

NGO Joint Report (Japan)

with regard to the consideration
of the combined seventh and eighth periodic reports of Japan
for the sixty-third session of the
Committee on the Elimination of Discrimination against Women

Japan NGO Network for CEDAW (JNNC)

10 January, 2016

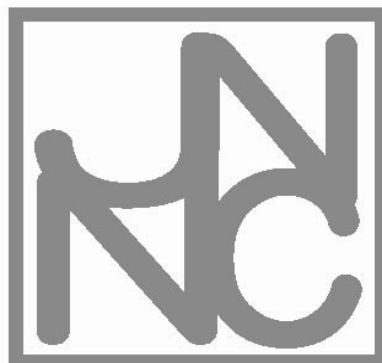


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Introduction

The Japan NGO Network for CEDAW (JNNC) is a coalition of some 40 NGOs that aim to reflect the Convention on the Elimination of All Forms of Discrimination against Women in Japanese policies. The JNNC has submitted the written information for the Pre-sessional Working Group for the 63rd session. Now, we submit this report containing the update information and suggested recommendations of our member NGOs in relation to the list of issues. The author NGOs of the each sections of the report, which are indicated in the Appendix, are responsible for the respective sections.

We are deeply concerned that the recent political situation of Japan is extremely inactive in resolving the discrimination against women, and that the stance of the current Abe administration has had the tendency to introduce policies that bring about new discrimination towards women since its start in December, 2012. The principle, "there can be no human rights without peace", that is the common awareness among women in the world is also wavering.

The current administration appointed a few women to cabinet ministers and offices of their party, Liberal Democratic Party. Therefore, as a matter of form, it can be seen as pushing forward women's active participation in society and to the decision-making place. However, under the government which advocates self-help endeavor, and promotes the rollback of the public responsibility on social welfare and the social security, the poverty of elderly women and single mothers' families, the poverty of children, and the crisis of "the old age bankruptcy" have been growing. On the other hand, the government is pushing forward on exercising the right to collective self-defense and is increasing the war expenditures. We believe the government approach could further delay the elimination of sexism and achievement of gender equality.

Japan is not making enough progress in the last thirty years after its ratification of the Convention while all the countries of the world push forward the expansion of women's rights and the elimination of discrimination against women through the enforcement of the Convention on the Elimination of All Forms of Discrimination against Women. We are concerned that the reason is that the Japanese government makes light of the Convention and does not work on the realization of the idea seriously.

We hereby submit this report hoping that it will contribute to the work of the Committee, in particular, a constructive dialogues between the Committee and the Delegation of Japan on the Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women, Japan in February, 2016 and that the enforcement of the Convention in Japan will advance.

■ **Paragraph 1-1:** Institutional framework–National Machinery

Related articles: Article 3 and paras. 25 & 26 of the Concluding Observations (2009)

Please indicate the measures taken by the State party to further strengthen its national machinery for the advancement of women, including by clearly defining the mandate and responsibilities of its various components, in particular between the Minister of State for Gender Equality and Social Affairs and the Gender Equality Bureau, and enhancing coordination among them, as well as through the provision of

adequate financial and human resources.

[Current Situation]

The national machinery has not been sufficiently strengthened under the Third Basic Plan for Gender Equality. (JNNC request regarding the LOI; June 2015). Bearing in mind the “basic idea” set forth in the Fourth Basic Plan for Gender Equality, we consider that reinforcement of the three points mentioned below is necessary.

- (1) Section iv of the Fourth Basic Plan for Gender Equality, “Enrichment and Reinforcement of Promotion Systems,” states that under the Headquarters for Promotion of Gender Equality (president: Prime Minister), those in charge of promotion (Director General level) who are posted at each relevant administrative office by the president’s designation shall “reflect a gender equality perspective in all measures which might have direct/indirect effects on forming a gender-equal society, and aim at systematic coordination among them.” In order to realize this, it is necessary to designate the Minister of State for Gender Equality, who is pivotal for the national machinery, as a permanent full-time Minister, and also to reinforce the power, responsibility, financial resources and coordination of the Headquarters for Promotion of Gender Equality and Gender Equality Bureau, which have been inadequate.
- (2) Although the Specialist Committee on Monitoring was established under the Third Basic Plan for Gender Equality in February 2011, in accordance with the Committee’s 2009 Concluding Observations, monitoring of implementation of the Convention and the Concluding Observations has been inadequate. The Fourth Basic Plan refers to “the maximum realization” of functions of the Council for Gender Equality, such as reinforcement of monitoring of implementation of the Plan, publication of the results, investigation of effects and expression of opinions. In order to realize this, it is necessary to elect a committee of monitoring specialists who have full professional discernment and competence in the Convention, its Recommendations and the gender equality perspective, who “visualize” the observance of the Convention and adoption of General Recommendations and Concluding Observations into policy, and who reinforce constant and effective mechanisms to monitor the implementation of the Convention and the Basic Plan which aim at substantial equality.
- (3) The Fourth Basic Plan states that the Council for Gender Equality shall follow up on the progress of measures, in linkage with preparing the annual budget on the basis of the “idea of a gender budget,” and shall address opinions about enforcement of measures to the Minister for Gender Equality. It should not be just an expression of opinions; the Council for Gender Equality should strengthen its power and responsibility, and create such mechanisms as to adopt a gender-budget perspective and analysis into all processes (PDCA cycle) ranging from budget making to policy implementation/assessment. For that purpose, it is necessary to a) examine closely the good examples of i) the five member states of the Nordic Council, which have carried out joint projects aimed at building collaboration between their respective finance ministries and relevant organizations, and ii) the Republic of Korea, which has specified clearly the announcement of the gender budget in its Law of National Finance and developed measures in various fields; and b) urge the Government and the Diet to institutionalize the gender budget with high-level commitment.

[Proposed Recommendations]

The government should take the following measures:

- (1) Designate the Minister of State for Gender Equality, as a permanent full-time Minister, and also to reinforce the power, responsibility, financial resources and coordination of the Head Office of the Gender Equality Promotion and Gender Equality Bureau.

- (2) Elect a committee of monitoring specialists who have full professional discernment and competence in the Convention, its Recommendations and the gender equality perspective.
- (3) The Council for Gender Equality should strengthen its power and responsibility, and create such mechanisms as to adopt a gender-budget perspective and analysis into all processes (PDCA cycle) ranging from budget making to policy implementation/assessment.

■ **Paragraph 1-2:** Institutional framework - national human rights institution

Related Article–Article 2, paragraph 23.24 Concluding Observations of CEDAW

Please also indicate the measures taken to establish an independent national human rights institution in accordance with the Paris Principles, whose competencies include issues related to the equality of women and men.

[Current Situation]

The Human Rights Commission Bill which was submitted to the Diet session in 2012 was to establish a new human rights commission as an external bureau of Ministry of Justice, and authorize the Director of District Legal Affairs to be the commission's local secretariat. Therefore it would make little substantial difference with current human rights protection committee system, and did not accord to the Paris Principles because its independence was not secured. It was still the first step to promote deliberations in the Diet about establishing a national human rights institution. However, the Bill was withdrawn without being discussed due to the dissolution of the House of Representatives right after the Bill was introduced. Afterwards, there has been no action on the establishment of the national human rights institution under the current administration.

With regard to section 2. Article 2 of the Seventh and Eighth Periodic Reports of Japan, on "Legal Assistance against Discrimination", the government wrote that "appropriate consideration as to what the human rights remedy system ought to be is underway, with a review of various discussions made thus far." However, the content of "appropriate consideration" is totally unclear.

Three functions are required in a national human rights institution. Those are: 1. function to prevent human rights violations with mediations and recommendations to provide remedies for various human rights violations, 2. function to establish domestic human rights protection system by proposing human rights policies and cooperating with the United Nations human rights treaty bodies, and 3 function to create education and study programs to promote human rights protection, to participate in the implementation process, and to conduct public relations.

The current human rights protection committee system does not have "the policy proposal function" that is one of the important mandates of the national human rights institution. The system's functions remain inadequate to provide remedies for human rights violations and to create education and study programs and enforce them. Its promotion activities are limited to putting out posters such as "protection of human rights week".

With regard to "the training for judiciary field officers", in the Seventh and Eighth Periodic Reports of Japan, the government wrote that lectures are held for public prosecutors and judges and that they are given guidance by their superiors as they perform their daily duties on their individual cases. However, there are many human rights violation cases of women who are not provided remedies in trials in Japan. There are still cases in which perpetrators are found innocent in rape trials and woman plaintiffs lose their cases without having the indirect

discrimination recognized in trials for wage discrimination between men and women. The actual situation of the training for personnel in the judiciary is also not clear.. The training referred to in the report of the government is at risk of lapsing into formal procedural training. The barrier that is blocking effective implementation of human rights consciousness should be investigated including investigation on process of communication and consensus formation in the judiciary organizations to achieve effectiveness..

[Proposed Recommendations]

The government should offer a timetable for the establishment of an independent national human rights institution.

■ **Paragraph 1-3:** Institutional framework: awareness of the Convention, education of lawmakers, judges, etc.
Related articles: Paras. 19 & 20 of the Concluding Observations (2009)

Please further indicate whether the Convention and the General Recommendations are being integrated into capacity building programmes for law-makers, judges, prosecutors, lawyers, as well as the police and other law enforcement officials.

[Current Situation]

(1) Raising awareness of the Convention among the Japanese people

The Third Basic Plan for Gender Equality (2010) set a performance objective of raising awareness of the term “Convention on the Elimination of All Forms of Discrimination against Women” from 35.1% in 2009 to no less than 50% by 2015, as part of its stated goal of promoting understanding of laws and treaties related to equal rights for men and women via easy-to-understand publicity campaigns. However, according to Japan’s 7th and 8th periodic reports, the ratio of Japanese people aware of the Convention is still only about 35% (para. 112), showing no improvement at all since 2009.

In the 7th and 8th periodic reports, the Japanese government stated that it “conducts PR activities, such as the creation and distribution of PR posters and DVDs introducing the Convention Such DVDs are lent out widely at the request of the general public” (para. 175). However, it does not say how many posters are actually produced, and what the routes are through which they are distributed. It is difficult to believe that the posters and DVDs are distributed throughout the entire country. The 7th and 8th periodic reports also state that documents such as the 6th periodic report and the Concluding Observations of the 6th report “are posted on the websites of the Ministry of Foreign Affairs (MOFA) and the Cabinet Office” “[f]or the purpose of public dissemination” (para. 111), but simply posting such documents on websites is not enough to ensure that women who really need this information will actually receive it.

In 2012, the number of Japanese students who went on to senior high schools was 96.5 percent (according to the Ministry of Education, Culture, Sports, Science & Technology surveys). If the Convention had been included in school curricula since Japan ratified it 30 years ago, the ratio of Japanese people who are aware of the Convention would not be as low as it is today. This ratio will not improve so long as information about the Convention in school textbooks remains inadequate and the Convention is not included in school curricula.

(2) Raising awareness of the Convention among lawmakers

At present, measures taken to raise awareness of the Convention and its related documents and information among lawmakers are inconsistent and inadequate, making it impossible for the legislature to carry out its duty to

implement the Convention. In 2010, the CEDAW Committee adopted a statement on “National Parliaments and the Convention on the Elimination of All Forms of Discrimination against Women.” In this statement, the Committee noted that parliaments “are at the heart of the implementation of the principles and rights enshrined in the Convention” through their legislative, budgetary and executive branch-oversight functions, and also that the “implementation of the Convention includes the incorporation of the principle of non-discrimination against women in national legislation, including in the Constitution of the State party” (para. 4).

(3) Raising awareness of the Convention among judges, prosecutors and lawyers as well as the police and other law enforcement officers and educating them about the Convention

In paras. 19 and 20 of its 2009 Concluding Observations, the CEDAW Committee called on the Japanese government to take measures to deal with the fact that the legal effect of the Convention under article 98, paragraph 2, of the Constitution is not fully secured.

However, according to the 7th and 8th reports, measures to raise awareness of the Convention among judges and prosecutors are restricted to the same kinds of training as before. No information on raising awareness activities for the police and law enforcement officers is provided in the 7th and 8th report. It is reasonably suspected that no or very limited activities may be promoted.

[Proposed Recommendations]

- (1) A more active approach is required, involving such measures as a publicity campaign through the media about the 30th anniversary of Japan’s ratification of the Convention.
- (2) The Convention should be included in school curricula.
- (3) The government should immediately consider effective measures to raise awareness of the Convention among lawmakers.
- (4) Proactive measures should be taken, which include making international human rights law a compulsory subject in the National Bar Examination.
- (5) “The effective protection of women against any act of discrimination” through “competent national tribunals,” as required by article 2 (c) of the Convention, should be ensured.
- (6) Effective measure should be taken to promote training on the Convention and the Committee’s general recommendations to lawyers and legal professionals as well as law enforcement officers.

■ Paragraph 2: Institutional framework

Related Articles: Preamble, Article 8

Related Documents: General Recommendation No.30, 2009 Concluding Observations Paragraph 55 and 56, UNSC Resolution 1325

Please provide information on the mechanisms and measures adopted to ensure an equal participation of women in the entire process of elaboration and adoption of the Post-2015 Development Agenda.

[Current situation]

1. In the process of elaboration of the Post 2015 Development Agenda (SDGs), the Government at least held meetings at the request of civil society for exchanging information and opinions with civil society organizations mostly working in the field of international cooperation. The series of meetings had a large number of female participants, but it was the result of the voluntary effort by civil society, and there was no systematic and

institutional effort on the part of the government to ensure equal participation of women.

No effort has been made by the Government also to ensure women's equal involvement in developing indicators to be adopted in March, 2016.

2. The 2030 Agenda for Sustainable Development declares in its preamble that it seeks to “realize the human rights of all and to achieve gender equality and the empowerment of all women and girls,” and it included in the 17 sustainable goals a standalone goal on gender equality and empowerment of women and girls with nine targets. The key to achieving the goals is the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, the Cairo Program of Action, the Beijing Platform for Action and all other international law and agreements. However, the Government of Japan has failed to implement most of the recommendations from the UN Committee on the Elimination of Discrimination against Women, and it can hardly be said that the Government is committed to the full implementation of the Convention.

In this regard, we would like to draw the Committee's attention to the fact that the 12 of the 20 Cabinet members including Prime Minister and the two female members belong to the Parliamentary League of Nippon-Kaigi (Japan Conference, founded in 1997), a group which denies the facts that Japan committed atrocities including sexual slavery known as “comfort women” in its war of aggression. Nippon Kaigi formed Nippon Josei Kaigi (Japan Conference of Women) in 2001 to run a campaign to collect signatures opposing the Civil Code amendment including the introduction of a system to allow married couples to have separate surnames, on the ground that such system would “destroy family ties.” It also carries out a nationwide campaign to have local assemblies adopt resolutions to this effect. Mr. KATO Katsunobu, who took up the newly established Cabinet posts of Minister for Promoting Dynamic Engagement of All Citizens and Minister in charge of Women's Empowerment, concurrently serves as Minister for Measures for Declining Birthrate as well as for Gender Equality. Minister Kato is the vice chair of the Parliamentary League of Nippon Kaigi.

Under this Cabinet, Japan adopted the National Action Plan on “Women, Peace and Security” for the implementation of UN Security Council Resolution 1325. It is appreciated that the draft NAP was formulated through consultations with civil society, but the Government arbitrarily made alterations before making it public. The reference to responsibility of Japan for the past war including wartime sexual violence contained in the Preface was deleted. Among other items dropped from the final draft were an action against hate speech in the Prevention section and actions to address sexual violence by US military forces stationed in Japan in the Protection section. With all these deletions, Japan's first NAP lacks the recognition of challenges Japan has been urged to deal with. Further, in the Japanese version, the term “gender” was completely replaced by other terms with different implications, such as “equal participation of men and women,” “distinction by sex,” or “women.” Replacing “gender perspectives” with “women's perspectives” and “gender-based violence” with “violence based on distinction of sex” will result in misunderstanding of the terms related to gender issues.

From the Fourth Basic Plan for Gender Equality approved by the Cabinet in December 2015, the term “Equality, Development and Peace” that had been placed in the previous basic plans disappeared.

3. The Government of Japan announced a vast increase in aid to Syrian and other Middle-eastern refugees, but at the same time it abolished the three principles banning arms export, and it drastically revised the Official Development Assistance (ODA) Charter in February, 2015 to enable the country to fund foreign military forces

exclusively for “civil” or “nonmilitary” purposes.” It is also considering establishing an aid system to grant low-interest loans to developing countries for purchasing arms, and to buy weapons from the domestic arms industry and donate them to developing countries. It has faced criticism that ODA would be converted into military assistance. In September 2015, the Abe government forcibly enacted the war legislation allowing Japan to send its Self-Defense Forces abroad to engage in military activities, despite the opposition from a majority of the people, who consider the legislation is unconstitutional and therefore unacceptable. On October 1st, the Government launched a new agency at Defense Ministry for equipment management, to centralize its logistical and acquisition needs and deal with the development, procurement, export and international joint development and production of defence equipment. The country’s military spending has reached a record high. These moves of the Japanese Government will not contribute to international peace and security but could obstruct the effort for achieving the Post-2015 Development Goals.

[Proposed Recommendations]

- (1) The Government is required to take measures to ensure equal participation of women in the domestic implementation of SDGs.
- (2) The Government should redirect resources to efforts for achieving the Post-2015 Development Goals with special attention to empowerment of women and girls.

■ Paragraph 3: Temporary Special Measures

Related article: 4.1

Please indicate the results achieved by temporary special measures that have been implemented so far and indicate whether the State party envisages adopting additional temporary special measures to accelerate the realization of women’s substantive equality with men.

[Current Situation]

- (1) Measures taken by the Japanese government and the results of positive action

The 28th paragraph of the 2009 Concluding Observations was designated as a follow-up item. In response, the Japanese government stated that “The Third Basic Plan, which was approved by the Cabinet in December 2010, highlights the promotion of effective ‘positive action’ and introduced positive action with ‘time-goals,’ setting numerical targets and timetables for each of the priority fields” (response by the Japanese government to the 2009 Concluding Observations, August 2011) . The government also referred to the fact that 19 items had been set as numerical targets in the Third Basic Plan. Below are the latest data (taken from the July 2015 draft of the Fourth Basic Plan for Gender Equality, among others) for some of these 19 items that were described in the 7th and 8th periodic reports.

