai no Arikata o Tou –

61. In order to reflect the needs of women in the management of shelters, it is necessary to create an environment in which women can subjectively take on the task of leaders or that of taking care of shelters. At least, in cases in which the shelters are located in schools and other public facilities, the management of the shelters should not be left to residents. Instead, government organs should be responsible for the management and should actively intervene.

e. Reconstruction of lives, industries and work opportunities

62. The agricultural and fishing villages in the areas affected by the disaster were under-populated even before the disaster, with the population expected to decrease even as far as by 30% by 2030.

63. Unless agricultural and fishing industries are rebuilt by mainly the agricultural and fishing cooperatives, with the support of the local governments, public-private joint ventures and non-profit organizations, the regional economy may collapse, and the under-population may accelerate.

64. While the construction industry enjoys a triple to quadruple expansion of public works projects due to reconstruction demands, only 20 to 30% of the seafood processing industry can maintain pre-disaster sales levels. Ensuring employment, as well as increased support for small and medium sized companies, including very small companies, as well as for people in the agriculture and fishing is needed.

65. In the coastal areas hit by the tsunami, there were many women working in the seafood processing plants and stores. There have been reports of temporary female staff being dismissed from day-care facilities and school lunch providers. There is no statistical information on the situation of employment of women in the areas affected by the disaster, and the problems have not been made clear. Gender disaggregated statistics on the situation of employment is needed for the areas affected by the disaster.

66. Reconstructing businesses in the agricultural and fishing villages, and supporting people who are starting community-based businesses lead to creation of employment opportunities and revitalization of communities. But for women to start businesses, there are difficulties such as accessing credit and loans. It is necessary to clarify the situation and problems regarding the support for women's entrepreneurship in areas affected by the disaster.

C2. Human rights – treatment with “dignity”

67. It is expected that every human being will be treated with dignity and respect as a human being and that they are respected as an individual regardless of the position or situation the person is in, even when living in the shelters right after the disaster.

68. The Gender Equality Bureau of the Cabinet Office requested the relevant organizations to respond taking into consideration women and their child-raising needs, including ensuring partitions for privacy, changing rooms, nursing rooms, bathing facilities, separate toilets for men and women,

responses to babies and infants, and participation of women in the management of shelters. But in reality, steps were not taken to address the requests, and there were shelters that lacked consideration for the needs and rights of women. People managing shelters are responsible for respecting the privacy of the people affected by the disaster, and to take into “consideration” in their management so that women and children do not become victims of sexual abuse, domestic violence, stalking and other harms. It is necessary to verify the requests to relevant organizations published by the Gender Equality Bureau of the Cabinet Office, as well as whether the requests have been addressed or not, decide on future management guidelines, and find out ways to make them actually function.

69. Also, cases of domestic violence sexual harassment and sexual violence after the disaster have not been made clear. Research into the situation regarding the effects of the disaster is necessary.

C3. Nuclear power plant accident

70. The nuclear power plant accident so far has failed to come to an end, and the solution to the contaminated water problem is not in sight. The government declared that nuclear power generation was an “important base load power plant” and stated that it would promote restarting operation of these plants³³. The Nuclear Regulation Authority decided on September 10, 2014 on the Permission, which held that Units 1 and 2 of the Sendai Nuclear Power Plant of the Kyusyu Electric Power Co., Inc. “met” the new standards for restarting operations. However, the use of nuclear power, which can cause incomparable and serious long-term violation of human rights once an accident, occurs, as an energy source must be stopped at once. Restarting operation of nuclear power plants should not be permitted.
71. The spread of radioactive material is still causing serious problems. It is not confined to damages to health due to exposure to radiation. It led to separation of families and communities because of evacuation. The designation by the government of areas for evacuation is insufficient, and support measures do not reach evacuees from areas not designated, such as mothers who evacuated out of fear of their children’s health.
72. The “right to evacuate” should be recognized to all resident living in areas where the annual effective radiation dose exceeds 1mSv (Chernobyl concept), and the government should be responsible for ensuring housing and supporting their livelihood.³⁴
73. Also regarding the people affected by the disaster who wish to return, in areas where the annual dose falls below 1mSv, support should be extended for their return as well. For those who wish to

³³ Ministry of Economy, Trade and Industry, “4th Strategic Energy Plan” (April 2014)
<http://www.meti.go.jp/press/2014/04/20140411001/20140411001-1.pdf>

³⁴ JFBA, “Higashi Nihon Dai Shinsai no Fukkou ni okeru Danjo Byoudou Sankaku to Hisai Josei no Kenri Hoshou ni Kansuru Ikensho (Opinion Paper on Equal Participation of Men and Women and Protection of Rights of Women Affected by the Disaster in the Reconstruction after the Great Eastern Japan Earthquake)” December 15, 2011,
http://www.nichibenren.or.jp/library/ja/opinion/report/data/111215_3.pdf

resettle where they evacuated, support should be extended for their resettlement, even when the annual dose in the area from which they evacuated fell below 1mSv³⁵.

74. Further, in areas where the effective annual radiation dose exceeds the above 1mSv, apart from proceeding with steps such as decontamination measures, to decrease the effective radiation dose, and measures to address exposure, policies necessary to alleviate the anxiety of residents must be taken, so that the residents living in the area can continue their lives feeling as safe as possible. At the same time, measures and procedures should be put in place to enable all people who have concerns over their health due to exposure to radiation to receive continuous examination for internal exposure and other necessary health examination. In particular, special consideration is necessary for pregnant women, children and women who have concerns about having children³⁶.

Section 6 Others

75. Among the matters for which recommendations were made in the previous Concluding Observations, the Japanese government was opposed to the amendment of discriminatory punitive legal provisions. Regarding discriminatory legislation, there has been no progress apart from the discrimination in inheritance share for children born out of wedlock. On laws discriminating women that have been pointed out in the recommendations by the Committee and other treaty bodies, the government merely insisted on justifying existing laws, and the prospects for amendment of these laws in line with the recommendations seem slim. The Japanese government is reluctant to amend the laws in line with the Convention.
76. Also, the Japanese government lacks the willingness to pursue policies eliminating discrimination without delay, and it has almost no intention of improving discriminatory customs and practices. There has never been any discussion in the government on a comprehensive law against discrimination against women, and therefore remedies for discrimination are insufficient. Also, non-discrimination in public and related organizations is not fully complied with. (Please refer to the section on Article 5 Elimination of Prejudice and Customs regarding sexually harassing hecklings in the councils.)

- A. On punitive provisions (Please refer to the sections on Article 6 Prohibition on trafficking of women

³⁵ JFBA, “Outline of the Declaration Aiming at the Restoration of Fundamental Human Rights from Damages Caused by the Great East Japan Earthquake and the Fukushima No.1 Nuclear Power Plant Accident and the Realization of Transition Away from Nuclear Power Adopted at the 65th JFBA General Meeting”, May 30, 2014, <http://www.nichibenren.or.jp/en/document/statements/year/2014/140530.html>

³⁶ JFBA, “Fukushima Daiichi Genshiryoku Hatsudensho Jiko Higaisha no Kanzen Kyuusai oyobi Datsu Genpatsu o Motomeru Ketsugi (Declaration Aiming at the Full Remedies for the Victims of the Fukushima No.1 Nuclear Power Plant Accident and the Realization of Transition Away from Nuclear Power)” October 4, 2013, http://www.nichibenren.or.jp/activity/document/civil_liberties/year/2013/2013_2.html

and Article 12 Elimination of Discrimination in the Area of Health)

A1. On decriminalization of artificial termination of pregnancies

a. Proposed Questions for List of Issues

Please explain the progress made in the examinations on Article 212 of the Penal Code (Crime of Abortion) being a discriminatory provision against woman as it punishes women who artificially terminate their pregnancies, and hinders their access to necessary health service, including abolishing the criminal provision³⁷.

b. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

77. The government strongly denies the necessity of amending the provision³⁸.

c. Current Situation and Issues

78. This is reported under the section on Article 12 Elimination of Discrimination in Area of Health, Part 1 Removal of provision punishing women artificially terminating their pregnancies, and access to abortion service.

A2. Provisions placing possible criminal penalties on women exploited in prostitution (Prevention of Prostitution Act Article 5)

a. Proposed Questions for List of Issues

Please explain the progress made in the examinations into the situation of women being exploited in prostitution, who solicited, being subject to criminal penalties³⁹.
Please explain what concrete measures are being taken to discourage the demand in prostitution.

b. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8) (CEDAW/C/JPN/7-8)

79. There is no straightforward response to the previous recommendations regarding discouragement of demand

c. Current Situation and Issues

80. The Japanese government is not considering amending the laws. One factor behind the reason is the Japanese government's lack of understanding in the background of people (mostly women) exploited in prostitution. It takes a stereotypical view of the women, assuming that they are all looking for easy ways to make money.

B. On discriminatory laws in family law and related provisions (Please refer to the section on Article

³⁷ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.50

³⁸ Op. cit., Government of Japan, "Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.359

³⁹ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.40

16 Elimination of Discrimination in Marriage and Family Life)

B1. Proposed Questions for List of Issues

Please explain whether the government intends to “abolish” the existing Civil Code provision on the waiting period for women for remarriage after divorce, to set the same minimum age for marriage for women and men, and to introduce a system allowing choice of surnames, in line with the previous recommendations⁴⁰.

B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

81. The Report explains that a draft bill for the amendment of the Civil Code and relevant laws including provisions on setting the same minimum age for marriage for women and men, introduction of a system allowing choice of surnames, and shortening the waiting period for remarriage for women after divorce was prepared to be submitted in the Diet in 2010, but could not be submitted due to various views within the government as well as among the public. It also notes that setting a certain waiting period for remarriage is based on reasonable grounds⁴¹.

B3. Current Situation and Issues

82. Before, the government went as far as submitting draft bills for amending the Civil Code, but in recent years, the draft bills do not even get submitted. (For details, please refer to the section on Article 16 Elimination of discrimination on marriage and family matters.)
83. Related to paragraphs 27 to 102 of the Report⁴² on matters regarding violence against women (domestic violence), efforts against trafficking, and the “comfort women” by the Japanese military are reported in the section on Article 6 “prohibition on trafficking in women”, while matters regarding sexual harassment are reported in the section on Article 11 “Elimination of discrimination against women in the area of employment.”

⁴⁰ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.18

⁴¹ Op. cit., Government of Japan, “Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women,” Para.384, 385

⁴² Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women,” Para.37-102

Article 3 Ensuring the Development and Advancement of Women

Section 1 Measures for Foreign Women

A. Proposed Questions for List of Issues

- A1. Please explain about the situation of foreign women who are married and live in Japan and their families, as well as concrete measures to support them. Please explain about the situation and problems of international marriage brokerage services and concrete measures to address them.
- A2. Please explain the details of the living conditions of Japanese Filipino Children (hereinafter, JFC) and their mothers in the Philippines and Japan, their route of arrival in Japan, and their status of employment as well as their working conditions after arriving in Japan. Also, please explain concrete measures addressing the problems.
- A3. Please provide information on what concrete measures are being taken to prevent violation of human rights of workers, regarding admission of foreign domestic workers.
- A4. Please provide information on the progress in the examination as well as the contents of the examination into ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)⁴³

84. Please refer to paragraph 23 of the Report.

C. Current Situation and Issues

C1. Currently, there are approximately 1.12 million women of foreign nationality in Japan⁴⁴. But the Japanese government has not engaged in any collection of data or research on the situation of “difficulties due to difference in language, culture or values, and to isolation in local communities,” or on measures to prevent discrimination related to gender including violence⁴⁵. The Committee has urged the Japanese government to conduct a comprehensive survey on the situation of minority women including foreign women (mentioned above), but the Japanese government has yet to

⁴³ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.23

⁴⁴ Ministry of Justice, “Heisei 25nen matsu Genzai ni okeru Zairyuu Gaikoku jin suu ni tsuite (Suitei chi)(Number of Foreign Residents as of end 2013 (estimate)), http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00040.html

⁴⁵JFBA, “Japan Federation of Bar Associations Report on Response to the Seventh, Eighth and ninth Report of the Japanese Government of the International Convention on Elimination of All Forms of Racial Discrimination”, (March 19, 2014), P.102,103 http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_en.7.8.9.pdf

conduct such as survey.

C2. Foreign women married to Japanese⁴⁶

a. The number of marriages between foreign women and Japanese men remains around 30,000 annually. Many of them are couples of “foreign women and Japanese men.” 80% of women are from Asian countries. Economic disparities can be assumed to be in the background of these marriages. There are also many brokers who facilitate marriages between Japanese men and foreign women, causing many problems, such as providing inaccurate and arbitrary information to the women and taking large guarantee fees.

b. The rights of foreign women married to Japanese men are not protected.

First, in order for the women to acquire the status of residence for “spouse of Japanese nationals, etc.,” or to renew the status, they need the cooperation of their Japanese husbands. The system, therefore, makes it easy for the Japanese husbands to control their foreign wives. Even when the husbands are responsible, for example as in domestic violence cases, if the period of separation continues for a considerable length of time, there is concern that the Immigration Bureau might determine the marriage “has no substantive basis in social life” and may refuse to renew the residence status of “spouse of Japanese national.”

85. Also, the amended Immigration Control and Refugee Recognition Act went into effect in July 2012. Under the amended Act, women who reside with the status of “spouse of Japanese national, etc.,” may have their residence status revoked, if they fail to continue to engage in the activities of a spouse without justifiable grounds, or if they do not reside at the notified place of residence. The Immigration Bureau of the Ministry of Justice states that it will give consideration to domestic violence and other issues in determining “justifiable grounds” but there are concerns that unlike physical forms of domestic violence with medical certificates and photos, psychological, economic, sexual and other forms of non-physical violence may not be accurately recognized. Moreover, cases in which change in residence status are recognized after divorce are extremely limited.

86. Therefore, many foreign women are unable to assert their legitimate rights out of fear of non-renewal of their period of stay, revocation of their residence status, refusal of change in residence status as well as the ensuing deportation and separation with their children. This significantly weakens their status⁴⁷.

c. The foreign women know almost nothing of the Japanese language, Japanese culture and customs,

⁴⁶ Op. cit., JFBA, “Japan Federation of Bar Associations Report on Response to the Seventh, Eighth and ninth Report of the Japanese Government of the International Convention on Elimination of All Forms of Racial Discrimination”, P.103-107

⁴⁷JFBA, “Statement on a Bill to Revise the Immigration Control and Refugee Recognition Act and Other Related Acts to Strengthen Residential Control of Foreign Nationals,” (April 24, 2009), <http://www.nichibenren.or.jp/en/document/statements/year/2009/20090424.html>

and social or legal systems. Opportunities to learn these matters at no or low cost are not ensured, and only a handful of local governments where large number of foreign residents live provide such opportunities. Many foreign women have insufficient abilities to read and write Japanese or to conduct conversations in Japanese. They are unable to use their skills or qualifications they acquired in their home countries, and end up working as low-paid part-time workers. When they work at home taking care of their husbands' parents or in the family business, they receive almost no pay. Therefore, the foreign women inevitably become economically dependent on their Japanese husbands, and are placed in an increasingly vulnerable position.

87. Meanwhile, there are almost no opportunities for the Japanese husbands or prospective husbands and their families in international marriages to learn about the languages, culture, and customs of the home country of the foreign women, or the difficulties foreign women face as well as assistance available. Also, in brokered marriages in particular, many men believe that “simple and obedient women who serve their husbands” “came willingly to marry Japanese because of the economic disparity.” In cases when the husbands have paid high broker fees to the agents, men are more likely to look down on the women.
- d. Against this backdrop, foreign women are suffering from physical violence and various non-physical violence (such as taking passports away, not allowing women to have money, requiring women to assimilate to Japanese ways of living including food and customs, forbidding women to associate with people of their own countries, forbidding use of the home languages, forbidding remittances or phone calls to their families in the home countries, forbidding visiting their home countries, and not paying for their visits home) by their Japanese husbands.
88. The Act on the Prevention of Spousal Violence and the Protection of Victims covers foreign women as well, but in fact, these women do not receive the same level of assistance as Japanese women, even in cases of domestic violence. That is because there are various difficulties, such as the insufficient provision of information in multiple languages, or on concrete ways of accessing support organizations. The support organizations are rarely staffed to respond in multiple languages, and interpreters are not regularly present. The staff of these organizations do not know about the backgrounds of marriage migrants, nor do they have sufficient knowledge on the Immigration Control and Recognition of Refugees Act. The foreign women themselves do not know much about the Japanese social and legal systems, so they have difficulties in understanding even when they are explained about the issues. There are also few lawyers or doctors who can respond in multiple languages.
89. The Public Assistance Act recognizes the right to receive public assistance only for Japanese nationals. The Act is analogously applied to foreign nationals only when they “reside lawfully in Japan, and are permanent residents, who have no limits on their activities, or spouses of Japanese nationals or permanent residents. (oral instruction of the Ministry of Health, Labor and Welfare,

1990)". When the Japanese husbands refuse to cooperate (which can also be a means to control the women) and the women ended up overstaying their residence status, as they would be unable to renew the status of "spouses of Japanese nationals, etc.," they would be ineligible for public assistance even when they find themselves in severe difficulties.

90. The women also have few families or friends in Japan, and their contact with the local communities is also limited. There are cases when they hide their sufferings out of fear of being excluded from the communities of people from their own countries. They are also reluctant to consult support organizations out of fear of losing their residence status. Therefore, there is a strong possibility that the sufferings are latent and more severe.
 - e. There are no laws in Japan to support foreign women who married and reside in Japan as well as their families. The government should swiftly conduct a survey on the situation, and implement concrete measures to support them. A law to appropriately regulate international marriage brokers should also be legislated⁴⁸.
91. Also, public assistance should be applied or analogously applied to foreign nationals on the same basis as Japanese nationals regardless of their residence status⁴⁹.
92. Regarding the system of revocation of residence status, cases involving status of spouses at least in which the Japanese husbands are at fault should not be considered revocable. In such cases, application of the Act should clarify that the women's stay during the process of dissolving the marriage such as through mediation or legal action would be guaranteed and permanent residence status may be granted depending on the past records of residence⁵⁰.
93. The Committee on the Elimination of Racial Discrimination expressed its concern on the persistent violence against foreign, minority and indigenous women, and in particular, raised strong concerns that under the provisions of the revised Immigration Control and Refugee Recognition Act of 2012 (mentioned in 2) above), foreign women who are victims of domestic violence by their husbands may be prevented from leaving abusive relationships and from seeking assistance⁵¹. The Committee

⁴⁸ Op. cit., JFBA, "Japan Federation of Bar Associations Report on Response to the Seventh, Eighth and ninth Report of the Japanese Government of the International Convention on Elimination of All Forms of Racial Discrimination", P.101,103-107

⁴⁹ Op. cit., JFBA, "Japan Federation of Bar Associations Report on Response to the Seventh, Eighth and ninth Report of the Japanese Government of the International Convention on Elimination of All Forms of Racial Discrimination", P.43-45

JFBA, "Report of JFBA Regarding the Third Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights," (January 18, 2013), P. 64-66, http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/society_report_4_en.pdf

⁵⁰ JFBA, "Statement on the Commencement of the Resident Card and the System of the Basic Resident Registration for Foreign Nationals", (July 9, 2012),

<http://www.nichibenren.or.jp/en/document/statements/year/2012/120709.html>

⁵¹CERD, "Concluding observations on the combined seventh to ninth periodic reports of Japan" (CERD/C/JPN/CO7-8, September 26, 2014), Para.17,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/JPN/CO/7-9&Lang=En

recommended that the Japanese government take adequate measures to effectively address the issue of violence against migrant, minority and indigenous women by prosecuting and sanctioning all forms of violence against them, and to ensure that victims have access to immediate means of redress and protection. It also recommended a review of the legislation on residence status to ensure that foreign women married to Japanese citizens or to non-citizens with permanent residence status will not be expelled upon divorce or repudiation, and that the application of the law does not have the effect, in practice, of forcing women to remain in abusive relationships.

C3. JFC and their mothers

94. The amended Nationality Act entered into force in January 2009, and children who were acknowledged by Japanese men after birth were also eligible for Japanese nationality. This has led to the increase in “mothers accompanying minors with Japanese nationality” and “parents with children arriving to acquire Japanese nationality” (mostly children of Japanese fathers and Philippine mothers (JFC) and their mothers). After their arrival in Japan, many mothers and their children are forced to work under exploitative conditions. Behind this is the existence of brokers who operate between the countries of origins of the mothers and their children and Japan as well as the Japanese receiving organizations who are linked to the brokers, some of which purport to support these mothers and children. They are offered a wide range of jobs, such as care facilities, factories and bars. They are forced to take out considerable amounts of “loans” to cover the costs for traveling to Japan as well as finding work, and to agree to a 2 to 3 year contract to work in low paying work. Many problems have been pointed out by NGOs, such as the deduction of payments on the “loans” as well as considerable amounts for “dormitory fees” from their wages, low wages, having their passports taken away, and sexual harassment. There is even a case of a company involved in care work which was linked to a broker, who made a woman sign a written oath saying that she would not hold the company liable under any circumstances, and that she would “relinquish her rights permanently,” before her arrival in Japan. She was made to work in severe conditions with excessive night shifts⁵².
95. The Japanese government should immediately conduct a survey on the situation of brokers and the jobs offered, actual working conditions, the living conditions of the mothers and their children, and the status of enrolment in schools of these children. The government should also take appropriate measures to address the situation.

C4. Foreign domestic workers (domestic work support personnel)

96. A cabinet decision on the draft bill for amending the National Strategic Special Zones Act and Act on Special Districts for Structural Reform was passed by the Japanese government in October 2014. The amendment would allow entry and residence to foreign domestic workers even when they are

⁵² Kyodo Tsushin, July 13, 2014.

employed by companies providing domestic work support services, in National Strategic Special Zones subject to a certain system of control by local governments. They are currently allowed entry and residence only when they are employed by diplomats and highly skilled foreign professionals.

97. The International Labor Organization (hereinafter, ILO) Convention No. 189 (Convention concerning decent work for domestic workers)⁵³ points out in its preamble that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and requires special measures to be taken by the Japanese government. At the same time the Convention was adopted, the Recommendation concerning decent work for domestic workers (ILO Recommendation No. 201) which complements the Convention as well as provide a guideline for its implementation was adopted. The Recommendation presents concrete matters for consideration and guidelines on the freedom of association, right to collective bargaining, elimination of discrimination in employment and work, medical examinations, employment conditions, working hours, resting periods, weekly rests, annual leaves, remuneration, housing, provision of meals, mechanisms of protection from abuse, harassment and violence, child domestic workers, and migrant domestic workers⁵⁴.
98. Foreign domestic workers are highly vulnerable to discrimination and abuse, for being both “foreign nationals” and “women” as well as because of “contents of work and the form of employment.” There are problems that unless the freedom to change employment from the original receiving company is effectively guaranteed, they may be placed in subordinate position in relation to their employers in order to maintain their residence status. There may be problems caused by the sending organizations, such as collection of guarantee fees, and it is not easy to create an appropriate system of overseeing both the sending organizations and the receiving companies. There is also concern that the under-developed socialization of domestic work and gender equality may further stagnate.
99. If foreign domestic workers were to be admitted, the Japanese government should take special measures to ensure that these workers would not be subject to discrimination, abuse or other harm. In doing so, it is essential that concrete measures to protect the rights of domestic workers as well as concrete measures to prevent human rights violations by private employment agencies and related organizations are adopted. Specifically, the requirements for licenses of receiving organizations and standards for examining the working environment and travel conditions at the time of immigration or renewal of residence status should be strictly provided for, and the freedom of the worker to

⁵³ International Labor Organization, “Convention concerning decent work for domestic workers”, adopted in June 2011, entered into force in September 2013. Japan has not yet ratified it.

http://www.ilo.org/tokyo/standards/list-of-conventions/WCMS_239179/lang--ja/index.htm

⁵⁴ International Labor Organization, “Recommendation concerning decent work for domestic workers”, http://www.ilo.org/tokyo/standards/list-of-conventions/WCMS_239179/lang--ja/index.htm

change employment during the stay under the residence status should be recognized. At the same time, systems for provision of information and consultation should be prepared to protect workers from violation of their rights.

100. However, the Japanese government has not considered any special measures⁵⁵.
 101. Currently, even when the foreign domestic workers have resided in Japan for many years, they are granted only 1-year stay of residence. Changing the status to a more stable one such as one of permanent residence is also difficult. It is not recognized that these workers establish themselves in the Japanese society. When the admission of foreign domestic workers continue without a thorough examination on these matters, the residence of these workers in Japan will remain precarious, and they will continue to be placed in vulnerable positions.
- C5. The Committee has recommended to the Japanese government that it ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in its previous Concluding Observations⁵⁶. But the Japanese government does not seem to be examining the ratification, and therefore it should explain whether it is conducting such an examination as well as the contents of the examination.

Section 2 Measures for Women with Disabilities

A. Proposed Questions for List of Issues

- A1. Please explain about surveys or measures that are currently being undertaken, as well as the content of reasonable accommodations regarding the multiple difficulties faced by women with disabilities.
- A2. Please explain what initiatives are being examined to address the causes of and to prevent sexual violations against women and girls with disabilities. Please explain whether statistics and surveys on sexual violence disaggregated by the existence or forms of disabilities are being conducted. If these are being conducted, please provide information on their contents.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)⁵⁷

102. The government explains that it promotes measures in a comprehensive and planned manner since the adoption of the Long-Term Plan for Persons with Disabilities in 1982. In 2011, the Basic Act for Persons with Disabilities was amended to stipulate that “measures for supporting the independence

⁵⁵ JFBA, “Kokka Senryaku Tokubetu Kuiki ni okeru Gaikoku jin no Ukeire ni kansuru Kaichou Seimei (Statement on the admission of foreigners in National Strategic Special Zones)”, (October 31, 2014), http://www.nichibenren.or.jp/activity/document/statement/year/2014/141031_2.html

⁵⁶ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.57

⁵⁷ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.128-130

and social participation of persons with disabilities shall be formulated and implemented according to the gender of the person with the disability.” Provisions were also included to take into consideration that women with disabilities were facing multiple difficulties. Also, the Act on the Elimination of Discrimination against Persons with Disabilities adopted in 2013 requires provision of reasonable accommodation according to the gender of the person. Further revisions were made in the domestic systems for people with disabilities including the Act on the Prevention of Maltreatment of Persons with Disabilities and the General Support for Persons with Disability Act. The government also notes that the ratification of the Convention on the Rights of Persons with Disabilities was approved by the Diet in December 2013.

C. Current Situation and Issues

C1. One of the multiple difficulties that women with disabilities face is the lack of consideration regarding sexual violations and sexual matters. Reasonable accommodation should be provided including removal of physical barriers, ensuring information through sign language and braille, and support in decision-making for women with intellectual or mental disabilities, in the provision of information, dissemination of access to consultations, receiving consultations and specific assistance on issues such as sexual violations and poverty.

103. According to the 2013 survey on the maltreatment of persons with disabilities published by the Ministry of Health, Labor and Welfare⁵⁸, of the victims (1,764 cases) who were abused by the caregivers 62.9% were women. This indicates that women are in the most vulnerable positions in the families and are susceptible to abuse.
104. Also, according to the survey, the proportion of sexual abuse among the types of abuse was 5.6% of abuse by caregivers, and 11.4% of abuse by the staff of institutions and facilities for people with disabilities (out of 263 cases). Data showing that many of the victims of sexual abuse are women are provided by the survey conducted by DPI Women's Network Japan in 2011. According to this survey 35% of the respondents replied that they had been subject to sexual violation.
105. The survey also points out the serious problem of the care workers providing direct care not necessarily being of the same sex as the care recipient.
106. Moreover, in cases of sexual violation of women with disabilities, punishment of offenders is difficult and general prevention, not just special prevention does not function. In particular, in cases in which the victims are women with intellectual disabilities, there may be low awareness of the meaning of obscenity and the victims may find themselves in human relationships established in the social environment bound by the existing discrimination and prejudices, sometimes in severe human

⁵⁸ MHLW, “Heisei 25nendo Shougaisha Gyakutai Taiou Joukyou Chousa (2013 Survey on Response to Maltreatment of People with Disabilities”, (November 25, 2014), <http://www.mhlw.go.jp/stf/houdou/0000065128.html>

relationships making it difficult for women to refuse. Under such circumstances, the victims may accept even unjust sexual relationships as opportunities for contacting with other people. In cases of offenses by welfare staff, there are problems rooted in welfare and poverty, such as the reluctance of the guardians and families of the victims to press charges out of concern about their future relations with the institution or staff. For these reasons, the first difficulty is bringing a complaint itself.

