



**Japan NGO Network for CEDAW (JNNC)**  
**Alternative Report for the Follow-up Procedure**  
**of the Committee on the Elimination of Discrimination against Women**

I. Contribution from mNet·Information Network for Amending the Civil Code

Paragraph 13 of the Concluding Observation

Measures taken by the government in response to the recommendations and their effects

◆ On the minimum age of marriage for women

The government is expected to submit a draft bill to raise the minimum age to 18 years, the same age as for men, but no cabinet resolution has been adopted yet. It is hoped that the bill would be submitted as soon as possible.

◆ Choice of surnames for married couples

In December 2015, the Supreme Court held that the Civil Code was constitutional, and stated that such matters should be discussed and determined by the Diet. Almost no discussions have been held in the Diet on the issue since the Supreme Court decision. The government has also used to decision to justify its inaction in amending the Civil Code, and all its efforts are focused on expanding the use of former surnames for unofficial purposes.

Meanwhile, the four opposition parties in the House of Representatives submitted a draft amendment bill including choice of surnames for married couples in May 2016. The draft was abandoned in the dissolution of the House in September 2017, but members of the opposition parties are planning a joint submission of the draft bill.

The government conducted an opinion survey on the choice of surnames in February 2018. It was revealed that 42.5% was in favor, the highest percentage ever, and 29.3% was against. The majority of those against were men and women over 70 years of age. The government has been reluctant to amend the Civil Code, citing the past surveys showing that public opinion was almost evenly divided on the issue. But now, it is apparent that approval for choice was greater than opposition to it. There is no reason not to amend the Code, and it should be done as soon as possible.

As there seemed to be no concrete movements towards amendment, a new case questioning the lack of choice in surnames was filed on March 14, 2018. The problem is that people have to go to court to use their own names due to the inaction of the legislature.

◆ Waiting period for remarriage after divorce

Since the Supreme Court decided in December 2015 that the period exceeding 100 days of the 6 months waiting period for remarriage for women was unconstitutional, as it infringed on equality before the law and freedom of marriage, the government amended the Civil Code to

shorten the waiting period to 100 days, and allowed remarriage even within the 100 days, when the woman was not pregnant at the time of divorce. Although the waiting period itself was not abolished, a review of the provision itself after 3 years of implementation was included.

In practice, the Ministry of Justice has been admitting marriage applications submitted more than 100 days after divorce after the Supreme Court decision in December 2015. There has been 912 cases so far. Two years have passed since the amendment in June 2016, and discussions towards review should begin immediately.

## II.

contribution from: **Forum of Minority Women consisting of  
Buraku Liberation League Central Women's Division  
Ainu Association of Sapporo  
Apuro Korean Women's Network in Japan  
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### Paragraph 21 (d) of the Concluding Observation

#### 1. Measures taken by the government and their effects

- No legal measures have been taken in response to the above recommendation.
- In June 2016, apparently pressured by public opinion, the government adopted and enacted the Hate Speech Elimination Act (see: <http://www.moj.go.jp/content/001199550.pdf>). The Act, however, (1) merely sets forth the ideals towards “elimination” of racially motivated hate speech including those based on ethnic origins and nationality, and has no provisions for providing sanctions or punishments for the actors making the hate speech.; (2) has no gender perspective whatsoever; (3) limits the targets of hate speech that would be “eliminated” to “persons originating outside of Japan,” and thereby leaves the people of Ainu and members of the Buraku community outside of the scope of the Act; and (4) remains general and vague in regard to responsibilities of the national and local governments in Chapter 2. There seems to have been no concrete measures taken after its enactment.
- The Act had some effect in suppressing hate speech demonstrations on the streets. But since the Act lacks provisions to sanction or punish those engaging in hate speech, it is the minority community themselves who remain the targets of such speech and their supporters, who organize “counter-” actions to respond to the racists by calling on the public when they receive any information on plans to conduct hate speech propaganda. The police, which had previously overtly protected the racists engaging in hate speech propaganda, while controlling and oppressing the protesting citizens, have begun to assume some degree of fairness, after the enactment of the Act as well as after facing public criticism. The racists and misogynists have changed their demonstration activities, to organizing offensive exhibitions in public facilities and sending anonymous comments on the internet, which remain unchecked.