<Political Sector>

- a. Proportion of female candidates for seats in the House of Representatives (2009):
16.7% → Target: 30% by 2020
* Ratio of female candidates (2014): 16.6%
* Ratio of female members of the House of Representatives (2015): 9.5%
- b. Proportion of female candidates for seats in the House of Councilors (2010):
22.9% → Target: 30% by 2020
* Ratio of female candidates (2013): 24.2%

* Ratio of female members of the House of Representatives (2015): 15.7%

<Public Sector>

c. Proportion of women in government positions equivalent to or higher than the director of central government ministries and agencies (2009):

2.2% → Target: Approx. 5% by the end of fiscal 2015

* Actual ratio (2014): 3.3%

d. Proportion of female members of national advisory councils and committees (2009):

33.2% → Target: 40% ~60% by 2020

* Actual ratio (2014): 35.4%

<Employment Sector>

e. Proportion of women in positions equivalent to or higher than middle-management level in private corporations (2009): 6.5% → Target: Approx. 10% by 2015

* Actual ratio (2015): 8.3%

f. Proportion of corporations implementing positive action (2009):

30.2% → Target: Over 40% by 2014

* Actual ratio (2015): 20.8%

<Academic Sector>

g. Proportion of female university presidents, vice presidents, professors, associate professors and lecturers (2009): 16.7% → Target: 30% by 2020

* Actual ratio (2014): 19.5%

h. Proportion of female council members of the Science Council of Japan (2008): 20.5% → Target: 22% by 2015

* Actual ratio (2014): 23.3%

(2) Necessary future actions

As shown in aforementioned figures, current temporary special measures using the goal-and-timetable method set low targets and have not achieved significant results. The Fourth Basic Plan on Gender Equality mentions that “it is necessary to consider how to promote” the content of items pointed out in the Concluding Observations, and acknowledges that actually achieving the targets is still an issue requiring further consideration. It is not enough for the government to merely make requests, provide information and raise awareness.

[Proposed Recommendations]

Further steps must be taken utilizing the new policy environment created by the adoption of the “Law on Promotion of Women’s Participation and Advancement in the Workplace” (2015), etc., to strategically adopt and implement effective and strong temporary special measures (including quotas and incentives) directed at gender mainstreaming.

■ **Paragraph 4-1:** Stereotypes and harmful practices

Related articles: 5(a) and para.30 of the Concluding Observations (2009)

(i) Please indicate whether the State party envisages adopting a comprehensive strategy to combat stereotyping in order to promote a non-patriarchal image of women including that of disadvantaged groups

of women, such as older women, women with disabilities, migrant women and women belonging to ethnic and religious minorities. (ii) Please indicate the measures to combat stereotypical attitudes about the roles and responsibilities of women and men in the media and to eliminate the sexualized depiction of women in advertising.

[Current situation]

(i) (1) Priority field 2 on “Review of social systems and practices from a gender equal perspective, and raising awareness for gender equality “under the Third Basic Plan for Gender Equality (2010) (hereinafter referred to as “Third Plan ”) is divided into two priority fields. One is developing various government systems from a gender equal perspective. The second is promoting awareness- raising and understanding of gender equality through education and the media under the Fourth Basic Plan for Gender Equality (hereinafter referred to as “Fourth Plan”). Creating these two priority fields, however, makes the objective to eliminate stereotyped perception for gender roles quite vague. With regard to the development of the government systems it appears that no reform has been made on the family law, income tax system and social security. Therefore far more proactive measures are required. The Third Plan clearly states that income tax system should not be on a household basis, but on an individual basis. Although the Fourth Plan includes the basic direction on income tax system which should have an impartial effect on the selection of social activities by women and men, the choice of the income tax system is largely left to the Tax Commission. In addition the choices of other government systems are left to the meetings with government, workers and employers. With regard to family law reform the Fourth Plan indicates to wait for the Supreme Court ruling. These actions do not suggest that the government is preparing to take a comprehensive strategy.

(2) Awareness raising is dealt with in three priority fields, namely awareness raising, education and the media under the Third Plan. In the Fourth Plan these three priority fields are integrated into just one field, i.e., “10. Awareness raising”. The opinion poll conducted in 2012 by the Cabinet Office, found out that the respondents who supported stereotyped perception for gender outnumbered those who were against it (51.6 % and 45.1%, respectively). In the 2014 survey, respondents who were against it outnumbered those who supported it. (49.6 % and 44.6% respectively) However, nearly half of the respondents supported the stereotyped perception of gender roles; Japan faces an unusual challenge. Nevertheless government measures have been reduced. Just one priority field will take up awareness raising.

Furthermore the Third Plan contains two priority fields which are people living with poverty, and the elderly and non-Japanese people. These two fields have been merged into one in the Fourth Plan. Although child poverty and poverty in single mother households have become serious social problems, actions to combat poverty are diminished. In the Fourth Plan “research on national minimum standards and indicators” and “building tax system and social security system impartial to various lifestyles” which are included in the Third Plan are deleted. “Building tax system and social security system impartial to various lifestyles” has also been deleted in relation to the elderly and it has a negative impact on the policies for the poor and the elderly. The government focuses on the promotion and advancement of capable women in big companies (by the Law to promote active roles of women in the workplace). It can be said that government does not consider to take a comprehensive strategy.

(ii)(1) The measures taken to combat stereotypical attitudes about the roles and responsibilities of women and men in the media and to eliminate the sexualized depiction of women in advertising.

Government measures to regulate child pornography on the internet was taken with the aim to protect the youth,

but to no other purposes. (Paras 78 to 89 in the Seventh and Eights Periodic Report on the implementation of the Convention) Therefore it is still widespread to depict women as sex symbols and to overly identify women with motherhood. A recent example is the broadcast video entitled "sexy and the rugby rule", by Nippon Television of a picture of a woman in a suggestive swimming suit which emphasized her breasts and hips. Another example is an internet CM for Brendy, a coffee drink produced by Ajinomoto General Foods, INC. (AGF), a Japan's food manufacturer. In the CM a high school girl appears emphasizing her breasts in a commencement ceremony which indeed can only reminds us of "Animal Farm" by George Orwell. To hear the high school principal saying "give us a lot of milk" in the CM is way too much to tolerate, and stresses motherhood if not sex to an extreme. These examples show flatly and directly just how seriously producers of advertising agencies lack gender sensitivity. Moreover, gender discriminatory expressions are widely spread in sports newspapers. It is reasonable to suggest that the extreme lack of respect for women and women's rights in this area is caused by the low representation of women in managerial posts in the media. (only 12.5 % in private broadcasting and a mere 5.2% in public broadcasting (Japanese Broadcasting Corporation :NHK) in the 2014 Gender Equality White Paper.

(2) Interventions by the ruling party (LDP) in the press and TV reports and inappropriate statements by NHK executives

In addition to the interventions, there exists a bashing from the government. The government has infringed on the independence/autonomy including the one from political power, impartiality and freedom of expression of the media. Especially the public broadcasting (NHK) is supportive of the government. They do not show the points of disputes in important issues, nor do they broadcast voices as well as movements and gatherings opposed to or critical of government positions. There are a number of the problems under the present administration; they are listed below. These interventions lead to the deterioration of the roles of the media. They disturb the realization of gender equality in the media and deprive the people's right to know, the freedom of expression and destroy democracy

- a. The prime minister often has meals with a variety of media executives.
- b. Mr. Katsuto Momii, President of NHK, made problematic statements in a press conference on the occasion of assuming the office. One statement is that "comfort women have existed in every country." Another is that we cannot say left when the government says right. (Dec.26 2013)
- c. Ahead of the general election immediately after the dissolution of the Diet, Chief Deputy Secretary-General and the Director-General of Information Bureau of the Liberal Democratic Party (LDP) jointly sent a letter to TV stations located in Tokyo, requesting not to broadcast any election matters which are disadvantageous for the administration. (NOV.20 2014)
- d. LDP requested NHK executive to make calls to their office where they were questioned about some issues of the NHK programs (April 5 2015)
- e. A former NHK Governor said, at a study meeting of the LDP young lawmakers, that "the two newspapers in Okinawa should be smashed. Some lawmakers made repressive remarks, saying that no advertising revenues could be a punishment for the media." (June 25 2015)

[Proposed Recommendations]

- (1) The government should, on an urgent basis, set up targets and introduce specific quotas as regards the promotion of women to and within executive levels of media organizations including as editorial chiefs.
- (2) Urgent actions should be taken in the area of changes in stereotypes.
- (3) Government should take a comprehensive strategy to eliminate harmful practices and eliminate gender

stereotypes.

■ **Paragraph 4-2:** Stereotypes and harmful practices – “sexist remarks made by public officers”

Related Article–Article 5, paragraph 29.30 Concluding Observations of CEDAW

Please provide information on the incidence of gender discriminatory statements and sexist remarks made by public officers since the issuance of the previous Concluding Observations and on the measures taken to address this situation. Please also indicate the measures taken to prevent and punish verbal violence against women.

[Current Situation]

1 The incidence of gender discriminatory and misogynistic words and deeds by public officers including politicians continued since the issuance of the previous Concluding Observations. Following cases are the main incidences since 2009.

*October 1st, 2010

Mr. Yoshikatsu Nakayama, parliamentary secretary of Economy, Trade and Industry (during the APEC Women's Entrepreneurship Summit)

"Japanese women find pleasure in working at home and that has been part of Japanese culture"

*November 28th, 2011

Mr. Satoshi Tanaka, the director-general of the Okinawa Defense Bureau, (in an unofficial meeting with reporters, when asked about the submission date of an environmental impact assessment report of the planned relocation of U.S. Marine Corps Air Station Futenma to the Henoko district of Nago, Okinawa Prefecture)

“Would you say, ‘I will rape you,’ before you rape someone (a woman)?”

(This is a double discriminatory remark by portraying Okinawa as a woman who is a target of rape)

*December 7th, 2011

Mr. Shintaro Ishihara, Tokyo Governor (at governor’s regular press conference)

(commenting about homosexual individuals) "I think homosexuals have something missing from them somehow. It may be something genetic. I feel sorry for them being a minority."

*May 13th, 2013

Mr. Toru Hashimoto, Osaka City Mayor (at a press conference)

“In war time, not only the Japanese army but also those of various countries were utilizing (comfort women). If you want soldiers to have a rest somewhere, a comfort women system is necessary. Anyone can understand that.”

*June 18th, 2014 (Tokyo Metropolitan Government's assembly)

An assemblywoman was heckled in the Tokyo Metropolitan Assembly meeting by several assemblymen during her interpellation on government support for parenting, saying “you should get married early yourself”, "Can't you bear a child?" The chairperson didn't stop the heckling. Later, only one assembly member came forward, but others didn't. There is no investigation, nor punishment by the assembly.

Later, it was revealed that the same kind of sexist heckling toward a female lawmaker had occurred earlier in that year in the Diet meeting, also.

*August 27th, 2015

Mr. Yuichiro Ito, Kagoshima Prefectural Governor (in the meeting of the prefecture's General Education Council)
"What's the use of teaching girls the sine, cosine and tangent (trigonometric function) in high school?"

*September 29th, 2015

Mr. Yoshihide Suga, The Chief Cabinet Secretary (when he appeared on TV program)

(He was asked to comment on the celebrity marriage between famous actors)

"With their marriage, I am hoping that mothers will contribute to their country by feeling like they want to have more children with them. Please have many children."

2 The government has not taken any actions and measures to prevent gender discriminatory statements and sexist remarks made by public officers. Mr. Satoshi Tanaka, the director-general of the Okinawa Defense Bureau, was forced out of office among the public officers mentioned above, but there is no other person who was dismissed or resigned.

The most recent case by Mr. Yoshihide Suga, the Chief Cabinet Secretary, is a serious sexist remark because he promoted stereotyped perception for gender roles which includes the women's role to give childbirth. A government dignitary had interfered with the personal freedom of the woman's choice to have a child or not, and encouraged women to have more children as a national policy, saying "have children to contribute to the nation". Moreover, Mr. Suga, the Chief Cabinet Secretary is the chairman of the Gender Equality Conference that constitutes the national machinery to promote gender equality in Japan, and the Deputy Director of Gender Equality Promotion Headquarters. However, Mr. Suga, the Chief Cabinet Secretary has not withdrawn his remark. The responsibility of the Prime Minister is also questioned as he did not hesitate to appoint the person to such a position, who does not understand basic issues related to gender equality and women's human rights like reproductive health and rights.

3 Discrimination against women and misogyny in the local councils are also serious. After the sexist heckling incident in the Tokyo Metropolitan Assembly meeting in June 2014, when an assemblywoman was heckled during her question, the Tokyo Metropolitan Assembly resumed activities of a dormant "Gender-Equal Society Promotion Assembly League". However, a male lawmaker who was appointed to the chair said "I would also say to women 'Have you not married yet?' and 'Why don't you marry someone?' at general occasions", and it led to further criticism. The Assembly League has not been active substantially after then.

The Diet and the local assemblies nationwide have the same problem as the Metropolitan Assembly. It highlighted the present conditions of the Japanese society where gender discrimination and gender role stereotypes remained firm, and the acuteness of the delay in achieving gender equality. The majority of local assemblywomen answered that they had suffered from discrimination against women and sexual harassment according to the nationwide questionnaire by an NGO.

All legislative assemblies need parliamentary rules and regulations that stipulate "gender discrimination and human rights violations are prohibited", "establish maternity leave, and child care and nursing care leave system", and "set clear rules for parliamentary procedures and election of officers". The enactment and revision of code of

ethics, and training program on gender-equality by local assemblies and local governments are needed. Political parties need to put effort in increasing female candidates. The electoral system needs to be revised so that women can easily make advancements. In this regard, it is a step forward that the National City Council Chairman Association and the Towns and Villages Assembly Board made a decision to revise the standard assembly rule to one which allows assemblywomen to stipulate the “childbirth” as a reason of absence from assembly.

4 No measure is taken to prevent or punish verbal violence against women. In Japanese society, the dominant idea is that such measures conflict with freedom of expression, and it has never been the subject of study at government or at the National Assembly. Para 30 in CEDAW Concluding Observations says "The Committee urges the State party to take measures, including the criminalization of verbal violence, to ensure that Government officials do not make disparaging remarks that demean women and contribute to the patriarchal system which discriminates against women." However, Japan's current situation is far from such a policy. The government should clarify that to violate the human rights of others is not included in the "freedom of expression" which the Constitution guarantees, and implement measures to prevent verbal violence.

[Proposed Recommendations]

The government should do the following:

- 1) To implement measures to prevent and eliminate "verbal violence" that violates human rights
- 2) To implement measures to prevent and eliminate the gender discriminatory statements and sexist remarks specially those made by public figures such as politicians

■ **Paragraph 4-3:** Harmful practices

Related Article, Article 2

Please further indicate the measures envisaged to criminalize hate speeches targeting minority groups, including speeches inciting sexual assault against them.

The government of Japan has not taken steps to punish hate speech as a crime arguing that such measure could impede enjoyment of freedom of speech.

Prevalence of hate speech targeting “Zainichi” Korean women living in Japan and the government’s inaction

Hundreds of hate speech rallies have been organized every year by xenophobic groups and racists in recent years to insult, attack, intimidate, threaten and incite hatred against minorities. Ethnic Koreans, in particular, has been the main target of their hatred and attacks. In carrying out such activities, they have chosen vulnerable sub-groups such as children, girls, women and older people as their targets so as to maximize the effect. Every time when a problem arises in Japan-North Korea diplomatic relations, such as North Korea’s rocket shooting toward (not “at”) Japan or the disclosure of the abduction issue, hate speech and hate crimes increased against ethnic Koreans in Japan. Pupils and students, particularly female students of ethnic Korean schools were made their target. They attacked ethnic primary schools using loud speakers even when the pupils were in class. They slashed female students’ uniform in a series of incidents. They shouted at elderly people of an ethnic Korean community and threatened them to leave.

Hate speech as a form of intersectional discrimination based on ethnicity and gender has often been used on the streets as well as on the internet against ethnic Korean women in Japan ever since the racists’ activities became

more active and radical in its nature around 2009. They collectively insult Korean women by calling names and by chanting or uploading hideous slogans such as “Korea exports prostitutes.” and “It’s o.k. to rape Korean women.” Simultaneously, they have kept insulting and retraumatizing victims and survivors of the Japanese military sexual slavery during WWII.

The government of Japan, even faced with the reality, is basically reluctant in taking action, which in its view would infringe freedom of expression. The government by taking no action in fact has condoned the spread of hate speech and let the perpetrators enjoy impunity. Currently no legal provision exists in Japan to prevent and sanction hate speech including incitement to discrimination and hatred against all members of a minority group such as Koreans. The logic behind it supported by the majority of constitutional lawyers is that the damage when it is shared by a large number of members should be small for each individual. Ethnic Korean women under the present situation cannot file a complaint seeking remedies for the damages caused by the racists’ hate speech no matter how painful it is to endure.

Court Case;

Currently a Korean woman journalist is fighting a civil law suit seeking the court’s recognition of the racists’ persistent hate speech against her as unlawful act and compensation for the damages. She has been chosen as a target of their concentrative verbal attacks on the street and on the internet for over a year, obviously a manifestation of intersectional discrimination based not only on ethnicity but also on gender. While there are other Korean journalists who have been critically reporting on racists’ activities, she has been made a prey of their abuse because of her gender. They call names such as “Korean bitch”, “Parasite”, “(Woman) uglier than rats”, “Chon (insulting way of calling Koreans) woman criticizing Japan” and shout at her to “Get off”, or “Go home (Korea)” and repeat hideous racist slogans. All of the insults, defamation and denial of her dignity and human rights have caused her serious physical, psychological and emotional damages. Such hate speech in fact has had the intent as well as the effect of discriminating, despising, insulting, and intimidating all ethnic Koreans. In particular, many Korean women have been shocked and felt insecure, pain and fear of further abuse and attacks. The purpose of filing a law suit in this case was to clarify that the perpetrators’ act is a terrible form of psychological violence against women based on intersectional discrimination and to eventually build a better society where hate speech would be properly prevented and punished. Yet, it is a difficult struggle in the absence of law prohibiting discrimination based either on race or gender.