107. Then there are cases in which the investigating organizations hesitate to bring a case to justice, because of the low credibility given to the victims' statements as evidence because of the intellectual disabilities, and because the victims may not be able to withstand cross-examination during trials.
108. Further, assault or intimidation are required elements for the crime of obscenity on victims of 13 years of age or older to be established, but women with intellectual disabilities may be easily placed under control of the offender even without such means, and such cases cannot be prosecuted. The tendency is stronger in particular, in cases where the offenders are those with certain relations, such as teachers, medical staff, or welfare staff. The Japanese government should take note that sexual violations form a large part of the multiple difficulties faced by women with disabilities, and should conduct further surveys on the sexual abuse and violations suffered by the women to clarify the situation, as well as take necessary measures.
 - C2. Some women with disabilities have been subject to forced sterilization procedures under the Eugenic Protection Act, which used to exist in Japan. No measures have been taken to compensate these women.
 - C3. Another situation of multiple difficulties that women with disabilities face is the issue of poverty.
109. Poverty is a common problem shared with elderly women, but for women with disabilities, the employment rate is low even compared with men with disabilities. They also receive extremely low pay⁵⁹. There is a gender gap in the annual income of single person households with 4.094 million yen for men in general and 2.704 million yen for women in general. Meanwhile the same figures for men with disabilities is 1.814 million yen, showing a wide gap with those of men in general and 0.92 million yen for women with disabilities. Women with disabilities earn much less than men with disabilities, with income approximately half of that of men⁶⁰.
110. Having work that enables people to earn enough income to sustain their lives is the first step in participation in society and a precondition for independence for all people, regardless of existence of disabilities or gender.
111. The Japanese government has stipulated in the Basic Act for Persons with Disabilities that "the measures to support the independence and social participation of persons with disabilities must be

⁵⁹ DPI Women's Network Japan survey.

⁶⁰ Yukiko Katsumata, et. al, "Shougaiisha no Shotoku Hoshou to Jiritsu Shien Sesaku ni kansuru Chousa Kenkyuu (Research on Income Security of People with Disabilities and Policies Supporting their Independence)," 2008.

systematically formulated and implemented” “in accordance with the sex” “of a person with a disability” but no measures that give attention to women have been adopted. The Act on the Elimination of Disability Discrimination will enter into force in April 2016, and no guidelines on concrete steps to provide reasonable accommodation according to gender have been adopted yet.

112. The government should conduct a survey on the situation of women with disabilities, the poverty they find themselves in and the difficulties they face in social participation. It should then examine measures to solve those issues.

Section 3 Measures for Elderly Women

A. Proposed Questions for List of Issues

- A1. The situation of poverty of women, particularly of elderly women living alone is serious. If the elderly population continues to grow, more elderly women will be facing poverty. Please explain what efforts the government is planning to make to address the situation.
- A2. The situation of poverty of women, particularly of elderly women living alone is serious. If the elderly population continues to grow, more elderly women will be facing poverty. Please explain what efforts the government is planning to make to address the situation.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)⁶¹

113. The Japanese government reports that it compiled the Monitoring and Gender Impact Assessment and Evaluation Report on Support for Self-Reliant Life of the Elderly, and that it will promote support for the promotion of employment of the elderly and their social participation, development of systems and environment leading to economic independence for the elderly, efforts for realizing independent living, efforts concerning medical care and nursing care prevention in consideration of differences between men and women, and establishment of high- quality medical and nursing care infrastructures, from the perspective of gender equal participation under the 3rd Basic Plan. It also notes that 1.76 million men and 3.95 million women have been certified as requiring support or care under the Long-Term Care Insurance system created in 2000 as well as that since April 2012, a regional comprehensive care system was established in which medical, nursing care, prevention, habitation and livelihood support services are provided without interruption so that the elderly can continue to live in familiar areas with peace of mind.

C. Current Situation and Issues

⁶¹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.131-134

- C1. The number of people of 65 years of age or older is at 31.9 million (as of October 2013), the rate of aging is 25.1% and the number of women among those is 18.2 million⁶². The average life expectancy of men in is 79.94 years, while that of women is 86.41 (Ministry of Health, Labor and Welfare, “2011 Abridged Life Tables”). The proportion of women among the elderly is large, particularly so among those of 85 years of age or older (over 70% are women according to the 2004 census)⁶³.
114. One of the problems elderly women face is poverty, and another is abuse. Although these problems have been made apparent by the government statistics, there are few measures to solve these problems.
- C2. Of elderly women living in single person households, low-income households with an annual income of 1.2 million yen or less comprise 23.7%. The employment history of the women, indicating that 40% of those employed were employed in non-regular work, as well as the gender wage gap have been pointed out as reasons for the serious economic situation of the women⁶⁴.
115. The lifetime earnings of women remain low and many elderly women are living below the level eligible for public assistance. They may be reluctant to receive medical care or benefits under the Long-Term Care system, as they would have to bear parts of the costs. This may lead to health problems and situations in which they are unable to take care of themselves. It is possible that a considerable number of women end up dying alone without being noticed.
116. Systems enabling elderly women to live independently in the local communities, or infrastructures enabling women to receive necessary medical care and other benefits under the Long-Term Care system without cost concerns have not been established yet.
- C3. The proportion of women among the elderly victims of abuse is 71.1% (187 people) for those in institutions, 77.6% (12,127 people) for those who were abused by the caregivers. Of the abusing caregivers (both male and female), 41.6% were the sons of the victims, 18.3% were their husbands. These figures show that elderly women are vulnerable to becoming victims of abuse, and that there are many men among the abusers⁶⁵. The ideas on the gender division of roles in the family are likely to be a reason for the many men among the abusing caregivers.
- C4. Elderly women, as women, were expected to do the housework, and take care of other family members. Therefore, a situation in which elderly women themselves needed care was not foreseen, creating a burden on the families. Also the suicide rate of elderly women in Japan is the 5th highest

⁶² Cabinet Office, “Heisei 26 nen ban Koureika Shakai Hakusho (2014 White Paper on Aging Society)” http://www8.cao.go.jp/kourei/whitepaper/w-2014/gaiyou/26pdf_indexg.html

⁶³ MHLW, “Heisei 24 nen Kan’I Seimei Hyou no Gaikyou (Overview of the 2012 Abridged Life Tables)” <http://www.mhlw.go.jp/toukei/saikin/hw/life/life12/>

⁶⁴ Cabinet Office, “White Paper on Gender Equality 2010”

⁶⁵ MHLW “Heisei24nendo Koureisha Gyakutai no Boushi Koureisha no Yougosha ni taisuru Shien nado ni kansuru Houritsu ni Motodoku Taiou Joukyou nado ni kansuru Chousa Kekka (Results of a survey on status of handling based on the Act on Prevention of Maltreatment of Elderly People and Support for Attendants of Elderly People in 2012)”, (December 26, 2014), <http://www.mhlw.go.jp/stf/houdou/0000033460.html>

in the world. Mechanisms that enable elderly women maintain their ties with the society and in which people can support each other within the communities are necessary so that elderly women who have come to need care, or those who have lost their will to live in poverty would not be compelled to take their own lives.

Article 4 Special Measures

Section 1 Special Measures

A. Proposed Questions for List of Issues

- A1. Please clarify details of measures for recruitment and promotion of female national public employees which each ministry and agency has taken in accordance with the “Guideline Concerning the Expanding Initial Appointment and Promotion of Female National Public Employees” (revised in January 2011) by the National Personnel Authority, and specific results of these measures.
- A2. Please explain about details of examination as to assistance measures which are raised as specific policies in the Third Basic Plan for Gender Equality, including assistance provided for companies which work on positive action, particularly, assessment and legislation for requirements of public procurement, and taxation systems.
- A3. While it is reported that various assistance measures have been employed in order that companies take on positive action, please explain about specific results (an increase of female employees in managerial positions) by these assistance measures.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

117. The periodic report mentions about current status of women’s participation in policy decision-making processes in the national and local governments, companies and other bodies, and also reports the measures and policies taken in order to achieve the goal set in the Third Basic Plan of raising the percentage of women in leadership positions to at least around 30% of the total by 2020.
118. Please note that since Article 7 mentions about members of the Diet and the judiciary field as political and public life, Section 4 mainly focuses on public employees and private companies.

C. Current Situation and Issues

- C1. With regard to the appointment of women as members of national advisory councils and other bodies, the 6th Periodic Report of Japan states that:

in April 2006, the Headquarters for the Promotion of Gender Equality set a series of new goals including one which says ‘by 2020, for the Government as a whole, efforts will be made to achieve a state of gender equality where the number of either male or female members does not fall below 40% of the total.’ At present, the Government is proactively appointing women to

the national advisory councils and committees to achieve the above goal⁶⁶ (Paragraph 118). The number of women, however, still falls below 40% (34.1% as of September 2013). Although it reports that “the Government is proactively appointing women to the national advisory councils and committees to achieve the above goal,” it does not provide any picture as to what specific measures the Government is implementing.

119. Concerning national public employees, women especially in managerial positions which are equivalent to director of a division or director-general of an office of a ministry of the State (Grade 7) or a higher position and designated service account for only 2.9% and 1.7%, respectively, in fiscal 2012; the percentages of women in those positions remain very small.
120. In this respect, the Third Basic Plan for Gender Equality sets out the goal of about 5% in government positions equivalent to or higher than the director of the central government ministries and agencies and about 3% in positions equivalent to designated central government positions by fiscal 2015. Although the problem is also pointed out that the numerical targets themselves are very low, there is no denying that even these targets are difficult to achieve at present. More effective measures are thus required.
121. In respect of local governments, women in advisory councils and committees account for less than 30% (29.9% as of 2013), but there were more female local public employees in managerial positions (6.2% in director class and higher, and 19.0% in unit-chief class and higher) than those in the national government (18.5% in unit-chief class in fiscal 2012). The share of women in managerial positions of local governments, however, still remains low as seen in the situation in the national government. More effective steps need to be thus taken in order to promote the appointment of women.
- C2. Female employees in managerial positions of private companies (companies which regularly employ 100 workers or more) account for 15.4% in positions equivalent to unit chiefs, 8.5% in positions equivalent to directors, and 5.1% in positions equivalent to director-generals; the ratios still remain at low levels⁶⁷.
122. The framework of the Third Basic Plan for Gender Equality indicates necessity to remedy disparities between men and women through measures such as the promotion of positive action, and sets out the objectives: an increase of women in positions equivalent to or higher than section manager level in private corporations from 6.5% in 2009 to 10% by 2015 and an increase of corporations taking on positive action from 30.2% in 2009 to over 40%. The detailed policies include collection of favorable examples of positive action, assistance through measures such as

⁶⁶ Government of Japan, “Sixth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, (April 2008), Para.118, http://www.mofa.go.jp/policy/human/women_rep6.pdf

⁶⁷ MHLW, “Summary Report of Basic Survey on Wage Structure (Nationwide) 2013”, <http://www.mhlw.go.jp/toukei/itiran/roudou/chingin/kouzou/z2013/dl/10.pdf>

provision of information, legislation relating to assessment and requirements of public purchase, and examination of assistance measures such as taxation systems.

123. The details of the assistance measures reported in the periodic report include: the provision of comprehensive information concerning positive action; making the status of women's active participation in corporations visible; awarding of companies which promote positive action, the collaboration with employers' associations (the Positive Action Promotion Council); and the provision of the Subsidy for Support for Work Life Balance at SMEs (provision of economic incentives). Furthermore, according to the Japan Revitalization Strategy, the Government is intended to carry out enrichment of support through utilization of corporate subsidy systems and taxation measures, and efforts through public procurement as incentives to be granted to corporations that are working on the promotion of women's active participation.
124. The periodic report states that the Government is taking various assistance measures for companies to take on positive action as mentioned in the previous paragraph, but the ratio of women in manager-class positions in the above companies shows that these measures have not resulted in a significant increase in women in managerial positions. More effective measures which result in specific achievements are necessary.
125. Although, the periodic report does not mention about female board members in corporations, since female board members (directors, auditing officers and executive officers) only account for 1.8% in all listed companies⁶⁸, it is necessary to earnestly examine measures such as introduction of a quota system in a board of directors which is becoming widespread in Europe.
- C3. With regard to affirmative action in economy and employment, Article 14 of the Equal Employment Opportunity Act for Men and Women prescribes that affirmative action is left to voluntary efforts of employers to take measures against direct and indirect discrimination on the basis of sex which is prohibited from Articles 5 to 7, and that in regard to the State's response to affirmative action, in cases where employers take or seek to take the measures stated in each item of Article 14, the State may provide consultation services and other assistance to said employers.
126. According to the survey conducted by MHLW⁶⁹, in response to the question as to positive action taken by companies for the promotion of the enhancement of women's abilities, more than half of the companies answered they have no plans to take on positive action (51.9%), and merely about 30% responded that they are currently taking on positive action (31.7%). The companies which have no plans to take on positive action gave their main reason that women already make thorough use of their capabilities, and play active roles in the companies (this reason comprises 36.4% of all. Other reasons include: "women's consciousness which is not in line with positive action" for 15.8%; "not

⁶⁸ Tokyo Keizai Inc. Japan Company Handbook for Fiscal 2014

⁶⁹ MHLW, "Basic Survey of Gender Equality in Employment Management in FY2011 (Final Report)", <http://www.mhlw.go.jp/toukei/list/71-23r.html>

knowing how to take on positive action” for 9.7%; “lack of direct effect on business performance” for 9.2%; and “leaders’ consciousness which is not in line with positive action” for 2.8%). In light of the fact that the merely 6.8% women in managerial positions which are equivalent to or higher than section manager level, significant disparities definitely exist between the current situations of companies and their awareness and evaluation. Moreover, with examination of contents of specific measures taken by companies which responded that they are taking on positive action, “the clear definition of criteria of personnel evaluation (not based on sex)” tops the list of specific measures taken by 68.1% of those companies, but personnel evaluation based on sex should be undoubtedly prohibited. Such measure is far from being recognized as an active and effective one against discrimination.

127. Although gender equality in economy and employment is of urgent necessity for the State to be committed to address, leaving it to voluntary efforts of each company will end in failure to realize gender equality. Legislation is therefore vital to oblige employers to take on specific affirmative action. The steps listed in each item of Article 14 of the Equal Employment Opportunity Act for Men and Women are: analysis of employment-related circumstances in Item 1; preparation of plans in Item 2; implementation of the measures provided for in the plan in Item 3; establishment of the system necessary to implement the measures referred to in the preceding three items in Item 4; and disclosure of the implementation of measures referred to in the preceding items in Item 5. They consist of all feasible measures regardless of a company size, and are all minimum requirements for elimination of discrimination on the basis of sex in employment and economy and for achievement of gender equality. At least the measures listed in the items of Article 14 should be thus set as obligation. In addition, for ensuring the effectiveness of affirmative action, the measures listed in Article 14 should be subject to voluntary resolution of complaints stipulated in Article 15, and stringent sanctions such as the State’s investigation of companies’ compliance should be also taken against willful violations. The implementation of affirmative action should be subject to the collection of reports and issuing of advice, guidance, and recommendations in Article 29, publication in Article 30, and the imposition of civil fines in Article 33⁷⁰.
- C4. The previous concluding observations also pointed out that no temporary special measures are in place to accelerate de facto equality between men and women or to improve the enjoyment by women of their rights in the State party with regard to women in the workplace and the participation of women in political and public life⁷¹, and the Committee urges the State party to adopt temporary special measures, with an emphasis on the areas of employment of women and participation of

⁷⁰ JFBA, “Opinion Concerning Revision of Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment”, (November 22, 2013), http://www.nichibenren.or.jp/library/ja/opinion/report/data/2013/opinion_131122_3.pdf

⁷¹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.27

women in political and public life and with numerical goals and timetables to increase representation of women in decision-making positions at all levels⁷².

⁷² Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, 28

Article 5 Elimination of Prejudice and Customs, Etc.

Section 1 Elimination of Prejudice and Customs, Etc.

A. Proposed Questions for List of Issues

- A1. While the periodic report states that with the aim to elimination of the stereotyped perceptions for gender roles, the Government would make efforts to disseminate widely among the media the details of the challenges of the Japanese media, such as the need to correct their expressions regarding men and women based on their stereotyped perceptions for gender roles⁷³, please clarify details of to what kind of media, when and how the Government has widely disseminated them.
- A2. Please state what measure have been employed for the expansion of women's participation in the media.
- A3. For the purpose of elimination of the stereotyped perceptions for gender roles, awareness of men from various sectors of society should be continuously raised. Please state the Government's opinion about obligating local governments to organize awareness-raising campaigns, including holding of a symposium on the significance of gender equality from a male perspective, and carrying out measures to set and achieve numerical targets of such awareness-raising campaigns.
- A4. Please clarify: how the guidance is provided for the promotion of gender equality at the stage of primary and secondary school education; whether any measures are adopted to provide a certain level of such guidance anywhere in the country without any difference in area; and whether any problems exist in educational curriculums of gender equality in light of the finding in the 2012 public opinion survey that men and women in their twenties have strong stereotyped perceptions for gender roles
- A5. Please clarify how the guidance is provided at the stage of high school for the promotion of gender equity, and also provide views on the opinion of further reinforcing education and guidance for men, including the working styles of men and their involvement in family roles at home such as housework and child rearing, not limited to career decisions of women and other issues from a women's perspective.
- A6. In light of the high incidence of gender discriminatory statements made by public officers, the stereotyped perceptions for gender roles have not been still eliminated, and have been rather strengthened. Please state the Government's opinion as to necessity of regulations and penal provisions to regulate sexist remarks at public places in order to eliminate the stereotyped perceptions for gender roles.

⁷³ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.168,169

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

128. The Third Basic Plan for Gender Equality set forth the basic direction of its policy of actively undertaking public information and awareness-raising activities in order to dispel the stereotyped perceptions for gender roles which constitute a huge obstacle that prevents the realization of gender equality, and to firmly establish awareness of gender equality. Furthermore, as concrete measures, it was clearly stated that the Government would make efforts to disseminate widely among the media and its people the details of the challenges of the Japanese media, such as the need to correct their expressions regarding men and women based on their stereotyped perceptions of gender roles⁷⁴. It is also making efforts to increase women's participation in the media⁷⁵.
129. During the Gender Equality Week, the national government proactively conducts public information and awareness-raising activities with the cooperation of local governments and other organizations concerned⁷⁶.
130. Moreover, in addition to holding of the Liaison Conference for the Promotion of Gender Equality in order to enhance coordination by promoting exchange of information and opinions with people and among NGOs, it also conducts PR and awareness-raising activities⁷⁷. Additionally, it promotes appropriate guidance in accordance with the development stage of schoolchildren and students regarding respect for human rights, equality of men and women in order to eliminate stereotypical attitudes about the roles and responsibilities of women and men⁷⁸.
131. For understanding the effectiveness of the activities mentioned above, the Cabinet Office has conducted "public opinion polls on gender equality" on a regular basis. The recent surveys show the stereotyped perceptions for gender roles are being gradually diminished⁷⁹.
132. It also made proposals such as the significance of fathers' active participation in home education for the promotion of gender equality in family life⁸⁰.

C. Current Situation and Issues

133. Even at present, stereotypical attitudes toward gender roles are deeply rooted in Japan. Women's

⁷⁴ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.168

⁷⁵ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.180

⁷⁶ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.170

⁷⁷ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.175

⁷⁸ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.176-178

⁷⁹ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.182

⁸⁰ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.184, 185

participation in the labor force has become commonplace, but there is still strong persistence of the traditional perceptions that only women should be engaged in housework and child raising while no change has been seen in men's weak awareness of sharing domestic and family responsibilities. This may have resulted from causes which include: insufficiency of publicity and awareness-raising campaigns for gender equality, particularly lack of awareness-raising campaigns for men; insufficiency of education and guidance of gender equality in school education to abolish the stereotypical perceptions for gender roles; and common prevalence of pornography which demean women and degradation of women solely as sex objects.

134. The reality of the failure to diminish sexist attitudes in Japan is obviously seen in a series of discriminatory remarks by public officials from the past to the present day. There are countless numbers of such derogatory remarks which began with the former Governor of Tokyo, Shintaro Ishihara's calling women "old broad" in November 2001, followed by: the remark made by Seiichi Ota, a former member of the House of Representatives, that "gang rape is evidence that they are vigorous" in June 2003; the remark by Hakuo Yanagisawa, a former member of the House of Representatives, calling women "birth-giving machines" in January 2007; and Ishihara's remark that homosexuals were deficient in some ways. In the previous concluding observations, the Committee called upon to the Government to take steps to prevent and verbal violence against women, but no steps have been taken⁸¹. In June 2014, when Ayaka Shiomura, a member of the Tokyo Metropolitan Assembly, was making presentations as to assistance measures for pregnancy, birth and child rearing at the Assembly, several assemblymen shouted sexist remarks at her, including "You are the one who should get married" and "Can't you even bear a child?" This became a major problem, but the assemblymen who sexually taunted her were not held legally responsible, and the denigrating remarks by the public officials were uncontrolled. Such political attitudes allow the notion of stereotypical gender roles to be unquestioned, and contribute to discrimination against women. Measures should be thus taken immediately, including introduction of punitive measures and regulations against discriminatory remarks.
135. Moreover, stereotypical attitudes are still prevalent in the media. Media proprietors continue to produce a large number of television programs and commercials which take for granted depiction of a single-income household of a working man and a stay-at-home woman. Even in some programs and commercials which portray a dual-income household, many of them end in promoting the image of a woman who is the only person in the family engaging in housework and child rearing. Additionally, in the poll conducted in 2012, the ratio of respondents opposed to the stereotyped notion of gender roles, namely, "a husband should go to work, wife should stay home and take care of the family" was lower, for the first time ever, than that of respondents in agreement with this

⁸¹ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.29

notion. Yet, the ratio of those in agreement was higher for respondents in their 20s and in their 60s or older. This poses a serious concern about recurrence of the stereotyped idea of gender roles in the young generation.

136. Pornography of over-sexualized depiction of women is rampant more than ever, and is left even at public places where young children can find it, which results in significantly generating girls' low self-esteem. In November 2012, the Mori Art Museum, one of the leading public spaces located within Roppongi Hills in Tokyo, hosted an exhibition of paintings full of sexual violence and gender discrimination, which became highly controversial. The major work by painter Aida Makoto which title is "Dog" depicts a young girl with an ecstatic smile who is mutilated both her hands and shins and completely naked except a collar around her neck. This gives a complete shock to viewers, and strengthens gender discrimination.
137. In July 2014, artist Rokudenashiko was arrested and detained on charges of distributing obscene electromagnetic record, allegedly distributing 3-D data of her genitalia. This stirred a major controversy as to predominance of men over women, questioning why distribution of data of the female genitalia image is considered to be obscene while paintings which symbolize male counterpart are not regarded as obscene.
138. As mentioned above, the notion of stereotyped gender roles is still dominant. Up to this time, women are not allowed to talk about their own sex, and only fall prey as sex objects of men.

Article 6 Prohibition of Trafficking in Women

Section 1 Efforts against trafficking in persons

A. Proposed Questions for List of Issues

- A1. Please explain about investigation and prosecution, and punishment in detail in cases of trafficking in persons for the purpose of labor exploitation
- A2. Please explain about detailed situations of trafficking in minority groups and also in Japanese people.
- A3. Please explain about specific preventive measures adopted to eliminate the root cause of human trafficking through labor and sexual exploitation.
- A4. Please clarify whether to provide, in particular for public prosecutors and judges specialized training as to recognition of trafficked victims, support and protection of such victims. If such training is provided, please elaborate it. If not, please state reasons for that and an implementation plan in the near future.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)⁸²

139. Please refer to Paragraphs 30 and 33.

C. Current Situation and Issues

- C1. The Government formulated the 2014 Action Plan to Combat Trafficking in Persons⁸³ in December 2014. In addition to problems with the existing measures, the ones found in this plan are mentioned below.
- C2. Trafficking in Persons for the Purpose of Labor Exploitation
140. The Government commenced the measures against trafficking in persons in 2004. Since then up to the end of 2014, no perpetrators were arrested on charges of trafficking in persons for the purpose of labor exploitation.
- a. In light of the current situation, the United Nations Human Rights Committee issued the recommendations in the previous concluding observations, including enhancement of victim identification procedures, particularly with regard to victims of forced labor, and provision of specialized training to all law enforcement officers, including labor inspectors.⁸⁴ It also noted with

⁸² Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.30-33

⁸³ Ministerial Meeting Concerning Measures Against Crime. 2014 Action Plan to Combat Trafficking in Persons, (December 16, 2014), <http://www.kantei.go.jp/jp/singi/hanzai/kettei/141216j/honbun.pdf>

⁸⁴ Op. cit., CCPR, "Concluding observations on the sixth periodic report of Japan", (CCPR/C/JPN/CO/6,

concern that, despite the legislative amendment extending the protection of labor legislation to foreign trainees and technical interns, there are still a large number of reports of sexual abuse, labor-related deaths and conditions that could amount to forced labor in the technical intern training program. Furthermore, it recommended that the Government should strongly consider replacing the current program with a new scheme that focuses on capacity-building rather than recruiting low-paid labor, and that in the meantime, it should increase the number of on-site inspections, establish an independent complaint mechanism and effectively investigate, prosecute and sanction labor trafficking cases and other labor violations.⁸⁵

b. The Government added a new section titled prevention of trafficking in persons for the purpose of labor exploitation in the 2014 Action Plan to Combat Trafficking in Persons, and clarified its intention to implement an overhaul of the technical intern training program for improvement.⁸⁶

141. However, while admitting problems found in the technical intern training program, the Government only considers measures based on the premise that this program continues to exist. Specifically, on the one hand, it lists measures which include: improvement of counseling programs; establishment of a flexible mechanism which allows transfer from a training organization where any improper acceptance is found to another organization; effectuation of the regulations as to sending organizations by means such as bilateral agreements; full compliance of compensation levels which are equivalent to the ones for Japanese workers; and fundamental reinforcement of a mechanism of control and supervision. On the other hand, it is intending to expand the scope of job categories, extend training periods, and increase trainees to be accepted.⁸⁷

142. The technical intern training program is ostensibly a system aimed at international cooperation through transfer of Japan's technologies to overseas by technical intern trainees, but in reality the program is used as supply of low-wage, unskilled laborers, which indicates a huge disparity between the name and the reality. Because of this ostensible purpose of the program, trainees have no right to freely change their place of work which should be granted as a worker, thereby having difficulty establishing an equal labor relation. These structural problems contribute to endless violation of human rights, including the collection of a bond or guarantee money by overseas organizations which dispatch interns to Japan, the failure to pay wage and the forced return of

August 20, 2014), Para.15

⁸⁵ Op. cit., CCPR, "Concluding observations on the sixth periodic report of Japan", (CCPR/C/JPN/CO/6, August 20, 2014), Para.16

⁸⁶ Op. cit., Ministerial Meeting Concerning Measures Against Crime, 2014 Action Plan to Combat Trafficking in Persons, P.6-7

⁸⁷ Subcommittee for Review of the System for Accepting Foreigners under the Sixth Discussion Meeting on Immigration Control Policy and Session Meeting on Acceptance of Foreign Nationals. Result of the study on policy change in the technical intern training system, (June 2014), <http://www.moj.go.jp/content/000123755.pdf>

Industrial Competitiveness Council under the Headquarters for Japan's Economic Revitalization Revision of "Japan Revitalization Strategy (Draft), (June 16, 2004), <http://www.kantei.go.jp/jp/singi/keizaisaisei/skkkaigi/dai17/siryou2.pdf>

trainees who demand improvement of working conditions.⁸⁸ Many of the women who constitute half of the trainees⁸⁹ experience offences such as sexual harassment.

143. The nature of the technical intern training program lies in Japan's policy of foreign labor by which foreign nationals are used as "laborers who are controlled, extremely low-waged and stable" without possibilities of job change and with the security to make trainees return to their home country granted to an employer. Because the Government maintains this "short-term rotation policy," labor exploitation has been prevalent. The problem is not attributed to the failure to implement the training program in accordance with its purpose, but the structure of the program constitutes the core of the problem. Thus, the improvement of the program for its purpose hardly leads to an overhaul of the program. The Government should abolish this unusual form of the technical training, and start from permitting their residency as a worker.
144. The JFBA has been long demanding the abolishment of the training program. If the Government expands the acceptance of unskilled workers, it should more thoroughly examine such steps as introduction of a new mechanism with the purpose of accepting unskilled workers which allows an equal labor-management relationship to be established.⁹⁰
145. Yet, in the meantime, measures are necessary to be adopted in order to prevent labor exploitation under the current technical intern training program. It is gravely doubtful that the Government's proposals such as an overhaul of the monitoring mechanism will lead to resolution of the problems. In particular, the principle of the prohibition of job change makes trainees patiently work even under harsh conditions. The Government should revise the program which allows trainees to change their jobs, and, at the same time, institute an organization which provides consultation on employment and change of jobs for trainees, apart from Labor Standards Inspection Offices and the Immigration Bureau. Furthermore, "regional councils of relevant organization" which the Government is scheduled to establish are unclear in terms of members, authorities and other factors, and are likely to exclude bodies of parties in interest, namely foreign workers which include trainees, and their support organizations.
146. It is also necessary to ensure: thorough dissemination of information of legal protection and other relevant matters; supply of information on support groups for trainees and other relevant matters; an increase in Labor Standards Inspectors; and verification of criteria for determination of forced labor by the Labor Standards Inspection Offices.