- The major reason for the deficiencies of the Act, such as the lack of gender perspective as well as that of protection of minorities of domestic origin mentioned above, is the failure of the government to comply in good faith with the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which stipulates that persons belonging to minorities have the right to participate effectively in decisions concerning the minority to which they belong, and with the repeated recommendations from human rights treaty bodies including CEDAW.
- There have been discussions on the limits of the scope of the Act to “persons originating outside of Japan” and on the lack of reference to hate speech on the Internet, during the legislative process, and in the end, a resolution attached to the bill was adopted, declaring the basic recognition that it was wrong to understand that discriminatory speech and acts would be admissible, unless they were “unfair discriminatory speech and acts against persons originating outside of Japan”, as provided for under Article 2, and that these should be addressed appropriately, as well as that policy measures should be introduced regarding efforts towards eliminating acts on the internet encouraging or instigating unfair discriminatory speech and acts against persons originating outside of Japan (see, <http://www.moj.go.jp/content/001199555.pdf>). These resolutions have no legal effect, and are merely matters to be noted in the implementation of the Act. It also needs to be repeated that the Act itself has no sanctions.

## 2. Events after March 2016 and their effects on the issue pointed out by the Recommendation

- After the enactment of the Act, most of the victims of hate speech continue to have no recourse to remedies. They face a high risk of severe retribution, when they try to refute or argue against the unfair slanders and insults.

It is possible to bring a civil suit for damages for slander and defamation against the perpetrators, but there are significant obstacles. In fact, two Korean women have chosen to do so respectively, to hold the perpetrators legally accountable and to raise the issue to the public at large, but they faced heavy economic and emotional burden as well as the burden regarding time (it takes several years just to get through the first instance).

Cases: Ms. I Shine’s case, and Fuji Corp. case --- For the former case, the court recognized defamation, but the amount awarded as damages is far too small compared to the victim’s suffering.

- Hate speech on the internet is targeting Buraku and Ainu people:

In February 2016, a group called Tottori Loop published the *Fukkokuban Buraku Chosa* (Reprinted version of the Buraku Survey). This is a directory of Buraku areas that was somehow obtained from the survey report that the government compiled in 1936 to study the situation of several thousand Buraku communities around the country, and updated with currently used indication of addresses of Buraku areas. Tottori Loop argues that revising and publishing documents that was published by the government do not amount to discrimination. The purpose of

the publication was to expose the Buraku areas and people of Buraku origin. It is possible to identify whether the current address or place of origin of a particular individual is located in a Buraku area by referring to the publication.

Several decades before the Tottori Loop publication, private investigation agencies used the Buraku Survey to compile Buraku Directories and sold them to companies and individuals. In 1975, it was revealed that hundreds of companies (many of them were listed companies) had purchased the publications and used them to find out about the backgrounds of job applicants at the time of hiring. Individuals were using them too, to find out about the background of the prospective partners, when members of their families wanted to marry. When this was revealed, the government took the matter seriously, recognized the publication as discriminatory and collected those in circulation, but could not eliminate all of them.

With the progress in information technology, the remaining Buraku Directory was digitalized and in recent years, it may be found on the internet in various forms. Apart from being used at the time of hiring or marriage, it is used by real estate agents or people buying real estate to find out whether a particular land or building is located in a Buraku area. Exposing Buraku origins to stigmatize and to shun individuals has become one of the most serious present day discriminatory practices against Buraku people.

The Buraku Liberation League sued the Tottori Loop and on March 28, 2016, the Yokohama District Court ordered a provisional ban on publication, but in the meantime, the group digitalized all the contents of the publication and circulated the whole data on its website called *Dowa Chiku* Wiki. The site was deleted by court order on April 18 of the same year, but numerous copies and other related sites have been set up, and it has become impossible to completely remove all data from circulation. The *Dowa Chiku* Wiki site contains not only the addresses of Buraku areas but also personal information (addresses, telephone numbers, dates of birth, activities, etc.) of leaders and members, including women, of the Buraku Liberation League without their consent. An activist, whose personal information was published, received an anonymous new year's card with "Die *Eta* (derogatory term for Buraku people)" written on it, which his child had happened to see. Buraku women are spending their lives in fear and anxiety, not knowing when or how they may be targets of harassment and attacks using the information on the internet.