[Proposed Recommendations]

The government of Japan should take measures to punish hate speech of serious nature (against minority women) as a crime and to give warnings to government officials and politicians whose behavior or comments effectively promote hate speech.

■ **Paragraph 5:** Violence against women

Related: Article 2

Please indicate whether the State party intends to amend the Criminal Code to: a) integrate a broader definition of sexual crimes; b) increase the Penalty for rape; and c) explicitly criminalize incest and marital rape. Please provide updated information on the steps taken to repeal from the criminal code the specific requirement of the victim’s complaint in order to prosecute crimes of sexual violence.

[Answers]

- a) No, it does not.
- b) The increase in the penalty for rape is currently discussed.
- c) No, it does not.

[Current Situation and Background]

The Committee on the Penalty for Sexual Crime, established in October 2014, submitted the report in August which is currently discussed in the Legislative Council of the Ministry of Justice regarding the revision of the Criminal Code. However, the Committee does not intend to integrate a broader definition of sexual crimes and issues such as incest and marital rape are not mentioned. The Committee considers increasing the Penalty for rape and repealing from the Criminal Code the specific requirement of the victim's complaint in order to prosecute crimes of sexual violence. NGOs and NPOs of women's support groups are calling upon the government for the practical revision of the Criminal Code regarding the issues not discussed in the Committee such as:

- To have hearings in sectional meetings of the Legislative Council from survivors and supporting groups of sexual violence in order to redefine rape in the Criminal Code according to the real experience
- To stipulate the provision of marital rape
- To alleviate the requirements of violence and threat in the crime of rape under the Criminal Code and to add intimidation, constraint, surprise, fraudulent means, and force to the requirements
- To stipulate in a criminal provision that it is an offence for those in a position of leadership and caretaking as well as parents to exploit their status to have a sexual relationship. Also, incest must be punished more severely. The provision must protect not only juveniles but also victims of sexual harassment on campus, at workplace, in sports trainer-trainee relationship, in welfare facilities including both offenders of faculty staff and medical personnel
- To increase the penalty if the victim is juvenile
- To suspend the statute of limitations for a necessary period (eg. Until coming of age) in case of sexual crime against juveniles
- To raise the age of consent to around fifteen years old so that sexual assault such as rape can be convicted without violence or threat.

[Proposed Recommendations]

The Japanese government must legislate against sexual assault. It must drastically revise the Criminal Code and other relevant legislation to meet the international standards of the definition of sexual crime, to establish a comprehensive supporting system for victims, to punish sex offenders and offer them proper education programs.

■ **Paragraph 6-1:** Violence against women

Related: Article5

Please provide data on the number of protection orders delivered in the last five years and the measures taken to speed up their issuance. Please indicate whether the State party considers issuing emergency protection orders on the basis of complaint from one party only under its Domestic Violence Prevention Act. Please also indicate the measures taken to ensure that women victims of domestic violence have the possibility to stay in their home. Please indicate the measures taken to facilitate the reporting of domestic and sexual violence. Indicate, in particular, whether the State party intends to open a 24-hour free hotline specifically dedicated to counselling women victims of violence against women, including minority women and women with disabilities.

[Current Situation]

① PROTECTION ORDERS IN THE PAST FIVE YEARS

	NUMBER OF PETITIONS	NUMBER OF PROTECTION ORDERS ISSUED	NUMBER OF PROTECTION ORDERS DISMISSED	NUMBER OF PROTECTION ORDERS WITHDRAWN
2010	3,114	2,434 (78%)	176	504
2011	2,739	2,137 (78%)	144	458
2012	3,152	2,482 (79%)	166	504
2013	2,984	2,312 (77%)	172	500
2014	3,125	2,528 (80%)	161	436

The number of days to issue protection orders continues to extend, jeopardizing the lives of women victims. The average is 12.7 days in the cases from the implementation of the law to the end of December 2014.

The State party does not yet consider the introduction of emergency protection orders on the basis of complaint from one party only although there is a strong demand among the victims, supporters and legal professionals. The criminalization of dating partner violence and the introduction of emergency protection orders are the core subjects of the revision of the Act on the Prevention of Spousal Violence and the Protection of Victims.

② Issues around “expulsion order” to the offenders of domestic violence

- The length of expulsion is limited to up to two months, leaving women victims no choice but to move out even when they want to stay at home
- The court tends to be reluctant to issue expulsion orders which restrict the life of offenders

According to the data of the Supreme Court in 2013, protection orders which includes expulsion orders take up only 6.0%(140 orders) of all 2,312 orders.

In addition, victims rarely file a damage report or lodge a complaint against domestic violence or sexual violence offenders and the State party has not taken any measures to facilitate the reporting. According to the crime report in 2014, the numbers of spousal crime cases are: 2,953 cases of violence, 2,697 of injury, and 157 of murder. An official research of the same year indicates that one in four adult women has experienced domestic violence. With the population of adult women (approximately 36 million), there should be at least nine million cases of domestic violence; however, the Japanese society makes it hard for the victims report their cases and the crime-arrests rate stays too low. Moreover, the number of reports keeps decreasing. Survey on Violence between Men and Women in 2015, conducted by the Cabinet Office, indicates that 6.5% of the respondents have experienced sexual violence. With the population of adult women, there must be 2.5 million cases in this society, but only 1,000 cases were reported to the police last year.

③ Gender Equality Bureau Cabinet Office launched “Purple Dial- 24 hour telephone consultation for DV and sexual violence” during the period from February to March 2011, which was the first and the last consultation service specifically dedicated to victims of domestic violence and sexual violence organized by the State party.(There were 17,348 cases for 48 days, and that means there were 361 cases a day on average.) Purple Dial brought light to the seriousness of this issue which has been completely disregarded in the society.

From September 2011 to March 2012, “Purple Hotline” was launched by a woman NGO group. During the period of time, the number of calls grew to 67,176 (320 calls a day on average). In cases of severe violence after the Great East Japan Earthquake, direct support was provided in person.

Being subsidized by the Ministry of Health, Labour and Welfare, the Social Inclusion Support Center has established in April 2012 and continues to the present to provide a free point of contact for consultation (Yorisoi Hotline). It provides specialized consultation services for the poor and needy, sexual minorities, those who feel suicidal, non-Japanese speakers, etc., as well as consultation on general worries in their lives and the number of calls to consultation for women was 524,379 in 2014.

In 45% of domestic violence, 39% of dating partner violence, and 68% of rape, victims have not consulted anyone at all (2015 research by the Cabinet Office). The free consultation service Yorisoi Hotline provides is the very lifeline for these victims since they can call safely at any time and from anywhere.

The State party must have recognized the necessity of specifically dedicated hotline for women since the launch of Purple Dial in 2011; however, it does not plan to relaunch this kind of service even in the Fourth Basic Plan for Gender Equality. The State party must not depend solely upon NGO work but start its own immediately as recommended by the United Nations.

[Proposed Recommendations]

The government should:

- Revise the law to issue emergency protection orders on the basis of complaint from one party only
- Improve the system of expulsion order to ensure that women victims of domestic violence have the possibility to stay in their home safely
- Open a 24-hour free hotline specifically dedicated to counseling women victims of violence against women, not as a part of a general consultation service

■ **Paragraph 6-2:** Violence against women “Counselling to victims (minority women) of domestic violence”
Article 2

Indicate, in particular, whether the State party intends to open a 24-hour free hotline specifically to provide counselling to victims of domestic violence including women belonging to minorities and women with disabilities.

[Current Situation]

Concerns: Domestic violence suffered by women belonging to ethnic minorities such as Ainu, Buraku, “Zainichi” Koreans (Korean residents in Japan) and Migrants is often a form of intersectional discrimination based on gender and ethnicity. Even in seeking advice and help from municipalities, minority women tend to suffer from additional damage because civil servants do not have good knowledge of intersectional discrimination and its adverse effect on minority women. As a consequence, minority women tend to refrain from going to them.

Obviously necessary training in this perspective has not been conducted for the civil servants who interact with and provide service to women including minority women such as the staff of Spousal Violence Counseling and Support Centers, police officers, the staff of the Ministry of Justice, and Human Rights Volunteers. In addition,

public financial support should be allocated to train members of minorities so that appropriate counseling services could be offered to minority women within their communities.

Survey Findings :

Survey findings indicate that Ainu women are reluctant to use public consultation service. Despite of the recommendations of the Committee in the previous review of the State Party's periodic reports (2003, 2009), Japanese government has not conducted a survey on minority women. In the absence of the official data on the situation of Ainu disaggregated by gender, Ainu women conducted a survey about themselves from 2004 to 2005. Among the findings of the survey, it has been revealed that no Ainu women consult public consultation service staff. When they are faced with physical or verbal abuse, they often go to the medical doctors not only for treatment but also for advice rather than their family members or friends. Over 60% of Ainu women surveyed did not answer the question about whom they consulted, which suggests the difficulties they felt in answering the question.

[Proposed Recommendations]

- The State party (Japanese Government) should conduct trainings for people engaged in counseling service for minority women on domestic violence and other human rights issues.
- To call upon Japanese Government to provide support for the training of minority women such as Buraku, Zainichi Korean, Ainu and Migrants so that they can offer counseling and other services within their group.

■ **Paragraph 7:** Violence against women “The Measures for Sexual Violence in Manga and Pornography”
Related: Article 6

Please indicate the measures taken to ban the sales of video games or cartoons involving rape and sexual violence against girls and women and to raise awareness among the producers of such materials, in line with the Committee's General Recommendation 19 on violence against women. Please also indicate the measures taken to address the mass production, distribution, and use of pornographic videos where women are targets of sexual violence as well as portrayal of sexualized commercial images of women.

[Current Situation]

#Sexual Violence Depicted in Pornographic Manga, Anime and Game

Anime, game or manga which depict rape and sexual violence against women and girls are widely distributed without any legal restrictions except for the "obscenity" standard under the Penal Code.

Local governments have their own Prefectural Ordinance of Juvenile Protection and they ban selling "harmful books" to minors. These ordinances order shops to separately display the sections for these harmful materials to be sold for exclusively adults and usual materials to be sold for anyone. However, in usual convenience stores, this separation de fact means to put a thin 10cm-high-plastic-panel in the same magazine shelf to separate these explicit materials from other magazines. Therefore, in fact, this separation can hardly hide anything from children. Furthermore, these explicit materials are displayed at the children's eye level. Thus, the situations concerning how explicit materials are sold can be said as quite awful in Japan.

There was a computer game which became worldly known for its sexist content, the "Raplay". Although this game is no longer sold in the market, other similar games are still widely sold. In these games, players compete the degree to which they can humiliate women.

Under such current condition, producers of such games would not be aware how much they degrade women. Some people oppose the restriction of the sales of these games saying that creators have "freedom of expression" and these contents are "harmless since the characters are only fictional". Such opinions against regulation make it difficult to regulate these materials.

#Problems of Pornography Using Real Women:

In addition, there is no legal restriction on mass production, distribution, and consumption of pornography in which women are exclusively the target of sexual violence. There is no government ministry or agency in charge of monitoring or grasping the scale of the pornography industry. No official researches have been conducted. The industry is not regulated and is out of control.

There was a court case in which the court admitted sexual violence against women during the shooting process of pornography. The perpetrators became guilty for rape and assault and the principal offender was imprisoned. However, the DVDs produced by this assault are still legally distributed in the market without any restrictions.

A few NGOs in Japan which support victimized women received more than 100 calls over past 2 years. Based on these calls, the real situation has been uncovered. The uncovered grave problems are as follows.

#Issues on Contract:

The NGOs which support victims of pornography have obtained the copies of the contracts provided by the victimized women. Following problems are found in these contracts.

In Japanese pornography industry in which real women are used, the right to use women in sexual manner is held by an agent company and this right is sold to a film production company. The film production company actually abuses women to produce pornography. Thus, producing pornography using real women should be regarded as one form of sex-trafficking.

The women used in pornography are not allowed to have any rights except for limited payment for their performance. Therefore, agent companies and film production companies can earn huge profits, thus pornography industry is based on an exploitative structure.

The contracts also include the article which states that the women have to abandon every lawful right, such as copyright of the "products" in which they are portrayed. The women cannot receive any additional payment even if the film production company reuses their images and movies repeatedly. They are forced to abandon almost all rights even though they are the main performers of the products. Instead, they have to bear all unfair duties.

#Problems of Vaginal and Anal Intercourse:

In Japan, most of the pornography (unlike in the old time when they were pretending to have sex) include actual sexual intercourses between men and women. Hence, it can be said that women are involved in prostitution in the process of production. In the contexts of a contract, it is clearly stated that once shooting is over, the film production company won't be responsible even if a woman suffers from infection or she becomes pregnant as the result of shooting.

#Forced by Being Deceived and Threatened:

Many young women (often including minors) are forced to appear in pornography by being deceived and threatened. One cause of these situations is dissemination of cyber porn (internet pornography) which creates the demand for constant flow of fresh young women. The demand is so enormous and cannot be filled without luring unwilling women. The agents deceive them at first by saying that they won't be noticed by acquaintances, they can choose a job, and a well-known star also started her career as a pornography actress. When they start to refuse, the agents threaten them by telling them that they have to pay extremely large amount of penalty or they will reveal the pornography to their parents. This type of threat is quite similar to ore-ore-fraud (a well-known fraud technique used in Japan in which the perpetrators try to take money by deceiving elderly victims). At a glance,

a woman may look like she is giving consent to appear, which makes it difficult for women to complain about the harms they suffered.

#The Case of Claiming Compensation for Damages to the Woman who Refused to Perform in Adult Video Pornography:

Recently, a court made an epoch-making decision in this current situation. One film production company sued a woman who had refused to perform in “the rest of 9 Adult films” which were arbitrarily decided by the company. The film production company demanded JPY 2,460,000 as the compensation for damages caused by these non-shot 9 films. The court declared that “It is unforgivable to force anyone to engage in pornography against one’s will since pornography contains the acts of sexual intercourse and so on.” This court decision can be the great hope for women who are forced to agree the shootings by the threat of penalty fee.

CEDAW has pointed out that pornography reinforces gender stereotype and damages women’s (with particular concerns for girls’) self-dignity. In other words, there is a concern that pornography enforces men’s violent and dominant gender role and sexuality while it enforces women’s submissive gender role and sexuality. This concern became more critical due to the internet. Today, mass production, mass distribution, and mass consumption of pornography become possible and situation becomes worse.

[Proposed Recommendations]

1. The production company side exerts strong physical or psychological pressure on women to be used in pornography by threatening to claim penalty fees if she refuses to appear. Therefore, the government needs to recognize the fact that such acts are against women’s will and needs to give the perpetrators more severe punishment even when there is a contract. In a case in which a woman's rights are violated, the government should accept her allegations and make the producers responsible for stopping distribution of their products as well as withdrawing them.
2. It has become clear that there are women who are severely harmed by the pornography industry. These facts are revealed by some NGOs’ rescue operations. The government must conduct official investigations to find out the realities of victims of sexual violence against women used in pornography.
- 3 Restrict sales and distribution of the "products" such as DVDs, if actual harms are proved by the court.
- 4 The full picture of the pornography industry is yet unknown. Therefore, investigations to grasp the realities of pornography industry should be conducted.
- 5 Even though in the cases of manga or games, in which virtual characters are used in pornographic materials, if those materials aim at purposefully humiliating women and children, they should be regarded as one form of hate speech. Government should consider regulating and banning those materials as visual expression or sexual violence.

■ **Paragraph 8-1:** Violence against women “Measures taken to protect, provide remedies to and assist minority, indigenous and migrant women”

Related Article- Article 2, Article 5 and Article 6

Please provide updated information on the measures taken to provide high-quality support services to women, including disadvantaged groups of women such as minority, indigenous and migrant women, in order for them to bring complaints and to seek protection and redress.

[Current situation]

1. The numerous consultations NGOs receive in recent years regarding breakups and divorces of international marriages indicate in many cases the existence of domestic violence due to the power differences between Japanese men and foreign women. It also reveals the situation of migrant women, who are discriminated against and isolated in their homes and communities. They are isolated and vulnerable to violence and discrimination mainly because measures to protect the human rights and to facilitate settlement of women migrating due to marriage, such as those actively implemented in industrialized countries in Europe and North America, are absent at the national level.

On the need for understanding the situation of migrant women, the Committee has recommended conducting a comprehensive study on the situation of minority women, particularly of vulnerable groups including migrant and refugee women (paragraphs 51 to 53). However, no such studies or surveys necessary for measures for minority women have been undertaken. Without understanding the situation, policies cannot be formulated or implemented.

2. Regarding violence against migrant women, although the revised Act on the Prevention of Spousal Violence and the Protection of Victims stipulate that, officials would “respect their human rights regardless of their nationality” concrete measures are mostly left for the local governments to determine. Concrete efforts by the government to prosecute cases of violence against women and to provide remedies and protection to the women have not progressed.

In providing assistance to migrant women who are victims of domestic violence, high quality service is required, including consideration on language, as well as on cultural and social backgrounds, and knowledge on the legal systems, including status of residence regulated by the Immigration Act. There are large differences in the level of assistance services provided by local governments.

The 4th Basic Plan for Gender Equality published by the government does include the phrase, to provide “sufficient consideration to the background situation” regarding violence against migrant women, but there is no mention of necessary specific measures.

Further, there are references on foreign women under the title “Creation of an environment in which people such as the elderly, persons with disabilities, and non-Japanese people can live comfortably,” but the statements are identical to those in the 3rd Basic Plan, showing that there was no progress in the last 5 years.

3. Regarding domestic violence against migrant women, according to the statistics provided by the Ministry of Health, Labor and Welfare on the number of Japanese and non-Japanese provided with temporary protection, the proportion of migrant women provided with temporary protection was around 9%. This means that the rate of protection of migrant women is 5 times higher than that of Japanese women. Measures assisting migrant women who are victims are urgently needed.

4. The Japanese Government does not recognize the real situation on violence against women especially in Okinawa where over 74% of all U.S. military bases in Japan are located.

[Proposed Recommendations]

- * Surveys on the situation of domestic violence against minority women, including migrant women, who find themselves in vulnerable situations, must be conducted to find out about their protection and assistance needs.
- * The government should train and develop interpreters (multiple languages) with expert knowledge regarding domestic violence, and assign them as necessary to local governments around the country, as well as set up a national 24-hour multi-lingual hotline, and create a specialized organization for consultation, protection and

assistance for migrant women, who are victims of domestic violence.