⁸⁸ JFBA, "Statement Concerning the "Review Results (Report) Regarding the Direction of Revision of the Technical Intern Training Program for Foreigners"", (June 18, 2014), <http://www.nichibenren.or.jp/en/document/statements/year/2014/140618.html>

⁸⁹ Government of Japan, According to the statistics on foreign residents in Japan by status of residence, age and sex listed in the statistics on foreign residents in Japan, out of 162,154 trainees, there are 83,780 women as of the end of June, 2014, <http://www.e-stat.go.jp/SG1/estat/List.do?lid=000001127507>

⁹⁰ Op. cit., JFBA, Statement Concerning the "Review Results (Report) Regarding the Direction of Revision of the Technical Intern Training Program for Foreigners"

- c. The Olympic and Paralympic Games are to be held in Tokyo in 2020. When large-scale sports events, including the Olympic games and World Cups, are held, there are global problems which include: an increase in laborers who are forced to work under abysmal working conditions such as low wages and long working hours; an expanded demand for prostitution; and a rapid rise of trafficking in persons along with the demand for prostitution. Adequate attention should be also paid to countermeasures of human trafficking in Japan.
147. On the contrary to these concerns, the Government is promoting a scheme of acceptance of foreign workers in the construction industry due to the expected shortage of workers. This scheme's structure is based on the technical intern training program, and similar problems found in the training program are expected to occur, including payment of a bond or guarantee money, collection of trainees' passbooks, a failure to pay wage, forced return, and improper control of trainees' lives. The Government should assure that the guidelines for the scheme to accept foreign construction workers are exhaustively complied with at workplaces, and that relief of victims should be prioritized in proper utilization of the scheme.
- C3. Sexual Exploitation of Women
- a. The Government has employed measures focused on offences, in particular against foreign women for the purpose of sexual exploitation since 2004, which were effective to some extent.
148. However, "significant achievements" mentioned in the periodic report could be an exaggeration. The United Nations Committee on the Elimination of Racial Discrimination expressed in the previous concluding observation its concern about: the persistence of trafficking in minority women, in particular for purposes of sexual exploitation; the lack of data that would enable the extent of the phenomenon of trafficking to be assessed; and the absence of information on specific legislative provisions against trafficking, as well as on cases related to investigations, prosecutions and sanctions imposed on those responsible. It recommended that the Government:
- (a) Adopt specific legislation against trafficking in persons;
 - (b) Intensify its efforts to combat trafficking in persons, including of migrant women, and take preventive measures to address its root causes in the context of Japan's Action Plan of Measures to Combat Trafficking in Persons;
 - (c) Provide assistance, protection, temporary residence status, rehabilitation and shelters, as well as psychological and medical services and other assistance, to victims;
 - (d) Promptly and thoroughly investigate, prosecute and punish those responsible;
 - (e) Provide specialized training to all law-enforcement officials, including police officers, border guards and immigration officers in the identification of, assistance to and protection of victims of trafficking;
 - (f) Inform the Committee on the Elimination of Racial Discrimination of the situation on trafficking

in Japan, especially of people from minority groups.⁹¹

- b. JFC and foreign housekeepers (personnel for housekeeping) are previously mentioned in the “Measures for Foreign Women” in Section 1 of Article 3. Those people are highly likely to be forced to engage in exploitative labor, and some of them may involve cases to be assessed as trafficking in persons.
- c. The measures which the Government has employed focus on trafficking in persons by which foreign women become victims. Yet, because a considerable number of women of Japanese nationals have been identified as victims, it should fully address trafficking in Japanese nationals.
- C4. The ultimate purpose of the measures against trafficking in persons is prevention, and a major challenge faced by Japan, which receives trafficked persons, is to eradicate demand for such trafficked persons, but the Government’s measures are mainly aimed at stricter immigration control and residency management, and other measures are not sufficient, including review of the policy of proper acceptance of foreign workers, examination and revision of the legal, social and other relevant systems which allow exploitive use of people, and awareness-raising for the public.
- C5. Some training for law-enforcement officials seem to be provided for police officers, immigration officers, labor standards inspectors, and other officials, but it is doubtful whether training is given to public prosecutors and judges. However, appropriate punishment and civil sanctions imposed on perpetrators will contribute to support for victims and prevention of future offence. The Government should thus thoroughly conduct training for prosecutors and judges.

Section 2 More Detailed Information on the Sex Industry in Japan

A. Proposed Questions for List of Issues⁹²

- A1. Please provide data of the number of children who became victims of trafficking in children, child prostitution and child pornography, disaggregated by age, sex, ethnic group and geographical location.
- A2. Please clarify whether to examine prohibition and punishment of production, distribution and possession of pornography which depicts fictitious children and non-fictitious women who are aged 18 and older. If revision of such legal policy is not under consideration, please explain detailed steps against them.
- A3. Please explain detailed measures for prevention of sexual exploitation of women aged 18 and older.
- A4. Please explain the status of revision as to provisions of sex crimes in the Penal Code.

⁹¹ Op. cit., CERD, “Concluding observations on the combined seventh to ninth periodic reports of Japan”, Para.16

⁹² JFBA. Report of JFBA Regarding the Third Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (1). February 17, 2012. Para.88,93-96, http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Submission_to_the_PSWG_of_CESCR_en.pdf

A5. Please explain about statutory regulations, protection of victims, countermeasures, and present conditions with regard to sexual exploitation with use of Internet.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)⁹³

149. Please refer to Paragraphs 33 and 35, and Paragraphs 14 and 16.⁹⁴

C. Current Situation and Issues

C1. Current situation of the sex industry

150. There is no single word about the current situation of the sex industry in the periodic report.

151. However, according to the National Police Agency, the annual number of registration for sex-related amusement special business in 2013 constitutes: approximately 30,000 cases for store-based business (soaplands, fashion health clubs, strip joints, love hotels, adult shops, dating cafes, and other store-based businesses); approximately 20,000 cases for non-store-based business (dispatch-type fashion health clubs, and mail-order businesses such as sales of porn videos, and other non-store type businesses); and about 2,200 cases for image-transmitting type. Recent years have seen a tendency of an increase in non-store -based and image-transmitting type businesses. In addition, organized crime and other crime group members account for about 32% of all arrests on crimes relating to prostitution in 2013, which indicates crimes relating to prostitution still remains as financial sources of organized crime syndicates. Recent cases include crimes in which a store is set up, the ones where a business is disguised as a dispatch-typed fashion health club, and the ones where an offender pretending to be a woman solicits a client with use of an online dating site. This suggests those crimes are conducted in a sophisticated and organized way with the intention to obtain illegal proceeds. Furthermore, arrests on crimes of indecency is on the rise, and many such cases are notably observed in recent years, including crimes relating to public display of obscene images with use of computer networks, and ones relating to sales of DVDs and other media which contain information of obscene images⁹⁵. It is evident that many women still remain sexually exploited.

152. The United Nations Committee on the Rights of the Child stated in the previous concluding observations its concern about the lack of data, disaggregated by age, sex, ethnic group and geographic location, on the prevalence of the sale of children, child prostitution and child

⁹³ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.14-16,33-35

⁹⁴ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.213-216

⁹⁵ National Public Safety Commission and National Police Agency, "White Paper on Police 2014", Pages 85 to 86.

pornography from the perspective of the number of child victims, and at the lack of research on the specific areas covered by the Optional Protocol. It thus recommended that the Government should conduct research and establish a central database for registering offences covered by the Optional Protocol and ensure that such data is systematically collected and disaggregated, inter alia, by the victims' age, sex, ethnic group and geographic location. It also stated that data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offences.⁹⁶

153. The Government should collect and submit detailed data of offences against adults as well as children in the same manner.
- C2. Current legal system regulating the sex industry⁹⁷
- a. Sexual exploitation of “children” under 18 years of age (including: rape; indecent sexual assault; child prostitution; trafficking in children for prostitution or for production of child pornography; distribution of child pornography; production, possession and delivery of child pornography for the purpose of distribution; and possession regardless of intent to distribute) is prohibited and is subject to punishment by the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, the Child Welfare Act and other acts.
- b. Possession of child pornography regardless of intent to distribute in the list above was not within the scope of punishment, and was not even a breach of law for a long period of time. In June 2014, however, the revisions of the child pornography prohibition law was passed and enacted, including: the addition to the definition of child pornography which states “children’s sexual body parts (genitals or areas around them, the buttocks and breasts) are exposed in particular or highlighted;” and the penalty of up to a year in prison or 1 million yen in fines for possession of child pornography which includes digital images for the purpose of satisfying one's sexual curiosity. The revised act was enforced in July 2014, but a one-year moratorium was set after the revised law took effect in order to encourage voluntary disposal.
154. The Ministry of Justice stated that “in particular” is used to indicate the meaning that contents of images are intended to escalate sexual desire or stimulate it, so it is not generally considered that “children’s sexual body parts are exposed in particular or highlighted” in images of natural poses of young children bathing at home or other places which parents photograph for growth record, even if it is a photograph of a naked child. The purpose of satisfying one's sexual curiosity is needed to be

⁹⁶ CRC, “Consideration of reports submitted by States parties under article 12, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”, (CRC/C/OPSC/JPN/CO/1, June 22, 2010). Para.5,6, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/OPAC/JPN/CO/1&Lang=En

⁹⁷ Op. cit., JFBA, “Update Report on Issues and Questions from the Committee on the Elimination of Discrimination against Women with regard to the Sixth Periodic Report of the Japanese Government”, Page 39 to 42.

found for punishment, and those who possess child pornography for academic studies do not face prosecution. In addition, the punitive provision applies to “those who are clearly found to possess child pornography with their own intent,” and, in principle, is intended not to penalize those who unknowingly possess it through receiving an attached e-mail file containing the material⁹⁸.

155. In the previous concluding observations, the Committee was concerned at the normalization of sexual violence in Japan as reflected by the prevalence of pornographic video games and cartoons featuring rape, gang rape, stalking and the sexual molestation of women and girl, and noted with concern that these video games and cartoons fall outside the legal definition of child pornography in the Act Banning Child Prostitution and Child Pornography.⁹⁹ The Committee also strongly urged Japan to ban the sale of video games or cartoons involving rape and sexual violence against women which normalize and promote sexual violence against women and girls, recommended that Japan include this issue in its revision of the Act Banning Child Prostitution and Child Pornography.¹⁰⁰ However, the revision in this regard was deferred, and only the provision was established for Internet operators to take measures to contribute to prevention of crimes and other offenses relating to child pornography with use of Internet.¹⁰¹
- c. In reality, many offender of sexual exploitation of women aged 18 and older are practically left free from prosecution. In the concluding observations in 2008, the United Nations Human Rights Commission expressed its concern that: the definition of rape excessively requires resistance by victims against the attack; judges often unduly focus on the sexual past of victims; and perpetrators of sexual violence frequently escape just punishment or receive light sentences, and issued recommendations.¹⁰² The Ministry of Justice at last instituted an advisory committee relating to punishment of sex crimes in fall 2014,¹⁰³ but as far as the meeting minutes released in public were examined, no procedures for revision of the laws were clear for mitigation of burdens on victims as well as the above points.
- c1. The Anti-Prostitution Act provides that the act of both buying and selling sex is illegal but is not

⁹⁸ Ministry of Justice, “Bill to make partial amendment to the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children”, http://www.moj.go.jp/keiji1/keiji11_00008.html

⁹⁹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.35

¹⁰⁰ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.36

¹⁰¹ Article 16-3 of the Act on Regulation and Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children

¹⁰² CCPR, “Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Concluding observations of the Human Rights Committee”, (October 30, 2008, CCPR/C/JPN/CO/5/ADD.1) Para.14,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FJPN%2FCO%2F5%2FADD.1&Lang=en

¹⁰³ Ministry of Justice, “Advisory committee relating to punishment of sex crimes”, http://www.moj.go.jp/keiji1/keiji12_00090.html

subject to punishment. The punitive provisions, however, apply to the “act of encouraging prostitution” such as solicitation of prostitutes for other persons, intermediation, provision of a place and funds for prostitution, and management of prostitution. The heaviest statutory penalties are imposed on the “act of forcing a person into prostitution for business” (management of prostitution), and such offender is punished by imprisonment with work for up to 10 years. In case of offense of public solicitation which is considered as one of the acts of encouraging prostitution, those who solicit a person for prostitution in a place easily seen by the public or commit similar acts are penalized. This indicates that interests protected by laws here are “sex morality” and “public morality in society.” Moreover, protective measures are rendered only to women who are apprehended and convicted of said offense (the provision clearly states that protective measures are taken only for women). There is no provision relating to protection (correction) for men who pay for sex.

156. The purpose of this Anti-Prostitution Act is “to prevent prostitution by punishing activities relating to the acts of encouraging prostitution, and also by taking measures of correctional guidance, and protection and rehabilitation for a woman, in light of character and conduct or environment of the woman, who is like to engage in prostitution, in view of the fact that prostitution harms the dignity of a person, is contrary to sex morality, and disrupts public morality in society.” The act is weak in terms of suppression of demand for prostitution, and obviously employs the double standard of the sex norm with consideration of the name of the act (*baishun* in the Japanese term means selling sex) and the legal concept of the act of encouraging prostitution. Fundamental revision should be promptly made.
157. In addition, the act only bans sexual intercourse in exchange of money. Sexual conducts, namely, conducts similar to sexual intercourse, are not violation of the act, and are rather officially approved under the Entertainment Business Law if they are conducted at places such as a bath attached to a private room. Although it is well known that prostitution involving sexual intercourse takes place at those places such as a bath attached to a private room, it is hardly regulated by the Anti-Prostitution Act.
- c2. The Act on Control and Improvement of Amusement and Entertainment Business (hereinafter referred to as the "Entertainment Business Law") sets forth five types of sex-related amusement special business: store-based business; non-store-based business; transmitting-image business; store-based telephonic dating service; and non-store-based telephonic dating service. The law authorizes these businesses based on “notification” made by business operators to prefectural public safety commissions.
158. The Entertainment Business Law has gone through more than a dozen revisions, and discussions were held in the course of the revisions as to whether these businesses should be regulated by the use of “permits.” However, it was considered inappropriate for prefectural public safety

commissions to grant permits to operators, many of whom ran illegal businesses, and it was agreed that it would be better to maintain the system of having the operators notify of their businesses and thereby gain better perspective of their businesses, as many of them were being carried out without notification.

159. The services provided in the sex-related amusement special business include: the business which sets up a private room, and provides service of touching a customer of the opposite sex at said room in response to the customer's sexual curiosity; the one which exclusively runs a business specified by Cabinet Order as an entertainment facility used for entertainment of showing a pose of a person who is naked or for other entertainment which has a significant impact on public morality and sound development of the juvenile with the aim of arousing sexual curiosity; the one which sets up a store, and exclusively sells or lends photographs, video tapes and other materials specified by Cabinet Order with the aim of arousing sexual curiosity; and the one which exclusively shows scenes of sexual conducts or movies of a pose of a naked person with the aim of arousing sexual curiosity. This shows that conducts similar to sexual intercourse are authorized to those who make the prescribed notification.
160. The Anti-Prostitution Law, as matter of course, applies to these businesses as well. (The Entertainment Business Law presupposes conducts similar to sexual intercourse in the notified businesses but not sexual intercourse). Moreover, it is a well-known fact that buying and selling sex (sexual intercourse) exists in these businesses. However, hardly any arrests are made for violation of the Anti-Prostitution Act. There are a number of explanations. Except cases where investigators raid a crime scene and seize videotaped images, it is difficult to gain evidence of "sexual intercourse," because virtually no buyers of sex will cooperate in the investigation. Even if there is obvious evidence of sexual intercourse, it is not always clear if remuneration is made for sex in cases such as the one in which drink and food and other services are combined with sex, and the payment of such services is made inseparably from remuneration for sexual intercourse. Other reasons for almost no arrests under the Anti-Prostitution Law include the one that the investigation authorities see prostitution as a crime without victims and therefore give low priority to prostitution cases.
- c3. With exception of child pornography, no laws regulate pornography in general. The rights of producers and users are stressed in the name of freedom of expression and privacy, and even pornography depicting a woman raped or gang-raped is left unregulated. The human rights of women appearing in this kind of pornography are totally disregarded.
161. In Japan, pornography is defined as "photographs, videotapes, and other materials" of "depiction which arouses or stimulates the viewer's sexual desire in a visible way" (see Article 2 of the child pornography prohibition law). However, this definition itself which hinges on the viewer's subjective views constitutes an error. Pornography should be regulated, not because it is a crime against public morals, but absolutely because the rights of women and children should be protected

from sexual exploitation and abuse. If this is true, details and methods of regulations of pornography should be determined on the basis of viewpoints of women and children who are exploited as objects of pornography. Moreover, the definition of pornography should be restructured from this point of view.

C3. Protection and support of victims

162. The Anti-Prostitution Act provides that in case women aged 18 years and older engage in prostitution, Women's Consulting Offices which are established by each prefectural government provide protection, rehabilitation and other supports for them. Only a very few prostitutes, however, actually seek protection from the offices (, which is clearly shown in the fact that the chief complaint of trafficking in persons, coerced prostitution, and stalking constituted only 1% among those who sought for counselling at the Women's Consulting Offices in each prefecture during a year from April 2012 to March 2013¹⁰⁴). Possible reasons for this include lack of adequate publicity of the existence of a Women's Consulting Office and its support for women in need of such assistance, and a decrease in counselors who can properly provide counseling for victims of women because of an unstable, part-time status with a one-year term of a counselor.
163. A child guidance center is primarily responsible for these tasks for women under 18 years old.

C4. Sexual exploitation with use of Internet

- a. In light of a rapid rise in crimes such as child prostitution arising from use of online dating sites, the Act on Regulation on Soliciting Children by Using Opposite Sex Introducing Service on Internet (hereinafter referred to as the "Online Dating Site Regulation Act") is currently in force.
164. An online dating site is a business which provides services of posting information on those who seek for dating with an unacquainted person of the opposite sex in an electronic bulletin board in response to such requests by them.
165. Yet, while there was a decline in the number of crimes relating to violations of the child pornography prohibition act arising from online dating sites since 2009, crimes originating from community sites which exclude online dating sites significantly increased. This is indicated in the statistics of the cleared cases in 2013; 848 cases arising from online dating sites and 1,311 cases arising from community sites.¹⁰⁵
- b. With a view to prevention of youth under 18 years old from involvement in crimes via Internet, and ensuring their safe use of it, the Act on Establishment of Enhanced Environment for Youth's Safe and Secure Internet Use (hereinafter referred to as the "Enhanced Internet Environment for Youth

¹⁰⁴ MHLW, "Outline of the report on the implementation status of protection of women in 2012", <http://www.mhlw.go.jp/bunya/kodomo/pdf/dv140305-1.pdf>

¹⁰⁵ National Police Agency, "Current status and measures against crimes arising from online dating and other sites in fiscal 2012", (February 28, 2013) <http://www.npa.go.jp/cyber/statics/h24/pdf02-2.pdf>
National Police Agency, "Analysis of research on crimes against children arising from community sites", (the second half year of 2010), <http://www.npa.go.jp/cyber/statics/h22/H22deai-bunseki1.pdf>

Act”) is also in effect. This act requires providers of Internet connection services of mobile phones to oblige application of access restriction service to web sites which contain information harmful for youth when making agreement with children to provide Internet connection services with use of mobile phones.

166. However, it is impossible to prevent children from accessing to harmful information by filtering services, since a vast amount of information is distributed on the Internet, and may also change constantly. For the protection of youth from incidents such as crimes, children themselves need to make choice of and access to necessary information among different kinds of information sources, appropriately evaluate obtained information, and acquire skills to leverage information (information literacy), so developing such skills is extremely important. Moreover, not all parents and guardians of children are sufficiently information literate due to rapid development of Internet technology, so it is expected that they may not be capable of protecting their children. They are thus urged to improve their information literacy skills. In addition, currently, filtering services are not so well known, and its purpose and intention, and information relating to adverse impacts of access to harmful sites on children are not adequately disseminated to users. Further education for awareness-raising is required.
- C5. The term “*fuzoku*” is now part of the everyday language in Japan. It derives from “*sei fuzoku*” (sex culture) and means purchase of sex and other commercial sexual conducts. Few people, however, associate this with exploitation. Many view purchase of sex and other commercial sexual conducts, particularly, with women aged and older does not constitute exploitation, because it is based on the “free will” of those women. When decision was made to ban and penalize for sexual exploitation of children under 18 years of age, the only explanation offered was that children are not capable of adequate judgment, thereby lacking in voluntariness. No solid argument was made on issues such as why it constituted exploitation and abuse. As a result, as soon as a woman turns 18 years old, cases of prostitution and other sexual conduct are dismissed, simply because the act is based on “free will.”
167. Research, education and awareness-raising are necessary in relation to such factors as reality, causes and impacts of commercial sexual conducts which include prostitution. Little research has been done in this field, and there is almost no education and awareness-raising for promoting understanding and preventing such sexual exploitation. Sex education at school does not sufficiently explain about respect for the right to self-determination on sexual conducts.

Section 3 Domestic Violence

A. Domestic Violence

A1. Proposed Questions for List of Issues

- a. Please explain what measures the Government is taking in order to fulfill the recommendations by the Committee in 2009,¹⁰⁶ the United Nations Committee on Economic, Social and Cultural Rights in 2013,¹⁰⁷ and the United Nations Human Rights Committee in 2014.¹⁰⁸
- b. Please explain about measures taken by the Government in order to improve mid- and long-term assistance with regard to support for victims of domestic violence, and to remove legal and de facto barriers and improve access to assistance for women of foreign nationals, disabled women, minority women, and others.

Details are mentioned below.

- b1. Please answer whether the Government is planning to adopt any detailed measures for effective protection of victims of domestic violence, in light of the fact that, according to the survey by the Cabinet Office, 32.9% women have experienced domestic violence, of which 13.4% have felt threat to life, while the number of the issued protection orders accounts only for between 2,000 and 3,000 cases, which suggests that a majority of them are hidden (the protection order was issued to merely one thousandth of victims who felt fearful for life).

Moreover, please clarify any effective measures for improvement to be taken in light of the situations that a majority of domestic violence victims are threatened by a perpetrator's stalking, and that two thirds of victims live with children on 150,000 yen or below per month.

- b2. Please clarify the Government's stance as to whether the order to leave stipulated in the Spousal Violence Prevention Act is considered to be the system by which a victim can prepare and carry their belongings to move out from the residence. If so, please state any intention to change such stance, and introduce a mechanism by which the victim can lead a normal life as usual at home instead of having to escape.
- b3. Please explain how the Government examines any measures as to expansion of legal protection to violence committed by an unmarried partner other than cases in which the main home is shared with victims through revision of the Spousal Violence Prevention Act.
- b4. Please explain about what the Government is examining so as not to exclude same-sex couples from protection under the Spousal Violence Prevention Act, and also whether the protection order can be issued to those of same-sex couples under the current act.
- b5. Please explain about the Government's opinion on making it as a principle of the protection

¹⁰⁶ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.32

¹⁰⁷ United Nations Committee on Economic, Social and Cultural Rights, "Concluding observations on the third periodic report of Japan, adopted by the Committee at its fiftieth session", (E/C12/JPN/CO/3, 29 April-17 May 2013) Para.23, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/JPN/CO/3&Lang=En

¹⁰⁸ Op. cit., CCPR, "Concluding observations on the sixth periodic report of Japan", (CCPR/C/JPN/CO/6, August 20, 2014), Para.10

order to issue an emergency protection order only by questioning of one of the parties concerned, and present data of the number of the cases in which the protection order was issued without questioning of the other party.

- b6. Please state what measures are planned for improvement in relation to thorough provision of training for judges and clerks who engage in domestic violence cases and equipping them with in-depth knowledge of the structure of violence, impacts on victims and other issues of domestic violence.
- b7. Please state what kind of measures are expected to be adopted in relation to education and training of domestic violence for relevant national and local public officers.
- b8. Please explain what measures the Government is examining as to expansion of legal assistance in the system of agents by attorney.
- b9. Please explain about whether measures are adopted to shorten a period for hearings in implementation of the Spousal Violence Prevention Act.
- b10. Please explain about to what extent and how domestic violence, in particular psychological, sexual, and economic domestic violence is taken into consideration in court proceedings such as a divorce case and a case of care for children but which exclude cases of the protection order.
- b11. Please explain how the Government is examining a mechanism which enables issuance of an order to pay expenses for living, child support, and medical care during an effective period of the order to leave or prohibition of approach through revision of the Spousal Violence Prevention Act in order to support independence of victims.
- b12. Please advise any possibility to establish a 24-hour hot line for counseling.
- b13. Please clarify the Government's plan as to making use of "assessment of the policy as to prevention of spousal violence and other issues (results of assessment and recommendations)"¹⁰⁹ released by the Ministry of Internal Affairs and Communications on May 26, 2009, for measures taken by relevant ministries and agencies, and local governments.

Please advise what kind of measures the Government is taking in order to prevent a spouse of foreign national who is exposed to domestic violence from not being recognized as a victim, thereby unduly having a vulnerable legal status, by proper construction and implementation of "activities of a person with a status corresponding to a spouse" and "cases where the alien has justifiable reason for not engaging in the activities while residing in Japan" stipulated in Article 22.4 paragraph (1), item (vii) of the Immigration Control and Refugee Recognition Act when implementing said Article for a foreign woman to continue to reside in Japan, even living separately from an offender of domestic violence.

¹⁰⁹ Ministry of Internal Affairs and Communications, "Assessment of the policy as to prevention of spousal violence and other issues (Results of assessment and recommendations)", (May 26, 2009), http://www.soumu.go.jp/main_content/000023063.pdf

b14. The Government should collect data of domestic violence, disaggregated by existence of disability and type of disability to understand the current situation. Additionally, please explain about reasonable arrangement and measures for the disabled which facilitate use of shelters of victims of domestic violence.

c. Focus on domestic violence and children (including suicide of children)

c1. Please explain about the current situation of direct violence against the mind and body of children other than a wife, and also explain how the current situation is recognized.

c2. Please explain about the current situation of domestic violence in a state which children can perceive violence such as a case in which although children are not subjected to violence, violence is committed in the presence of them, and also explain how such current situation is recognized.

c3. Please explain about any relevancy between child abuse cases and domestic violence.

c4. Please make information available as to whether there was any case of children's suicide which was attributed to domestic violence and how domestic violence affected the environment of children who committed suicide.

c5. Please clarify whether the "Survey on Violence between Men and Women"¹¹⁰ released in April 2012 was conducted on the basis of examination of how data should be in the policy of the Third Basic Plan for Gender Equality.

c6. Please make clear whether the Government examines collection of data to acquire the current situation of children who are exposed to domestic violence and measures to be taken in the near future.

A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

168. The Government reports that based on the third revision of the Spousal Violence Prevention Act, it conducts investigation and punishment in an appropriate way, and take measures for victims of foreign nationals who are subjected to domestic violence, including granting a permit for application of change of a residency status or a special permit in principle.

A3. Current Situation and Issues

169. According to the survey by the Cabinet Office, 32.9% of women have experienced domestic violence, of which 13.4% have felt threat to life while the number of the issued protection orders only accounts for between 2,000 and 3,000 cases, which suggests that a majority of them are hidden (the protection order was issued to merely one thousandth of victims who felt fearful for life). In addition, a majority of domestic violence victims are threatened by a perpetrator's stalking, and two thirds of victims live with children on 150,000 yen or below per month. This clearly shows that protection efforts are not effectively enforced for victims of domestic violence.

170. The order to leave, one of the protection orders under the Spousal Violence Prohibition Act, is

¹¹⁰ Cabinet Office, "Survey on Violence between Men and Women (Survey conducted in fiscal 2011)", (April 2012), <http://www.gender.go.jp/e-vaw/chousa/images/pdf/h23danjokan-1.pdf>

extended to two months from the original period of two weeks by the revision made in 2004. However, there are requirements for a repeated petition for an order to be approved, including the one in which a victim is unable to complete the move from the domicile due to cause imputable to the victim, or other circumstances (Article 18 of said act). These orders are construed and implemented absolutely for the purpose of a victim's preparation period to move out. It was taken into consideration in the course of formulation and revisions of this provision that excessive restrictions might be imposed on a perpetrator's freedom to choose his/her residence and property right, which was recorded as discussions which were held at the time of formulation and revisions. From a perspective of protection of those who are exposed to violence, however, the provision which presupposes that a victim has no other choice but to escape imposes excessive burdens on a victim, and forces the victim, who cannot choose to leave home, to stay in violent relationships. What is needed for a victim is to live in safety without being forced to move out, so the current provision of the order to leave runs counter to the guarantee of the rights of a victim. Revisions should be made from a perspective of "effective" protection of female victims.