Following the Hate Speech Elimination Act, the Act on the Promotion of the Elimination of Buraku Discrimination was adopted and enacted in December 2016. This Act also has no provisions for sanctions, but places responsibilities on national and local governments to educate and raise awareness to eliminate Buraku discrimination, conduct advisory services as well as surveys. The Act, therefore, has no effect against the serious large-scale disclosure of information and hate speech targeting Buraku people. The government is also failing to take action.

- Expression encouraging discrimination and hate speech targeting Ainu people is also spreading on Internet, and is creating a serious situation. To attempt to confront such speech as individuals would mean being exposed to discrimination. It is not only unpleasant, but there is also a risk of suffering irreversible damage. Because of that, many Ainu women do not access such sites. This

silencing effect is common among many victims of discriminatory hate speech.

In July 2016, a researcher of the Center for Ainu and Indigenous Studies, Hokkaido University, made a statement during a lecture in Sapporo, Hokkaido, that encouraged prejudice and erroneous historical understanding regarding the Ainu peoples. Many of them protested in anger. In the lecture, he stated that changing Ainu into Japanese was not bad, that the Ainu lost their land due to their lack of understanding and poor choice, as well as that the Ainu people received large amounts from the government and was amply protected under the former Hokkaido Aborigines Protection Act. These statements could have misled the audience. This researcher was the chair of the government's council reviewing the Ainu policies. This warped understanding of the history has also been put forward in the Report of the Advisory Council for Future Ainu Policy, which provides the guideline for reviewing government Ainu policy.

A committee consisting of voluntary organizations and individuals from the Ainu community submitted a protest to the Cabinet Office regarding the statements made by the researcher who played an important role in the government council. Four *charanke* (negotiations) have been held between the representatives of the Committee and the government in 2017. As a result, the researcher has been removed from the chair of the council, and the council itself has also ceased to be active.

The Committee has also called for appointing someone with an understanding of historic injustice referred to in the UN Declaration on the Rights of Indigenous Peoples as chair or member of the council reviewing the government Ainu policy, as well as for the establishment of a council chaired by a member of the Ainu peoples, and with more than half of the members from the Ainu peoples, with due consideration to gender balance, to discuss a new legislation for Ainu policy based on the UN Declaration.

#### **Paragraph 21 (e) of the Concluding Observation**

##### **1. Measures taken by the government and their effects**

- In recent years, the government has been using words recognizing multiple discrimination against minority and indigenous women in the government reports and the Basic Plan for Gender Equality\*\* but has not adopted any policy or taken any measures to address the multiple discrimination. Even after receiving the CEDAW recommendation, the government fails to understand that policies and measures distinct from those for women in general are necessary. It clings to its policy that minority and indigenous women are included in the policies for women in general, which are sufficient, and efforts under another framework are not necessary. This means that there are no measures such as those mentioned in the recommendations, and no independent expert body to monitor and assess them. The government is also reluctant to establish an independent domestic human rights institution in line with the Paris Principles.

\*\* Fourth Basic Plan for Gender Equality Priority Field 8

(Excerpt) .. *consideration from the perspective of respecting human rights is needed in relation to people, who face hardships due to issues like their sexual orientation or gender identity disorder, or who face multiple hardships due to disabilities, being foreign residents living in Japan, being members of Ainu people, or due to Dowa issues, as well as being women. For this purpose, the environment should be improved from the perspective of gender equality to enable women facing numerous hardships live in confidence.*

(Note: None of the concrete measures include measures for Ainu, Buraku or resident Korean women.)

- Even consultation offices or desks that can appropriately respond to are not available for minority women who suffer from prejudice and discrimination. The human rights counseling services of the Legal Bureau or the Human Rights Volunteers of the Ministry of Justice do not have the will or expertise to respond.
- The government has been consistently indifferent to the living conditions and human rights of minority women. Since more than 10 years ago, Ainu, Buraku and resident Korean women have cooperated to bring the situation of multiple discrimination to the attention of the Cabinet Office, the Gender Equality Bureau and other relevant ministries, and to negotiate for concrete measures, but they have not been heard, and their efforts have been in vain.