* The Japan government should be urged to conduct a survey on violence against women relating to the existence of the U.S. bases in Japan, particularly in Okinawa.

■ **Paragraph 8-2:** Violence against women “Measures to disseminate and implement legal provisions protecting the status of residence of migrant women who are victims of domestic violence”

Related Article-Article 2, Article 5

Please also indicate the measures taken to disseminate and ensure the implementation of the legal provisions providing protection to foreign women who are victims of spousal violence without revoking their status of residence.

[Current situation]

1. The residence status in Japan of wives with foreign nationality (spouses of Japanese nationals or foreign nationals with permanent residence status) are based on the immigration control system that compels them to be dependent on the Japanese and permanent resident spouses for their status. Because of this, serious violence continues to be committed by the perpetrators, who take advantage of the insecure residence status of the migrant women victims. The concern that the current residence status system, in which the legal status of marriage migrant women are dependent on the Japanese and permanent resident spouses, might facilitate domestic violence has been repeatedly raised in the recommendations from UN related bodies (CEDAW Concluding Observations 2009, paragraph 31, Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante on his mission to Japan in March 2010, paragraphs 59 to 61, etc.)

Meanwhile, the revised Immigration Control Act and the Basic Residence Registration Act entered into force in 2012, creating a new rule that the residence status of spouses of Japanese and permanent residents may be revoked when they fail “to continue to engage in the activities of a person with a status under a spouse of a Japanese national, a permanent or special permanent resident for six months or more”, or to “make a notification of the new residence to the Minister of Justice within 90 days from leaving the place of residence” (Article 22-4 (1)-vii and ix, Immigration Control Act). As a result, the status of migrant women has become even more insecure and there are serious concerns that they may be even more vulnerable to domestic violence.

2. Regarding the above clause vii of Article 22-4 (1) of the Immigration Control Act, the Committee on the Elimination of Racial Discrimination recommended a review of the provisions (paragraph 17) in its Concluding Observations (August 2014). The recommendation was selected as one of the follow-up items, for which the Japanese government was requested to provide information within a year.

3. The Japanese government has indicated the following views on the above two grounds for revocation of residence status, and has not even examined the possibility of revising the rules.

“(W) here such a foreign national requires temporary evacuation or protection for the reason of spousal violence, her status of residence is not revoked, deeming that there is a ‘justifiable reason.’” (7th and 8th Periodic Report of Japan)

“Currently, the government is dealing appropriately from a humanitarian viewpoint in the various procedures under the administration of immigration control, taking into consideration the individual circumstances according to the objectives of the recommendations from the Committee on the Elimination of Racial Discrimination.” (Government response to the written question submitted in the Diet by Ms. Mieko Kamimoto, Member of the

House of Councillors, July 2015)

4. The existence of the rule for revocation of residence status itself poses a threat to the migrant women, and creates an obstacle in their escape from violence.

Further, the migrant women have not been informed of the details of the exclusion from the revocation rules as explained by the government. It is also not easy for migrant women to clearly explain to the immigration authority about the domestic violence they have been suffering. NGOs have received reports such as the one below, in which a woman had her residence status as a spouse of a Japanese revoked, even though she was a victim of domestic violence by her husband, and abandoned by him.

A case in 2014

A Philippine national in her 20s was married to a Japanese man for 7 years, and held a residence status of a spouse of a Japanese for 3 years. She has a 6 year old child, who has Japanese nationality. Her husband abused her, and told her to leave. Abandoned, she temporarily returned to the Philippines for 8 months. Later, she came to Japan again with her child, who was starting elementary school. When she tried to renew her residence status, her status was revoked because she was not living with her husband. She was granted only a month's stay to prepare for her return.

5. According to the statistics of the Ministry of Justice, the number of revocations of resident status on the grounds under clause vii (not engaging in the activities of a person with a status under a spouse of a Japanese national, a permanent or special permanent resident) was 19 in 2013, 30 in 2014 and 27 in 2015. NGOs have had concerns about cases of revocation due to the women taking refuge or separating from their husbands because of domestic violence. The Ministry of Justice, however, has not published any clarification regarding the background and reasons for determining whether a spouse has not engaged in activities of a person with a status under a spouse.

The provisions stipulate that the immigration authorities will hear the views of the person concerned before revocation, but the number of cases of such hearings or a breakdown of the reasons is not published. (The government response on the question submitted in the Diet by Ms. Mieko Kamimoto, Member of the House of Councillors on the draft bill partially amending the Immigration Control and Refugee Recognition Act and the rule of revoking the residence status under the Act)

[Proposed Recommendations]

- * The rule of revoking residence status under the Immigration Control Act that has the effect of facilitating domestic violence against marriage migrant women or of discouraging women to escape domestic violence should be revised.
- * Measures that enable marriage migrant women to seek a more stable residence status without having to depend on their husbands should be considered.

■ **Paragraph 9:** Japan's military sexual slavery / Japan's military "comfort women" system

Related article: Article 2

The Committee is informed of recent public statements that "there was no evidence that proved the forcible taken away [of "comfort women"]". Please comment this information. Please also indicate whether the State party intends: (a) taking compensatory measures for "comfort women" in other countries than the ones covered by the Asian Women's Fund (AWF), including in China and East Timor; and (b) prosecuting

perpetrators. Please indicate whether the State party intends reintegrating in school textbooks references to the issue of “comfort women”, and raising awareness among the population on this issue.

[Current Situation]

1. Denial of facts by the State Party

The State Party issued in 1993 a statement concerning the issue of Japan’s military sexual slavery in which the government acknowledged that the Japanese military was involved in setting up and managing “comfort stations” and that women were taken to be put in those stations against their will and were under forcible conditions there (the “Kono Statement”). The State Party, however, adopted in 2007 through its Cabinet the view that “by the day when the research results were disclosed, no reference had been found among the [related] materials located by the government that directly suggested the so-called forcible taking [of women] committed by military and/or government officials”.¹ Since then the State Party has been asserting claims that virtually nullifies the Kono Statement including “there was no evidence to support the forceful recruitment [deportation, transcription, taking-away] of ‘comfort women.’”²

The process in which women were put into Japan’s military sexual slavery system varies from deception with a promise of a good job and human trafficking to straight abduction. While there are many testimonies of and about women directly taken by Japanese soldiers, historians have pointed out that it is highly unlikely that there exist those documents which explicitly ordered the use of force as a means of conscription of women, for such acts were illegal even then. Some official documents documenting coercion, however, have been located including the materials of the Temporary Court Martial of Batavia (including the “Semarang Case” in which the Japanese forces selected women from the detainees in civilian internment camps and forcibly made them “comfort women”)³, affidavits in the International Military Tribunal of the Far East.

To begin with, the fact that the Japanese military was systematically involved in planning, establishing, managing and controlling “comfort stations” is evident from the more than three hundred official documents. History associations in Japan and researchers of Japan overseas have issued statements criticizing the view of the State Party⁴. The victimized women hope that the government of Japan will acknowledge in an unequivocal way the fact of their victimization in which they were forced sexual conduct as a slave to Japanese troops regardless of how they were put into the system, and provide official apology and compensation upon the acknowledgement. The State Party, however, insists that “it is inappropriate to consider the ‘comfort women’ system as ‘slavery’”⁵.

2. State measures and the Asian Women’s Fund

The State Party asserts both inside and outside the country that it addressed the issue through the Asian Women’s Fund (AWF). However, this project in which survivors were to be paid what was called “atonement money” solely

¹ Cabinet’s official reply in writing to parliamentary enquiry in writing from House of Representatives, 166th session, Question 110, March 16, 2007.

² A statement by Prime Minister Abe at the Budget Committee, the House of Representatives, February 7, 2013.

³ The results of the official research conducted by the government of Netherlands released in 1994 also reports several such cases in which Dutch women were forcibly put into sexual slavery by and for Japanese troops. Chief Cabinet Secretary Suga, however, noted at his press conference on September 5, 2014: “The project in Indonesia has also been already coordinated, and upon this the position of the government is that no material has been found that suggests forcible transcription [of women].”

⁴ See, for instance, ‘Open Letter in Support of Historians in Japan’, May 5, 2015; ‘Joint Statement by Associations of History Scholars and Educators in Japan on the “Comfort Women” Issue’, May 25, 2015.

⁵ Comments by the Government of Japan on the Concluding Observations of the Human Rights Committee (CCPRIC/JPN/CO/6), July 27, 2015.

out of private funding collected through donations was met with strong repulsion of the victimized women. Many survivors in the Republic of Korea and Taiwan refused to accept the “atonement money” from AWF; some well-known survivors from the Philippines and the Netherlands also rejected AWF. As such, those who refused this charity money did not receive any government money nor the letter of apology. Although Indonesia was among the five countries and regions where AWF implemented projects, no official procedure was set up to identify “comfort women” victims and to make payments to them.

Among the countries and regions AWF did not cover, in the case of China, while the first survivor came out in 1992 and four civil claims were brought by survivors to Japanese court against the government of Japan for apology and compensation since 1995, in which facts of damage as “comfort women” were found as claimed by the plaintiffs, the country was not included in the countries and regions to be covered by AWF. In the case of East Timor, while civil society groups started to do field research and interview of surviving victims in 2000 shortly before its independence and survivors came to Japan to request for remedy for the damage they had suffered, it is unknown whether or not the government of Japan even officially acknowledges the existence of “comfort women” survivors there.

In addition, a number of UN human rights bodies have pointed out that AWF, which is a private fund, is inappropriate a body to rehabilitate the victims of sexual slavery committed by Japanese military and that the State Party cannot discharge itself from its own international obligation through the private institution (CCPR, CESCR, CEDAW, CAT, ILO).⁶

Among the countries from which victimized women came from, independent researchers and civic groups have been conducting interviews and collecting testimony of surviving victims of Japan’s military sexual slavery in Malaysia, Papua New Guinea, Myanmar and East Timor, none of which is among the countries the government of Japan acknowledged upon issuing the Kono Statement in 1993 as the countries and regions of origin of “comfort women” victims. Although official documents, memoirs of Japanese veterans and other materials document the fact that “comfort stations” were built virtually wherever Japanese troops were including Thailand, Singapore, the Indian Ocean (Andaman-Nicobar) and others, there is not a single sign of the government of Japan launching any factual investigation of the damage caused by the “comfort stations” system. Effort on the part of the State Party is thoroughly lacking to clarify the true scope of victimization brought about by Japan’s military sexual slavery.

3. Prosecution

After the war, the State Party has never prosecuted perpetrators of setting up and managing the “comfort women” system during WWII. Nor has it shown any will to do so in a concrete way. On 12 June 2014, Nobuo Kishi, then Vice Minister of Foreign Affairs of Japan, said at the Global Summit to End Violence in Conflict: “Sexual

⁶ [2013](CAT/C/JPN/CO/2) 19. The Committee regrets that the compensation, financed by private donations rather than public funds, was insufficient and inadequate.

[2009](CEDAW/C/JPN/CO/6) 37. regrets the State party’s failure to find a lasting solution for the situation of “comfort women” victimized during the Second World War

[2008](CCPR/C/JPN/CO/5) 22. the compensation provided to victims is financed by private donations rather than public funds and is insufficient.

[2001](E/C.12/1/Add.67) 26. The Committee expresses its concern that the compensation offered to wartime “comfort women” by the Asian Women’s Fund, which is primarily financed through private funding, has not been deemed an acceptable measure by the women concerned.

[adopted 2012] Observation (CEACR) However, the Committee recalls that it has considered in its earlier observations that the rejection by the majority of former “comfort women” of monies from the AWF, because it was not seen as compensation from the Government, suggested that this measure had not met the expectations of the majority of the victims.

violence is a crime. It is important to eliminate the culture of impunity against the perpetrators and to change our mindsets.” No investigation into the system of Japan’s military sexual slavery to date, however, has been carried out by the State party.

In addition, the surviving high-ranking officials of Japanese military who were responsible for setting up “comfort stations” include former Prime Minister Yasuhiro Nakasone. Mr. Nakasone noted in his memoir in 1978 that he “went so far as setting up (a) comfort station(s)”⁷ in Balikpapan, Indonesia. In 2007 when he was asked by a foreign correspondent about the reference, Mr. Nakasone responded by saying that what he built was (a) recreation facility(s) to play Japanese chess.⁸ However, in 2011 a civic group’s efforts located certain official documents in the Defense Ministry archives that showed that what Mr. Nakasone had set up was in fact (a) “comfort station(s)” where “collected” “women natives” were.⁹

4. Deletion from Textbooks, Opposition against Memorials

The State Party should strengthen education to never allow such crimes as sexual slavery to be repeated. To the contrary, however, the State Party has deleted from textbooks references to “comfort women” and keeps resisting the efforts in other countries to educate about and keep alive the memory of the issue of Japan’s military sexual slavery and the struggle of women survivors.

4-1. Deletion of Related References from History Textbooks

4-1-1 The reference in relation to “comfort women” began to be included in textbooks for junior high schools, the final phase of compulsory education in the State Party, only after the release of the Kono Statement. All of the textbooks put in use starting in 1997 had some reference in relation to “comfort women”. However, the kind of reference started to be decreased in the 2002 textbooks, and completely disappeared by the 2012 textbooks.

In January 2014, the State Party revised the national standards for screening junior high school textbooks which strengthened its control over them by setting out that texts must be written based on the views of the government. In the screening process in 2014, one publisher applied with a textbook with some reference in relation to “comfort women”, but the following references among others were identified as deficit and as a result deleted even though they merely stated objective facts¹⁰:

“Some young women of Korea and Taiwan were sent to battleground as ‘comfort women’. These women were transferred with Japanese troops and unable to act according to their own will.”

“The government of Japan acknowledged that its troops were involved in setting up and managing ‘comfort stations’ and expressed its will for apology and remorse.”

⁷ “23 Sai de 3000 Nin no Sushikikan” [Commander for 3000 soldiers at age 23], “Owari naki Kaigun [The Eternal Navy], Bunka Hoso Kaihatsu Center, 1978, p.98.

⁸ “Ex-Japanese PM Denies Setting Up Brothel”, March 23, 2007, The Washington Post

⁹ “The document of 2nd construction team, Naval air base” (reproduced in 1962 by Yonezo Miyaji, former head of the 2nd construction team, at the request of the Defense Agency archivist in charge of compiling military history.)

¹⁰ Source: The Children and Textbook 21 Network <http://www.ne.jp/asahi/kyokasho/net21/danwa20150406.htm> The comment from the screening body is “the reference is not based on the unified view of the government.” According to the Ministry of Education (MEXT), the “unified view of the government” [in this case] is 1) the Cabinet’s official reply in writing (adopted by cabinet decision, March 16, 2007) to the official parliamentary enquiry by Representative Tsujimoto Kiyomi, which stated “among the materials found by the government by the release of the Kono Statement, no reference was found which directly suggested the forcible recruitment [of comfort women]”; and 2) the Cabinet’s official reply in writing (adopted by Cabinet decision, September 11, 2012) to Councilor Katayama Satsuki which said that the government had “expressed to issue reservations” to the UN’s 1996 report on “comfort women” by Special Rapporteur on Violence against Women “from the position that expressing grave concern [over the report] is important”.

“(This issue) has been taken up by the UN Human Rights Committee, the US Congress and others and is now being questioned as an issue of accountability for violence against women during wartime.”

4-1-2 Such a position as this of the State Party has significantly influenced local governments some of which have been reinforcing interference into and monitoring over education. In 2015 the Osaka Prefecture Board of Education distributed its official supplementary teaching material to its high schools to be used without fail when the “comfort station” system is taught in a classroom, and made it mandatory for high schools to report to the Board annually how the teaching material has been used in that year.¹¹ The content of this teaching material copies the State Party’s position that denies the so-called “forcible recruitment” of the women discussed above. The State Party condones the interference on the part of local governments into education.

4-1-3 The State Party also claims that the textbook published by US textbook publisher McGraw-Hill Education contains “(a) grave error(s) of fact and references irreconcilable with the position of the government of Japan.”¹² In November 2014, the Consulate General of Japan in New York made a request to the publisher that the references concerning “comfort women” be deleted from the textbook¹³; the Consulate General in Hawaii made a sudden visit to one of the authors of the textbook and made a request for the deletion of those references.¹⁴ The publisher did not agree to delete them.

4-2. Obstruction against Movements Overseas for Memory

The State Party, based on its profound reflection of and remorse over its history as the aggressor, needs to express its will to pass these historical facts to future generations in order never to repeat the harm again and act accordingly. To the contrary, however, the State party has been, obstructing attempts both inside and outside the country for education and memory, including the following cases:

- i. May 1, 2012. The government of Japan (Consul General in New York) made a request to the city of Palisades Park, New Jersey, US, to take down the memorial built to commemorate the “comfort women” victims.¹⁵
- ii. Feb. 25, 2015. At his press conference, Chief Cabinet Secretary Yoshihide Suga noted regarding the erection of the statue in memory of “comfort women” in the city of Glendale, California: “the erection of comfort women statues and memorials in the US is something completely in conflict with the stance of and the activities carried out by the government of Japan. We see it as extremely sorry/unfortunate [that it is done]”; “[we are] in close coordination with Japanese residents in the United States including the plaintiffs [of the lawsuit against the city for the removal of the statue] and related persons through the core members of the Consulate General.”¹⁶
- iii. June 5, 2015 At his press conference, Chief Cabinet Secretary Suga noted regarding the plan of establishing a museum on “comfort women” in Taiwan: “of course it is completely in conflict with the stance and the activities of the government of Japan”; “should such a move become serious, [we] would like to explain the stance of our country through a variety of routes [to those in Taiwan] and thrash out

¹¹ Superintendent of Education, “‘Janfu’ ni kansuru hojo-kyozai ni tsuite” [concerning supplementary teaching material in relation to “comfort women”] Kyo-i-kou No. 2796, October 28, 2015, Osaka Prefecture.

¹² Sankei Shimbun, Nov. 18, 2014.

¹³ Wall Street Journal, Jan. 15, 2015; Jiji Press, Jan 19, 2015.

¹⁴ Sydney Morning Herald, Feb. 15, 2015; Japan Times March 5, 2015.

¹⁵ New York Times May 18, 2012.