171. The act, which was amended again in 2007, did not thoroughly address violence committed by those of same-sex couples and unmarried partners. In addition, it does not provide an emergency order of protection, and issuance of a protection order takes approximately two weeks on average. Amendment was made to the act in June 2013 to cover cases of unmarried partners who share a principal residence, but the courts released the construction and implementation of this provision to exclude cases of same-sex couples.
172. The Survey on Violence between Men and Women (April 2012)¹¹¹ conducted by the Gender Equality Bureau under the Cabinet Office found that about one out of four women experienced physical violence by a spouse, with about one out of twenty women who felt fearful for life. Despite the existence of the provisions for violation of the protection order and punishment for bodily injury with regard to punishment and other measures against offenders, however, very few cases have been penalized as mentioned in the sixth periodic report.¹¹² Moreover, it is questionable that they are properly applied to actual cases, and the provision of compensation for damage is not adequately implemented, either.
173. The assessment of the policy as to prevention of spousal violence and other issues (results of assessment and recommendations)¹¹³ released by the Ministry of Internal Affairs and Communications in May 2009 found that qualities of assistance are insufficient in such areas as the protection of victims and support of employment for independence, housing procurement, and

¹¹¹ Cabinet Office. Survey on Violence between Men and Women (Survey conducted in fiscal 2011).

¹¹² Sixth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women. (April 2008) Para.71.

¹¹³ Ministry of Internal Affairs and Communications. Assessment of the policy as to prevention of spousal violence and other issues (Results of assessment and recommendations).

school attendance of children. In particular, the mid- and long-term assistance for victims is scarce.

174. In addition, with respect to measures for foreign victims of domestic violence, although some efforts are made for training of interpreters and consideration given in terms of residency status, it is necessary to disseminate and utilize further multilingual information, and establish a structure to provide interpreting service in counseling and assistance. Upon the enforcement of the Immigration Control and Refugee Recognition Act since July 2012, the status of residence is revoked if there is no justifiable reason for not engaging in the activities as a spousal. Domestic violence is considered to be a justifiable reason, but a case of domestic violence is not necessarily recognized properly, and in some cases, victims of foreign nationals are hesitant to report they are exposed to domestic violence or commence divorce proceedings in fear for revocation of the residency status.
175. The Government should collect data disaggregated by existence of disability and type of disability to comprehend the current situation. Reasonable arrangements are necessary, including utilization of e-mails and facsimile for counseling of domestic violence and arrangement of sign language interpreters for hearing-impaired victims, provision of information in Braille and by audio and text data for visually-impaired victims, and assistance in decision-making and other matters for victims with intellectual disabilities and those with mental disorders. In addition, shelters need to be barrier-free structures for orthopedically impaired victims. Efforts for personnel assistance for victims of all disabilities are also insufficient in the policies.
176. In addition to the above, the Government has not responded to the recommendations issued by the Committee on the Elimination of Discrimination against Women: opening of a 24-hour free hot-line for counselling victims of violence against women; and provision of high-quality support services to women, including immigrant women and women of vulnerable groups, either.¹¹⁴
177. Moreover, the documents released by the Government fail to sufficiently identify the reality of domestic violence. No single research is conducted on actual conditions of domestic violence which takes children into account. No relationships between child abuse and domestic violence has not been grasped yet, including cases in which violence is committed against the mind and body of a child, and the one in which violence is committed in a state in which a child can perceive such violence though the child is not subjected to violence. This indicates that the Government's measures for eradication of domestic violence totally fall short of viewpoints of damage to and impacts on children, and other factors.
178. Furthermore, nothing is researched in regard to impacts on a workplace and its connection with suicide cases. Effective awareness-raising campaigns and eradication efforts should be conducted from a perspective of eliminating domestic violence through further research which includes factors relating to children.

¹¹⁴ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.32

179. Upon the revision of the Spousal Violence Prevention Act in 2013, the provisions such as the one for the protection order were extended to domestic violence cases of unmarried partners who share a principal residence, but still exclude violence by unmarried partners who live separately and other cases. The other problems still remain little resolved.
180. In addition, rape by a husband is not excluded from the Penal Code, but in reality, almost no punishment is imposed on an offender except for cases where a marital relationship is wrecked, and there is no released court decision which incriminated a husband for rape who lived together. The Survey on Violence between Men and Women (April 2012)¹¹⁵ by the Gender Equality Bureau under the Cabinet Office found that one out of seven women are coerced to have sexual conducts by their spouses.

B. Sexual violence

B1. Proposed Questions for List of Issues

- a. Please advise whether the Government has its intention to make its utmost efforts to fulfill the recommendations by the Committee (in 2009), including requirements constituting crimes of sex violence under the Penal Code, and by the United Nations Committee against Torture (in 2013).
- b. Please clarify whether the Government intends to introduce mandatory gender-sensitive training in sexual violence for judges, prosecutors and police and prison officers, and to establish a One-Stop Support Center which provide services such as medical service for victims of sexual violence at least one and more places in each prefecture, and then later, at one and more places per population of 200,000 people.
- Please answer detailed questions below.
- b1. Please make the Government's stance clear as to whether to revise the requirements which constitute the crime of rape and the punitive provisions for rape in addition to those recommendations issued by several human rights treaty bodies of the United Nations in relation to the crime of rape, including emphasis on the existence of consent, stricter penalties, clarification of incest and marital rape, punishment for rape perpetrated against men, and raising the age of sexual consent of over 13 years.
- b2. Please make the Government's stance clear as to making sex crimes prosecutable ex officio.
- b3. Please clarify how the Government intends to improve educational training for judges, public prosecutors, investigators and lawyers who are in charge of rape cases from gender-sensitive perspectives.
- b4. Please advise whether the number of cases of rape by a husband is released in public, submit such data, and also explain the Government's intention of strict implementation of laws as to the rape by a husband

¹¹⁵ Op. cit., Cabinet Office, "Survey on Violence between Men and Women (Survey conducted in fiscal 2011)"

- b5. Please make clear whether to examine effective measures such as legislation concerning regulations against focus on the sexual past of a victim other than the Code of Criminal Procedure and control of court proceedings under such Code.
- b6. The Government should adopt proactive steps in order to reduce the burden on victims to prove assault, intimidation, and absence of consent in criminal trials of rape cases. Please make clear its intention to take strong measures for reduction of psychological burdens on a victim and protection of privacy in cases of sexual violence covered by trials partly composed of *saiban-in* (lay judges).
- b7. Please explain about planned steps for improvement of support for victims of sexual violence. Please make clear whether to establish a shelter specialized for victims of sexual violence.

B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8) ¹¹⁶

181. With regard to making sex crimes prosecutable ex officio etc, the Third Basic Plan for Gender Equality states that “Consideration will be conducted on an ideal of penal provisions for sex crimes, including review of the crime of rape (making the crime of rape prosecutable ex officio, raising the age of sexual consent and review of requirements constituting the crime of rape).” The Ministry of Justice is to conduct consideration thereon by the end of FY2015. Based on this, consideration by the Ministry of Justice is now underway, including study of other countries’ legal systems concerning the crime of rape and other sex crimes and the current situation of punishment for such crimes in Japan.

B3. Current Situation and Issues¹¹⁷

182. From 2010 when the Third Basic Plan for Gender Equality was established until September 2014, no examination was conducted at least in a form which could be observed from outside, but all of a sudden, the Ministry of Justice founded an advisory committee to examine punitive provisions of sex crime in October 2014. This committee, however, holds meetings for examination such as research, not holding discussions as to the previous recommendations made by the Committee or revisions in accordance with the recommendations by the United Nations human rights treaty bodies. It is completely unclear whether revisions are actually made or whether such revision is to eliminate in its Penal Code the requirement of the victim’s complaint in order to prosecute crimes of sexual violence and to define sexual crimes as crimes involving violations of women’s rights to bodily security and integrity, to increase the penalty for rape and to include incest as a specific crime.

¹¹⁶ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.67

¹¹⁷ (Reference) Article 177 of the Penal Code, “A person who, through assault or intimidation, forcibly commits sexual intercourse with a female of not less than thirteen years of age commits the crime of rape and shall be punished by imprisonment with work for a definite term of not less than 3 years. The same shall apply to a person who commits sexual intercourse with a female under thirteen years of age.”

Article 180 of the Penal Code, “The crimes prescribed for in Articles 176 through Article 178 and attempts of the above-mentioned crimes shall be prosecuted only upon complaint.”

Rather, there is a concern that the revisions pursuant to the recommendations by the United Nations human rights treaty bodies will be denied.

183. Rape by a husband is not excluded from the Penal Code, but in reality, almost no punishment is imposed on an offender except for cases where a marital relationship is wrecked, and there is no released court decision which incriminated a husband for rape who shared a principle residence. Many cases are turned away at the gate of an investigative authority. The survey on Violence between Men and Women (April 2012)¹¹⁸ conducted by the Gender Equality Bureau under the Cabinet Office found that one out of seven women are coerced to have sexual conducts by their spouses.
184. With regard to the requirements constituting a crime of rape, resistance itself is not needed to establish a crime as mentioned in the Government's periodic report, but the existence and details of resistance by a victim are used as requirements to recognize assault and intimidation, and a victim's disapproval of having sexual intercourse. Courts also require that assault and intimidation which constitute a crime of rape be conducted to an extent that it makes a victim significantly difficult to resist.
185. With regard to the current scheme in which the crime of sexual violence is prosecuted only upon complaint by a victim, on the one hand, there are some opinions within bar associations which doubt significance of making sex crimes prosecutable ex officio, because asking a victim for pardon through settlement is necessary in defense of criminal cases. On the other hand, however, doubts are raised as to the current system which may be utilized to repress filing of a complaint by a victim, and to withdraw the complaint. The Specialist Committee on Violence against Women of the Government's Council for Gender Equality released in July 2012 "problems and measures for eradication of violence against women – promotion of measures against sex crimes"¹¹⁹ which includes the report that "many people believe that making sex crimes prosecutable ex officio would be meaningful in order to protect victims and take rigorous measures against sex crimes," but the Government's periodic report pays no attention to this discussion.
186. Moreover, the Government does not hold thorough examination and discussion in the periodic report of the recommendation issued by the Human Rights Committee and other bodies as to setting the age of sexual consent of both male and female children above as young as 13 years.¹²⁰ Additionally, there are arguments within bar associations that express concern over raising the age of sexual consent, since it may lead to repression of sexual activities by minors, disagreement with minors' right to self-determination, and may result in some people's having a criminal record of a

¹¹⁸ Op. cit., Cabinet Office, "Survey on Violence between Men and Women (Survey conducted in fiscal 2011)"

¹¹⁹ Cabinet Office, "Problems and measures for eradication of violence against women – promotion of measures against sex crimes", http://www.gender.go.jp/kaigi/senmon/boryoku/houkoku/index_hbo07.html

¹²⁰ Op. cit., CCPR, "Concluding observations on the sixth periodic report of Japan", Para. 10

juvenile crime.

187. With regard to trainings to professionals and others, some training is provided to investigators in charge of sex crimes in the police, but is not targeted at all police officers. Moreover, judges and lawyers do not receive sufficient education about violence against women. There seem to be a considerable number of problematic cases in relation to response by investigators at the stage of consultation and prosecution of a case by a victim such as making a remark that assault or intimidation is so trivial and thus turning down such victim's claim. From these perspectives, it is necessary to shed light on cases which are excluded from statistics. Furthermore, as additional remarks, Japan does not adopt an approach of medical treatment of an offender, and the problem as to distorted views of women in society should be solved as well.

C. Sexual abuse

C1. Proposed Questions for List of Issues

Please clarify the Government's policies concerning setting the age of sexual consent above 13 years in the provision of the crime of rape under the Penal Code, establishment of punitive provisions which are specific to incest, and adoption of a system which does not ask a child to repeat his/her testimony.

C2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

188. The Government reported that a system which takes human rights of a child victim and characteristics into consideration can be used in investigation and trials of cases such as child prostitution.¹²¹

C3. Current Situation and Issues

189. The United Nations Committee on the Rights of the Child expressed in the concluding observations of Japan's second periodic report¹²² its concern over the low minimum age of consent, which might contribute to the practice of "*enjo kosai*," or compensated dating, and hampers the prosecution of sexual abuse of children. No improvement has been made in the sexual exploitations of minors yet. In addition, businesses whose sales appeal is to provide services of intimate contact with high school girls, so called "*JK business*," have been expanding for recent years, and play a role of breeding ground for sexual exploitation. In the 2014 Trafficking in Persons Report released by the U.S. Department of State,¹²³ it is criticized as trafficking in persons for the purpose of sex, but the Government has failed to conduct effective protection of children and measures against it in this

¹²¹ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.78

¹²² CRC, "Concluding observations", (CRC/C/15/Add.231, February 26, 2004), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F15%2FAdd.231&Lang=en

¹²³ United States, "2014 Trafficking in Persons Report", <http://www.state.gov/documents/organization/226847.pdf>

regard.

190. Revision of the Penal Code to raise the current minimum age of 13 years is under the jurisdiction of the Ministry of Justice. It stated in the Government's Third Basic Plan for Gender Equality that "consideration will be conducted on an ideal of penal provisions for sex crimes, including review of the crime of rape (making the crime of rape prosecutable ex officio, raising the age of sexual consent and review of requirements constituting the crime of rape),"¹²⁴ and an advisory committee was instituted in the Ministry of Justice, but has yet to set a prospective of detailed revision.
191. Moreover, the Code of Criminal Procedure stipulates a certain level of protection of a witness, but does not introduce some procedures such as record of statements so as not to further traumatize a child through being asked to testify repetitively in a case of sexual violence.
192. In reality, sexual abuse is frequently perpetrated against early teens, and this is assumed to be attributed to approximately 1,300 annual abortion cases of girls aged 15 and under. In addition to no existence of specific punitive provisions for incest and the prosecution of sex crimes only upon a complaint by a victim, such Government's attitude makes protection of and assistance for child victims difficult.

D. Stalking

D1. Proposed Questions for List of Issues

- a. Please explain about training the Government provides for all police officers as to how to respond to cases of domestic violence and stalking in order to ensure a victim's safety, while establishing professional teams which enable law enforcement officers such as police officers to address cases of domestic violence and stalking promptly and adequately.
- b. Please make clear whether the Government intends to expand the protection measures of the Spousal Violence Prevention Act to cases of unmarried couples who live separately.

D2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

193. The Government mentions that it enforces strict regulations on stalking, and provides the number of cases.¹²⁵

D3. Current Situation and Issues

194. The Anti-Stalking Act stipulates measures regarding stalking cases to issue restraining orders with punishment by the Prefectural Public Safety Commissions in cases in which a stalking behavior listed in this act is repeated. However, since the right to file a petition is not granted to a victim, restraining orders are issued only dozens of times per year. As seen in a spate of heinous crimes

¹²⁴ Op. cit., Cabinet Office, "Third Basic Plan for Gender Equality", Page 74.

¹²⁵ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.79

such as stalking murder cases in Saikai City, Nagasaki, in December 2011 and Zushi City, Kanagawa, in November 2012, victims and those concerned cannot be protected.

195. The Anti-Stalking Act was revised in 2013, and some improvement was made in terms of such revision as restriction on the act of continuously sending e-mails. Yet, there is still no end to stalking cases. Despite the consultation made with the police by a female high school student and her parents about the stalking case in Mitaka City, Tokyo, the police judged the case was not so dangerous, and as a result, the student was murdered by the stalker on the day of October 2013 when she consulted with the police.

E. Repression of demand for Prostitution

E1. Proposed Questions for List of Issues

- a. Please provide information on the Government's recognition and measures in order to address fundamental cause of prostitution and prevent sexual exploitation against women and girls.¹²⁶
- b. Please make clear whether the Government intends to delete Article 5 of the Anti-Prostitution Act (the crime of public solicitation) which, in reality, only penalizes women who solicit but not men who buy sex, and also abolish a discriminatory provision of guidance which targets such women for correction (Chapter 3 of the Anti-Prostitution Act).
- c. Please make clear what measures will be introduced for the purpose of hampering sexual exploitation of prostitution of women through suppression of demand for prostitution (those who buy commercial sex) and other ways.

E2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

196. The periodic report fails to directly report suppression of demand for prostitution.

E3. Current Situation and Issues

197. The Anti-Prostitution Act penalizes the act of soliciting for buying commercial sex in public (Article 5), and, in reality, imposes such punishment solely on women under Article 5. Additionally, women in violation of such article are subject to correctional guidance (Chapter 3 of said act). Furthermore, the Government has adopted almost no "appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution"¹²⁷ which were recommended by the Committee.
198. The Government has the misperception on the root cause of prostitution, and the perspective of prevention of sexual exploitation of women and girls is significantly absent in their policies.

¹²⁶ Op. cit., JFBA, "Update Report on Issues and Questions from the Committee on the Elimination of Discrimination against Women with regard to the Sixth Periodic Report of the Japanese Government", Para.11

¹²⁷ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.39, 40

F. Violence perpetrated against women and girls by military personnel

F1. Proposed Questions for List of Issues

The United Nations Committee against Torture expressed in the conclusions and observations of the consideration of the first report its concern over the lack of effective measures to prevent and prosecute violence perpetrated against women and girls by military personnel, including foreign military personnel stationed on military bases.¹²⁸ Please explain about details of measures taken in response to this concern.

F2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

199. There is no report in particular.

F3. Current Situation and Issues

200. No improvement has been made in this regard.

Section 4 Issues of “Comfort Women” for the Japanese Army

A. Issues of “Comfort Women” for the Japanese Army

A1. Proposed Questions for List of Issues

- a. Please explain details of measures which the Government has taken in response to the concluding observations by the Committee and other concluding observations by other United Nations human rights bodies thereafter. If it did to adopt any measures, please state the reasons.
- b. How did the Government respond to the reinforced discourse in Japan which denies the issue of “comfort women” for the Japanese army since the previous consideration of the periodic report was conducted? Does the Government have the intention and plan to succeed to the Kono Statement¹²⁹ and act in accordance with this statement as its basis?
- c. With regard to the issue of “comfort women” for the Japanese military, please make clear the Government’s opinion as to how to resolve the problem that the international society does not understand the Government’s explanation that it has expressed its feeling of atonement to victims by “atonement money” through the Asian Women’s Fund and support of welfare and other fields in spite of the fact that the issues of claims have been legally settled.

A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)¹³⁰

201. As the comfort women issue occurred prior to Japan’s conclusion of this Convention, the

¹²⁸CAT, “Conclusions and recommendations by the Committee against Torture”, (CAT/C/JPN/CO/1, August 7, 2007) Para.25, http://www.mofa.go.jp/policy/human/torture_rep.pdf

¹²⁹ The statement released by Yohei Kono, then Chief Cabinet Secretary, on August 4, 1993.

¹³⁰ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.98-102

Government considers that it is not appropriate for this report to take up this issue in terms of the implementation of Japan's duties regarding the Convention. However, the Government stated that considering the reference to the "comfort women" issue during the deliberations at the previous meeting and the Committee's concluding observations, it would like to explain what efforts Japan has thus far made on this issue, and mentioned about the issue in Paragraphs 98 to 102 in the periodic report.

A3. Current Situation and Issues¹³¹

a. Failure to fulfill the recommendations by United Nations human rights bodies

202. For about the last 20 years, various United Nations human rights bodies have pointed out the issue of comfort women for the Japanese military. Despite many recommendations as to the issue made at the second Universal Periodic Review by the United Nations Human Rights Council in 2013¹³² even after the concluding observations by the Committee in 2009,¹³³ the Government mentioned its opinion of "no accept" of this issue for the follow-up.¹³⁴ United Nations human rights bodies released strict recommendations concerning the issue of "comfort women" for the Japanese military, including in the concluding observations by the Committee on Economic, Social and Cultural Rights¹³⁵ and the concluding observations by the Committee against Torture¹³⁶ in 2013, and the concluding observations by the Human Rights Committee¹³⁷ and the Committee on the Elimination of Racial Discrimination¹³⁸ in 2014.
203. The Government, however, repeats its opinion that the issue has been legally settled, and repetitively explains that the project of the Asian Women's Fund was also conducted in spite of the settled issue. Additionally, the Government has not implemented the recommendations by each United Nations human rights body which states that the Government fails to fulfill duties under each convention. Furthermore, the Government made the cabinet decision in June 2013 that with regard to the recommendations by the Committee against Torture, recommendations by such United

¹³¹ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.97-102

¹³² United Nations Human Rights Council, "Report of the Working Group on the Universal Periodic Review", (A/HRC/22/14, December 14, 2012), http://www.mofa.go.jp/mofaj/gaiko/jinken_r/pdfs/upr2_kekka.pdf

¹³³ Committee on the Elimination of Discrimination against Women, "Concluding observations of the Committee on the Elimination of Discrimination against Women" Para.37, 38, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session22/Pages/ListReports.aspx>

¹³⁴ Government of Japan, "Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review", (A/HRC/22/14/Add.1, March 8, 2013), Para.147, 158, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session22/Pages/ListReports.aspx>

¹³⁵ Op. cit., United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Japan, adopted by the Committee at its fiftieth session, Para.26

¹³⁶ CAT, "Concluding observations on the second periodic report of Japan", (CAT/C/JPN/CO/2 June 28, 2013), Para.19,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/JPN/CO/2&Lang=En

¹³⁷ Op. cit., CCPR, "Concluding observations on the sixth periodic report of Japan", Para.14

¹³⁸ Op. cit., CERD, "Concluding observations on the combined seventh to ninth periodic reports of Japan", Para.18

Nations human rights bodies are not legally binding, and do not obligate the country to follow the recommendations.

- b. Possibility of existence of the right of an individual victim to claim and compensation by the Government

- 204. The Government states that the issues of compensation for wartime damage, property and claims during the World War II have been legally settled, and that it cannot thus make any legal indemnification. Moreover, it mentioned that the issue of “comfort women” for the Japanese army has been legally settled, and that since the Asian Women’s Fund paid a certain amount of “atonement money,” the issue was virtually concluded.
- 205. Japan’s Supreme Court, however, judged in April 27, 2007, in connection with the case of the compensation claims by Chinese individual victims of the war that a waiver of claims did not mean tangible extinguishment of claims, but only the loss of power to appeal judicially. On the premise of the view by the Supreme Court, the Government’s compensation for individual victims is valid. Moreover, it should rather make legal compensation from a perspective of the guarantee of the human rights of victims.
- 206. The Constitutional Court of Korea also rendered the decision with regard to the existence of claims by individuals of “comfort women” for the Japanese army to demand compensations from the Japanese government on August 30, 2011, that the failure of the Korean government to take procedures under the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co- operation between Japan and the Republic of Korea infringed on the fundamental human rights of victims, and was in violation of the constitution. On response to this, Seiyong Cho, then Deputy Director-General of the Northeast Asian Affairs Bureau, Korea’s Ministry of Foreign Affairs, requested discussions under Article 3.1 of said agreement from Japan’s deputy chief of mission in Seoul. In addition, the Korean government again requested this on November 15, 2011, but the Japanese government failed to formally reply to this. In response to the repeated request by the Korean government, on April 30, 2014, the director-general level talks were held several times between the two countries, but the progress was not observed.
- c. Statement of Chief Cabinet Secretary Kono
- 207. The Government released the statement of then Chief Cabinet Secretary Yohei Kono on August 4, 1993 (hereinafter referred to as the “Kono Statement”). It declared at home and abroad that this issue, with the involvement of the military authorities of the day, severely injured the honor and dignity of many women, extended its sincere apologies to women who were former “comfort women” for the Japanese army, and that it intends to take some kinds of measures to express its apologies and to pass it down to the next generations through education. Past Prime Ministers succeeded such stance, taking this Kono Statement as the Government’s basic stance of this issue.
- 208. Prime Minister Abe, however, long calls for review of the Kono Statement, and publicly declared

that he would proceed with the review of the statement immediately before taking office.

209. In addition, the Government established a review panel to “examine” the negotiation process between the Korean government and the Japanese government leading to the announcement of the Kono Statement, and the outcome was released on June 20, 2014.
- d. Statement denying the fact of coercive recruitment
210. The Government maintains its stance that leads the public to the direction of no existence of evidence that the Japanese army engaged in coercive recruitment of “comfort women” for the Japanese military.
211. The Government (Abe’s first administration) stated in the paper answering the questions raised by a Diet member¹³⁹ in 2007 that (among the materials collected by the Government by the release of the Kono Statement in 1993) there are no records directly showing so-called forceful recruitment by either the army or government authorities.” This statement only means that the records of forceful recruitment were not shown in the collected materials, and cannot lead to the denial of such forceful recruitment. Yet, the emphasis on the non-existence of the records in the collected materials is effective in inducing the public to believe non-existence of the coercive recruitment. Some of the materials collected by the Government, however, do prove force was used for recruitment. In 2013, the Government admitted in the paper answering the memorandum on questions concerning the answers in 2007 which stated no evidence of coercive recruitment¹⁴⁰ that “junior soldiers and civilians took the women mentioned above to the comfort stations mentioned above for the purpose of prostitution, made such women stay there, and forced them into prostitution through coercion and other methods” in the records of the temporary court-martial at Batavia, which is one of the materials collected by the Government.
212. Yet, the Government still maintains its stance, not correcting the answers made in 2007.
- e. Description in textbooks and education of history
213. With regard to education, the description of the “comfort women” for the Japanese military was completely deleted, and has not been included again yet. In addition, the Government does not particularly address words and deeds by those with political power who intend to deny the fact. Furthermore, it recently revised the criteria of textbook authorization, and started to demand authors include the Government’s viewpoints in textbooks. In the near future, textbooks may include

¹³⁹ House of Representatives, “Memorandum on questions concerning Prime Minister Abe’s recognition of the “comfort women” issue”, (Question No.110, March 8, 2007), *Kiyomi Tsujimoto, a member of the House of Representatives submitted the memorandum on March 8, 2007, http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/a166110.htm,

¹⁴⁰ House of Representatives, “Memorandum on questions concerning the answers in 2007 which stated no evidence of coercive recruitment”, (Question No.102, June 10, 2013), * Seiken Akamine, a member of the House of Representatives, submitted the memorandum., http://www.shugiin.go.jp/Internet/itdb_shitsumon.nsf/html/shitsumon/a183102.htm

description that the issue of “comfort women” for the Japanese army was already resolved, and the issue of “comfort women” for the Japanese army may not be thus accurately passed down to next generations.

B. Hate speech

B1. Proposed Questions for List of Issues

- a. Please explain how the Government understands the current situation in which women who were “comfort women” for the Japanese army suffer from racially offensive, repulsive and inflammatory remarks and behaviors of Japanese people.
- b. Please explain how the Government understands the current situation in which racially offensive, repulsive and inflammatory remarks and behaviors are targeted at South and North Korean residents and other people as well as “comfort women” for the Japanese army.
- c. Please make clear whether the Government conducts research on the current situation for the purpose of prevention and remedy for victims, and what legislative regulations are examined concerning hate speech which is further escalating.

B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

214. There is no report in particular.

B3. Current Situation and Issues

215. With regard to hate speech targeted at “comfort women” for the Japanese military, in February 2013, a Japanese rock band who had hatred toward Korea sent by mail to “comfort women” for the Japanese military who resided in the House of Sharing in Gwangju, Gyeonggi Province, a CD of the song which abusively rattled on with a stream of insults of “comfort women” for the Japanese army which include “Kill old prostitutes, and slash Koreans,” complete with a printout of the lyrics translated into Korean, on a day before the Independence Movement anniversary of Korea. This further caused pain to “comfort women” for the Japanese army, and attracted attention from home and abroad. At the time of the previous considerations by the Committee, as harassment and assaults and other violent acts frequently occurred against students of the North Korean origin residing in Japan nationwide from spring to summer in 1994, including discriminatory statements, words and deeds against female students of Korean schools, discriminatory scribbles in the toilet of train stations, and violent acts such as cutting the *chima jeogori*, the costume traditionally worn by Korean women. Later on, such offensive remarks and acts of racism are not restricted to South and North Korean residents in Japan, and organized, radical harassment and incitement are repeated through discriminatory propaganda which takes a form of demonstrations, becoming even more xenophobic. In light of such situation, the Government received the concerns of concern regarding hate speech and the recommendations regarding the Government’s response by the Committee on

the Elimination of Racial Discrimination in 2001,¹⁴¹ by the Committee on Economic, Social and Cultural Rights in 2013,¹⁴² by the Human Rights Committee¹⁴³ and the Committee on the Elimination of Racial Discrimination¹⁴⁴ in 2014.