## **2. Events after March 2016 and their effects on the issue pointed out by the Recommendation**

- The Ministry of Justice has conducted a first ever survey of foreign residents in Japan (approximately 2% of the population) on the situation of discrimination and published the results in March 2017. Some figures have been revealed, such as that 29.8% of respondents experienced discriminatory speech, such as insults for being a foreigner in the last 5 years and that 39.3% experienced being refused housing for being a foreigner. The Ministry states that it will analyze the results and reflect its findings in its human rights policy, but the survey lacks a gender perspective, and the data is not disaggregated by gender. As a result it emphasizes the invisibility of minority women.
- Prejudice and discriminatory stereotypes of minority women remain firmly established in the Japanese society. In areas that suffered natural disasters (many of them rural areas), many migrant women (marriage migrant women) became isolated due to language and cultural barriers and found themselves unable to access relief supplies and other support.
- No independent expert bodies have been established, and no regular monitoring has been conducted. The situation of Buraku women has not changed.
- The situation of Ainu women is as explained above. They have requested the Chief Cabinet Secretary to establish a Council chaired by a member of Ainu peoples and over half of its members from the Ainu peoples, with due consideration given to gender balance.

### Paragraph 21 (d) of the Concluding Observation

Women with disabilities are subject daily to hate speech that is rooted in the multiple discrimination involving discrimination against people with disabilities and gender discrimination. For this reason, we believe that women with disabilities should be included in “other minority women” in paragraph 21(d) of CEDAW/C/JPN/CO/7-8, which reiterates the committee’s previous recommendation (CEDAW/C/JPN/CO/6).

We believe that legal provisions prohibiting multiple discrimination against women with disabilities are necessary.

In July 2016, an incident occurred in Japan in which a man who was a former facility employee broke into a care facility for persons with intellectual disabilities managed by Kanagawa Prefecture, stabbing to death 19 of the residents. The man who perpetrated the incident made the statement that it was beneficial for society to kill persons with severe disabilities. After this incident, many people voiced the sentiment that they felt anxious about going outdoors. A woman with disabilities said after the incident that she felt terrified when someone said something degrading to her when she was using public transport.

In 2017, it became clear that there is a statement in the booklet commemorating the relocation of the hospital published by the Hyogo Prefectural Kobe Children’s Hospital in March 2016, that the “movement to prevent the birth of unfortunate children” implemented by Hyogo Prefecture from 1966 to 1974 was said by the prefectural governor of the time to have been “a unique prefectural people’s movement that was the first of its kind in Japan” and “was a matter of great pride to Hyogo Prefecture.”

In response, a group consisting mainly of persons with disabilities conducted protest activities. But Hyogo Prefecture replied that the statement contains historical material of the time and refused to offer an apology or create an opportunity for discussion.

Japan had a Eugenic Protection Act that, based on the concept of eugenics, governs the practice, for example, of eugenic operations such as forced sterilizations. About 16,500 people have been made to undergo sterilizations without consent under this act. Women account for roughly 70% of those who have been victims of forced sterilizations. A significant number of the victims were minors. The United Nations has in the past issued three recommendations regarding forced sterilizations, demanding apologies and compensation, but to the present day the Japanese government has indicated no intention of offering apologies or compensation, stating that the operations were legal at the time. In January this year (2018), a woman who was the victim of a forced sterilization under the Eugenic Protection Act has, for the first time, initiated a lawsuit against the government.

The fact that the Eugenic Protection Act existed in Japan until 1996 and the fact that language and deeds that negate the lives of persons with disabilities, as mentioned above, continues to this day, are inseparable elements of the same problem. To eradicate such language and deeds it is required that Japan face up squarely to the problems of the past eugenic policy, and as stated at the outset, that the prohibition of multiple discrimination including discriminative language against women with disabilities

is clearly enshrined in Japanese law.