¹⁶ Website of Prime Minister of Japan and His Cabinet, http://www.kantei.go.jp/jp/tyoukanpress/201502/25_a.html

so that [the establishment of the museum] will be cancelled”¹⁷

- iv. September 24, 2015 At his press conference, Chief Cabinet Suga noted regarding the unanimous adoption by the San Francisco City Council, California, of the plan to erect a “comfort women” memorial: “Its content is completely in conflict with the understanding of and the activities carried out by the government of Japan. We find it extremely sorry/unfortunate [that it is adopted]”¹⁸
- v. October 15, 2015 Prime Minister Abe gave directions to the core members of his Liberal Democratic Party saying: “It is important to start taking all possible measures now in order not to get registered” the “comfort women” related documents as a UNESCO Memory of the World at the next meeting for registration to be held in 2017.¹⁹

5. 1325NAP and Japan’s military sexual slavery

In March 2013, the State Party expressed at the session of the UN Commission on the Status of Women that it would write its National Action Plan to implement the UN Security Council Resolution 1325. During the drafting process the government received suggestions from Japanese civil society and released for public comments in September 2014 the draft plan which provided in the preamble as follows: “Throughout history in the past including wars, the honor and dignity of women were profoundly injured and a wide range of violence against women was inflicted. Japan has taken this sincerely and, based on this reflection/remorse [over its past conduct], has been taking the road as a pacifist State, and implementing activities geared towards making gender equality a reality”.

This reference, however, was deleted from the actual National Action Plan released by Prime Minister Abe at the UN General Assembly in September 2015. Even though Japan’s civil society has been calling that Japan must express its attitude that it takes seriously and bases itself on the reflection of Japan’s criminal acts of the past including its military sexual slavery and that it will tackle such global issues including those concerning women, peace and security firmly based on these understandings, this call has thus been completely ignored by their government.

[Proposed Recommendations]

The State Party should unambiguously recognize the fact the Japanese Government and Military planned, established, managed and controlled military facilities known as “comfort stations”, and accept responsibility for this serious violation of human rights.

The State Party should provide measures for reparation immediately, including official apology, compensation, full disclosure of the official documents possessed by the government and education for students as well as the general public. The State party should also refute the denials of facts to prevent further human rights violation of the women suffered.

Addendum :

The foreign ministers of the Republic of Korea and Japan announced on December 28, 2015 that the two governments made the agreement regarding the issue of "comfort women" which "resolved" the issue “finally and irreversibly”. Additional information on how the victims/survivors and the supporting groups responded to this political agreement will be provided during the NGO briefings.

¹⁷ Sankei Shinbun, June 5, 2015 <http://www.sankei.com/politics/news/150605/plt1506050044-n1.html>

¹⁸ Sankei Shinbun, Sep. 24, 2015 <http://www.sankei.com/politics/news/150924/plt1509240022-n1.html>

¹⁹ Sankei Shinbun, Oct. 15, 2015 <http://www.sankei.com/politics/news/151015/plt1510150042-n1.html>; FNN Oct. 16, 2015.

■ **Paragraph 10:** Trafficking in women and exploitation of prostitution

Related Article- Article 6

Please provide information on the number of complaints received on trafficking in women and exploitation of prostitution, and on investigations, prosecutions, convictions and penalties imposed on the perpetrators of such crimes. Please indicate the measures taken and envisaged to establish specific shelters for women victims of trafficking throughout the country; ensure that all victims of trafficking have access to adequate services; and ensure their rehabilitation and reintegration as appropriate. Please also indicate the measures taken to ensure that internship and foreign trainee programmes are not used for the purposes of forced labour and sexual exploitation.

[Current Situation]

1. The number of complaints received on trafficking in women and exploitation of prostitution, and on investigations, prosecutions, convictions and penalties imposed on the perpetrators of such crimes

Figures released by the Japanese government

Statistics released by the National Police Agency regarding human trafficking crimes in fiscal 2014 are as follows.

- There were 33 suspects arrested, of which 27 were charged, two were dismissed, and four were referred to family court.
- Of the 27 who were prosecuted, 18 were found guilty, eight were pending trial, and one was dismissed. Only four were charged with human trafficking crimes, and the rest were charged with violation of the Anti-Prostitution Law (13 cases), the Child Welfare Act (eight cases), the Employment Security Act (three cases), and others.
- The penalties for those found guilty were fines up to 1 million JPY, and up to four years and six months in prison (as of the end of March 2015).
- There were 25 human trafficking victims, all of whom were female. Of the victims, seven were under eighteen years of age. Twelve were Japanese, ten were Filipino, and three were of other nationalities.

(Source: "Measures to Combat Trafficking In Persons," May 2015, Kantei, pp.10-11

<http://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/eigoban.pdf>)

[Proposed Recommendations]

The government should:

- Investigate and prosecute cases as human trafficking cases, even without clear evidence of forced drug use, confinement, or abuse and even if the victims had signed a so-called 'contract', if there was any coercion, psychological abuse or taking advantage of their economic vulnerability.
- Expose clients who participated in the solicitation of child prostitution or in price negotiation, such as for "compensated dating".

Comments

Sexual exploitation takes place in the sex entertainment industry, the prostitution industry (illegal in Japan), and the porn industry. In many cases, victims are forced to take on unreasonable debt, which they are forced to repay by working in a sex establishment. Public hotlines or consultation centers for such women and girls are set up to receive calls about violence against them, but as the victims are often being controlled by the perpetrators, they are fearful and cannot seek help on their own. In addition, there are not enough counselors who specialize in the issues

of sexual exploitation. As such, the reality is a lack of allegations even prior to investigation and prosecution. The abuse victims experience can be categorized as threats, fraud, or extortion, but the overly narrow legal definitions of these crimes lead to low rates of prosecution. Prosecution is not possible without visible evidence of abuse or coercion to confine and prostitute the victim.

Currently, child prostitution can only be prosecuted after the fact. Yet it should be exposed at the negotiation and solicitation stage. The National Police Agency has rolled out a cyber guidance scheme for high-school girls participating in compensated dating, which has received positive feedback within the department. Still, there is no investigation into the adult clients, allegedly because it would involve undercover investigations. Investigations into the acts of proposing or negotiating prices for compensated dating would deter clients.

(1) Regarding foreign victims of human trafficking

[Proposed Recommendations]

The government should:

- Establish a specialized center offering consultation, protection, and steps to self-sufficiency for non-Japanese trafficking victims. (*Given the linguistic/cultural needs and number of these victims, it would be ideal to establish facilities that would also include foreign domestic violence victims.)
- Enact laws to support trafficking victims. Prepare a permanent residency and self-sufficiency program.

Comments

Victim support is still lacking in the present system, and victims rarely contact support agencies on their own. Each prefecture has women's centers (public shelters), and trafficking victims are offered protection in these facilities or in private shelters. Yet these facilities mostly take in Japanese women who enter due to domestic violence, homelessness, family abuse, or pregnancy, etc. They see few foreign trafficking victims, and struggle to handle the needs of those who do arrive. Funds for interpretation are often limited, and victims lack necessary care. In addition, victims are seen as key witnesses, and even if they wish for immediate repatriation, they may be forced to stay in a center for over six months, depending on the trial's progress. They receive no funding during this time, and have limited freedom to leave the center. Furthermore, only the IOM (International Organization of Migration) provides victims with support to repatriate, and there are no support programs for settlement in Japan.

From a cultural standpoint, it is difficult to provide proper care to foreign victims who are admitted to centers along with Japanese victims. This can be seen in the recent case in Gifu Prefecture, where the center lacks sufficient space. It is impossible to expect all facilities to utilize every existing system as well as provide interpretation. In addition, the Japanese government sees that building shelters solely for trafficking victims as an inefficient use of funds, given the small number of trafficking victims in Japan. So we request that as a pilot program the Japanese government establish a shelter in Tokyo for both foreign victims of domestic violence and for foreign human trafficking victims.

Although foreign victims of domestic violence are protected under the Act on the Prevention of Spousal Violence and the Protection of Victims (which does not require Japanese nationality), depending on their visa type, victims often lack sufficient social support and in some cases are left in dangerous situations. We aim to protect trafficking victims alongside domestic violence victims by creating a program to support victims who wish for permanent residency and independence, to help them become tax-paying residents.

While Japanese government policies to combat human trafficking focus on immigration control and prosecution of traffickers, there is still insufficient support for victims. There are few advantages for the victims to provide their names to the police, making it difficult to take legal action. There is a limit to what existing laws cover. For example, despite the free/low-cost medical system it does not cover nighttime medical care or pregnancy for the victims, so they need to pay themselves. In reality victims can rarely receive appropriate medical attention. In addition, currently there are no laws regarding victims coerced into filming pornography. The Japanese government has taken a passive stance regarding comprehensive legislation against human trafficking, so we request at least the enactment of laws which would support human trafficking victims.

(2) Specifically concerning Japanese-Filipino Children (JFC) and their mothers

[Proposed Recommendations]

The government should:

- Investigate the number of JFCs and their mothers who enter Japan, malicious intermediary agencies and their current employment conditions. Take measures to prevent future harm.
- Protect those JFCs and their mothers who are suffering damages now and take supportive measures for their independence.

Comments

Since January 2009 when the revised Nationality Act was enforced, more and more Japanese-Filipino children (JFCs) born in the Philippines between Filipino women and Japanese men and later abandoned by the fathers, have been coming to Japan with their mothers (via brokers) who seek employment in nursing care facilities, factories, and bars. Many of them bear substantial amount of ‘debt’ said to be for their airfare, employment and education expenses, etc. They are made to sign exclusive contracts for two to four years with employers, as well as are put into very bad working conditions.

For example, in July 2014, a media report revealed that a nursing care service company in Higashi-Osaka demanded JFCs and their mothers, prior to their arrival in Japan, to sign an unjust contract that required them “not to bring a charge against the company in the event of their death and to give up their rights forever.” Upon their arrival in Japan, the company forced them to do harsh labor. (Japan Times, July 14, 2014 <http://www.japantimes.co.jp/news/2014/07/14/national/crime-legal/japanese-nursing-care-provider-illegally-withheld-funds-filipino-employees-salaries-sources/#.Vlk7oXbhBdg>)

In February 2015, more than ten brokers, owners and employees of pubs in Gifu and Aichi prefectures were arrested for allegedly forcing mothers of JFCs and adult JFC women to work illegally. The women and their children were taken into protective custody by the police. (Mainichi Shimbun Feb. 14, 2015 <http://mainichi.jp/english/articles/20150214/p2a/00m/0na/015000c>) In this case, the same broker and intermediary agency had sent approximately sixty JFCs and their mothers to Gifu and Aichi area in Japan within the period of one year. The JFCs and mothers were made to live in the agency’s lodging and their movement was restricted, being monitored by surveillance cameras; it was obviously a case of human trafficking. However, the prosecutor dropped the charges against the broker and other suspects because of insufficient evidence. Only the club owner was charged with a summary offense and the summary order made by Gifu Summary Court for a fine of 700,000 yen was the biggest punishment given in the case. This shows a graphic example of lack of recognition by the

prosecutors.

Despite this kind of exploitation of JFCs and mothers which is linked to human trafficking, the Japanese government does not have a clear understanding of the number of arriving JFCs and mothers into Japan, nor detailed information on the malicious intermediary agencies, nor information on their employment, so it is not taking effective measures to prevent future harm.

Since the government did nothing to aid them, ten of the women who worked at the nursing care facility in Higashi Osaka took action to seek justice by themselves and sued the company to compensate their damages.

As for the Gifu case, the government temporarily took the victims into a public women's shelter (which also served as a shelter for domestic violence victims) for a limited period of time, but since no such "measures" have been "taken and envisaged to ...ensure their rehabilitation and reintegration as appropriate," NGOs instead are taking on these roles. Also, while women and children are eligible for public support system, male and sexual minority victims are excluded from such programs sponsored with governmental budgets.

(3) Government's report on Measures taken on internship and foreign trainee programmes

The Seventh and Eighth Periodic Report (CEDAW/C/JPN/7-8) made no mention of CEDAW's concerns and comments on the foreign trainee program and foreign technical internship program.

In the above-mentioned "Measures to Combat Trafficking in Persons" report, in the section "Improvement of Technical Intern Training Program by drastic revision," the government proudly declares it submitted "a bill for Act on Proper Technical Intern Training and Protection of Technical Intern Trainees". It also ensures distribution of a "handbook for technical intern trainees that is released in the native languages of interns...and which contains information such as Japanese labor laws."

However, there has been not one case in which forced labor or sexual exploitation of technical interns was regarded as trafficking cases or where the victims were protected.

[Proposed Recommendations]

The government should:

- Abolish the Foreign Technical Intern Training Program and newly establish a decent employment system in which laborers' rights are guaranteed.
- If early realization of the abolishment of the existing program is hard to attain, there should be stricter enforcement of laws to forbid human rights violations like sexual harassment and forced deportation because of pregnancy as well as labor exploitation through practices of "guarantee money" and "forced deportation."
- Protect victims who fled from labor exploitation using public funds instead of the status quo where NGOs provide protection for the victims.

Comments

In 2010, the program was reformed and the Training Program was detached and returned to the original form that existed before 1993, though continuous monitoring is necessary. However, the Technical Intern Training Program, because of the newly established status of residence, has diverged even more from its originally intended goal of

“technical skill transfer to developing countries,” to merely expanding the labor force in Japan. This direction is also indicated in the publicly stated governmental policy of utilizing the Technical Intern Training Program to supplement the labor force to meet the construction demands for the 2020 Tokyo Olympic and Paralympic games.

Even under the new Technical Intern Training Program, the slave labor and trafficking structures remain unchanged. Malicious practices still continue like controlling technical interns through debt, namely “guarantee money,” practice of “forced deportation” of the technical interns who claim their rights, low wages below the minimum wage, and extremely long working hours such as 400 hours per month. The human rights violations still continue as written in the “Dorm Rules” such as prohibiting sleepovers, limiting going out, or banning dating.

Even in the new program, the rate of female interns is still high (57.7% as of 2013) and the number of sexual harassment cases has not decreased, but in fact is increasing. There was even a case that a female intern was forcibly deported because of her pregnancy. In this case, NGOs protected and supported her and won the trial, but the government did not take any supportive measure.

Right now, the Diet continues to discuss “Technical Intern Training Act,” however a comprehensive structural change cannot be expected. The fact that the bill does not mention “forced deportation” says it all. As of today, not one case has been reported of protection and support for the victims of forced labor or human trafficking under the current system. Although there seems to be a small effort of the government to grasp the status quo through discussions with NGOs, the overall attitude still lacks the viewpoints of victim protection. This is also indicated by the fact that the revision of the Immigration Act, that is also being discussed in the Diet along with the Technical Intern Training Act, features unilateral enforcement of punishment to prevent technical interns from “escaping,” an act that should be seen as claiming their human rights.

The government should abolish the Technical Intern Training Program as soon as possible and shift to a decent employment system in which labor rights are duly guaranteed.

■ **Paragraph 11:** Trafficking in Women and Exploitation of Prostitution

“Decriminalizing women engaged in prostitution and other measures”, Related to Article 6

Please indicate whether the State party envisages: a) amending the Anti-Prostitution Law to decriminalize women engaged in prostitution, and b) adopting legal and/or other measures aimed at discouraging the demand for prostitution. Please also indicate the measures taken to provide educational and economic alternatives to prostitution, and to introduce exit programmes as well as rehabilitation and reintegration measures for women wishing to leave prostitution.

[Current Situation]

a) Japanese Anti-Prostitution Law criminalizes women when they solicit their would-be-customer on the street. Solicitation is called "prostitution promoting behavior". This criminalization is only applied to women. Men, on the other hand, won't be punished if they try to persuade women to agree to prostitution. This law is extremely prejudiced and filled with sexism.

It has been 60 years since the Anti-Prostitution Law's establishment. During these 60 years, the purpose of the law, the outline of basic support for the women and discriminatory words written in its articles were unchanged. Some articles are quite discriminatory toward women and there is no mention of penalties for the buyer of sex. Therefore, the Anti-Prostitution Law should be amended.

b) No amendments of the law or adoption of measures have been made aiming to discourage the demand for prostitution as yet. Exit programs, rehabilitation and integration measures for the women wishing to leave prostitution are provided in official facilities to protect women but its capacity utilization is decreasing year by year and not are fully functioning.

In Anti-Prostitution Law, there is an article banning prostitution itself but it states no penalties. The offense which would be punished is "prostitution promoting behavior" which consists of a woman soliciting men or pimping (providing rooms for prostitution etc.). There is no penalty for men who are buying sex.

Adding to that, the definition of prostitution is strictly limited to genital sexual intercourse. Oral or anal sexual intercourse and ejaculation using hand or other body parts are not defined as prostitution. This is because the law reflects the mainstream of prostitution 60 years ago. The current situation of commercial use of female sex has significantly changed.

For example, new sex business categories were created such as JK business (JK means female high school students) which uses girls as objects of sex for adults, delivery fashion health business (sexual massage service at the client's place) and online adult videos shops etc. The business style constantly changes and commercialization of female sex keeps expanding. Although these new business styles are regulated by Act on Control and Improvement of Amusement Business, etc., in fact, they are the breeding ground of prostitution.

In other words, based on the Act on Control and Improvement of Amusement Business, etc., these "public bath with a room" are officially licensed which means "women and customers' sexual act = prostitution" is established in many situations. Because of this law, the Anti-Prostitution Law was rendered ineffective. Therefore, not only Anti-Prostitution Law but also the Act on Control and Improvement of Amusement Business, etc. needs to be amended to discourage prostitution in Japan.

In 2013, Japan Federation of Bar Associations submitted "Written opinion on partial removal of articles on Penal Code and the Anti-Prostitution Law". The opinion demands removal of article 5 and Chapter 3 article 17's protective custody that is only applied to women and also asks for reconsideration of the whole content of the law. They also claim that to discourage prostitution, what is needed are the measures including human rights education and this law which not only treats women discriminatorily but also names victimized women as degraded must be amended immediately.

For those women who are willing to leave prostitution, official facilities to protect women are providing exit programs but these facilities mainly rescue battered women and it makes women in prostitution hesitate to receive the support they need. Thus, the facility's capacity utilization is decreasing year by year. In 2013, the number dropped to 28.6% according to the report of Ministry of Health, Labor and Welfare.