216. When ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, Japan added reservation concerning Article 4 (a) and (b) which stipulates prohibition of discrimination and incitement based on ideas or theories of racial superiority that “Japan fulfills the obligations under those provisions to the extent that fulfillment of the obligations is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution of Japan.” The Government, however, states in relation to punishment of dissemination, incitement and other acts based on racial superiority and hatred that a certain acts can be subject to arrests and punishment under the punitive laws to the extent that they are compatible with the Constitution. Yet, the Government also takes its stance concerning existing discrimination and prejudice that it is desirable to voluntarily correct such acts within society in light of the provision of the Constitution (Article 12) which states that each person should refrain from any abuse of freedoms and rights, and has not revised regulations to particularly prohibit and penalize violent acts arising from intent of racism to the preset.
217. In addition, in the lawsuit which the Kyoto Korean School filed in connection with interference of classes by the propaganda of racist remarks, No. 3 Petty Bench of the Supreme Court recognized illegality of such discriminatory remarks, and finalized the decision in the first and second trials ordering the banning of demonstration within a 200m radius from the school and the payment of about 12 million yen for compensation on December 9, 2014.

¹⁴¹ CERD, “Concluding observations of the Committee on the Elimination of Racial Discrimination : Japan. 20/03/2001.”, (CERD/C/58/CRP., March 20, 2001) ,Para.14, <http://www.mofa.go.jp/mofaj/gaiko/jinshu/saishu.html>

¹⁴² Op. cit., United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Japan, adopted by the Committee at its fiftieth session, Para.26

¹⁴³ Op. cit., CCPR, “Concluding observations on the sixth periodic report of Japan”, Para.12

¹⁴⁴ Op. cit., CERD, “Concluding observations on the combined seventh to ninth periodic reports of Japan*”, Para.8

Article 7 Elimination of Discrimination in Political and Public Activities

Section 1 Elimination of Discrimination in Political and Public Activities

A. Proposed Questions for List of Issues

Although the reality is far from achievement of the non-binding goal called “2030,” the goal of increasing the percentage of women in leadership positions to 30% in 2020, in the expansion of women’s participation in policy decision-making processes under the Third Basic Plan for Gender Equality, please state whether to examine efforts to be further made such as goals that should be achieved and policies for a breakthrough of the current situation. If anything is currently under examination, please explain its details on deciding the Fourth Basic Plan for Gender Equality.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan¹⁴⁵ (CEDAW/C/JPN/7-8)

218. Please refer to Paragraphs 228 to 238.
219. Please note that since the measures for elimination of discrimination in political and public activities under Article 7 are relevant to Article 4 of special measures, areas other than the above can be referred to Article 4 of special measures.

C. Current Situation and Issues

220. It is not only the Committee, but the Committee on Economic, Social and Cultural Rights¹⁴⁶ and the Human Rights Committee¹⁴⁷ that expressed to the Government concern over a limited participation by women in policy decision-making processes, and issued the recommendations for improvement.
221. Additionally, although Japan made achievement in terms of good health and longevity, years of school attendance and human development by income even from an international perspective,¹⁴⁸ huge disparities between men and women in women’s participation in political, economic activities and decision-making processes are indicated in the fact that in terms of the Gender Gap Index (GGI) released by the World Economic Forum in 2014, Japan ranked 104th among 147 countries. The survey of the percentages of female parliamentary members (at lower houses) in the world released

¹⁴⁵ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.228-238

¹⁴⁶ Op. cit., United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Japan, adopted by the Committee at its fiftieth session, Para.13

¹⁴⁷ Op. cit., CCPR, “Concluding observations on the sixth periodic report of Japan”, Para. 9

¹⁴⁸ According to the Human Development Index (HDI) released by the United Nations Development Programme in 2013, Japan ranked 10th among the 186 measurable countries.

by the Inter-Parliamentary Union (IPU) on March 15, 2014 found that Japan, with 8% for the ratio of the women in the lower house, was placed 163th among 189 countries (if countries with the same percentage are placed in the same rank, Japan ranked 127th), and was also one of the 34 countries with 10% or below. Such situation has not been improved since the previous consideration by the Committee.

222. Female candidates for members of the House of Representatives accounted for 16.7% of total in 2009 when the Third Basic Plan for Gender Equality was formulated, 15% in 2012, and 16.6% in the most recent general election held in December 2014. This indicates that the reality is far from the achievement of the non-binding goal called 2030 (the goal of increasing the percentage of women in leadership positions to 30% in 2020). Additionally, there were 39 women of all the members, constituting 8.1% of total, as of December 2013, and the number increased to 45 female members in the 2014 general election, accounting for 9.4%, but the increase ratio is still slight.
223. The ratio of female candidates for member of the House of Councilors rose to 24.2% in the 2013 regular election by 1.3 points up from the previous election, but there are only 38 women in the House of Councilors that constitute 15.7% as of December 21, 2014, which is halfway to the goal of increasing the percentage of women in leadership positions to 30% in 2020.
224. The Government set a new non-binding goal concerning candidates for Diet members in the Third Basic Plan for Gender Equality, and encouraged the examination to introduce positive action. For its implementation, Minister of State for Gender Equality have requested each year from every political party the introduction of positive action for purposes such as an increase in female candidates in the national election, but has failed to deliver results. The problem found in the current efforts made by the Government under the Third Basic Plan for Gender Equality is attributed to the failure to eliminate discrimination in political and public activities.

Article 8 Participation in International Activities under Gender Equality Conditions

Section 1 Participation in International Activities under Gender Equality Conditions

A. Proposed Questions for List of Issues

- A1. According to the section of participation of women in policy decision making on an international level in the periodic report, women were appointed as representatives for 36 international conferences. Please provide information on such conference themes.
- The percentage of female ambassadors is extremely low (one female ambassador, accounting for 0.7% as of December 1, 2013). Please explicitly state from a perspective of Article 8 of the Convention¹⁴⁹ what the Government thinks about the current situation in which there is only one female ambassador, and what measures are under consideration for improvement.
- With regard to female staff in all overseas establishments of the Ministry of Foreign Affairs, please provide detailed data as to such factors as positions from a perspective of availability of women's participation in policy decision-making process, not just the ratio alone.
- A2. According to the periodic report, the Official Development Assistance (hereinafter referred to as the "ODA")¹⁵⁰ in the field of gender constitutes 10.8% of total (from 2007 to 2011)¹⁵¹. Please state what concrete measure are adopted for promotion of gender mainstreaming in fields other than the field of gender.¹⁵²
- A3. The Government stated that it made efforts to disseminate and implement the UN conference documents which included the Convention. Please state details of such efforts, outcomes, ways of dissemination and concrete implementation.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)¹⁵³

225. In relation to women's participation in policy decision making on an international level, the Government reported women's participation in international conferences (the appointment of female representatives of 36 international conferences which corresponds to about 24% of the 151

¹⁴⁹ Article 8 of the Convention on the Elimination of All Forms of Discrimination against Women, http://www.nichibenren.or.jp/activity/international/library/human_rights/woman_convention_en.html

¹⁵⁰ Ministry of Foreign Affairs, "What is ODA?" <http://www.mofa.go.jp/mofaj/gaiko/oda/about/oda/oda.html>

¹⁵¹ Ministry of Foreign Affairs, "Past record of assistance for main DAC countries", (2007-2011, top six countries). Reference: OECD/DAC/CRS Online Database (as of August 2013).

<http://www.mofa.go.jp/mofaj/gaiko/oda/bunya/gender/statistic.html>

¹⁵²) Government of Japan, "Initiative on Gender and Development (GAD)", (Mach 2005), <http://www.mofa.go.jp/policy/oda/category/wid/gad.html>

¹⁵³ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.244-246

international conferences concerned) and the situation of women working overseas (the percentage of female ambassadors for about 0.7% of the total number of Japanese ambassadors, 16% for female staff of total of overseas establishments of the Ministry of Foreign Affairs, and other statistics), and also mentioned its efforts to promote gender mainstreaming in the implementation of the ODA.

226. In regard to the implementation of the United Nations conferences documents, the Government reported that given the issues described in the concluding observations of the sixth report, the Third Basic Plan was formulated by incorporating measures and policies required for actively observing the Convention and other international norms and standards, as well as for strengthening the implementation thereof and dissemination in Japan.¹⁵⁴

C. Current Situation and Issues

- C1. The statistics mentioned in the periodic report indicates that women's participation in decision-making processes in international policies remains at a very low level.

227. The Government reported the appointment of female representatives of 36 international conferences in connection with women's participation in international conferences, but it should also clarify the relevancy of conference themes (existence of any bias in themes of conference for which women are appointed as representatives and other issues). The ratio of female ambassadors clearly shows how small it is, but it should submit more detailed data from a perspective of availability of participation by female staff of overseas establishments in decision-making processes of policies, not the statistics alone.

228. The "basic approach" in the Third Basic Plan for Gender Equality is to "actively pursue appointing women to roles in the international arena," but the Government did not mention about achievement goal or concrete measures concerning this.

229. In the previous concluding observations, the Government is requested to consider using a range of possible measures, such as quotas, benchmarks, targets and incentives.¹⁵⁵

- C2. On the one hand, the Government reported its intention to promote gender mainstreaming in the implementation of the whole ODA pursuant to the Initiative on Gender and Development (GAD).¹⁵⁶ On the other hand, the field of gender constitutes only 10.8% of all the ODA, and it is not clear what measures are adopted in detail for gender mainstreaming in areas other than the gender field.

230. Moreover, the Government mentioned its implementation of cooperative measures in the fields of health and education with emphasis on the gender perspectives for contribution to achieving the

¹⁵⁴ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.255

¹⁵⁵ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.42

¹⁵⁶ Op. cit., Government of Japan, "Gender and Development (GAD) Initiatives"

Millennium Development Goals (hereinafter referred to as the “MDGs”), but in the previous concluding observations, it is called for the integration of a gender perspective in all efforts aimed at the achievement of the MDGs.¹⁵⁷ The Government should thus make efforts in all areas of the MDGs, not the fields of health and education alone.

C3. The Government mentions that it makes efforts for the dissemination and implementation in Japan of the UN conference documents, including the Convention, but the Third Basic Plan for Gender Equality only states a specific measure to strengthen the implementation and dissemination of the Convention in Japan,¹⁵⁸ but details of the specific measure for such strengthening of the implementation are not clear at all. The Government lists an increase of those who know the term, “the Convention on the Elimination of All Forms of Discrimination against Women” from 35.1% in 2009 to no less than 50% in 2015 as one of the performance objectives, but what needs to be disseminated is not the term of “the Convention on the Elimination of All Forms of Discrimination against Women,” but the contents of the Convention. The measures taken by the Government are thus totally insufficient.

231. The Committee pointed out in the previous concluding observations as well that the Government did not sufficiently address the recommendations by the Committee, and urged it to make every effort to address the recommendations in the concluding observations.¹⁵⁹ It also expressed its concern that the Convention was not given central importance as a binding human rights instrument and as a basis for the elimination of all forms of discrimination against women and the advancement of women in Japan, and recommended Japan further increase awareness for civil servants about the Convention.¹⁶⁰ The Committee further requested the wide dissemination of the present concluding observations in Japan. It also requested the Government to strengthen the dissemination of the Convention, its Optional Protocol, the Committee’s general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled “Women 2000: gender equality, development and peace for the twenty-first century.”¹⁶¹

¹⁵⁷ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.56

¹⁵⁸ Op. cit., “Third Basic Plan for Gender Equality”, Page 18

¹⁵⁹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.15, 16

¹⁶⁰ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.19, 20

¹⁶¹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.58

Article 9 Gender Equality Regarding Nationality

Section 1 Gender Equality Regarding Nationality

A. Proposed Questions for List of Issues

Please clarify the Government's definition of the term "stateless person," and also state whether or not to identify the current condition of stateless persons. If so, please provide such data.

Please mention what efforts the Government is making for reduction and protection of stateless persons, and state its plan to accede to the Convention relating to the Status of Stateless Persons¹⁶² and the Convention on the Reduction of Statelessness¹⁶³.

Please state the guarantee of the rights and protection of, in particular those who were born to Japanese men and foreign women to be granted Japanese nationality, but as a result of denial of the relationship between a Japanese father and a child, lost Japanese nationality granted at birth and could not obtain nationality of the foreign mother, either, thereby becoming stateless.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

232. There is no report in particular.

C. Current Situation and Issues

233. Japan has not acceded to the Convention relating to the Status of Stateless Persons or the Convention on the Reduction of Statelessness, either, and has no definition of the term "stateless person" or regulations for protection of such people.

234. Born to Japanese men and foreign women to be granted Japanese nationality, but as a result of denial of the relationship between a Japanese father and a child in cases such as invalidation of affiliation, some people lose Japanese nationality retroactively at birth, and cannot obtain nationality of a foreign mother, either, thereby becoming stateless. In such case, a child is regarded as a foreign national at birth, and is considered as a foreign national without any residential status all of a sudden. Losing a status of residence as well as a nationality in this way, vulnerability of such legal status becomes obvious. On January 14, 2014, the Supreme Court issued the judgement concerning whether or not to argue invalidity of affiliation on the ground that a person who had acknowledged the child had no consanguineous relationship between a father and a child that the person who gave

¹⁶² Office of the United Nations High Commissioner for Refugees, "Convention relating to the Status of Stateless Persons", <http://www.unhcr.org/3bbb25729.html>

¹⁶³ Office of the United Nations High Commissioner for Refugees, "Convention on the Reduction of Statelessness", <http://www.unhcr.org/3bbb286d8.html>

affiliation was regarded as an interested person under Article 786 of the Civil Code, thereby being allowed to assert opposing facts against his affiliation, and that this was also applicable to the case in which a person gives affiliation, knowing nonexistence of a consanguineous relationship between a father and a child.

235. Because of such judgement, however, there are some cases in which a nationality obtained at birth was lost retrospectively, thereby leading to a vulnerable legal status.
236. Another issue emerged about the statelessness of a child who was born out of wedlock to a Japanese man and a Filipino woman.
237. Please refer to Article 16 of Elimination of Discriminations relevant to Marriage and Family Relations with regard to the issue of statelessness.

Article 10 Elimination of Discrimination in the Field of Education

Section 1 Elimination of discriminatory references in textbooks

A. Proposed Questions for List of Issues

The Committee requested the Government to “speedily complete a revision of all educational textbooks and materials to eliminate gender stereotypes” in the concluding observations.¹⁶⁴ Please clarify detailed measures which the Government has taken in response to such recommendations.

B. Summary of the relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

238. Details are absent in either of the paragraphs, and it remains obscure whether or not to have completed “a revision of all educational textbooks and materials,” what the outcomes were if the revision was conducted, and what measures were taken in response to the outcome.¹⁶⁵

C. Current Situation and Issues

- C1. Educational textbooks have a major impact on human development of and cultural transmission for all children. Characters and their behaviors depicted in textbooks show models of ways of life for children in a conscious and unconscious level, promote expected roles in society for children, thereby forming children’s consciousness. Because of this, the reflection of the stereotypical perceptions of gender-specific roles in school textbooks helps to preserve and encourage discrimination against women.
239. The JFBA released the opinion concerning “gender equality and other issues in school textbooks” in February 1989 from the perspective mentioned above, and proposed in relation to textbooks used for compulsory education the improvement should be made in description, photographs and illustrations which implant and reinforce in children the stereotypical perceptions of gender-specific roles and the fixed patterns of “masculinity” and “femininity,” and that textbooks should tell how men and women can lead a human life of self-reliance with profoundness and diversity, standing by the principle of gender equality.
240. A private research institution, however, reports that many textbooks in Japan still describe images of men and women based on the stereotyped perceptions of gender-specific roles.¹⁶⁶

¹⁶⁴ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.30

¹⁶⁵ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.176,264

¹⁶⁶ National Network for Promotion of Gender Equality in Education, “Report collection Examination of

In particular the textbook of civics published by Ikuhosha Publishing Inc. which was adopted for a school textbook in summer 2011 and is currently used in some junior high school such as ones in Yokohama City, describes the stereotyped ideas of gender-specific roles in such ways as “with value placed on masculinity and femininity, it is important to further develop each individuality;” and “a stay-at-home mother committed to household duties and child-rearing is one of ways of cooperation in the family. At the same time, it is also important for a working woman not to excessively bear domestic responsibilities through cooperation of the family.” Such descriptions may preserve and encourage women’s unequal sharing of family responsibilities by taking the stereotypical perceptions of gender-specific roles positively.¹⁶⁷ Prime Minister Abe delivered a message in September 2011 after the adoption of the textbook when he was in one of the opposition parties: “I am convinced that the textbook published by Ikuhosha Publishing Inc. is the best suited to the intent of the revised Fundamental Act of Education.”¹⁶⁸ Problems found in the Ikuhosha textbook are pointed out, including no account of the current situation of gender discrimination, and the description of extreme sexual health education, the same changing room for boys and girls and other matters as examples of misuse of gender equality with citation of the Second Basic Plan for Gender Equality formulated in December 2005 when the Liberal Democratic Party was in power though the Third Basic Plan for Gender Equality was already established in December 2010 under the Democratic Party of Japan.¹⁶⁹

241. In addition, the Government revised the Textbook Examination Standards in January 2014 and the Guidelines for the Screening of Textbook Examination Standards in April 2014. The revisions include the request of description in textbooks pursuant to the Government’s viewpoints, and the establishment of the provision to reject a textbook which has serious errors in accordance with purposes of education and other factors. The JFBA believes that such revisions are in violation of Article 26 of the Constitution of Japan, as they constitute excessive intervention in education by the state and may infringe upon children’s right to education and other matters. It thus urges the withdrawal of such revisions.¹⁷⁰ The outcome of the first examination of textbooks since the revision is scheduled to be released from March to April 2015, and textbooks will be adopted by September 2015.
242. Additionally, in October 2014, the Central Council for Education submitted the report of the addition of moral education to school curriculum to Minister of Education, Culture, Sports, Science

textbooks of junior high schools from a perspective of gender equality”, (November 2013)

¹⁶⁷ Ikuhosha Publishing Inc. Society for junior high school, “Everyone’s new civic”, P.54,55

¹⁶⁸ Blog by the group of improvement of textbooks, (September 30, 2011), <http://kyoukashokaizen.blog114.fc2.com/blog-entry-139.html>

¹⁶⁹ Children and Japan Textbooks Network 21, “How to understand the textbook by Ikuhosha Publishing Inc”, (Kobunken. May 2012) P.116,117

¹⁷⁰ JFBA, “Opinion Paper Concerning the Revision of Textbook Examination Standards, the Guidelines for the Screening of Textbook Examination Standards, and the Adoption of Textbooks”, (December 19, 2014), <http://www.nichibenren.or.jp/en/document/opinionpapers/20141219.html>

and Technology, and stated in its report that “it is appropriate to introduce examined textbooks.”¹⁷¹

The JFBA released its opinion concerning such report:

“Such movement may have a risk of forcing pupils and students into specific values that the state affirms, and furthermore may infringe upon the dignity of individuals, the freedom of thought and conscience, the right to express views and other matters which are guaranteed by the Constitution of Japan and the Convention on the Rights of the Child. Therefore, the Ministry of Education, Culture, Sports, Science and Technology should not revise the Ordinance for Enforcement of the School Education Act or the Courses of Study in accordance with the report by the Central Council for Education.”¹⁷²

Attention should be paid to how the stereotypical perceptions of gender-specific roles are explained in textbooks to be published soon under the name of moral education.

C2. In the previous concluding observations, the Committee stated:

It continues to be concerned at the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society in Japan, which threaten to undermine women’s exercise and enjoyment of their human rights. The Committee notes that this persistence is, inter alia, reflected in the media and in educational textbooks and curricular materials, all of which influence women’s traditional educational choices and contribute to the unequal sharing of family and domestic responsibilities, resulting in their disadvantaged situation in the labour market and their underrepresentation in political and public life and decision making positions.¹⁷³

243. It also issued the recommendations as follows (Para. 30):

The Committee requests the State party to enhance the education and in-service training of the teaching and counselling staff of all educational establishments and at all levels with regard to gender equality issues, and to speedily complete a revision of all educational textbooks and materials to eliminate gender stereotypes.¹⁷⁴

244. In response to the Committee’s statement in the above, the Government reported “See Article 5”¹⁷⁵ in the section of “Attachment 2 Response by the Government of Japan on the Concluding

¹⁷¹ Central Council for Education under the Ministry of Education, “Culture, Sports, Science and Technology. Improvement and other issues of curriculum relating to moral education (report)”, (October 21, 2014) http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo0/toushin/_icsFiles/afieldfile/2014/10/21/1352890_1.pdf

¹⁷² JFBA, “Opinion concerning the report on Improvement and other issues of curriculum relating to moral education by the Central Council for Education under the Ministry of Education, Culture, Sports, Science and Technology”, (December 18, 2014), http://www.nichibenren.or.jp/library/ja/opinion/report/data/2014/opinion_141218_2.pdf

¹⁷³ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.29

¹⁷⁴ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.30

¹⁷⁵ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.70

Observations on the Sixth Report of the Committee on the Elimination of Discrimination against Women,” but it is not clear in such Article 5 whether or not to have conducted reviews or how reviews were conducted in regard to textbooks as mentioned above.

245. According to the Public Opinion Survey conducted by the Cabinet Office in October 2012, 51.6% agreed with and 45.1% disagreed with the question concerning family life that a husband should work, and a wife should stay at home to look after the family. Compared with the result of the previous survey in October 2009, the agreement increased from 41.5% to 51.6%, while the disagreement decreased from 55.1% to 45.1%, which indicated a majority took the fixed gender roles and responsibilities positively.¹⁷⁶ In reality, the stereotyped perceptions of gender-specific roles are not eliminated, but seem to be rather reinforced.
- Therefore, it is necessary for the Government to clarify details of measures adopted by the Government and changes in textbooks and other issues caused by such measures.

Section 2 Reinstatement and reinforcement of references to “comfort women” for the Japanese military in textbooks

A. Proposed Questions for List of Issues

Please state details of efforts which were made for education of the general public and reinstatement of references to the issue in textbooks concerning the so-called “comfort women” for the Japanese military or whether or not such efforts were made.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

246. “Basic Position and Efforts of the Government of Japan” is reported, but there is no description concerning education of the general public and reinstatement of references to the issue in textbooks.¹⁷⁷

C. Current Situation and Issues

- C1. The system of so-called “comfort women” for the Japanese army was organized violence perpetrated against women in Asia by Japan, and was also discrimination against women and foreigners. The Japanese people ought to include references to the fact of “comfort women” for the Japanese army in history textbooks and pass it down to children in order not to deflect attention from and repeat such fact. From this perspective, the JFBA proposes that inclusion of the facts in

¹⁷⁶ Cabinet Office, “Public Opinion Survey”, <http://survey.gov-online.go.jp/h24/h24-danjo/2-2.html>

¹⁷⁷ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.97-102

history textbooks is mandatory in order not to repeat such tragedy.”¹⁷⁸

247. With regard to this issue, the Government released the statement by the Chief Cabinet Secretary Yohei Kono in August 1993 in which it admitted this was an act, with the involvement of the military authorities of the day, that severely injured the honor and dignity of many women, and extended its sincere apologies and remorse to all those. It also stated its intention to consider how best to take responsibility, and reiterated its determination to make this as a lesson from history by forever engraving such issues in people’s memories through the study and teaching of history. However, since the release of the Kono Statement, even the ruling party and cabinet members have begun to make remarks denying the Kono Statement, which makes the Government’s basic stance which lies in the Kono Statement obscure.¹⁷⁹
248. Moreover, all history textbooks for compulsory education had no references to “comfort women” in the 2011 examination of textbooks.
249. Furthermore, Osaka Mayor Toru Hashimoto, who was also a co-leader of the then Japan Restoration Party, made a remark that the system of the “comfort women” for the Imperial army was necessary.¹⁸⁰
250. In August 2014, when the Asahi Shimbun, a Japanese newspaper, withdrew the article based on the testimony by late Seiji Yoshida concerning the forceful recruitment of “comfort women” for the Japanese military of the day, some people even advocate the discourse which denies the system of “comfort women” itself.
251. Furthermore, Suken Shuppan, a textbook publisher, filed with the Ministry of Education, Culture, Sports, Science and Technology an application for correction of the content in order to delete the term “comfort women” in the textbook of civic for high school on the ground of the “error.”
- C2. In the previous concluding observations, the Committee stated that it “regrets the State party’s failure to find a lasting solution for the situation of “comfort women” victimized during the Second World War and expresses concern at the deletion of references to this issue in school textbooks,” and mentioned that “[t]he Committee reiterates its recommendation that the State party urgently endeavour to find a lasting solution for the situation of “comfort women” which would include the compensation of victims, the prosecution of perpetrators and the education of the public about these

¹⁷⁸ JFBA, “Statement by the President of the Japan Federation of Bar Associations concerning references of “comfort women for the army”, (May 1, 1997), http://www.nichibenren.or.jp/activity/document/statement/year/1997/1997_10.html

¹⁷⁹ JFBA and the Korean Bar Association, “Proposals concerning the final settlement of the issue of “comfort women” for the Japanese army”, <http://www.nichibenren.or.jp/activity/document/opinion/year/2010/101211.html>

¹⁸⁰ JFBA, “Statement by the President of the Japan Federation of Bar Associations calling for withdrawal and apology for remarks concerning the “comfort women” for the Japanese army and “sex-related businesses” made by Mr. Toru Hashimoto”, (May 24, 2013), http://www.nichibenren.or.jp/activity/document/statement/year/2013/130524_3.html

crimes.”¹⁸¹

252. The Committee against Torture requests the Government in the previous concluding observations to educate the general public about the issue and include the events in all history textbook.¹⁸²
253. The Human Rights Committee stated in the previous concluding observations that the Government should “take immediate and effective legislative and administrative measures” to ensure “education of students and the general public about the issue, including adequate references in textbook.”¹⁸³
254. As shown above, despite the requests clearly made by several United Nations committees to provide education and include references in textbooks concerning the “comfort women” issue, the reference has yet to be reinstated. Additionally, the Government’s periodic report does not mention any single response to this. The Government should therefore clearly state its intent of the fulfilment of the recommendations issued by the committees and the current status of implementation in detail.

Section 3 Elimination of Discrimination against Women in the Field of Education

A. Proposed Questions for List of Issues

Please report concrete measures adopted in the past four years for an increase in the percentage of women enrolling in universities, and the percentage of women proceeding to study in areas which a small number of women engaged in before, and the percentage of women recruited for university professors.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

255. The relevant report is stated in Paragraphs 13 to 16 and 165.¹⁸⁴

C. Current Situation and Issues

256. In the previous concluding observations, the Committee stated:

While noting the many initiatives undertaken to ensure women’s equal rights with men in the field of education, the Committee is concerned that, despite strong opposition, the Basic Act on Education has been amended and article 5, which refers to the promotion of gender equality, has been removed. The Committee also notes with concern that women continue to be concentrated in traditional fields of study and are underrepresented in academia as students and as faculty members, particularly at the professorial level.

¹⁸¹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.37, 38

¹⁸² Op. cit., CAT, “Concluding observations on the second periodic report of Japan”, Para.19

¹⁸³ Op. cit., CCPR, “Concluding observations on the sixth periodic report of Japan”, Para.14

¹⁸⁴ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.13-16, 165

It also mentioned:

The Committee recommends that the State party give serious consideration to reintegrating the promotion of gender equality in the Basic Act on Education so that the State party's commitment under the Convention to protect women's full rights in the field of education is integrated into domestic law. The Committee also urges the State party to ensure that education policy includes measures to encourage girls and women to pursue education and training in non-traditional fields and so broaden their opportunities for employment and careers in better paying sectors of the economy. The Committee recommends that in the Third Basic Plan for Gender Equality the quota set for the ratio of female faculty in university and colleges be increase from 20 per cent to ultimately facilitate movement towards parity in the sex ratio in these institutions.¹⁸⁵

257. In response to this, the Government reported that more women have participated in each area of education, but the increase is slight in all cases.
258. To be more specific, the university advancement rate stands at 44.2% for women (55.9% for men) in 2009, and 45.8% for women (55.6% for men) in 2013, the percentage increased by no more than 1.6 points, and approximately 10 points still remain as a disparity between men and women.¹⁸⁶ With regard to rates of women by university major and field, female students majoring in engineering, which traditionally constitutes a small percentage of female students, accounts for 10.5% in 2005 and for 11.7% in 2012, and women studying in the faculty of science constitute 25.5% in 2005, and 26.1% in 2012. The increase in both fields is as small as about one point. This suggests that major disparities between men and women still exist.
259. The statistics concerning the recruitment of female university professors also found that the percentage of female professors slightly rose from 12.0% in 2009 to 14.0% in 2013, which shows huge gender disparities, and what is worse is that women who were university president accounted for 8.5% in 2009 which decreased to 8.4% in 2013.
260. As shown above, the statistics shows that gender disparities are becoming small for certain but with a slow pace. Differences between men and women still remain huge, which indicates that immediate and effective measures have not been taken for such elimination. It is thus incumbent on the Government to clarify concrete measure for elimination of gender disparities and examine their effectiveness, and also to make clear necessity to adopt more effective measures and examine such measures.