[Proposed Recommendations]

1. In the basic principles of current Anti-Prostitution Law, it is stated that prostitution is against our good social moral but this part should be amended. Instead of making "prostitution" a problem, we should make it clear that "buying sex" and "pimping" are "sexual violence" (sexual exploitation) violating the human rights of people (not limited to women) that are forced to sell their sex.
2. Government should consider complete removal of the article which demands protective custody only to women. The Japanese government says this protective custody system of women is playing the role of rescuing them but it is simply discrimination of women and substantively not functioning.
3. The Anti-Prostitution Law limits the definition of prostitution to genital sexual intercourse but it should include oral or anal intercourse as well as ejaculation by hand or other body parts since the mainstream sex industry has been drastically changed from the time when the law had been established.
4. No measures have been taken so far to reduce demand of buying sex. Immediate action is needed so the government must apply some kind of lawful restrictions. Adding to that, criminalization of buying of sex with penalties should be made top priority.
5. Current basic outline of support to the women wishing to leave prostitution is to provide educational and financial aid as an alternative to prostitution but it has to be changed to an approach of putting more weight on protection of human rights to recover their rights, rehabilitation and mental care of trauma. For exit programs and rehabilitation, government's understanding and the construction of new rescuing system are required for using existing facilities effectively.

■ **Paragraph 12:** Equal participation of women in the political and public activities

Related Article – Article 7

The report mentions the existence of the Third Basic Plan defining quotas aimed at increasing the participation of women in political and public life. Please provide information on the effective implementation of this plan and indicate whether it includes incentive, sanctions and/or enforcement mechanisms to ensure compliance with the quotas. Please indicate whether the State party undertakes awareness-raising campaigns about the importance of women's participation in decision-making for society as a whole. Please provide information on efforts made to further increase the participation of women in the political and public life, specifically through the adoption of temporary special measures, including quotas, to accelerate the achievement of substantive equality between women and men.

[Current situation]

1. It is said that the goal, 202030 – “ increase women's participation up to 30% by the year 2020”, in The Third Basic Plan for Gender Equality (December 2010 Cabinet decision) extends to the political field. However, no voluntary action by political parties has actually been taken to achieve the target by accepting the request from the government.

2. The gender quota system has not yet made progress. A bipartisan "Diet Members league for promoting women's participation and active roles in the political field" was formed by volunteer Diet members of both houses, the House of Councilors and the House of Representatives (on February, 2015). The league is examining introducing a legislation by Diet members that respects "principle of the equal proportion of both sexes" to aim the same number of candidates of women and men, and to make political parties set challenges of numerical target and so on. Women's groups appreciate this as one step of the improvement and support the introduction and enactment of the legislation by the Diet members' league (as of Sept. 2015). The government should cooperate with the league and help the enactment of the bill by appealing to political parties to agree on it. However, the bill does not include the content of "incentive, sanctions and/or enforcement mechanisms to ensure compliance with the quotas." indicated in the paragraph 12, List of Issues.

3. The current administration brings "promotion of active participation of women" to the fore of policies, however, the number of female cabinet minister is only three after the reshuffle of the Cabinet in October, 2015. In addition, the minister who is responsible for the National machinery has always been Minister of State for Special Missions of Cabinet Office, and the gender equality is only a part of the administrative jurisdiction. Now, by the newly established task as "Minister in Charge of Promoting Dynamic Engagement of All Citizens", the presence of being the minister for gender equality largely retrogressed further. The gender equality is only one duty out of six other unrelated scattered fields. (The direct translation of *Danjo Kyodo Sankaku* is not "gender equality" but "men and women cooperative participation." In view of the importance of the measures and policies for gender equality, a minister exclusively for gender equality should be assigned.

4. One of the clues stimulating the participation of women in the political and public field is reform of the election system.

The Beijing Declaration and Platform for Action stated what actions to be taken by governments, in the section of strategic objective from 190 to 195 in the G field (women in power and decision - making) especially in 190-b) & d). However, Japanese Government does not seem to recognize the responsibility to carry out the strategic objectives. In addition, the Diet, a legislative body, has a committee handling the election system, but the committee does not have a viewpoint of gender equality at all. It focuses on discussions on the number of Diet seats and electoral districts.

(note: The Beijing Declaration and Platform for Action Strategic objective and Actions item G Paragraph 190 (b) Take measures, including, where appropriate, in electoral systems that encourage political parties to integrate women in elective and non-elective public positions in the same proportion and at the same levels as men; (d) Review the differential impact of electoral systems on the political representation of women in elected bodies and consider, where appropriate, the adjustment or reform of those systems;)

5. From the central government to local assemblies, sexist behaviors and customs remain. Sexist remarks and sexual harassments are widespread, and social trend of covering up sexist behaviors between men continues. Moreover, the way of operating assemblies lacks consideration for women lawmakers. Holding political post is male -oriented, and long time deliberation at assemblies is taken as common practice.

■ **Paragraph 13-1:** Education

Please indicate whether the State party envisages adopting specific measures aimed at enhancing the education of women, including minority women, by: a) increasing the enrolment of women in traditionally male dominated fields of studies; b) increasing the ratio of females in Colleges and University; c) further increasing the rate of women at managerial positions in schools and the number of women teaching at university; and d) integrating the promotion of gender equality in the Basic Act on Education.

[Current Situation]

The First Abe Cabinet, first of all, revised the Basic Act on Education, with a view to nullifying Article 9 of the Constitution of Japan and enabling the nation to engage in warfare. Under the slogan of “Regeneration of Education,” the second and the third Abe Cabinet has been enhancing controls over education and promoting the educational policies to cultivate human resources useful for the nation and the enterprises. Upon competitive principles, they conduct nation-wide achievement tests for the purpose of selecting pupils/students. In the process of these policies, gender equality education, general sex education, the fact-based history education and peace education are hindered.

a) Increasing the enrolment of women in traditionally male dominated fields of studies

As for the higher education institutions, or the postgraduate research institutions, the ratio of females who major science and engineering to males is very low, and that of females who major humanities is high. This imbalance would come from the traditional gender stereotype fostered all through the process of their growth. It is necessary to promote the movement for the change of attitude of parents, the media and those who participate in childhood education.

b) Increasing the ratio of females in colleges and universities

The level of education parents wish their children to attain differs according to the gender of their children. Parents wish their sons to go to university, whereas only half of them wish their daughters to go to junior college or university. Some girls give up going to university so that their brothers can go to university instead. It is desired to implement measures encouraging girls to get higher education, to establish a scholarship without obligation of repayment, for example. It would be necessary to encourage parents to change their way of thinking, as well.

c) Further increasing the rate of women at managerial positions in schools and the number of women teaching at university

① The rate of the female primary school principals is as low as 18.5%, considering the fact the female teachers of all the primary schools account for 62.7%. The rate of female junior high school teachers is 42.3%, but that of the female principals is only 5.6%. As for senior high schools, the rate of female principals is 6.5%, while that of university or college presidents is 8.7%. (The Report 7th & 8th: Data 7)

The percentage of females is higher in lower positions, such as assistants and part-time teachers. The percentage of females in managerial positions is less than 10%. It is clear that these figures are below the international level. It is necessary to discuss the issue.

② Teachers very often work overtime. There are more female teachers who bring workloads home.

Approximately 50% of the teachers of primary schools, high schools, and the special support schools are females. Although the total working hours at the working places in a month is 9 hours shorter than males, they do the workloads at home 4 hours longer per month than males. This is due to the fact that females are engaged in family responsibilities much longer hours than males. Females tend to sleep shorter hours in order to do the housework and the workloads at home. As a result, it is often the case they have health problems and more female teachers retire earlier than males. Fewer females wish to be promoted to managerial positions. Effective measures should be adopted for the solution of the problems caused by overworking.

d) Integrating the promotion of gender equality in the Basic Act on Education

① There have been few active measures proposed to actively promote gender equality, despite the phrase, “gender equality” as the third aim in the revised Fundamental Law of Education

The authorities say that the importance of promoting gender equality is stated in the Course of Study revised in 2008 and 2009. However, the importance is not at all mentioned in the School Education Act, nor is enough emphasis placed on it in the Course of Study. (The Report 7th & 8th; Paragraph 264)

In the Third Basic Plan for the promotion of gender equality refers to the necessity to “fortify the education to realize gender equality at school, at home, in communities, at offices, in every sphere of social activities. But the necessity is not fully emphasized in the curriculum and the specific measures to disseminate gender equality in the society are not stated, either. (The Report 7th & 8th, Paragraph 268, 269, 270)

The Fourth Basic Plan states that gender role stereotype should be conquered through education and the media as a whole, which would obscure the primary roles of the two genders.

The government shows no intention to stipulate the promotion of gender equality in the Fundamental Act of Education.

② The policy of “the regeneration of education” and the retrogression in gender equality education

The majority of the members of the present government are historical revisionists and decry the practices of gender equality education.

(i) The textbook authorization criteria revised by the present Abe Cabinet require that, when there are two conflicting views on a historical fact, both of the views be described and include the view of the government or the one clarified as a judicial precedent.

The government now inspects the whole description of textbooks and has started virtually to make “government designated textbooks.” As for the description of the former “comfort women” in the junior high school history textbooks, the administrative authority does not approve of including their testimonies in the textbooks. The authority permitted the history textbooks to be authorized, only after the writers added the cabinet council decision that “there have been no materials discovered to prove taking the women away as ‘comfort women’ by force.” After this experience, some publishers of high school history textbooks tend to be self-regulating and stopped mentioning the issue, although it is the matter of the rights of women as human beings.

(ii) Owing to a long and persevering movement and the ratification of the Convention, domestic science was defined as a required subject for both genders through which students can learn their way of life from the standpoints of science and the cultures and acquire the abilities to live their life without gender role stereotype. The problem is that the authorities’ policy is that there should be fewer lesson hours allotted for this subject. This

goes against the Convention. It is regrettable that there are more youths who sustain the idea that men should work to support the family and women should stay and do the housework.

(iii) There has been little progress in the promoting education on gender equality, as was proposed for the media and educational institutions in the recommendations of the Concluding Observations: Para 31(2009) There has been little progress in reviewing and discussing the contents, the methods, textbooks and other teaching materials in order to eliminate gender stereotype. It would be partly due to the fact that a very small number of women are participating in compiling the textbooks.

(iv) The authorities concerned decided to delete Article 5 from the Basic Act on Education, arguing that there is no more institutional inequality of opportunity in education between the sexes. However, some of the public senior high schools, particularly the prestigious ones with a long history, to which high-achieving students are admitted, are single-sex, and some “co-educational” high schools admit only boys to the general course and girls only to the domestic science course. This sometimes causes inequality. We expect gender equal education to be provided at every school.

(v) Sex education in Japan is far behind the international trend. The promotion of sex education was stagnated after being criticized as excessive in the National Diet and in the local councils. The criticism against sex education started from the propaganda by a small group in the media.

“The International Technical Guidance on Sexuality Education”, the international document published in 2009, is now widely known to the world. The document has helped the administrations and the educational institutions fix measures and teaching plans. No Japanese version of the document has been published yet. Therefore, only a limited number of the Japanese people know of its existence.

(vi) The Primary and Middle Education Department of the Ministry of Education and Science issued the notice, “Familiarizing Educational Counseling for Pupils/Students with Problems” in 2009, demanding teachers’ efforts to attentively deal with pupils and students with sexual diversities. At the end of April, 2015, the Ministry of Education and Science sent the notice of “Considerate Handling of the LGBT Students/Pupils” to all the public and private schools in Japan, mentioning the importance of the teachers’ consideration to them. The notice demands the teachers’ efforts to promote awareness and understanding of these children and to organize supporting measures. It also demands implementing measures to deal with sexual problems of the students who are not medically diagnosed as having gender identity disorder but who belong to sexual minorities. These could be considered a step forward.

However, the Course of Study and its practical guide don’t refer to the issue of sexual diversities and most of the textbooks of home economic science and those of health education are still written with acceptance on heterosexuality.

③ The high ratio of poverty and the school expenses greatest in the world

The poverty ratio of children is now record-high 16.3 %, and that of single parent households including 1.24 million single-female parent households is 54.6%. Many of the single mothers suffer poverty because they are in irregular employment and some of them have three jobs and have to work until very late at night. Some junior high school students with these mothers, feeling displaced, hang about in the streets at night and happen to fall victims of crimes. Women and girl students who are seduced by smooth talkers to be engaged in sex

business and suffer sexual violence are of lower age. At the cabinet council in August 2014, the government decided on “The General Principles on Poverty of Children,” but no effective measures are referred to, such as the expansion of child rearing allowances and school expense subsidies, exemption from paying the doctor’s bill at hospitals or clinics and scholarships without repayment obligation.

The government sets an income limit to the exemption of senior high school tuition fees and has changed for the worse the program of providing subvention for attending senior high schools. Students of the high schools for Koreans in Japan have not been allowed to apply for any program of the subvention, which would be an indication of ethnic discrimination.

The burden of educational costs in Japan is the heaviest in the world. Furthermore, the increase of college tuition fees is going to be on the agenda. Educational inequality due to economic disparity is getting more serious. Some youths think they have no choice but to be a member of the Self-Defense Forces. The Self-Defense Forces have founded a technical school which provides their members with a dormitory and uniforms, in addition to a monthly salary and a semi-annual bonus and which also enables its students to take a correspondence course of a private senior high school and get a diploma.

■ **Paragraph 13-2:** Education of Minority women

Article 10

Please indicate whether the State party’s planned measures expressly aimed at enhancing the education of minority women.

[Current Situation]

1. Education of Minority Women

The Government of Japan has not taken any specific measures aimed at enhancing the education of women, including minority women.

Buraku girls’ low enrolment rate in high education

Gender disparity exists in Buraku community with regard to education level. Percentage of Buraku women who have received higher education is lower than men. Many parents in Buraku tend to want their sons to go to college or university, while not so much for their daughters.

Illiteracy among Buraku Women and Need for Remedial Measures

A survey conducted by Buraku Liberation League from 2004 to 2013 has revealed that illiteracy still exists in Buraku communities while illiteracy hardly exists in the mainstream group of Japanese citizens. Those who have difficulties in reading and writing are women of old generation, who were deprived of education opportunities due to discrimination and poverty.

Insufficient Support for Indigenous Ainu Women’s Education

According to a survey conducted by Ainu women themselves in 2004, only 36% of them were graduates from high school. This is considerably lower than the national average. The rest of the respondents, 60% of them, 77% of whom were aged above 40, did not have a chance of going to high school. Ainu people have been deprived of land and livelihood and were driven into discrimination and poverty. Consequently, even today, the living standard

of Ainu people is below that of those of the general population of Japan. A Survey on Ainu people's living conditions in Hokkaido Island conducted in 2008 disclosed their lower annual income and higher ratio of government welfare-payment recipients, and low percentage of higher school enrolments among those from the Ainu community. As Ainu women are faced with multiple forms of discrimination, they are generally placed in even more difficult situation than men in the same community. Special measures, particularly financial support are necessary to promote better educational opportunities for Ainu women in order to address the above mentioned gender disparity between Ainu men and women and also disparity between Ainu and the rest of the population.

Situation of Women of Okinawa

Many elderly Ryukyu or Okinawa women did not have a chance of attending secondary school or even primary school due to the discrimination and the war in Okinawa. Nevertheless, no survey has been conducted by the central or local government on their educational attainment and the problems faced by them. In the absence of public funding, students of privately-run evening schools that offer education of junior high school level, have to bear more financial burden than those students of ordinary junior high schools. The government of Japan should provide financial assistance to their education.

The need for educational support for migrant women

Migrant women who came to Japan to work since the end of the 1980s have been settled in this country for more than 20 years. But their opportunities for public Japanese language education, such as those found in other European and North American countries, were not ensured. The problem of language ability is the reason for the difficulty these women face in moving from the blue-collar non-regular employment to more stable and regular employment. The poverty of single-parent households regardless of nationality has been pointed out in particular. The Ministry of Health, Labor and Welfare survey in 2012 reports that the relative poverty rate is at a high level of 50.8%. In the 2010 national census, the unemployment rate of Japanese parents in single-parent households was at 7.8%, while the same rate for non-national parents was twice as high. This is because foreign parents are unable to work in jobs that require Japanese reading and writing abilities. It is clear that Japanese language education is necessary for migrant women to settle and lead stable lives in Japan, and such education must be institutionally guaranteed.

[Proposed Recommendations]

The government should:

- Provide support including funding for improving opportunity and quality of education of minority women, including Japanese language training for those in need.
- Educational support for migrant women should be provided, including support for Japanese language education.

2. Equal educational support for Korean school girls

[Current Situation]

Korean students who go to Korean schools in Japan are not granted qualification for official scholarships or school expense subsidies basically, for there is discrimination against Korean school being classified as "miscellaneous school" under the School Education Act (Article 134). Most of the schools for foreign nationals in Japan have no choice other than getting accreditation of "miscellaneous school" to maintain the independence of education even though they are public educational institutions under the Act. It is because they have to follow the Basic Education Act which was enacted to educate Japanese nationals and have to use Japanese textbooks and language in schools

that make it impossible to develop other ethnic identities for students if they want to be granted those financial benefits mentioned above. Moreover, the Japanese Government officially excluded Korean schools from High School Tuition Waiver Programme which started in 2010 by reason of diplomatic relationship between Japan and DPRK (E/C.12/JPN/CO/3, para 27, CERD/C/JPN/CO/7-9, para 19).

The exclusion of Korean schools from those financial benefits means the exclusion from the opportunity to education. The Government is neglecting such discriminatory situation causing many disadvantages for Korean schools. It is well known that financial issues cause the inequality of opportunity for girls' education such as illiteracy. Public education is guaranteed by social taxes by residents, including parents of children attending schools for foreign nationals. However, the deprivation of rights to education has been threatening the equal opportunity for education of Korean school girls.

[Proposed Recommendations]

The state party should grant equal support of education for Korean school girls to guarantee the equal opportunity for education.