¹⁸⁵ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.43, 44

¹⁸⁶ Cabinet Office, "White Paper on Gender Equality 2014", http://www.gender.go.jp/about_danjo/whitepaper/h26/zentai/

Section 4 Education for women with disabilities

A. Proposed Questions for List of Issues

Please submit information and statistical data concerning the school advancement rates, the current situation of school advancement and reasons for not attending school for women and girls with disabilities.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

261. There is no report in particular.

C. Current Situation and Issues

262. The Committee noted in the previous concluding observations the lack of information and statistics about women and girls with disabilities.¹⁸⁷
263. Educational arrangement specific to disabilities is crucial at school life which may help women and girls with disabilities to develop personality and to engage in social activities. Even at school, however, women and girls with disabilities face bullies relating to their disabilities, sexual abuse committed by teachers, discriminatory remarks with lack of concern, and absence of consideration at special school.¹⁸⁸ It is essential to collect information and conduct statistical survey concerning the school advancement rates, the current situation of school advancement and reasons for not attending school for women and girls with disabilities.

¹⁸⁷ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.53

¹⁸⁸ JFBA, “57th Convention on Protection of Human Rights. Second session of the symposium - Seeking the Full Implementation of the Convention on the Rights of Persons with Disabilities - Live Together As You Are”, (October 2, 2014), http://www.nichibenren.or.jp/library/ja/jfba_info/organization/data/141002_jinken2_4.pdf

Article 11 Elimination of Discrimination in the Field of Employment

Section 1 Promotion of measures for ensuring the Equal Employment Opportunity Act for Men and Women

A. Status of implementation of the Equal Employment Opportunity Act for Men and Women

A1. Proposed Questions for List of Issues

- a. Please clarify the measures adopted in order to ban all indirect discrimination such as the two-track employment management system and establish methods of job evaluation in accordance with international standards.
- b. With regard to the actual condition of the employment management category, please provide yearly information after 2008 of the rate of companies which implement the two-track employment management system (the percentages of men and women in each career track, the percentage of women in the main career track, and the percentage of women in the regular service).
- c. Please state whether or not to have reviewed the ratio of introduction of requirement of a transfer in the two-track employment management system, and effects of abolishing the requirement of a transfer exerted on improvement of wage difference by sex, pay increase and promotion. If such review was conducted, please state the outcome.

A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

264. In September 2013, the current ministerial ordinance which specifies requirements to be recognized as indirect discrimination was reviewed, and the requirement concerning a transfer was revised to [i] eliminate the part limiting this to “main career track employees” and expand the coverage to include other employees and to [ii] add measures concerning promotion and changes in job type of workers, in addition to those concerning recruitment and hiring.¹⁸⁹ As a result, setting any requirement concerning a transfer resulting in a relocation of residence, without any justifiable reason, upon recruitment, hiring, and promotion, etc. of all employees has come to be recognized as indirect discrimination.

A3. Current Situation and Issues

265. The number and percentage of female employees out of all employees are on the increase in Japan, accounting for 20.30 million female employees and constituting 44.19% of total (45.93 million employees).¹⁹⁰ However, wage differences by sex still remain wide. To be more specific, the wage

¹⁸⁹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.288

¹⁹⁰ MHLW, “Outline of the Survey on Employment Trend for fiscal 2013”, (September 9, 2014), <http://www.mhlw.go.jp/toukei/itiran/roudou/koyou/doukou/14-2/>

of female regular employees (the term “regular employees” means full-time employees which exclude part-time employees) stays as low as 71.3% of the wage of male counterparts (74% of the wage of full-time employees out of regular employees) in 2013. In addition, 55.8% of all female employees constitute so-called non-regular employees (part time and temporary, other types of employees (dispatched, contract, entrusted, and other kinds of workers)), but the average wage for official working hours of such non-regular female employees only stands at 50.7% of male regular employees.¹⁹¹

266. These wage differences result from: (i) the system which excluded aspects of sex when formulated, but does not necessarily eliminate the possibility of implementing the system with perceptions of gender-specific roles due to its obscure standard, and which is based on the premise that employees who have domestic responsibilities face difficulties working, thereby leading to gender differences in terms of hiring, transfer and other aspects; and (ii) bias generated between male employees and female counterparts in terms of recruitment, work assignment and allocation, decision of personnel development, evaluation of personnel and performance and other aspects at the stage of management of wage and employment, thereby leading to differences between men and women in experience and competency, and furthermore gender difference in percentages of managerial positions.¹⁹² Namely, with examination of the current situation in Japan, although explicit discrimination on the ground of being women is becoming unseen, the stagnancy in eliminating gender differences in recruitment and acceptance, and working conditions such as wages is largely attributed to disadvantage imposed on women stemming from a form of non-regular employment such as part-time jobs which are predominated by women, and segregation of employment management conducted in employment of regular workers as seen in the two-track employment management system.¹⁹³
267. The existence of differences in wage and other working conditions by form of employment in spite of jobs with equal value is de facto indirect discrimination against women, and unless such discrimination is eliminated, there will be no improvement in guarantee of employment opportunities and equal compensation for women. Job types, places of work, working hours and other working conditions are subject to categorization in the two-track employment management system. As long as specific enumerations of indirect discrimination are maintained in this way, the two-track employment system is still highly likely to be seen as management of de facto employment based on sex.

¹⁹¹ Op. cit., Cabinet Office, “White Paper on Gender Equality fiscal 2014”

¹⁹² MHLW, “Report by the study group concerning wage differences between men and women under the changing system of wage and employment”, (April 9, 2010),
<http://www.mhlw.go.jp/stf/houdou/2r985200000057do-img/2r985200000059h4.pdf>

¹⁹³ JFBA. “Opinion concerning the revision of Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment”, (November 22, 2013),
http://www.nichibenren.or.jp/library/ja/opinion/report/data/2013/opinion_131122_3.pdf

268. The Committee pointed out in its consideration of the fourth and fifth periodic reports of Japan that it was “concerned at the existing wage gap between women and men, stemming largely from the difference in type of work, horizontal and vertical employment segregation as expressed by the two-track employment management system, and the lack of understanding regarding the practice and the effects of indirect discrimination as expressed in governmental guidelines to the Equal Employment Opportunity Law.”¹⁹⁴ Also, in the 2009 concluding observations:

The Committee remains concerned about women’s disadvantaged situation in the labour market, as reflected in the significant vertical and horizontal occupational segregation between women and men. The Committee is particularly concerned that the “employment management category” in the Administrative Guideline under the Equal Opportunity Law may provide leeway for employers to introduce a track-based system which discriminates against women.¹⁹⁵

Despite such concerns expressed by the Committee, the Government does not intend to change its recognition that “Such systems as the dual career ladder system are not problematic . . . as long as they do not treat workers differently by gender.”¹⁹⁶

269. The Government should ban all indirect discrimination such as the two-track employment management system, and abolish the specific enumerations of indirect discrimination in order to establish methods of job evaluation pursuant to international standards.¹⁹⁷

B. Efforts aimed at ensuring equal opportunities for men and women

B1. Administrative guidance

a. Proposed Questions for List of Issues

Please explain details of approximately 7,700 annual cases of correctional guidance pursuant to the Equal Employment Opportunity Act and the Important Notice Concerning Employment Management for the Dual Career Ladder System established in January 2007, and progress made for improvement by companies which received such correctional guidance.

b. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

270. The Government reported that in response to the violation of the Equal Employment Opportunity Act, correctional guidance was given for approximately 7,700 cases annually, and that Based on the

¹⁹⁴ CEDAW, “Consideration of the reports submitted by States parties under article 18 of the Convention (Report of the Committee on the Elimination of Discrimination against Women on its twenty-ninth session (A/58/38), paras. 337-378)”, Para.369, http://www.mofa.go.jp/policy/human/against_women.pdf

¹⁹⁵ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para. 45

¹⁹⁶ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.293

¹⁹⁷ JFBA, “Opinion concerning the revision of Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment”, (22 November, 2013), http://www.nichibenren.or.jp/library/ja/opinion/report/data/2013/opinion_131122_3.pdf

Equal Employment Opportunity Act and the Important Notice Concerning Employment Management for the Dual Career Ladder System established in January 2007, it kept on its eyes on the management system and its implementation, and gave advice where it was necessary.¹⁹⁸

c. Current Situation and Issues

271. The Government fails to clarify the progress of improvement made by companies who received the correctional guidance after such guidance was given.

B2. Prohibition of Detrimental Treatment Due to Facts such as Pregnancy and Childbirth

a. Proposed Questions for List of Issues

Please explain how the Government addresses suspected cases of dismissal or any other detrimental treatment on the grounds of pregnancy and childbirth prohibited by the Equal Employment Opportunity Act which cannot be resolved by advice, guidance and recommendations of Minister of Health, Labour and Welfare or the director of each Prefectural Labour Office through facilitation of dispute settlements.

Additionally, please provide information on the public announcement of names of companies pursuant to Article 30 of said Act and the number of cases which are subject to the penal provisions of Article 33 to ensure the enforceability of Article 29 in cases where companies do not comply with recommendations.

b. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

272. The Equal Employment Opportunity Act prohibits dismissal or any other detrimental treatment on the grounds of pregnancy and childbirth. In addition, through the revision of the Act in 2006, it provides that dismissal of female workers during pregnancy or within one year after childbirth is invalid so long as the employer fails to prove that the female worker in question was dismissed for reasons other than pregnancy and childbirth.¹⁹⁹

c. Current Situation and Issues

273. Despite the inclusion of provisions which include the prohibition of detrimental treatment due to facts such as pregnancy and childbirth, and the assistance in the resolution of disputes and the strengthening of sanctions in relation to an employer's violation of the provision concerning maternity health management and other issues in the revised Equal Employment Opportunity Act in 2006, women who are pregnant or have children to look after still face difficulties in continuing to work in the current situations such as the one in which "maternity harassment" has become social issues.²⁰⁰ The survey on opinions concerning maternity harassment (*mata-hara*) conducted by the

¹⁹⁸ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.292

¹⁹⁹ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.299

²⁰⁰ Op. cit., JFBA, "Opinion concerning the revision of Act on Securing, Etc. of Equal Opportunity and

Center for Non-regular Employment of the Japanese Trade Union Confederation in May 2013 found that as many as 25.6% of women who experienced pregnancy were exposed to so-called maternity harassment.²⁰¹

274. Under these circumstances, the Supreme Court rendered the landmark decision on October 23, 2014, that the measure taken by an employer to demote a female employee upon the assignment of said employee to less demanding work during her pregnancy was essentially in violation of Article 9, Paragraph 3 of the Equal Employment Opportunity Act, and that the employer should virtually bear the burden of proving the case was an exception, and did not fall under the treatment prohibited in said paragraph. Hopefully, this decision will have a practical impact at workplaces.

B3. Resolution of individual disputes

a. Proposed Questions for List of Issues

Please clarify what legal steps an employee can take and what remedy such employee can seek for in cases the mediation system does not lead to resolution of a dispute in regard to violation of the Equal Employment Opportunity Act.

b. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

275. To facilitate dispute settlements between workers and employers relating to equal treatment of men and women, the director of each Prefectural Labour Office actively gives advice, guidance and recommendations.²⁰²

c. Current Situation and Issues

276. The number of cases for which mediation by the Disputes Adjustment Commission is being sought is extremely low, standing at 78 cases in fiscal 2011, 63 cases in 2012, and 51 cases in fiscal 2013, which suggests that the commission totally falls short of the role of dispute resolution. The statistics of mediation in fiscal 2013 found that out of the 51 cases in which mediation was commenced (including cases in which application was accepted in the previous fiscal year), recommendation for acceptance of a conciliation proposal was issued to 33 cases, of which in 31 cases such recommendation was accepted by both parties.²⁰³ The fact that only less than 50% of the cases were resolved through the mediation suggests that mediation system does not function effectively for

Treatment between Men and Women in Employment”

²⁰¹ Center for Non-regular Employment of the Japanese Trade Union Confederation, “Survey on opinions concerning maternity harassment”, (May 2013), <http://www.jtuc-rengo.or.jp/news/chousa/data/20130522.pdf>

²⁰² Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.300

²⁰³ MHLW, “Status of implementation of the Equal Employment Opportunity Act in Fiscal 2012, http://www.mhlw.go.jp/general/seido/koyou/danjokintou/dl/sekoujyoukyou_h24.pdf

MHLW, “Public announcement of the status of implementation of laws at the Equal Opportunity Employment Department of Prefectural Labour Bureaus”, (May 29, 2014), <http://www.mhlw.go.jp/file/04-Houdouhappyou-11904000-Koyoukintoujidoukateikyoku-Tanjikanzaitakuroudouka/0000047137.pdf>

redress of discrimination. This is attributed to non-binding mediation, and no judgment is made whether a case constitutes discrimination if it ends up being unsettled. It is those who maintain the existence of discrimination to bear the burden of proving discriminatory treatment in the general principles of the Civil Code. Yet, since documents which may suggest discrimination such as the ones for personnel evaluation are in the hands of an employer, workers face extreme difficulties proving the employer's intent of discrimination, the causality with gender disparities based on its discrimination and other factors. If so, when an employee proves the existence of objective facts which are suspected of gender disparities and sex-based discrimination, it should be assumed that discriminatory treatment existed on the ground of sex, and an employer should be thus responsible for proving the reasonableness of such disparities in accordance with the purpose of the Constitution and the principle of gender equality under the Equal Employment Opportunity Act.

277. Furthermore, even if the existence of discrimination is recognized, such discrimination is not eliminated unless effective measures for redress are taken and damages are compensated. In order to ensure the effectiveness of the Equal Employment Opportunity Act with its aim at elimination of discrimination, when discriminatory treatment is found, effective measures for redress should be adopted in order to enforce working conditions equal to workers of the opposite sex which are not discriminated against. In addition, the Equal Employment Opportunity Act provides that an employer has duty to strive to establish grievance bodies, but entrusting complaints to an employer's voluntary resolution does not encourage such establishment, and is insufficient. It should be mandatory for a company of over a certain scale to institute a complaint handling organ, and at the same time, as mentioned in Article 4 of this report, the provisions of Article 14 of the Equal Employment Opportunity Act should be included in the scope of the voluntary resolution of complaints in Article 15.²⁰⁴
278. In addition, with a view to ensuring the enforceability of laws, it is essential to improve the system and environment which ensures easier access to the judiciary so that even workers who bear responsibilities of everyday life and child-rearing such as pregnancy and birth can exercise their rights without feeling physical, financial and psychological burdens. The Government should take a tougher line with companies which are in violations of laws, and consider introduction of a certain economic burdens and other sanctions which suit the significance of sanctions. Furthermore, although cases such as discrimination in employment, maternal protection and unpaid overtime work require company-wide efforts not individual workers', they are regarded as individual cases in Japan, which causes the problem with legal effects; effects of redress do not reach workers who do not exercise their rights or cannot bear the burden of exercising their rights due to reasons such as financial ones and being tight on time. In order to resolve the problems above, other advanced

²⁰⁴ Op. cit., JFBA, "Opinion concerning the revision of Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment", (November 22, 2013)

countries adopt the authorities to initiate legal action by labor unions and administrative organs (South Korea, the United States, and other countries), the system of punitive sanctions (the United States and other countries), and the system of class action (the United States and other countries) which are worth examining.

B4. Equality in employment for women with disabilities

279. In the previous concluding observations, the Committee stated in regard to access to employment by women with disabilities that it “noted the lack of information and statistics about vulnerable groups of women ... who often suffer from multiple forms of discrimination.”²⁰⁵ In this regard, the rate of employment of women with disabilities (excluding those who engage in work provided as part of the welfare service for persons with disabilities), which stands at 28.4%, is far below 64.9% for women in general, and is also extremely lower than 42.4% for men with disabilities.²⁰⁶ This is consistent with the fact women with disabilities are forced to suffer from financial poverty, indicating that they are exposed to multiple forms of discrimination. Needless to say, such multiple forms of discrimination should be eliminated, and also information and research are necessary in regard to factors such as the employment rate, the employment system and disadvantage in employment from a perspective of women with disabilities in order to create cohesive society to which women with disabilities belong.

Section 2 Development of Employment Conditions for the Diversifying Forms of Employment

A. Non-regular Workers

A1. Proposed Questions for List of Issues

Please provide explanation of measures taken in order to redress the issues of low wage for non-regular employees and their unstable status which constitute fundamental elements of wage disparity between men and women.

A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

280. There is no report in particular.

A3. Current Situation and Issues

281. The ratio of female non-regular workers increased to 55.8%,²⁰⁷ and the average wage of female part-time workers, excluding regular employees and regular staff, for official working hours only

²⁰⁵ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.53

²⁰⁶ DPI Women’s Network Japan, “Multiple forms of discrimination against women with disabilities”, <http://dpiwomennet.choumusubi.com/kyoutuu2.pdf>

²⁰⁷ Ministry of Internal Affairs and Communications, “Basic survey on employment structure in 2012”, <http://www.stat.go.jp/data/shugyou/2012/>

constitutes 50.7% of wage of regular employees.²⁰⁸ The statistics by sex shows the percentage of female regular employees and regular staff of total employees which exclude corporate directors decreased from 67.9% in 1985 to 44.2% in 2013.²⁰⁹ The percentage of male counterparts dropped from 92.6% in 1985 to 78.8% in 2013. The increase is seen in the percentages of non-regular workers such as part-time and temporary workers for both men and women, but in particular the percentage of women in non-regular employment rose from 32.1% in 1985 to 54.5% in 2013, consisting of a majority now. The income level of salaried workers who continued to work throughout a year by sex found that while men who earned three million yen and less constituted 24.1% in 2013, the percentage of women in such income category reached as high as 65.5%. Moreover, men who earned over seven million yen accounted for 18.7%, but female counterparts only constituted 3.2%. Possible factors at the backdrop of this situation include: gender differences in form of employment such as part-time employment which is predominated by women with low wage compared with that of a regular employee; and the intent of some female workers who engage in part-time and other types of non-regular jobs to make adjustment not to exceed a certain amount of income as pointed out to be due to the existence of the requirements under the tax and social security systems to receive benefits, the annual income of the so-called wall of 1.03 million yen or 1.3 million yen.²¹⁰

B. Part-time work

B1. Proposed Questions for List of Issues

- a. Please provide information of the actual number and percentage of part-time workers who should be treated equally to ordinary workers under the revised Part-time Labour Act, its sex ratio, and also the actual status of elimination of discrimination.
- b. Please state whether or not to have examined measures to more effectively interpret and implement the Part-time Labour Act which is the only current law that stipulates the principles of treatment of equality to and balance among workers in different forms of employment. If such examination is conducted, please provide its details.

B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

282. In order to develop an employment environment where part-time workers can make use of their abilities more effectively, a revision was made to the Act on Improvement, etc. of Employment Management for Part-time Workers (hereinafter referred to as the “Part-time Labour Act”), which

²⁰⁸ Op. cit., MHLW, “Basic survey on employment structure in 2012”

²⁰⁹ Cabinet Office, “White Paper on Gender Equality Fiscal 2014”, http://www.gender.go.jp/about_danjo/whitepaper/h26/zentai/#pdf

²¹⁰ National Tax Agency, “Results of the Statistical Survey of Actual status for Salary in the Private Sector”, <https://www.nta.go.jp/kohyo/tokei/kokuzeicho/minkan/top.htm>

aims to ensure treatment equal to and balanced with ordinary workers and promote a shift to ordinary workers.²¹¹

B3. Current Situation and Issues

283. Article 9 of the revised Part-time Labour Act²¹² provides that with two requirements equivalent to those of ordinary workers throughout the entire period until the termination of the employment relationship: (i) job description (description of the job and the level of responsibilities associated with said work); and (ii) the mechanism of utilization of human resources and an extent of the implementation (likelihood of changes in job description and assignment which includes a transfer), part-time workers who satisfy the above two requirements should be considered “equivalent to ordinary workers,” and that “the business operator shall not engage in discriminatory treatment in terms of the decision of wages, the implementation of education and training, the utilization of welfare facilities and other treatments for workers by reason of being a Part-Time Worker.”
284. The revised Act requires with regard to one of the above two requirements, the level of responsibilities associated with said work should be equivalent to that of ordinary workers when equivalency of job descriptions is judged in addition to the job description. Yet, the “level of responsibilities” is unclear in terms of for what and how responsibilities are taken, thereby having a risk of being arbitrarily interpreted, and it is also obscure in terms of legal concept. The interpretation by the Government is that the level of responsibilities is an extent or a degree of authority granted to exercise in association of work, but the description of job of which said worker is in charge suffices for examination of such extent of the granted authority. The concept of “the level of responsibilities associated with said work” is not thus necessary apart from the job description. The obscure concept of decision-making factors written expressly in the law will actually provide leeway to interpret such concept arbitrarily, thereby leading to circumvention of laws.
285. The survey found that only 2.9% of all part-time workers engaged in jobs whose description was almost equivalent to that of a regular worker, and it is believed that less than one percent of part-time workers satisfy the two requirements in the article. The requirements for the application are too exacting, thereby limiting applicable part-time workers to a very small number of such workers. The provision is thus hardly effective for providing remedies for part-time workers.²¹³
286. As explained above, the requirement concerning the equivalency in terms of the mechanism of utilization of human resources and its implementation should be deleted from the requirements for equal treatment provided in Article 8, Paragraph 1 of the Part-time Labour Act, and the requirement

²¹¹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.302-304

²¹² Enforced on April 4, 2015

²¹³ Japan Institute of Labour Policy and Training, “Survey of the actual status of part-time workers” (December 27, 2010), <http://www.jil.go.jp/press/documents/20101227.pdf>

should be limited to the equivalency of job description. In addition, said Article provides in regard to the equivalency of job description that the description of his/her work and the level of responsibilities associated with said work are equal to those of ordinary workers employed at the referenced place of business, but the requirement of equality in the level of responsibilities associated with said work should be abolished. Moreover, the Government should clearly state effects of private laws when such article of the prohibition is violated.²¹⁴

C. Dispatched worker

C1. Proposed Questions for List of Issues

Please state whether to review the trend of legislation concerning protection of dispatched workers and ensuring of their stable employment and stability of employment of women, elimination of wage differences between men and women, and easy balancing of work and family. If so, please explain details of them.

C2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8) ²¹⁵

287. In 2012, the Act to Partially Revise the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers (hereinafter referred to as the “Worker Dispatching Act”) was enforced with the aim of protecting dispatched workers and ensuring their stable employment. This Revising Act clearly states that the purpose of the Worker Dispatching Act is to protect dispatched workers, and aims to strengthen protection of dispatched workers and stabilize their employment by newly introducing such provisions as to prohibit day worker dispatching for a fixed term of 30 days or less, in principle, to promote transition of fixed-term employment of certain dispatched workers to indefinite-term employment, and to give consideration to balance between dispatched workers and workers directly hired by clients.

C3. Current Situation and Issues

288. In September 2014, the cabinet made its decision to revise the Worker Dispatching Act, and submitted the bill to the extraordinary session. The bill was intended to abolish the current mechanism in which whether to fall under the so-called 26 professional work categories²¹⁶ made differences in limit to a dispatching period of a receiving company, and to remove the restrictions on a dispatching period of a receiving company in regard to workers under indefinite-term employment,

²¹⁴ JFBA, “Opinion concerning the revision of the Part-time Labour Act”, (November 15, 2012.), http://www.nichibenren.or.jp/library/ja/opinion/report/data/2012/opinion_121115_7.pdf

²¹⁵ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.305-308

²¹⁶ 26 work categories which require professional knowledge, skills and other abilities stipulated in the Order for Enforcement of the Worker Dispatching Act.

dispatched workers at the age of 60 and over and workers under other types of employment, irrespective of job categories. With regard to a fixed-term dispatching, the limit is up to three years of the dispatching period for the same dispatched worker to work at the same organization unit, but the receiving company can continue to utilize the worker dispatching for every three years at the same place of business based on the hearing of opinions from a majority of those in labor unions and others, which indicates that the mechanism allows the receiving company to utilize the worker dispatching permanently by replacing dispatched workers. This is equivalent to permission of the complete liberalization of the worker dispatching, and helps to expand permanent utilization of the worker dispatching and to clearly make in name only and not in practice the purpose of the act to prevent the worker dispatching from being used as permanent substitution. The trend of legislation concerning protection of dispatched workers and ensuring of their stable employment is considerably retrograding.

D. Fixed-term Labor Contracts

D1. Proposed Questions for List of Issues

Please provide information, including the number, the sex ratio, the average wage, and the average employment term of fixed-term contract workers and open-ended contract workers, respectively.

D2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8) ²¹⁷

289. On April 1, 2013, the Revised Labour Contract Act was fully enforced, and introduced the following three new rules: [i] a mechanism that converts fixed-term labour contracts into open-ended labour contracts as requested by the workers in cases in which fixed-term labour contracts are renewed repeatedly; [ii] statutory status of the doctrine of *yatoi-dome* that is established by precedent (termination of labour contract by employers is prohibited under some circumstances); and (iii) a rule that prohibits the imposition of working conditions on fixed-term contract workers unreasonably different from those of open-ended contract workers on the grounds of fixed term labour contracts.

D3. Current Situation and Issues

290. One of the major causes for the aggravation of the poverty problem in Japan is the destruction of the employment system due to such factors as the expansion of non-regular employment and the increase of labor at the minimum wages of the Minimum Wage Act or below (the working poor). Additionally, many non-regular workers are employed on a fixed-term basis. Moreover, since women constitute a majority of non-regular employees, discriminatory treatment of non-regular

²¹⁷ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.309-310

employees is actually reflected on gender disparities, which the JFBA has repeatedly pointed out.²¹⁸

Section 3 Equal Remuneration in Respect of Work of Equal Value

A. Proposed Questions for List of Issues

- A1. Please state whether the Government acknowledges the automatic enforcement power as to the provision of the right to equal remuneration in respect of work of equal value in Article 11, paragraph 1 (d) of the Convention. If not, please state reasons.
- A2. Please explain why the Government did not report wage difference seen in part-time employees in Paragraph 19 and Statistics 13 of the periodic report.²¹⁹
- A3. The Government reported in regard to wage disparity between men and women that “given that men earn 100 of wage which is actually paid, women gain 70.9,” but please state why part-time employee were excluded from this number. Please also explain why it did not report the actual condition in which that “given that male regular employees earn 100 of wage, female part-time employees earn 50.7” in spite of the fact that 55.8% of all female workers are employed on a non-regular contract basis.²²⁰
- A4. With regard to wage disparity between men and women, please provide information of disparity between workers in non-regular, diversified forms of employment (part-time, dispatching and fixed-term contract employment) and male regular employees, and disparity between ones in each form of such employment and male regular employees.
- A5. Please state to what extent the Government engages in dissemination and awareness-raising campaigns through such methods as preparation and distribution of guidelines and manuals, and also report the effect on narrowing wage disparity between men and women.
- A6. The Government stated that “[i]n cases where a violation to the Labour Standards Act, etc. is suspected, related organizations will share information and take required measures.”²²¹ Please state which related organizations are referred to, and provide information on the yearly number of cases where a violation to the Labour Standards Act and other acts is suspected in 2008 and thereafter and the response to such cases.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

²¹⁸ JFBA, “Opinion concerning the bill to revise the Labor Contract Act in regard to the fixed-term labor contract”, (April 13, 2012), http://www.nichibenren.or.jp/activity/document/opinion/year/2012/120413_2.html

²¹⁹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.19

²²⁰ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.315

²²¹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.320

291. The Study Group on the Issue of Wage Disparity between Men and Women under Changing Wage and Employment Systems has analyzed factors causing wage disparity since June 2008. In response to the report by the Study Group, the Government formulated the Guidelines for Supporting Labour-Management Efforts for Eliminating Wage Disparity between Men and Women in August 2010.²²² It prepared and disseminated the “Support Tools for ‘Visualization’ by Business Type” and the “Manual for Utilizing Support Tools for ‘Visualization’ by Business Type for Promoting Positive Actions,”²²³ which introduces how to utilize the Support Tools for Visualization from FY2011.²²⁴
292. Labour Standards Inspectors give necessary guidance to the workplace if any violation of Article 4 of the Labour Standards Act is found. Moreover, in relation to the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (the International Labour Organization (hereinafter referred to as the “ILO”) Convention No. 100),²²⁵ the Government revised the Labour Standards Act-related Interpretation (Kihatsu No. 150/Fuhatsu No. 47 dated March 14, 1988), which is a circular notice giving the interpretation of the Labour Standards Act, and added case examples of violations to the aforesaid Convention in reference to judicial precedents, with the aim of clarifying Japan’s interpretation. Furthermore, in cases where a violation to the Labour Standards Act, etc. is suspected, related organizations will share information and take required measures.

C. Current Situation and Issues

293. The Government only reports wage disparity between male regular workers and female counterparts with regard to wage disparity between men and women, but such report excludes cases of female part-time workers, and thus fails to clarify the actual condition of gender disparity in wage.
294. One of the major causes for the aggravation of the poverty problem in Japan is the destruction of the employment system due to such factors as the expansion of non-regular employment, and an increase in the population of the working poor. Additionally, many non-regular workers are employed on a fixed-term basis. Since women constitute a majority of non-regular employees, discriminatory treatment of non-regular employees is actually reflected on gender disparities, which the JFBA has repeatedly pointed out.

²²² MHLW, “Guidelines for Supporting Labour-Management Efforts for Eliminating Wage Disparity between Men and Women”, <http://www.mhlw.go.jp/stf/houdou/2r985200000ned3-img/2r985200000neek.pdf>

²²³ MHLW, “Support Tools for ‘Visualization’ by Business Type for Promoting Positive Actions”, <http://www.mhlw.go.jp/topics/koyoukintou/2012/03/13-01.html>

²²⁴ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.317

²²⁵ ILO, “Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value”, http://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/genericdocument/wcms_114185.pdf

295. The Government ratified the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO Convention No. 100) in 1967, the International Covenant on Economic, Social and Cultural Rights which sets forth the principle of equal remuneration for work of equal value in Article 7(a)(1) in 1979, and the Convention which sets forth the principle of equal remuneration for work of equal value in Article 11, paragraph 1 in 1985. When ratifying each convention mentioned above, the Government stated that Article 4 of the Labor Standards Act which provides the principle of equal wages for men and women satisfies the principle of equal remuneration for work of equal value in these conventions. It ratified the conventions without any reservation, and expressed its view that no extra legislation was necessary upon such ratification. Yet, although more than 30 years have passed since the ratification of each of the conventions mentioned above, apart from no provision which expressly states the principle of equal remuneration for work of equal value in the Labor Standards Act, the principle of equal remuneration for work of equal value has not been established even through interpretation at all.
296. The principle of equal remuneration for work of equal value should be thus put in the statutory form in order to abolish discriminatory treatment of non-regular workers and gender disparity, and to address the destruction of the employment system and the issue of the working poor, and furthermore the decline in the number of children and weakening domestic consumption. In this regard, Article 9 of the Part-time Labour Act stipulates equal treatment of part-time workers to that of those who engage in the same work, but the requirements for this are too strict to enforce that provision. In legislation of the principle of equal remuneration for work of equal value, such provision should not be thus strict in requirements for equal treatment in light of the fact that many fixed-term contract workers engage in core businesses and routine work similar to those of regular employees, and should ensure the enforceability by stipulation of effectiveness under private laws with satisfaction of such requirements. In view of the fact that fixed-term contract workers face difficulties proving their unreasonable treatment, it should be also clearly stated that an employer should bear the burden of proving reasonableness of discrimination. In addition, it is incumbent on the Government to formulate a mechanism which reduces the burden of workers by such assistance as permission of ex-officio examination by a supervising body and improvement of a remedy system for workers to easily access to.²²⁶

Section 4 Provision of support for achieving work-life balance of men and women

- A. Actual Condition of Women's In-Home Activities
- A1. Proposed Questions for List of Issues

²²⁶ Op. cit., JFBA, "Opinion concerning the bill to revise the Labor Contract Act in relation to fixed-term contracts"

- a. Please report results of a survey on time-budget as part of its Survey on Time Use and Leisure Activities the Ministry of Internal Affairs and Communications.²²⁷
- b. Please report details of analysis of actual conditions of women's in-home activities and the estimated monetary evaluation of in-home activities and other unpaid work.²²⁸
- c. Please state whether to conduct surveys on gender roles of domestic responsibilities, including disparity between actual situations and wish such as a case where one is willing to work, but cannot do so. If such surveys are conducted, please report details of the outcome.

A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

297. There is no single word about results of surveys and analysis, and details of the released estimates, all of which are essential to report.²²⁹
- Additionally, the sixth periodic report as well as the seventh and eighth report merely stated the fact that it conducted survey.²³⁰

A3. Current Situation and Issues

298. In the concluding observations to the sixth periodic report, the Committee stated that it was “concerned that domestic and family responsibilities are still primarily borne by women, and that this is reflected in the extremely low rate of men who take parental leave and by the fact that women interrupt their careers or engage in part-time jobs to meet family responsibilities.”²³¹
299. In Japan, since women face extreme difficulties in balancing work and family, there is an increase in women who stay at home, giving up their careers in spite of their willingness to work.
300. Although the Government did not mention about it, the Ministry of Health, Labour and Welfare conducts the survey of men and women from 15 to 39 years of age concerning opinions such as satisfaction of their lives in order to understand characteristics of attitudes of young people who will support the nation in the future. The survey found that no major difference was found between men and women in the survey question concerning work motivation, but in the question of satisfaction with their current life, women were less satisfied than men in terms of economic conditions, academics and work.²³² This suggests that women are more willing to study and work,

²²⁷ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.321

²²⁸ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.322

²²⁹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.323

²³⁰ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.322

²³¹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.47

²³² MHLW, “Business report to examine the survey concerning aging society with a declining birthrate and other matters (Edition of the opinion survey of youth) in March 2013 by Mitsubishi Research Institute, Inc.”, <http://www.mhlw.go.jp/file/04-Houdouhappyou-12605000-Seisakutoukatsukan-Seisakuhyoukakanshitsu/0000>

but currently have difficulties in achieving such study or work, thereby not being able to be financially satisfied.

301. At the same time, some women are willing to actively engage in housework. The Life-Work Balance Charter states that “regardless of elements such as sex and age, every person are provided opportunities to utilize his/her own willingness and abilities to try various ways of working and living, can choose diversified, flexible ways of working to match their circumstances such as child rearing and nursing care for parents, and are also guaranteed fair treatment.”²³³ In order to create such society, effective measures should be adopted through understanding of the current situations.

B. Provision of Maternity Benefits

B1. Proposed Questions for List of Issues

Please state in detail how much maternity benefits were actually increased, and provide information as to the rate of women who receive maternity benefits out of all women who give birth.

B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

302. The Government reported an increase of maternity benefits by a rise of the standard amount for women covered under employee insurance.²³⁴
303. Yet, this is only applicable to women under employee insurance, and the Government fails to report measures for those who are not covered by employee insurance such as ones who are employed on a non-regular basis.

B3. Current Situation and Issues

304. Although childbirth is an issue concerning all women, the Government reported the measure only for women under employee insurance, a limited number of women.

C. Establishment of Child Care and Family Care Systems

C1. Proposed Questions for List of Issues

- a. please report details of measures and achievement of the aims set forth in the four policy pillars for achieving a desirable society and the 12 major policies.²³⁵
- b. With regard to a survey on those who take parental leave, please state whether the Government conducts survey on the rate of men who have taken parental leave out of all men who have children

022200.pdf

²³³ Cabinet Office, “Work-Life Balance Charter”,

http://www.cao.go.jp/wlb/government/20barrier_html/20html/charter.html

²³⁴ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.323

²³⁵ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.325

(irrespective of form of employment and legal marriage). If such survey was conducted, please report a result of the survey.²³⁶

- c. Please report details of an amount of grant-in-aid provided for companies endeavoring to assist employees in balancing work and child-raising.²³⁷
- d. The contents concerning the Guidelines for Improvement of Working Time Arrangements²³⁸ and the Guidelines Concerning Teleworking²³⁹ in the seventh and eighth periodic report²⁴⁰ are almost the same as the one in the sixth periodic report which stated the intent to carry out publicity and enlightenment activities.²⁴¹ Please mention efforts made after the previous report was submitted.
- e. Although the Government stated in the report that the number of children on a waiting list for admission to day-care centers decreased for the second year in a row, please state the Government opinion as to the estimation that children wait-listed for admission to day-care centers is virtually increasing in light of a decline in the number of births (in fact, the rate of preschool children in day-care centers (the number of children entering day-care centers divided by the number of preschool children) increased by 0.8 point in April 2013 compared to the previous year).²⁴²
- f. Since the periodic report is only focused on infants, please provide report on the actual situation of after-school childcare services for elementary school children and others (the problem of after-school childcare when children enter elementary school).²⁴³
- g. Please explain whether those who provide assistance in childcare as part of services of family support centers work voluntarily and whether this mechanism is based on the sacrifice of those who provide such assistance.²⁴⁴

C2. Current Situation and Issues

- a. Attention is often paid to the system of parental leave aimed at couples who are both regular

²³⁶ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.332

²³⁷ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.333

²³⁸ MHLW, "Guidelines for Improvement of Working Time Arrangements. (2008)",

<http://www.mhlw.go.jp/houdou/2008/03/dl/h0324-2b.pdf>

²³⁹ MHLW, "Guidelines Concerning Teleworking",

http://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/roudoukijun/shigoto/guideline.html

²⁴⁰ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.335, 336

²⁴¹ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.336, 337

²⁴² Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.343

Cabinet Office, "Declining Birthrate White Paper 2014", P.50-54,

<http://www8.cao.go.jp/shoushi/shoushika/whitepaper/measures/w-2014/26pdfhonpen/pdf/mokuji.pdf>

MHLW, "Report of conditions concerning day-care centers (April 1, 2013)", (September 12, 2013),

<http://www.mhlw.go.jp/stf/houdou/0000022684.html>

²⁴³ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.343,345

²⁴⁴ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.345

employees, but in light of a rise of those who are employed on a non-regular basis, it is assumed that they increasingly slip through the benefits of the system. It is then necessary to identify the current situation of the whole society in Japan which includes those under non-regular employment.

- b. In the midst of issues raised such as introduction of the white collar exemption system which is in the opposite end of the regulations for shorter working hours, polarization of employees may occur: short-time but low-waged work and high-income but endlessly long-time work. Regulations for working hours are necessary for achievement of adequate labor.
- c. With regard to children wait-listed for admission to childcare services, many women still have no other choice but to resign because of difficulties accessing to after-school childcare services of children who enter elementary school upon finishing nursery or kindergarten. The Government should expand the scope of the measures which are currently targeted at infants.
- d. Japan is currently faced with the problem of a decline in the birth rate. The issue of child-rearing should not be regarded as a private problem of individuals or be left up to the capacity of raising children of each family, but instead a system ought to be created in which the whole society of Japan can be involved in raising children.

Article 12: Elimination of Discrimination in the Field of Health

Section 1 Removal of punitive provisions imposed on women who undergo artificial abortions and promotion of access to abortion services

A. Proposed Questions for List of Issues

- A1. Please describe a specific process of repealing the provisions of the Penal Code which punish women who undergo artificial abortions and the practitioners who perform the abortions.
- A2. Please clarify whether the Government plans to abolish or reconsider the provision of the Maternal Protection Act which requires consent of a spouse for an artificial abortion.²⁴⁵
- A3. Please clarify what measures the Government plans to take in order to enhance access to safe artificial abortions in particular regarding reduction of the financial burden for an artificial abortion and methods of an artificial abortion in accordance with international standards such as guidance document by World Health Organization.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

305. The government reports reject the recommendation of the Committee in its previous sixth concluding observation by stating “the Government considers it inappropriate to repeal provisions including Article 212 of the Penal Code that define abortion as a criminal act.” Moreover, while the government reports describe that “the Maternal Protection Act permits artificial abortions under certain requirements,” they do not indicate the issue with the Act that requires consent of a spouse.²⁴⁶
306. The Ministry of Health, Labour and Welfare adopts a policy that even pregnant victims of domestic violence who seek abortions are required to obtain their husbands’ consent through supporters in terms of the requirement of spouse’s consent under Article 12 of the Maternal Protection Act.

C. Current Situation and Issues

307. All artificial abortions are subject to punishment under the Penal Act. No movement has been seen within the Government for an amendment to the legislation criminalizing abortion in order to

²⁴⁵ JFBA, “Opinion requesting partial abolishment of the Penal Act and the Anti-Prostitution Act etc.”, (21 June 2013), http://www.nichibenren.or.jp/activity/document/opinion/year/2013/130621_03.html
JFBA, “Update Report on Issues and Questions from Committee on the Elimination of Discrimination against Women with regard to the Sixth Periodic Report of the Japanese Government, above-mentioned”, Para.27

²⁴⁶ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.359

remove punitive provisions imposed on women who undergo abortion²⁴⁷, in line with the Committee's general recommendation No. 24 on women and health and the Beijing Declaration and Platform for Action, as recommended in the concluding observation of the Committee.²⁴⁸

308. Moreover, the Japanese government indicates its intention that no abolishment of such provisions will be taken.
309. Furthermore, while the Article 14 of the Maternal Protection Act is interpreted as justification for punitive provisions of abortion under the Penal Act and regulates conditions which exempt the punishment, the article requires the spouse's consent for an artificial abortion. This requirement forces women to continue their pregnancy and give birth against their will when their spouse denies consent for the abortion. Particularly in case of domestic violence, such provision does not only force women to give birth against their will, but also compel them to get in touch with their husbands to obtain their consent, which may expose the women to risk of bodily harm or death.
310. Access to safe abortions has not brought political attention due to the legal situations as mentioned above. An artificial abortion costs approximately 100,000 yen (1,200 USD) even in the early stage of pregnancy because it is not generally covered by medical insurance. People in poverty or young people face difficulties to bear the expense. In terms of methods of abortions, a dilatation and curettage method is most common, while a vacuum aspiration method, which is recommended by World Health Organization, is not widespread and medical methods of abortion²⁴⁹ are unavailable due to the lack of regulatory approval of the Ministry of Health, Labour and Welfare. In this regard, access to safe abortion services is strictly limited.

[Reference]

Penal Code

Article 212

When a pregnant woman causes her own abortion by drugs or any other means, imprisonment with work for not more than 1 year shall be imposed.

Article 213

A person who, at the request of a woman or with her consent, causes her abortion, shall be punished by imprisonment with work for not more than 2 years.

If the person thereby causes the death or injury of the woman, the person shall be punished by imprisonment with work for not less than 3 months but not more than 5 years.

²⁴⁷ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.49,50

²⁴⁸ Op. cit., CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women", Para.50

²⁴⁹ WHO, "Safe Abortion: technical and policy guidance for health systems, Second edition", http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf?ua=1

Article 214

When a physician, midwife, pharmacist or pharmaceuticals distributor, at the request of a woman or with her consent, causes her abortion, imprisonment with work for not less than 3 months but not more than 5 years shall be imposed.

If such person thereby causes the death or injury of the woman, imprisonment with work for not less than 6 months but not more than 7 years shall be imposed.

Maternal Protection Act

Article 14

1. A physician designated by a Medical Association which is a Public Interest Incorporated Association established in each prefectural district as a unit (hereinafter called the "designated physician") may exercise an artificial abortion on a person who falls under any of the following items with the consent of the person in question and the spouse.
 - (1) A person whose health may be seriously damaged by continuation of pregnancy or childbirth due to physical or economic reason(s);
 - (2) A person who has conceived as a result of sexual intercourse by violence or threat or while unable to resist or refuse.
2. With reference to the consent under the preceding paragraph, the sole consent of the person in question shall be sufficient in case the spouse is unaccounted for, unable to manifest his intention, or if the spouse passed away after pregnancy.

[Table]

Trends in numbers and rates of artificial abortions (the Ministry of Health, Labour and Welfare, *Overview of Report on Health and Sanitary Administration Cases in Japanese fiscal year of 2013*)²⁵⁰

(Number of Abortion Cases)

(Number of Abortion Cases)

	2009	2010	2011	2012	2013
Total	226878	212694	202106	196639	186253
Under 20 years old	21535	20357	20903	20659	19359
Under 15 years old	395	415	406	400	318
15 years old	947	1052	1046	1076	1005
16 years old	2548	2594	2831	2701	2648
17 years old	4031	3815	4099	4038	3817

²⁵⁰ MHLW, "Overview of Report on Health and Sanitary Administration Cases in Japanese fiscal year of Heisei 25 (2013)", (30 October 2014), P.9
http://www.mhlw.go.jp/toukei/saikin/hw/eisei_houkoku/13/dl/kekka6.pdf

18 years old	5683	5190	5264	5344	4807
19 years old	7931	7291	7257	7100	6764
20-24 years old	51339	47089	44087	43269	40268
25-29 years old	48621	45724	42708	40900	37999
30-34 years old	45847	42206	39917	38362	36757
35-39 years old	41644	39964	37648	36112	34115
40-44 years old	16544	15983	15697	16133	16477
45-49 years old	1302	1334	1108	1163	1237
Over 50 years old	27	25	21	14	22
Unknown	19	12	17	27	19
Abortion Rates (per 1,000 women)					
Total	8.3	7.9	7.5	7.4	7
Under 20 years old	7.3	6.9	7.1	7	6.6
15 years old	1.6	1.8	1.8	1.8	1.7
16 years old	4.4	4.4	4.8	4.7	4.5
17 years old	6.8	6.5	6.9	6.8	6.6
18 years old	9.6	8.8	8.9	8.9	8
19 years old	12.9	12.4	12.1	12	11.2
20-24 years old	15.3	14.9	14.1	14.1	13.3
25-29 years old	13.2	12.7	12	11.8	11.3
30-34 years old	10.8	10.3	10	9.9	9.8
35-39 years old	8.7	8.3	7.9	7.8	7.6
40-44 year old	3.9	3.7	3.4	3.4	3.4
45-49 years old	0.3	0.3	0.3	0.3	0.3

Section 2 Promotion of sex education

A. Proposed Questions for List of Issues²⁵¹

- A1. Please clarify what measures have been taken for promotion of comprehensive plans of sex education including education on sexual and reproductive health in order to ensure that adolescent girls have access to information on sexual and reproductive health and family planning appropriate for their ages and affordable means of birth control.
- A2. Please clarify what specific policies have been adopted or planned in order to “promote sexual health

²⁵¹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.50

education targeted at adolescent girls and boys” as recommended in the last concluding observation of the Committee.

A3. Please clarify how the Government considers the intervention which has been made by politicians and mass media and what measures it has taken to prevent its recurrence.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)²⁵²

311. The reports state, “In order to avoid imparting more knowledge than necessary [.....], relevant parties in schools should be thoroughly aware about what is being taught in the classroom,” while referring to the sixth report of the Government.

C. Current Situation and Issues

312. Controls on contents of education have been tightened through intervention by politics and administration.

313. “Love & Body Book,” written and published by Mothers’ and Children’s Health and Welfare Association, a Public Interest Incorporated Association supervised by the Ministry of Health, Labour and Welfare, went out of print in 2002. Regarding human rights education, intervention against sex education and education on substantial equality of gender has been intensified. For example, in 2003, members of the Tokyo Metropolitan Assembly criticized classes of sex education in a school for disabled children, the Board of Education took away teaching materials of sex education, and the Board imposed a disciplinary action of a mild warning against the teachers involved. “Project team on fact-finding survey on excessive sex education and gender education” was founded in Liberal Democratic Party in power in 2005, which consisted of the present Prime Minister Shinzo Abe as a then chairperson and Eriko Yamatani, the present chairperson of the National Public Safety Commission and the Minister of State for Disaster Management, as a then secretary general. In 2005, The Second Basic Plan for Gender Equality cautioned for “excessive sex education,” which was revised for the worse from the first plan. In 2008, more discouraging words for sex education in the field of education were stipulated in the new Course of Study, including considering stages of development.

314. Under such situations as mentioned above, education on physical and mental influence of sexual contact and safe birth control is not provided, despite of the flood of inappropriate information on sex. Sex education in school is particularly problematic, which results in the situation that those who are more likely to be victimized by sexual exploitation, such as people or children with intellectual disabilities and junior high school students, are exposed to the dangers without knowledge or

²⁵² Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.361

awareness of their rights.

315. In order to avoid artificial abortions to the furthest extent possible and give a redress to victims of sexual exploitation, other measures should be taken such as enrichment of sex education, the spread of family planning programs and prevention of abusive sexual acts.

Section 3 Ensuring sexual reproductive health

A. Proposed Questions for List of Issues²⁵³

- A1. Please clarify what measures the Japanese government has taken, specifically what kind of effects these measures have brought and what measures the Government plans to take in the future, in order “to ensure access to sexual health information and all services, including those directed at interruption of pregnancies, for all women and girls” as the Committee recommended in its last concluding observation.
- A2. Please clarify whether sex education and measures to prevent unwilling pregnancies for junior high school students are taken, regarding that the number of abortions at the age of 15 and under is about 1,300 cases per year (1.7 per 1000 women).
- A3. Please clarify whether the Government plans to enact a comprehensive law which specifies and ensures both reproductive rights and sexual reproductive health.
- A4. Please clarify whether the Japanese government plans to take any necessary measures with regard to the recommendation of United Nations Human Rights Committee in its concluding observation in 1998, stating “[t]he Committee, while acknowledging the abolition of forced sterilization of disabled women, regrets that the law has not provided for a right of compensation to persons who were subjected to forced sterilization, and recommends that the necessary legal steps be taken.”²⁵⁴

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

316. The reports contain no specific mention on this subject.

C. Current Situation and Issues

317. A law ensuring reproductive rights and sexual reproductive health does not exist. There are almost no policies in place to ensure reproductive rights and sexual reproductive health except for measures

²⁵³ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.50

²⁵⁴ Human Rights Committee, “Consideration of reports submitted by States Parties under Article 40 of the Covenant, Concluding observation of Human Rights Committee, Japan”, (CCRP/C/79/Add.102, November 19 1998), Para.31,
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F79%2FAdd.102&Lang=en

for maternal and child health such as the 21st Century Sukoyaka Family National Campaign. Especially for young people, it is difficult to gain access to sexual reproductive health services, combined with the restriction of sex education.

318. UN Human Rights Committee, “while acknowledging the abolition of forced sterilization of disabled women, regrets that the law has not provided for a right of compensation to persons who were subjected to forced sterilization, and recommends that the necessary legal steps be taken” in its concluding observation in 1998. However, no progress has been made on this subject until today.

Section 4 Psychological and mental health of women

A. Proposed Questions for List of Issues

Please provide information on the current situation, analysis of causes and determination factors, measures and their effects regarding the psychological and mental health of women.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

319. The government reports only refer to the existence of consultation offices²⁵⁵ and mention nothing on the general situation of psychological and mental health of women, the situation at each stage of life and age, its causes and measures or influential social, economical and cultural determination factors.

C. Current Situation and Issues

320. While global studies show the women’s greater prevalence of depression and mood disorders²⁵⁶, recognition and measures in this regard are insufficient in Japan.

²⁵⁵ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.368,369

²⁵⁶ Kesler, R.C., McGonagle, K. A., & Zhao, S., Lifetime and 12-month prevalence of DSM-III-R psychiatric disorders in the United States: Results from the National Comorbidity Survey, Archives of General Psychiatry, 1994; 51: 8-19

Article 13 Elimination of Discrimination in Other Economical and Social Fields

Section 1 Elimination of discrimination in other economical and social fields

A. Proposed Questions for List of Issues

- A1. Please clarify the effect on employment of single parents as a result of employment assistance in accordance with the Act on Special Measures concerning Support for Employment of Mothers in Fatherless Households and Fathers in Motherless Households and the Child Rearing Allowance Act.
- A2. Please clarify whether the Government plans to amend the Income Tax Act and expand the application of tax deduction of widows to unmarried women.
- A3. The Government should conduct a survey on the sex of the persons who were actually eligible for and received Condolence Grant or Disaster Relief Loans under the Act on Provision of Disaster Condolence Grant. The Act provides double the amount of the Grant to persons who are the primary source of income compared to others and regulates eligible persons for the Loans as heads of household. Therefore, the Government should conduct the survey and clarify whether the provisions of the Grant and Loans stipulated in the Act cause indirect discrimination against women. The government should also conduct a survey of the sex of the eligible persons under the Act on Support for Reconstructing Livelihoods of Disaster Victims, which has the same issues as mentioned above.
- A4. Please clarify the causes of the difference between elderly men and women regarding the poverty rates and measures and policies to eliminate the difference.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

321. The reports contain no mention on any of the subjects above.

C. Current Situation and Issues

- C1. The government reports only refer to the Act on Special Measures concerning Support for Employment of Mothers in Fatherless Households and Fathers in Motherless Households as a measure for single-mother families and widows. However, the relative poverty rate of mothers in single female parent households has increased from 30.3 percent in 2009 to 35.1 percent in 2012 and thus the situation in this regard is crucial. Despite the situation, the amount of the Child Rearing Allowance reduced in most single female parent households as a result of a revision of the allowance standards under the Child Rearing Allowance Act in 2002. The Japanese government explains that the revision was aimed at promotion of employment and enhancement of independence in single female parent households. However, the Government has not even carried

out any survey on the effectiveness for the employment as a result of the revision.

C2. The Income Tax Act regulates “deduction of widows” as one type of income tax deduction, which only applies to single women whose husbands died and single divorced fathers and mothers with a child or children. The deduction does not apply to “unmarried mothers,” who have a child or children without legal marriage. This situation causes economical discrimination against unmarried mothers and puts them at a disadvantage. Some local governments which regard this situation as a problem try to reduce the influence of this discriminative treatment against unmarried women by using “presumptive application,” which calculates incomes of unmarried mothers as if they were applied to tax deduction of widows in the calculation of daycare tuition, rent of public housing etc. where the prices are set based on their incomes. However, the Japanese government has no plan to amend the Income Tax Act which regulates the tax deduction of widows.

C3. Difference of treatments in disasters

322. The amount of the Disaster Condolence Grant under the Act on Provision of Disaster Condolence Grant has a rate of twice the difference between persons who are the primary source of income and others. Since most persons who are the primary source of income are men, the provision of the Act brings disparity between men and women on the amount of the Grant. The Act also regulates eligible persons for the Disaster Relief Loans as heads of household, most of which are men as well.

323. The amount of the Disaster Condolence Grant under the Act on Provision of Disaster Condolence Grant has a rate of twice the difference between persons who are the primary source of income and others. Since most persons who are the primary source of income are men, the provision of the Act brings disparity between men and women on the amount of the Grant. The Act also regulates eligible persons for the Disaster Relief Loans as heads of household, most of which are men as well.

C4. Poverty of elderly women

324. The Japanese government itself recognizes the difference between men and women in poverty. According to the summary of the White Paper on Gender Equality 2010 from the Gender Equality Bureau, the Cabinet Office, “The estimation of poverty ratios of men and women at each age rank shows that poverty rates among women are higher than the ones among men in most age ranks and the gap tends to be even greater in elderly ranks. With regard to the types of households, the poverty rates are high among elderly households and single households at working ages. Among them, female households have harsher conditions. The poverty rate among single female parent households is high and the poverty affects their children as well.”²⁵⁷ The economical difference between men and women in elderly ages is obvious. In particular, the poverty rate among female single households at ages from 70 to 79 is 46.3 percent, while the poverty rate among male single

²⁵⁷ The Cabinet Office, “White Paper on Gender Equality Heisei 22 (2010)”, Chapter 5, Section 1 “Actual Conditions of Living Difficulties”
http://www.gender.go.jp/whitepaper/h22/zentai/html/honpen/b1_s05_01.html

households at the same ages is 27.8 percent.

325. The pension division system was adopted in 2007 in order to ensure that women receive a portion of pension after divorce. However, pension division prior to 2008 requires consent of the spouse or adjudication of the Family Court. Therefore, the pension division system has not yet been widespread among divorce by agreement, which accounts for 90 percent of divorce in Japan. Furthermore, the system does not apply to women who are already divorced. Poverty among elderly women appears to be climbing in the future because the wage disparity between men and women among currently working generations is large. Nevertheless, no effective and specific measure or policy for elimination of the disparity has been clarified.

Article 14: Gender Equality for Rural Women

Section 1 Women's participation in political and public activities

A. Proposed Questions for List of Issues

Please clarify situations regarding women's participation in political and public activities of towns and villages, such as assembly members of towns and villages and heads of neighborhood associations.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

326. The Government should specify the general situations of rural women's participation in political and public activities and promote effective and affirmative improvement measures in order to achieve a goal to account for 30 percent of women by 2020.
327. In particular, despite more than half of the population engaged in agriculture is women, the ratio of women among members of agricultural committees and officials of agricultural cooperatives is less than 6 percent. Therefore, adoption of a quota system should be considered.