■ Paragraph 14-1: Employment (a), (c), (d), (e)

Related Article – Article 11

Please indicate further measures envisaged to:

- (a) develop a comprehensive policy to promote equality of women and men in employment;**
- (c) eliminate occupational segregation, both horizontal and vertical;**
- (d) address the predominance of women in fixed-term and part-time and non-regular employment;**
- (e) eliminate illegal dismissal of women due to pregnancy and childbirth;**

1. Present Status

Comprehensive policies to promote employment equality between women and men have not been developed sufficiently. By enacting a law on Promotion of the Active Participation by Women (temporary statute with a 10-year life span), the Government has launched efforts to promote positive actions, which is an encouraging step forward. The action plan of the law obligates companies and local governments to conduct surveys and analyze the results on: 1) proportion of women among newly recruited employees; 2) difference in the average length of continuous employment between female and male employees; 3) status of the employees' working hours per person; and 4) proportion of women among the employees in managerial positions, in order to assess the situation and identify issues to be addressed. In addition to these four mandatory items, there are 21 optional items from which companies and local governments are required to select as needed and establish action plans on. The optional items include wage disparities between women and men, proportions of female and male employees who have taken childcare leaves, difference between women and men in the results of performance appraisal, and numbers and proportions of female and male employees promoted to upper job grades. However, it is up to respective companies to choose which and how many optional items. In addition, small- and medium-sized companies with 300 employees or less that account for 90% of companies in Japan are exempted from the above-mentioned obligations of the law: they are only required to make efforts. Taking these points into account, it is uncertain whether the law will function as an effective instrument for promotion of gender equality in employment. Moreover, the Promotion of the Active Participation by Women Law does not have measures to reduce non-regular workers that account for close to 60% of female workers.

The revised Worker Dispatch Law that came into effect on September 30 2015, allows companies to employ dispatch workers for all kinds of jobs with practically no conditions regarding duration. It is anticipated that female regular employees will be replaced with dispatch workers and, thus, the proportion of non-regular workers among women will rise further.

The average wage of female workers is just about half of that of male workers. (According to a survey result on salaries of private company employees published in September 2015 by the National Tax Agency, the average annual income of male workers is 5.14 million yen, while that of female workers is 2.72 million yen.) So-called “working poor” who earn 2 million yen or less per year comprises 42.9% of female workers.

There are several factors contributing to wage gaps between women and men that indicate the existence of multiple discrimination against women in workplaces. First, there is indirect discrimination incorporated into employment management systems with different categories including main career track and general track. According to a periodic survey on wages conducted by the Tokyo Employers’ Association in June 2014, the first monthly salary earned by a main career track worker with an undergraduate university degree was 211,562 yen while that of a general track worker with a degree of the same level was 187,860 yen: The gap is already more than 20 thousand yen at the start of employment. With these starting salaries, workers of respective categories are expected to earn 578,289 yen and 337,971 yen when they become 60 years old, the retirement age: The gap then will be as large as 240 thousand yen. The difference in lifetime earnings between workers of the two categories will therefore be huge.

Among different employment management categories, an overwhelming majority of women are treated as general track workers. Opportunities for promotion to managerial positions are available only to the workers in main career track. As of 2011, only a small fraction of 5.6% of women was in main career track. As a result, employment management systems by category impede women’s participation in decision-making.

Men in main career track normally work long hours and it is taken for granted even nowadays that workers of main career track do not refuse transfers to different locations. It is therefore practically impossible for female workers to opt for taking jobs of main career track. Majority of the small number of women who did opt for working in main career track in the past had to give up their jobs and the situation has not changed now. According to the 2014 Labor Force Survey, 17% of male workers in their 30s and 16.9% of those in their 40s work 60 hours or more a week. Most people of these ages have young children and need to spend much time for childcare. It is next to impossible for mothers of these ages to work as long as male workers of their ages do.

Second, 60% of female workers have left their jobs upon the pregnancy of the first child. Harassment against pregnant working women and working mothers of new born babies or young children is prevalent in Japan. Many female workers with jobs that involve working long hours have to resign unwillingly when they get pregnant. This has been the case until now.

Third, the proportion of non-regular workers among female workers has been increasing year after year. At present, it is close to 60%. (According to the 2014 Labor Force Survey, non-regular workers account for 56.7% of female workers and 21.8% of male workers.) Most women who left their jobs at pregnancy resume working as non-regular workers after giving birth. Almost 40% of young workers who join the workforce fresh out of schools or universities are employed as non-regular workers. There is a large gender gap in the proportion of non-regular

workers among this type of young workers as well: 29.1% of male workers of this kind are non-regular workers while the proportion is 49.3% for female workers. (source: the 2012 Employment Status Survey)

In addition, due to the existing unequal treatment between women and men and between regular and non-regular workers, wages earned by non-regular female workers are often less than that with which the minimum acceptable level of living is secured. The wages of female workers in general and female non-regular workers are 72.2% and 50.4% respectively of that of male workers in general. (source: the 2014 Basic Survey on Wage Structure, Ministry of Health, Labor and Welfare)

Fourth, the number of women in managerial positions remains small. According to the 2014 Labor Force Survey, women account for only 11.3% of managers.

Fifth, the wages of female-dominant professions including nurses, childcare workers and family care workers remain at low levels and the proportions of non-regular workers have already been high and continue growing as for these professions. Due to poor working conditions, shortage of labor is serious with these professions. This, in turn, has contributed to deterioration of systems of child care and care for others in need, leading to the collapse of social infrastructure that allows women to continue working by maintaining an acceptable work-life balance.

2. Direction of the Government policies and their weaknesses

1) Ministerial ordinances and administrative guidelines for enforcement of the Equal Employment Opportunity Law are not well developed to effectively deal with indirect discrimination. In line with the view shown in the paragraph 21 of the Concluding Observations of CEDAW, ministerial ordinances relating to indirect discrimination must be revised in such a way that they show specific examples of indirect discrimination.

By recognizing gender-based discrimination separately for different employment management categories and employment statuses, correction of indirect discrimination is limited. As pointed out by the ILO, “employment management categories” should be removed from guidelines.

2) ILO conventions No. 111 and No. 175 are yet to be ratified. Since the labor legislation has not been developed well enough to ensure equal treatment, there are huge gaps in working conditions between different employment statuses. Part-time Employment Act has particular structural deficiencies that impose impediments to correction of discrimination, due to incorporation of “systems for utilization of human resources” that allow management to arbitrarily discriminate against part-time workers and systems in which treatment of employees is determined according to the levels of “contribution to the company.”

In the 4th Basic Plan for Gender Equality, measures including “implementation of job analysis and job evaluation as well as integration of different wage tables into the one based on standards of permanent employees” are proposed as “efforts for equal and equitable treatment and towards realization of equal pay for work of equal value” in the section of “assistance for improvement of working conditions of non-regular workers and their conversion into permanent employees.” These measures must be implemented immediately.

3) Act on the Child Care and Family Care Leave and other labor legislation relating to pregnancy, childbirth, child-raising and elderly care have limited effects in ensuring that the workers’ rights are actually exercised:

- * Securing substitute workers to replace those who go on leave is not mandatory: Management is only obliged to make efforts in this regard;

- * The workers exercising their rights are only assured of partial income security. (Workers are entitled to 67% of the regular income in case of maternity leave, 67% for 180 days and 50% afterwards in case of childcare leave, and 40% in case of family care leave.)
- * Taking care leaves has negative impact on promotion as well as pay rise, the amounts of bonuses and retirement benefits. It also reduces total life-time earnings and adversely affects pension.
- * Harassment against pregnant female workers is prevalent. In many cases of maternity harassment, targeted women have no choice but to leave the job.
- * It is necessary to strengthen penalties on the management for taking adverse personnel actions against employees.
- * Machinery of labor administration including Equal Employment Opportunities and Treatment Offices has not been well developed.

On-going court cases relating to pregnancy and childbirth

- * IBM Japan: A female worker was dismissed after making use of the system of shorter working hours as per the provision of the Child and Family Care Leave Act. The company claims that the reason for the dismissal was a decline in the performance level.
- * Japan Airlines: A cabin attendant asked for a reassignment to a ground staff position by the reason of pregnancy, but was refused. The management put her on unpaid leave and prohibited her from taking a side job to earn a living while on leave.
- * Japan Business Lab case: A female worker was not able to find a nursery that could take her baby in by the end of the maternity leave. Upon returning from leave, she was forced to take up a part time job for working three days a week on a one-year contract. Her contract was not renewed as it expired on September 1, 2015 and she lost the job. She filed suit with the Tokyo District Court on October 22, demanding confirmation of the status as an employee. The company filed suit against the worker on August 7, demanding confirmation of non-existence of her status as an employee of the company.

The Health, Labor and Welfare Ministry is currently discussing to review the Child and Family Care Leave Act. The law needs to be revised in such a way to incorporate tougher penalties on the management for taking adverse personnel actions against employees and measures to eliminate above-mentioned weaknesses.

4) The minimum wage largely affecting the wage of part-time workers is not in line with the cost of living principle. With the revision in 2015, the national average of current minimum wages is 798 yen per hour. This results in serious poverty of single-mother households in particular. Single mothers are often denied opportunities for regular employment by reasons of not being able to work long hours and taking days off frequently to care for children. The majority of them therefore work as non-regular employees. As a result, the relative poverty rate, i.e. the proportion of the households with annual incomes below the poverty line of about 1.22 million yen of the total households, was 16.1% in Japan in 2012. The child poverty rate reached a record high of 16.3% that year. The child poverty rate, which was 10.9% in 1985, has been increasing ever since. With 54.6% of single-parent households living below the poverty line, poverty in Japan is at the worst level among 34 OECD member countries.

It is necessary to raise the minimum wages to the level that is enough to cover the cost of living.

5) Provisions of the Equal Employment Opportunity Law are applicable to temporary workers under worker dispatch systems as well, but enforcement is far from thorough. This is because managerial responsibilities over dispatch workers are divided between worker dispatch agencies and the companies that are supplied with dispatch workers. Following measures must be taken to ensure effective enforcement of the law:

- A) Companies that are supplied with dispatch workers must be obliged to make arrangements for ensuring worker dispatch agencies' compliance with the provision of section 4 of the Labor Standards Law that prohibits gender-based wage discrimination;
- B) Provisions of the Equal Employment Opportunity Law that prohibit discrimination regarding placement, promotion, welfare and training must be applied to companies that are supplied with dispatch workers as well. It should also be made clear that they must not discriminate against a female dispatch worker on the ground that she is a woman;
- C) Since the majority of dispatch workers that are registered with (not employed by) temporary staffing agencies are women, adverse working conditions imposed on a worker by the reason of the worker being registered with such agency are, in many cases, practically adverse treatment against women. This type of gender-based discrimination must be eliminated;
- D) Irrational inequalities and other types of adverse treatment against a worker that are imposed by the reason of the worker being supplied by a worker dispatch agency must be prohibited. It is also necessary to oblige both parties supplying and accepting temporary workers to explain the rationale behind different working conditions if any and to bear the burden of proof of their argument for such treatment;
- E) Both worker dispatch agencies and companies utilizing their services must be prohibited from taking adverse personnel actions against a dispatch worker on the ground that the worker demanded correction of discrimination.

■ **Paragraph 14-2:** Employment (b)

Related Article – Article 11

Please indicate further measures envisaged to: (b) to promote minority women's participation in the labour market.

Japanese government has not taken any measures to promote employment of minority women under better working conditions in the labour market.

[Current Situation]

Buraku Women

According to a survey conducted by Buraku Liberation League from 2004 to 2005, Buraku women mostly keep working throughout their lives. Unlike the ordinary pattern of majority women in the country, who tend to stay at home during the time of pregnancy, child bearing and after retirement age, which in employment rate graphs forms a so-called "M-shape" curve, minority women tend to work non-stop until the end of their lives. Many of them work in small companies or factories as part-time employees at lower wage than fulltime workers. The principle of equal pay for equal work is not maintained. Their average annual pre-tax income is around two million yen (approx.16400 USD) whereas the national average of woman workers is more than three million yen (source; National Tax Administration Agency). It is clear from the survey that there are a number of part-time workers who work practically in the same conditions as fulltime workers.

Ainu Women

Another survey conducted by Ainu people's local organization in Hokkaido in 2005 on Ainu women's economic and social situation, the majority of the 214 respondents were working part-time, while only 10% had fulltime jobs. Similar to the case of Buraku women, their average annual income is less than 16400 USD and about 30% responded that their annual income was even less, namely between five-hundred thousand yen (approx.4100 USD) and a million yen (approx.8200 USD). (Reference: "Minority Women Rise Up")

Zainichi Korean Women

In Japan, Korean women face complex disadvantages in the labor market such as employment discrimination because of being Korean and woman. In the situation of spreading hate speeches in society, including on the internet, Korean women often tend to be the target of discrimination. However, they cannot raise their voices because of fear of dismissal or assault by company. Therefore, the complex discrimination suffered by Korean women in labor market has not been recognized as a social issue. The following case is a rare example of a lawsuit initiated by a Korean woman in Japan, but she was encouraged to retire from the company.

1 [Court Case] Suit for damages against Fuji housing

In August 2015, a Korean woman, who is a part-time worker, filed a suit for damages against the company's president. She has been forced to suffer psychological damage because of continuous hate speeches against her caused by daily distribution of documents such as copies of newspaper articles, books and reports which incited racial discrimination against Koreans and gender discrimination against women. Those documents are still been distributed by president today. Although she called on the company not to distribute such documents, the company did not listen to her voice at all. What is worse, the company encouraged her to retire from the company. The trial is still pending.

2 Complex discrimination seen in the unemployment and non-regular employment rate

On the basis of the census conducted in 2010, the Human Rights Association for Korean Residents in Japan analyzed the gap of unemployment and non-regular employment rate among all respondents who are almost Japanese nationals, all foreign nationals and Korean residents who have nationalities derived from Korea by gender. As a result, it turned out that the unemployment rate of Korean women was 9.13%, which was higher than that of all female respondents (5.03%, 4.1 percentage point gap) and of all foreign female nationals (7.73%, 1.4 percentage point gap).

As to non-regular employment rate, it also turned out that the rate of Korean women was higher than that of Korean men (27.25%, 35.08 percentage gap) and of all female respondents (54.56%, 7.77 percentage point gap).

The situation of migrant women

The unemployment rate according to the 2010 national census was 5% for Japanese women, while the same rate was 5.8% for Chinese, 9.2% for Philippine, 11.6% for Thai, and 9.8% for Brazilian women, showing that the rate was approximately twice as high for foreign women except for the Chinese women. Seen by family relations, unemployment rates were higher for those who were divorced, with 19.3% for Chinese, 19.8% for Thai, and 15.0% for Philippine women respectively. (The unemployment rate for divorced Japanese women was 8.0%.) The same rate for unmarried women was also high, with 22.9% for Peruvian, 12.8% for Brazilian, and 11.2% for Philippine women. (The rate for unmarried Japanese women was 9.1%.) The Japanese labor market is based on

the male-breadwinner model, with women placed in supportive roles. This structural factor is compounded with the problem of Japanese language ability in the case of migrant women who experience acute forms of exclusion from the labor market.

[Proposed Recommendations]

The Japanese Government should take effective measures to improve employment of minority women under proper working conditions and to provide assistance to them in finding decent jobs.

■ **Paragraph 14-3:** Employment (f), (g), (l) In relation with the Article 11

Please indicate further measures envisaged to:

(f) ensure that women are not compelled to resign for not being able to balance work and family life

(g) promote equal sharing of family responsibilities between women and men

(l) ensure the quality of child care

[Current Situation of women's employment]

It is a vital challenge to correct the excessive long work hours in Japan for equal sharing of domestic work and balancing work and family lives. 13.4% of male workers works more than 60 hours in a week, however, 17% of those in their 30's and 16.9% of those in their 40's do so, and they are the ones in typically child rearing age (Labor Force Survey in 2014). According to the Survey on Time Use and Leisure Activities, husbands who have children below 6 years of age spend only 39 minutes for child rearing out of only 67 minutes of the time they spend on domestic work and child rearing activities. There has been no big increase in male child-care leave ratio, with only 2.03% in private and 2.77% in public sector male employees taking leave. Consequently, women in general bear excessive family responsibility than their male counterparts, and this forces women workers to quit their jobs or shift to precarious work such as part-time work.

Turnover due to child-care and care for family members became worse than in the previous examination. As a result of super-aging society, population in need for nursing care has been increasing, which had an impact on the employment of their family members. According to the government, 440,000 workers involuntarily left or changed their jobs due to nursing care for their families.

The graph of the ratio of Japanese women's participation in the workforce by age still takes an M-shape. 3.03 million women workers in age group 30 to 34 and 35 to 39 are willing to seek jobs, and 40.4% of them are not due to child-care and care for family members. (Labor Force Survey in 2014).

Since requirement of care leave for part-time or temporary workers is stricter than that of permanent workers, only 4.0% of those in precarious employment continue their jobs after their first child-birth and by using the leave.

The revision of the nursing care insurance system in April 2015 increased the number of eligible older people in need of nursing care. Also, the change in the calculation method for nursery schools fees in September 2015 drastically increased the fees particularly for multiple children households. It is the first time in 5 years that the number of children who are on the waiting list for nursery schools increased and became 23,176 nationwide. Increasing number of women has difficulty in coming back to the original job after the leave.

Health and welfare sectors are typical women-dominated industry. 77.3% of workers in these industries are women. Among them, turnover of nurses are significantly serious. The Ministry of Labour and Welfare estimated that there will be at maximum a shortage of 121,000 nurses in 2015 (7th report of review commission on long-term prospect of nurses employment). One of the reasons is high turnover rate of nurses, which stands at 11.2% in a year. Many nurses suffer from irregular work hour arrangements with night shifts, heavy workloads due to staff shortage and long working hours, and they leave their jobs being exhausted. This vicious cycle causes the high turnover. According to the survey by Japan Federation of Medical Workers' Unions, which covers 111,184 medical workers at 447 medical institutions as of June 2015, 32.1% of institutions has 2-shifts for nurses at inpatients wards. 55.1% of them are engaged in night shifts with longer working hours. 53.2% of them replied they had less than 8 hour intervals between their work shifts. For those working in 3 shifts, 25.2% of them experience 9 night shifts in a month. Those working in 2 shifts, 33.1% of them experience more than 4.5 night shifts in average in a month. These show how hard these nurses work.

High turnover of childcare nurses working at nursery schools is also serious problem. The Ministry estimates there will be a shortage of 74,000 childcare nurses at the end of 2017. The biggest reason is the very poor working condition such as low wages though their responsibility and workloads is rather heavy. Their average monthly wage is approximately 210,000 yen, which is lower by 100,000 yen than the average of all industries. Ratio of precarious employment is 45.6% in 2011, while the figure is 53.5% at public nursery schools and 38.9% at private ones, according to the survey by National Nursery School Association.