Section 2 Improvement of economic status of women engaged in agriculture, forestry and fisheries industry

A. Proposed Questions for List of Issues

Please clarify the ratio of women among owners of farmland and forestry.

B. Current Situation and Issues

328. Improvement of economic status of women engaged in agriculture, forestry and fisheries industry is closely connected with ownership of business assets.
329. Therefore, the Government should clarify the situation of ownership of farmland and forestry as business assets and take effective measures to improve women's economic status.

Article 16: Elimination of Discrimination in Marriage and Family Life

Section 1 Discrimination in marriage

A. Proposed Questions for List of Issues

- A1. Please clarify to what extent the result of public opinion surveys influences on amendment of the Civil Code in terms of the comment of the Committee in its last concluding observations stating “[t]he Committee points out that the obligations undertaken under the Convention by the State party upon ratification should not be solely dependent on the results of public opinion surveys, but on its obligations to align national laws in line with the provisions of the Convention as it is a part of its national legal system.”²⁵⁸
- A2. Please clarify specifically what information and by what means the Government provides to citizens, regarding its reports stating “efforts are being made continuously to ascertain citizens’ awareness and provide information to stimulate discussions.”²⁵⁹

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)²⁶⁰

- B1. The reports mention that “the Civil Code was revised in December 2013 to equalize the shares in inheritance of a child born in wedlock and a child born out of wedlock.”
- B2. The reports state that “[u]nder the recognition that a citizens’ consensus is required to revise provisions of the Civil Code, such as for unifying the marriageable age between men and women, introduction of a system allowing a husband and wife to adopt separate surnames of their own accord, and shortening of the period of prohibition of remarriage required for women, efforts are being made continuously to ascertain citizens’ awareness and provide information to stimulate discussions on these matters. [.....] [T]he MOJ (Ministry of Justice) prepared a bill to revise the provisions of the Civil Code [.....] in 1996 and 2010, but failed to submit the bill to the Diet on both occasions”
- B3. The reports also state that “[t]he provision to specify the period of prohibition of remarriage required for women was introduced [.....] out of the necessity to determine the paternity of the child at an early stage.”
- B4. The reports mention that “SCMC (Specialist Committee on Monitoring of the Council for Gender

²⁵⁸ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.18

²⁵⁹ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.384

²⁶⁰ Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.383-386

Equality) compiled a report in November 2013, suggesting that it is necessary to continue efforts [.....] to draft and submit a bill to revise the provisions of the Civil Code by setting the unification of the marriageable age between men and women, introducing a system allowing a husband and wife to adopt separate surnames of their own accord, and shortening the period of prohibition of remarriage, as well as to revise the Family Register Act in relation to the matters to be stated in the notification of birth. With regard to the system to allow a husband and wife to adopt separate surnames of their own accord, the report points out that it is necessary to provide the public with a wide range of information [.....], thereby enabling all levels of the public to have a deeper understanding of this issue and encouraging more people to participate in the debate.”

C. Current Situation and Issues²⁶¹

- C1. Despite the comment that “[t]he Committee points out that the obligations undertaken under the Convention by the State party upon ratification should not be solely dependent on the results of public opinion surveys, but on its obligations to align national laws in line with the provisions of the Convention as it is a part of its national legal system” in its last concluding observations, the Government still persists in excessive dependence on public opinion surveys as its reports state that “[u]nder the recognition that a citizens’ consensus is required to revise provisions of the Civil Code, such as for unifying the marriageable age between men and women, introduction of a system allowing a husband and wife to adopt separate surnames of their own accord, and shortening of the period of prohibition of remarriage required for women, efforts are being made continuously to ascertain citizens’ awareness and provide information to stimulate discussions on these matters.”
- C2. Despite the comment that “the Committee urges the State party [.....] to amend the Civil Code with a view to setting the minimum age for marriage at 18 for both women and men” in its last concluding observations, it is not clear whether the Government is going to raise the women’s marriageable age to the age of 18 because the government reports only say “unifying the marriageable age between men and women.” This position of the Government seems to be caused by lack of recognition that marriage at the age of 16 is child marriage. The women’s marriageable age should be raised to the age of 18, instead of maintaining the position that the age does not matter as long as it is unified between men and women.
- C3. Despite the comment that the Committee “urges the State party to repeal the discriminatory provisions in the Civil Code and in the Family Registration Law that discriminate against children born out of marriage and their mothers” in its last concluding observations, only the Civil Code has been amended and the Family Register Act has not yet been amended. In addition, the amended

²⁶¹ Op. cit., CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women”, Para.18

Op. cit., “Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women”, Para.383,384

provision of the Civil Code is not retroactively applied to all inheritance cases, which causes unreasonable disparity among children born out of marriage depending on the time of commencement of inheritance.

- C4. Despite the comment that “[t]he Committee urges the State party [.....] to amend the Civil Code with a view to [.....] abolishing the six-month waiting period required for women but not men before remarriage” in its last concluding observations, it is obvious that the Government does not intend to “abolish” the provision as its reports use the term “shortening the period of prohibition of remarriage required for women.” Furthermore, the reports assert that “[s]etting a certain period of prohibition of remarriage [.....] has reasonable grounds” and disrespects the women’s right on grounds of “the necessity to determine the paternity of the child at an early stage.” The provision prescribing the period of prohibition of remarriage has caused the increasing number of children without family registers and thus has conversely harmed the interests of the children as a result. Determination of the paternity of a child at an early stage can be accomplished without setting the period of prohibition of marriage. Therefore, the Government should make efforts toward abolishment of the provision instead of shortening the period.
- C5. Despite “[t]he Committee urges the State party to take immediate action to amend the Civil Code with a view to [.....] adopting a system to allow for the choice of surnames for married couples” in its last concluding observations, the Government does not recognize the right of married couples to using separate surnames, but only regards the choice of separate surnames as “system” which is influenced by public opinions as its reports state that “it is necessary to provide the public with a wide range of information [.....], thereby enabling all levels of the public to have a deeper understanding of this issue and encouraging more people to participate in the debate.” Moreover, the reports mention that the Ministry of Justice “failed to submit the bill [including introduction of a system allowing a husband and wife to adopt separate surnames of their own accord] to the Diet [.....] as consensus was not reached among government departments and citizens.” This description indicates that there is room to ignore public opinions and put priority on the opinions among government departments even when the majority of the citizens support the choice of separate surnames, which seems contradictory.
- C6. There is no mention on same sex marriage in the paragraphs regarding Article 16 in the government reports.

Section 2 Divorce Benefit --- fair distribution of property, decision on an appropriate amount of expenses of child-rearing and securing the payment

A. Proposed Questions for List of Issues

A1. Please clarify what legal measures have been taken and what policies have been adopted to ensure that

both husband and wife can attain information on all marital properties accumulated under the name of either individual during marriage and realize fair distribution of property at dissolution of marriage.

Please give an opinion of the Government on the necessity of legislation to protect the right to receive fair distribution of property, such as to provide information on marital property without consent of the owner at request for disclosure for distribution of property and to require consent of spouse for sales of immovable property used for a residence during marriage.

- A2. Please clarify what legal measures have been taken and what policies have been adopted in order to realize support after divorce so that a husband or wife who quit working or worked less to maintain the marriage can exercise the same rights as the other spouse after dissolution of marriage.
- A3. Please clarify what legal measures have been taken and what policies have been adopted in order to set an appropriate amount of expenses for child-rearing and to secure the payment for mitigation of poverty among single parents who rear their non-adult child or children as well as the children themselves.

B. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan
(CEDAW/C/JPN/7-8)

330. No specific mention on the subjects above made in the reports.

C. Current Situation and Issues

331. Property accumulated in cooperation of both husband and wife during marriage is interpreted as potential marital property in co-ownership of the married couple. At the time of dissolution of marriage, the property is divided into halves in principle in response to a claim from one party for distribution of property. In other words, the Civil Code prescribes that “property that does not clearly belong to either husband or wife shall be presumed to be held in co-ownership.” (Article 762, Section 2) and recognizes the right to claim for distribution for property at the time of divorce (Article 768). In practice, on the basis of a claim from one party of a married couple, the court orders distribution of property by dividing into halves of marital property which is proved and acknowledged as property accumulated under the name of either individual while the couple lived together.
332. Marital property tends to be accumulated more under the name of a husband and less under the name of a wife in reflection of the disparity of wage and of amount of work between men and women through women’s suspension or limitation of work caused by gender role allocation. Therefore, the benefits to receive fair distribution of marital property at the time of dissolution of marriage are generally more for women than for men. Especially women who were limited in working during marriage need to receive a fair amount of this distribution for their lives after dissolution of marriage.

333. However, despite of the assumption that a person who claims for distribution of property is responsible to prove the existence of marital property, the systems to support of this burden of proof are extremely insufficient as one of the few systems is that the court may commission relevant organizations to voluntarily conduct an examination in the civil procedure (Article 186, 226 and 231 of the Code of Civil Procedure). Especially because of the Act on the Protection of Personal Information, which prohibits a business operator handling personal information from providing personal data to a third party, even to the spouse, without obtaining the prior consent of the person (Article 23 of the Act), it is difficult for a wife to attain information on the existence and actual conditions of marital property accumulated under the name of her husband without his cooperation.
334. In addition, since there is no system which restrains an owner from disposition of his/her property even in a case of marital property, the only way that a wife can prevent her husband's disposition such as sale or concealment of marital property under his name prior to distribution is to obtain a court order and execution of civil provisional remedy in order to preserve a fulfillment of a right to claim for distribution of property equally to his other general obligees. This procedure requires financial expense, time and work and comes only after the wife has determined to file a divorce. Therefore, when a wife has not yet decided to get a divorce or cannot file a petition for civil provisional remedy due to costs or other reasons, the situation can arise where the wife cannot receive distribution of property or collect on the claim as a result of failure to prevent her husband with the title of property and financial resource from selling off the couple's primary marital property such as their house.
335. Moreover, distribution of property in Japan is so called "liquidating distribution of property," which only divides accumulated marital property and does not consider reparation for quitting a job or working less to maintain a marriage at all. Very exceptionally, there are some court decisions in favor of such reparation, but most of them only rule to provide small amounts of money for living assistance for 2-3 years. This situation puts many women into the hardship of poverty after divorce as well as makes women hesitate to bring up divorce.
336. Furthermore, 86 percent of mothers and 14 percent of fathers currently rear their non-adult child or children after divorce²⁶² and thus most of divorced single parents are women. To bear the responsibility to rear non-adult child or children greatly limits time and opportunities for work. Therefore, it is indispensable to strengthen and enrich private support as well as to eliminate the disparity between men and women in the field of labor and to improve public assistance in order to prevent financial difficulties of single mothers and their children. However, only 38 percent of single mothers agree upon payment of expenses of child-rearing with their husbands at the time of

²⁶² MHLW, "Report on result of national survey on single female parent households etc. in Japanese fiscal year of Heisei 23 (2011)", (7 September, 2012), http://www.mhlw.go.jp/seisakunitsuite/bunya/kodomo/kodomo_kosodate/boshi-katei/boshi-setai_h23/

divorce and only 20 percent of them actually receive the expenses.²⁶³ In addition, when the court makes a disposition in lieu of agreement on expenses of child rearing, the computation standard that the court relies on is unreasonably low. This low standard has produced many cases below the minimum standard of living, has made single female parent families stay in or enter into poverty and has been one of the reasons of their severe situations.²⁶⁴ Moreover, enforcement of the payment of expenses of child-rearing fully depends on efforts of an obligee except for seizure on a claim pertaining to periodic payment such as wage (Article 151-2 of the Civil Execution Act). There is no legislation for obligees such as assistance on examination of obligor's assets and advancing the payment on behalf of the obligors by administration.

337. It is essential to ensure a fair agreement on payment of the expenses at the time of divorce and its enforcement in order to deal with poverty of divorced women and single female parent families after dissolution of marriage and thus guarantee the same rights between men and women regarding dissolution of marriage.

Section 3 Discrimination based on status of marriage

- A. Problems with presumption of child in wedlock and the 300 days rule under Article 772 of the Civil Code and children without family registers

A1. Proposed Questions for List of Issues

Article 772 of the Civil Code strongly presumes that a child born within 300 days of dissolution of marriage shall be a child of mother's ex-husband even in a case where the child's biological father is not his/her mother's ex-husband. The child is also treated as the mother's ex-husband's in principle in a family register and the Government only accepts a notification of birth with the ex-husband's name in the column of a father. As a result, the provision produces children without family registers. Please clarify whether the Government considers to amend the Civil Code and/or to take other measures concerning the problem of children without family registers.

- A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

338. No specific mention on the subjects above made in the reports.

A3. Current Situation and Issues

339. A family register is "created for each unit of a husband and wife, and any children thereof with the same surname" (Article 6 of the Family Register Act) and authenticates a parent-child relationship.

²⁶³ MHLW, "Support for single parent families", (March 2014), <http://www.mhlw.go.jp/bunya/kodomo/pdf/shien.pdf>

²⁶⁴ JFBA, "Opinion Paper on "Simplified Computation Method and Simplified Computation Chart of Marital Living Expenses and Expenses of Child-rearing", (15 March, 2012), http://www.nichibenren.or.jp/library/ja/opinion/report/data/2012/opinion_120315_9.pdf

Article 772 of the Civil Code stipulates that a child conceived by a wife during marriage shall be presumed to be a child of her husband and that a child born within 300 days after divorce shall be presumed to have been conceived during marriage. This legal presumption is very strong and only the husband may rebut the presumption whereas neither the wife nor child may do so under the Act.

340. A precedent recognized “a child outside of the presumption of wedlock” and ruled to overcome the presumption of father-child relationship between a child and his/her mother’s ex-husband only when the husband and wife had lost actual marital relationship such as a long-term separation at the time of conception. In accordance with this precedent, a notification of birth without the name of mother’s ex-husband as a father is accepted at a city hall only after the court recognizes that the child is recognized as “a child outside of the presumption of wedlock” and confirms that the father-child relationship between the child and his/her mother’s ex-husband does not exist or the biological father affiliates the child.
341. “Problem with the 300 days rule after divorce” is a problem where a child is treated as a child of his/her mother’s ex-husband on a family register when he/she is born within 300 days after the mother’s divorce with her ex-husband even in a case where the child’s biological father is not the ex-husband due to the presumption under the Civil Code,²⁶⁵ or a problem where the mother does not submit a notification of birth to avoid such treatment toward her child on a family register, which results in the situation where the child has no record on any family register.²⁶⁶
342. The result of “the first national survey on actual conditions concerning persons without family registers” conducted by the Ministry of Justice in 2014 says there are 200 persons without family registers. However, private organizations claim that there are many more, approximately 10,000. Persons without family registers cannot obtain any official certificate of their existence. Therefore, they are subjected to broad and life-long human rights restrictions with no access to various social services such as medical care, education and social insurance, acquisition of public qualification concerning social and economical activities, exercise of rights such as right to vote and inheritance, difficulties on formation of family relations such as marriage and adoption. In addition, there are some cases called “a chain of no family register,” where a women without a family register cannot get legally married due to a lack of her register, gives birth out of marriage and her child or children

²⁶⁵ Article 772 of the Civil Code stipulates “Presumption of Child in Wedlock” stating that “(1) A child conceived by a wife during marriage shall be presumed to be a child of her husband. (2) A child born after 200 days from the formation of marriage or within 300 days of the day of the dissolution or rescission of marriage shall be presumed to have been conceived during marriage.” Article 774 of the Civil Code regulates “Rebutting Presumption of Legitimacy” stating that “Under the circumstances described in Article 772, a husband may rebut the presumption of the child in wedlock.” The Code does not establish a system which allow the wife and the child rebut the presumption. As a result, the Code imposes a great disadvantage against women who conceived a child whose father is not her husband during marriage as well as the child.

²⁶⁶ The Ministry of Justice, “Article 772 of the Civil Code (Presumption system of child in wedlock) and procedures to record children without family registers into family registers”, <http://www.moj.go.jp/MINJI/minji175.html>

have no family registers.

343. The problem as mentioned above often happens particularly when a married couple is separated because of domestic violence. A victim of domestic violence who escaped and separated from her abusive husband is afraid to get in touch with the perpetrator over paternity of a child and let him destroy her life, now with a child, again.
344. In order to redress these persons with no family register, the courts allow a way to file a claim for affiliation against a biological father as well as a claim for confirmation of nonexistence of father-child relationship against mother's ex-husband. However, judges in charge of cases of a claim for affiliation against a biological father inform the plaintiff that they may get contact with the ex-husband at their discretion in order to find a fact of a long-term separation because they understand that the biological father may affiliate his child only when the mother and her ex-husband lost actual marital relationship such as a long-term separation at the time of conception. This practice prevents a number of cases from being addressed where the issue of no family register can be solved through obtaining judicial confirmation of the father-child relationship between a biological father and a child because mothers are frightened that their abusive ex-husbands, perpetrators of domestic violence, know about the court cases as well as their children without family registers.
345. Moreover, it is difficult for the child to create his/her own status in a family register independently from his/her mother's ex-husband even after obtaining judicial confirmation of the father-child relationship with his/her biological father in a case where the child was born before dissolution of marriage between his/her mother and her ex-husband. The Civil Code regulates that "A child out of wedlock shall take the surname of his/her mother." (Article 790, Section 2) The Civil Affair Bureau of the Ministry of Justice interprets that "the surname of his/her mother" under this provision is her surname at the time of the child birth (Response No.27 on 25 January Showa 33(1958) from the Civil Affair (2)). Therefore, when a mother submits a notification of birth regarding her child, the child automatically enters into the family register of his/her mother's ex-husband with his name as the head of family because most women bear their husbands' surnames in Japan. In other words, the child is forced to bear the surname of his/her mother's ex-husband, who is not his/her father. What makes the situation even worse is the entrance of the child into the family register of the ex-husband informs him the fact that his ex-wife gave birth and the child's information. These results have put a mother under such a situation where she decides not to submit a notification of birth regarding her new born child in order to avoid uncontrollable conflicts even though she knows that her decision makes her child bear great restrictions as a child without a family register from the beginning of his/her life. In a case where a child is born before his/her mother's dissolution of marriage, it is impossible that the child without a family register enters into the family register of his/her biological father even if the father-child relationship is confirmed in the court because of the provision

stipulating that a child out of wedlock shall take the surname of his/her mother.

346. In order to reduce inconvenience of this situation, the Ministry of Justice currently adopts a practice in which it requires a mother to submit a notification of birth to enter into her ex-husband's family register, but it accepts the notification and records the child's name in mother's family register when the mother divorces, reverts to her previous surname, remarries and her child obtains court's permission of change of his/her surname to mother's surname.²⁶⁷ However, the court's permission is assumed that the mother's family register validly exists and the child may enter into the mother's register by the court's permission. Therefore, it is impossible to obtain the court's permission, for example, when the mother is already dead or when the child is already married and chose his/her spouse's surname (there is no other option than choosing spouse's name when a person without a family register gets legally married.).
347. A man can exert control over his ex-wife who gives birth within 300 days of their divorce because the presumption of child in wedlock is so strong that the mother and child cannot rebut and a family register is created for each unit of "family," which consists of a husband and a wife and their child or children. The problem of children without family registers is a result of the only and last option that a mother and a child had in order to escape and survive from the ex-husband's control. Therefore, it is indispensable to reconsider and revise the presumption of child in wedlock and the family register system.

B. Treatment of children born out of marriage

B1. Proposed Questions for List of Issues

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| <p>a. Please clarify whether the Government plans to repeal a part of Article 49 of the Family Register Act which requires people to fill out "whether the child is born in or out of wedlock" in a notification of birth.</p> <p>b. Please clarify whether the Government has intentions to abolish a name of "illegitimate child" in laws and acts, apply tax deduction of widows to unmarried single parent households and take measures against all forms of social discrimination against children born out of marriage.</p> |
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B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

348. The reports mention that "the Civil Code was revised in December 2013 to equalize the shares in inheritance of a child born in wedlock and a child born out of wedlock."²⁶⁸

²⁶⁷ Article 791, Section 1 of the Civil Code stipulates "Court's permission of Change of Child's Surname," stating that "In the case where a child's surname differs from that of his/her father or mother, he/she may take the name of his/her father or mother by notification pursuant to the provisions of the Family Register Act after having obtained the family court's permission."

²⁶⁸ Op. cit., "Government of Japan, Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women", Para.383

B3. Current Situation and Issues

349. In September 2013, the Supreme Court issued a ruling to declare the unconstitutionality of the provision which granted only half of the shares in inheritance to children out of marriage. After the ruling, the Civil Code was amended to equalize the shares between children in marriage and children out of marriage.
350. On the other hand, removal of a part of Article 49 of the Family Register Act which requires people to fill out whether the child is born in or out of wedlock in a notification of birth could not be included in the amended bill proposed by the Japanese government because there was opposition to the removal during the review process of the amended bill inside the ruling party.
351. Therefore, discrimination against children out of marriage still remains at birth registration etc. Social discrimination against children out of marriage also remains. The legal terms of “legitimate child” and “illegitimate child” which is based on the standard of legitimacy are still used in the Act.* Moreover, since the provision of tax deduction of widows does not apply to unmarried single parent households (although some local governments have de facto application of the provision), these households are put at disadvantages in payment of income tax and social services such as daycare tuition and rent of public housing. Furthermore, discriminatory speech and behavior against children out of marriage and unmarried single parent families are common.
352. Establishment of the Special Committee to Protect Family Ties was demanded inside the ruling Liberal Democratic Party to strengthen the protection of the spouse at the time of inheritance in exchange for equalization of shares between children in wedlock and children out of wedlock in inheritance. Concurrently, the Working Team on Reviewing Legal System of Inheritance was established in the Ministry of Justice because “various opinions were raised on the amendment of the Civil Code which equalized the shares in inheritance such as the amendment would break a citizen’s sense to respect legal marriage and measures should be taken to protect spouse together with the amendment.” It is feared that the working team would propose an amendment of the Civil Code which puts priority on legal marriage over other relationships regardless to actual conditions of living and take measures or policies to weaken the effects of abolishment of the discriminatory provision against children out of marriage, (although it is expected that the working team will propose some recognized proposals for amendment to evaluate substantial contribution of female spouse).
353. The Japanese government was recommended to review provisions on children out of marriage and to ensure non-discrimination against them at birth registration etc. during the second cycle of the Universal Periodic Review on the Government of Japan in the United Nations Human Rights

* [Translator Note] While the Japanese government uses the term “child in wedlock” and “child out of wedlock” in its English documents, the former provision of the Civil Code and the present Article 49 of the Family Register Act use the term “legitimate child” and “illegitimate child” in Japanese language.

Council.²⁶⁹ The Government was also urged to amend provisions which are discriminatory toward children born out of wedlock in the examination of the United Nations Committee on Economic, Social and Cultural Rights.²⁷⁰

C. Distribution of property²⁷¹

C1. Proposed Questions for List of Issues

- a. Please provide information on types of property distributed at divorce, especially types of intangible property (for example, pension, retirement allowances and insurance benefits) and clarify whether the Government permits distribution of such intangible property.
- b. Please clarify whether the provision of distribution of property recognizes the distribution of capability of work and human capital after divorce or considers raised capability of work or human capital by some means when property is distributed at divorce (for example, by recognizing a lump-sum payment to other spouse with reflection of estimated proportional share of this type of assets or by considering post-divorce reparative payment to other spouse).

C2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

354. No specific mention on the subjects above made in the reports.

C3. Current Situation and Issues

355. There is no exclusion of intangible property from distribution of property. However, the distribution does not adjust income after divorce, capability of work and human capital of each party because the distribution is arranged based on assets at the time of separation in principle, although there are some exceptions to include a claim which will be paid in the future if the rights of the claim is clear and the amount of the claim can be calculated objectively.

356. Some court decisions recognize reparative payment, yet they are extremely exceptional and only rule to provide small amounts of money for living assistance for 2-3 years.

357. Therefore, women after divorce (and their children under their custody) suffer crucial poverty as mentioned in the section of Elimination of Discrimination in Other Economical and Social Fields under Article 13.

²⁶⁹ Op. cit., United Nations Human Rights Council, Report of the Working Group on Universal Periodic Review: Japan, A/HRC/22/14, above-mentioned, Para.147.38-42 and 147.78-81

²⁷⁰ Op. cit., United Nations Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Japan, adopted by the Committee at its fiftieth session, Para.10

²⁷¹ Article 768, Section 3 of the Civil Code prescribes "Distribution of Property" stating "In the case referred to in the preceding paragraph, the family court shall determine whether to make a distribution, and the amount and method of that distribution, taking into account the amount of property obtained through the cooperation of both parties and all other circumstances."

Section 1 Damage of military bases (violence against women by foreign soldiers)

A. Criminal liability

A1. Proposed Questions for List of Issues

Please provide information on the number of crimes, number of prosecutions in Japan, details of disposition and details of judgments regarding violence against women by foreign soldiers stationed in the military bases.

A2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

358. There is no mention on violence against women by foreign soldiers stationed in the military bases including a subject mentioned above in the reports.

A3. Current Situation and Issues²⁷²

359. In cases where members of the United States armed forces or the civilian component (hereinafter referred to as “U.S. military personnel”) commit crimes such as robbery, rape and homicide outside the performance of official duty, the authorities of Japan shall have the primary right to exercise jurisdiction (Article XVII, Section 3 (b) of the U.S.-Japan Status of Forces Agreement). However, if the accused U.S. military personnel is within the U.S. military base, he/she is not transferred to the Japanese authorities until prosecuted (Article XVII, Section 5 (c) of the U.S.-Japan Status of Forces Agreement).

360. In the gang rape case against a girl in Okinawa in 1995, although the authorities of Japan had the primary right to exercise jurisdiction, Japan could not accuse the suspected U.S. military personnel in custody who were in a U.S. military base and their custody was not transferred to Japan until they were prosecuted in accordance with U.S.-Japan Status of Forces Agreement. After this case, the practice has been improved. Yet, since the U.S. only gives “favorable consideration” with transferring suspects, not all suspects who committed crimes outside of official duty can be accused in custody by the authorities of Japan before prosecution.

361. In addition, an secret agreement between the U.S. and Japan issued on 28 October 1953 stipulates that the Japanese authorities do not normally intend to exercise the primary right of jurisdiction over the crimes committed by U.S. military personnel outside of official duty other than in cases considered to be of material importance to Japan. The same intention was expressed in the circular

²⁷²JFBA, “Opinion with respect to the Status of Forces Agreement between Japan and the United States”, (20 February 2014), http://www.nichibenren.or.jp/en/document/opinionpapers/20140220_2.html

notice issued by the Ministry of Justice on 7 October 1953. The secret agreement between the U.S. and Japan and the circular notice by the Ministry of Justice should be abrogated and the Japanese authorities should conduct criminal procedures and trials against U.S. military personnel.

B. Civil liability

B1. Proposed Questions for List of Issues

Please provide information on the number of complaints made to the courts, the contents of the complaints (amount of claimed damages), amount of damages accepted in the judgments, amount actually paid to the victims and source of the payment (perpetrators, the Japanese government or the U.S. government) regarding claims for compensation to redress damages caused by violence against women by foreign soldiers stationed in the military bases.

B2. Summary of the Relevant Information from the 7th and 8th Periodic Report of Japan (CEDAW/C/JPN/7-8)

362. There is no mention on violence against women by foreign soldiers stationed in the military bases including a subject mentioned above in the reports.

B3. Current Situation and Issues²⁷³

363. When U.S. military personnel inflict damage, Article XVIII, Section 5 of the U.S.-Japan Status of Forces Agreement prescribes that the Japanese government is responsible to compensate for the damage in accordance with the State Redress Act in a case where the act is done in the performance of official duty. However, in a case where the act is out of official duty, compensation is only dealt with ex gratia payment by the U.S. government (Article XVIII, Section 6 of the U.S.-Japan Status of Forces Agreement). There is no regulation for compensation or even for ex gratia payment when family members of U.S. military personnel inflict damage under the U.S.-Japan Status of Force Agreement. Redress should be made by the Japanese government for victims of the crimes such as robbery, rape and homicide committed outside of official duty.

364. There is no provision which regulates obligation of cooperation of the U.S. military to identify perpetrators and obtain information of their names and ranks when victims file lawsuits against U.S. military personnel or family members for compensation. Therefore, there are some cases where it is impossible to file a lawsuit for redress of their damages due to lack of identification of perpetrators. Obligation of cooperation should be placed on the U.S. military regarding identification of perpetrators and collection of evidence.

365. Moreover, there is no provision which enables the Japanese courts to seize on wages paid to the U.S. military personnel. Measures should be taken so that the Japanese courts can seize on wages paid to the U.S. military personnel in order to ensure effective redress for victims because the U.S. military

²⁷³ Op. cit., JFBA, "Opinion with respect to the Status of Forces Agreement between Japan and the United States"

personnel do not own property in Japan.