The current Abe government proposed a series of policy measure such as inviting private profit companies into nursery school management, geographical deregulation of nursery school teacher certification in certain areas as well as implementing new certificates which requires a much shorter training period. We have grave concern over those measures as they would lead to further deteriorating working conditions of nursery teachers, competition among schools, which would not help to improve their working conditions.

High turnover of workforce in the care industry for the elderly is also a very serious issue. On June 24, 2015, the Ministry published an estimation that there might be a shortage of about 380,000 care workers in 2025. Low wage is also the case for care workers working in institutional care or home care. They earn approximately 100,000 yen less than average. Statistics on the work experiences of those workers show their shorter duration of service. Average duration of worker in institutional care is 5.5 years, and those in home care is 5.6 years in average. According to information material by the Ministry in 2014, turnover rate in the said industry is high at 16.6%. Only 17.5% of home care workers is in regular employment, while 78.4% of them are in precarious employment. It is also the case of institutional care workers, so 41.4% of them are in precarious employment. National Confederation of Trade Unions, Zenroren, conducted a survey on the working condition of care workers in 2014. The top 3 reasons that workers want to leave their jobs are “low wage”, “too busy at work” and “workload is beyond physical limit”. It should be noted that there is a negative cycle in those employment. High turnover creates workforce shortage at workplaces, which then results in extensively busy working condition, and this triggers further turnover.

[Proposed Recommendations]

1) Improvement of long working hours is vital

In Japan, overtime is not regarded as exceptional. According to the Labor Standards Law Article 36, labor and management can agree to a certain overtime a month, which is a de-facto loophole of the working time regulation. For instance, the management and union of The Kansai Electric Power Company (KEPCO) agree to 193 hours overtime, those of Japan Tabaco Company (JT) to 180 hours and those of Mitsubishi Motors to 160 hours per month (based on Tokyo Shinbun Newspaper report on June 1, 2015). All of these agreements are accepted by the Labor Standards Inspection Offices.

Furthermore, the government submitted the draft bills to the ordinary Diet session in 2015, which would implement “Overtime exemption for highly compensated workers” and deregulation on discretionary work system. These will create a category of workers exempted from Chapter 4 (work hour, rest, holidays and night work premium) regulations, and these would be examined in the next session in 2016. We have deep concern on these proposals that they would dilute the principle of 8-hour-work a day, and further extensively long work hours leading to another tragedy of death from overwork. While the proposed bill is designed to implement overtime exemption only to those professionals who earn more than 10,000,000 yen annually, the business sector insists that the criteria should be lower and exemption should be more widely implemented. We firmly believe that everyone should be protected from longer working hours regardless of your earnings. All trade union confederations and Japan Federation of Bar Associations clearly oppose these bills.

What is needed now is to have stronger regulation on overtime hours (2 hours a day, 20 hours a month and 150 hours a month), and to put legal limit of maximum work hours a day for 10 hours.

2) Social infrastructure improvement

The current government launched a slogan; “No one should be forced to leave their jobs for caring for family members” and “dream-weaving Childcare Supports”. The Labor Policy Council of the Ministry of Labour and Welfare is now in examination of proposed revision of Child Care and Family Care Leave Act. What is necessary is to revise the Act fundamentally, so that precarious workers can easily take care leave.

To prevent nurses leaving their jobs, it is vital to improve working environment in the health sector by enabling nurses to continue to work after their marriage or child-birth, reviewing night-shift work, long working hours as well as working condition in general.

High turnover of nursery and care workers delays the realization of the elimination of the waiting list for nursery schools, and have negative impact on sharing practical experience in nursery care. Better working condition and sufficient staffing level are vital for preventing workers in these industries leaving their jobs for “better nursery care” and “better care for the elderly”.

■ **Paragraph 14-4:** Employment (h)

Please indicate further measures envisaged to:

(h) ensure equal pay for work of equal value of men and women, including by adopting legal provisions recognizing this principle

[Current Situation]

1. Present Status

The government of Japan claims that the principle of equal remuneration for work of equal value is incorporated into section 4 of the Labor Standards Law. However, the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization pointed out in a report in 2008 on Convention No. 100 that it “recalls that section 4 of the Labour Standards Law ... does not fully reflect the principle of the Convention,” and went on to ask the Japanese government “to take steps to amend the legislation to provide for the principle of equal remuneration for men and women for work of equal value.”

The ILO Governing Body released its Conclusions and Recommendations in November 2011 regarding “the representation alleging non-observance by Japan of the Convention No. 100 made under article 24 of the ILO Constitution” that were jointly submitted by three labor unions in Japan in July 2009. On the official response by the government of Japan that section 4 of the Labor Standards Law fulfills the requirements of the Convention No. 100 and both wage disparities between different jobs and those between different employment management categories can be rectified by applying the provision, the ILO pointed out that it was hard to conclude that actual situations with judicial remedies and workplace inspections reflected the intention of the Government.

In December 2012, the Government revised the relevant notices to clarify the interpretation of section 4 of the Labor Standards Law. (Paragraph 320 of the 7th and 8th reports) However, the revised notices simply affirm the conventional stance of the government that administrative authorities will be exercised only with the cases where direct gender-based discrimination is clearly observed. The system does not have the effect of compelling employers to correct wage disparities unless their arguments over the rationale of the gaps are supported by the evidences based on gender-neutral evaluation of the value of the jobs.

In addition, the 4th Basic Plan for Gender Equality does not mention “promotion of research and development on relevant items including the method of job evaluation” that was included among specific measures proposed in the 3rd Basic Plan.

2. Status of court cases

1) In the Kyo-gas case over wage discrimination against women as opposed to men, a job analysis and evaluation were conducted based on international standards for different jobs being performed by male and female workers. On the basis of the statement of expert’s opinion showing the results of the job evaluation, the Kyoto District Court determined that the jobs were of the same value and the wage gap reflected gender-based discrimination in breach of section 4 of the Labor Standards Law. (September, 2001) Though the court acknowledged that work performed by the plaintiff was of the same value as that of the male worker compared in the job evaluation, it went on to hold that the total amount of damages equivalent to the wage differential should be 85% of the total salary of the male worker. The plaintiff subsequently appealed to the Osaka High Court where a settlement was reached. (December, 2005)

2) In the Kanematsu case where female employees of a trading company argued that the wage differentials between themselves and male employees reflected gender-based discrimination, the Supreme Court affirmed in October 2009, 15 years after the suit was filed, the earlier decision made by the Tokyo High Court that recognized the wage differentials existing between work carried out under different employment management categories were based on unlawful discrimination against women in violation of section 4 of the Labor Standards Law. The case

was therefore closed with the High Court decision as final.

3) In July 2013, the Hiroshima High Court denied the existence of gender-based discrimination in the ruling for the Chugoku Electric Power Company case, while noting disparities between men and women in terms of wage and promotion. The reasons for the judgment included: that the regulations on the wage system did not have gender-specific descriptions; that male and female workers were not clearly divided into separate strata groups of different treatment; and that there was a general tendency among women to avoid becoming managers. The plaintiff appealed the case to the Supreme Court where experts of different fields offered professional opinions in written statements. A statistician concluded in one of these statements that, from statistical point of view, the probability of existence of separation between men and women of the level recognized in the case would be infinitesimally close to zero without gender-based discrimination. An expert on the U.S. legislation pertaining to prohibition of discrimination in employment argued in another statement that “there is no other alternative but to conclude that decisions made by the employer regarding treatment of the plaintiff were totally based on discrimination.” The Supreme Court however dismissed the appeal in March 2015 and the case was concluded with the High Court’s decision.

As a result of this case, it has become extremely difficult to dispute gender-based discrimination in Japan.

4) In July 2014, the Tokyo District Court denied, in the ruling for the Fuji Star case, the discriminatory nature of the large gaps in wages and bonuses between men and women, though it agreed to examine the gaps with the method of job evaluation in the hearings. The judgment was made on the ground of management’s discretionary power in determining employees’ wages: the court did not acknowledge unlawful abuses of discretionary power on the side of the management.

The court decision is commendable in the sense that it recognized the possibility of correcting inequalities in treatment of employees performing different types of jobs with job evaluation. The court however judged the results of the job evaluation conducted by the employees’ party as “doubtful” without showing any grounds. In addition, it has a serious weakness in that it imposed the burden of proof on the party claiming discrimination.

The plaintiff appealed to the Tokyo High Court where the presiding judge recognized existence of discrimination in both the base salaries and post-specific allowances. The case was subsequently concluded in February 2015 with settlement. The Labor Standards Office on the other hand judged that disparities in wages were due to the difference in the type of jobs and did not recognize breach of section 4 of the Labor Standards Law. It therefore did not intervene to provide guidance for correction.

5) In March 2015, the Kanazawa District Court decided in the Towa Engineering case that the employment management system of the company under which employees of different categories are treated differently was, in effect, a gender-based wage management system violating section 4 of the Labor Standards Law. With respect to correction of the wage differentials, the court ordered the company to apply the age-based wage scale for the main career track workers to the plaintiff. As for the merit-based wage however the court failed to show a judicial judgment: it decided that the amount of damages equivalent to the differential of merit-based wage was nil. The case is now on trial at the appeal court.

6) At present, a suit filed by a female staff member of the statistics bureau of the Health, Labor and Welfare Ministry against the ministry is on trial at the Tokyo District Court. The dispute is over gender-based discrimination reflected in disparities in promotion and wages between men and women.

In each of the cases 1), 2) and 4), a private committee for job evaluation was organized as per plaintiff's request in order to establish evidences for existence of gender-based discrimination. The committee consisting mainly of academic experts analyzed and evaluated the plaintiff's work and that of a male worker used as reference, spending much time and costs. Illegal discrimination was made clear as a result.

Judicial rulings so far made in Japan have hardly been effective in ensuring compliance with the International Convention on the Elimination of All Forms of Discrimination against Women and the ILO Convention No. 100.

[Proposed Recommendations]

- 1) A job evaluation system needs to be established in line with the international standards. A framework for assessment of value of different work also needs to be established by public institutions.
- 2) It is necessary to start tripartite consultations at a panel of the labor policy council immediately in order to establish the above-mentioned system and framework.
- 3) The wage systems need to be designed in such a way to ensure fairness, clarity and subjectivity. Systems for performance appraisal should be designed free from gender biases. It is also necessary to ensure transparency of these systems.

■ Paragraph 14-5: Employment (i)

Please indicate additional measures envisaged to:

(i) Adopt legal provisions sanctioning sexual harassment in the workplace;

[Current situation]

In fiscal year 2014, there were 11,289 cases of consultation to the Equal Employment Opportunity Department regarding sexual harassment in the workplace, of which 6,725 cases were from women. The number of cases that reached a solution is unknown.

On July 1, 2014, the Guidelines Concerning Measures to be Considered by Employers in terms of Employment Management with Regard to Problems Caused by Sexual Harassment in the Workplace (Ministry of Health Labor and Welfare) entered into force. The 4th Basic Plan for Gender Equality includes a survey on the situation of sexual harassment as well as 'maternity harassment' (harassment of women who are expecting or have given birth, including dismissals or threat of dismissals) of workers including non-regular workers and examination of stronger measures towards ensuring effective protection from such harassment. The Plan also includes examination of the possibility of urging employers to create a single mechanism that can address all forms of harassment that pose obstacles in the working life of the employees.

Among sexual harassment cases, there have been cases in which employees suffered secondary harassment after making complaints as well as damages to their mental and physical health. Some faced difficulties in returning to work, and some were demoted, compelled to leave the job, or even dismissed or their contracts terminated.

A woman, who had been working as a non-regular employee at Hello Work (the public employment agency) in the

Kansai region for 9 years as an employment consultant had assisted a female colleague, who had been sexually harassed by her senior officer, and ended up being harassed herself. Her contract was terminated by end of March in 2011. She had been working as a civil servant on a one-year contract, and was reappointed 8 times. She has been performing the same work as regular employees, and her senior officers had made statements that led her to expect further contract renewal. She sued the state for compensation for the violation of the expectation due to non-renewal of her contract for assisting a victim of sexual harassment. The Osaka District Court dismissed her claims on May 29, 2015. Her appeal was again dismissed on November 25, 2015.

[Proposed Recommendations]

Article 11 of the Equal Employment Opportunity Act must be amended, so that the provisions would prohibit sexual harassment, and would provide effective measures to ensure the following.

1. Effective right of employees to refuse harassment and to improve the situation by submitting a complaint.
2. Right of employees to refuse work to avoid harassment without suffering disadvantages in treatment including wages.
3. Consideration on the circumstances of the victim in the procedures to receive compensation for recuperation or taking leave, so that she does not have to worry over her livelihood.
4. Lowering of the standard for approval for benefits under the Industrial Accident Compensation Insurance. Prioritization of consideration for the privacy of the victim in investigation for approval.
5. Clarification of the victims' right to employment, to ensure the right of the victim to return to work after taking leave. The employer should be responsible for ensuring continued employment by removing the effects of the harassment.
6. Prohibition of discriminatory, punitive or other disadvantageous treatment for being a victim of sexual harassment or complaining about sexual harassment. Sanctions should be provided for such treatment.

■ **Paragraph 14-6:** Employment (j)

Related article – Article 2, 5 and 11

Please indicate further measures envisaged to: (j) study the monetary value of women's unpaid work

- I . Measurement and valuation of unpaid work, and its reflection in policies
- II . Family workers of urban and rural family enterprises and the Article 56 of the Income Tax Law

- I . Measurement and valuation of unpaid work, and its reflection in policies
 - Article 2 (f), Article 5 (a) and Article 11
 - General Recommendation: No.17, No.27
 - 7th and 8th Government Report: para.321 and 322 of Article 11
 - Concluding Observations of 2009: para.30 and 48 (Stereotypes, Reconciliation of family and work life)

[Current situation]

- (1) Regarding the time-use survey conducted every 5 years (the most recent Survey on Time Use and Leisure Activities in 2011), after-coding with free descriptive answers has been added to question items since 2001 for measuring unpaid work in more details. Based on the result of the survey, monetary valuation of unpaid work (the most recent valuation in 2013) also was conducted. It is necessary not only to continue the time-use

survey and monetary valuation, but also to develop a “satellite account” for ensuring gender mainstreaming, as the Beijing Platform for Action recommends. The Cabinet Office conducted the satellite account on childcare and elderly care in 2000, but domestic work was not included and its main objective seemed to be to activate the market by transferring childcare and elderly care to the market. From the standpoint of gender equality, a satellite account of unpaid work, including domestic work in addition to childcare and elderly care, should be developed.

- (2) For redistribution of unpaid work between women and men and in society, it is important to develop social and welfare policies, including child/elderly care policies, and to realize work/life balance for women and men through the regulation of long working hours. However, the consciousness of gender division of labour is persistent in Japan and the working style is based upon men’s long working hours. The average hours spent related to domestic work per day is 3 hours and 35 minutes in case of women and 42 minutes in case of men. Women’s burden is overwhelming. In case of husbands with a child/children under the age of six, the average hours of household chores and childcare is 67 minutes. Approximately 80 % of husbands in two-income families and approximately 90 % of husbands in households in which wives have no income do not share “household chores”. As for “childcare”, approximately 70 % of husbands do not share it, irrespective of whether or not a wife has paid work. That’s the situation (Survey on Time Use and Leisure Activities of 2011).

The number of workers who care for elderly persons in households is approximately 3 million and it is necessary to reduce long working hours and realize work-life balance. However, the present policies remain at the level of calling for companies’ voluntary efforts. The low evaluation of unpaid work is reflected in the low evaluation of female-dominated professions such as care work, for which the wage is low, and therefore, equal pay for work of equal value (objective job evaluation) should be realized. The bill on the promotion of equal pay for work of equal was introduced by some Diet members to rectify a wage differential between dispatched workers and formal workers in companies to which they are dispatched. However, a diluted bill, including changing from equality to equilibrium, was adopted (September, 2015).

Gendered norms about care and the issue of the opportunity cost affect women’s economic opportunities for paid work, and approximately 60% of women who give birth to a child leave their jobs. Most of women who reenter the labour market are informal workers with low wages. The implementation of the ban on the age limitation in recruitment is insufficient, and the right to decent work is not guaranteed. It is necessary to support women’s vocational re-education including elderly women, whose relative poverty rate is high, for reentering the labour market, as well as to realize equal pay for work of equal value.

The Fourth Basic Plan of Gender Equality

The Fourth Basic Plan of Gender Equality includes “Promote the research and study on the formulation of gender-equal society, including grasping of hours for unpaid work of men and women such as childcare and elderly care”. However, there is no mention of “domestic work” nor “monetary valuation”. We request the government for continuing monetary valuation of unpaid work, which was conducted under the Third Basic Plan of Gender Equality, also under the Fourth Basic Plan, and promoting the “development of a satellite account” of unpaid work, taking gender mainstreaming into consideration. The perspectives for reflecting the results of measurement and valuation of unpaid work in gender policies also is insufficient.

[Proposed Recommendations]

- (1) Improve the measurement and valuation of unpaid work with the coordination of the related institutions, and

develop a satellite account of unpaid work with gender perspectives.

- (2) Ensure to reflect the result of measurement and valuation of unpaid work in policies.
- (3) Develop the method of gender impact assessment and consider to introduce the system and measures for gender budgeting.

As the consciousness of the division of labour that unpaid work such as household chores, childcare, elderly care and voluntary work is expected to be done by women is persistent still now, women suffer the burden of unpaid work and cannot have the equal economic opportunities compared to men. It is necessary to measure and value unpaid work and surely reflect the results in policies.

- (1) For measuring and valuing unpaid work, the government should develop a comprehensive satellite account in addition to the time-use survey and the monetary valuation of unpaid work which have been conducted. For that purpose it is necessary to ensure the coordination among Ministry of Internal Affairs and Communications Statistics Bureau, Gender Equality Bureau and the Economic and Social Research Institute in the Cabinet Office, and the participation of specialists on gender. From the standpoint of gender statistics and gender budgeting also it is important to measure and value “unpaid work”.
- (2) It is insufficient to reflect the results of measurement and valuation of unpaid work in policies for gender equality. Regarding the results of the Survey on Time Use and Leisure Activities (the time-use survey) and the monetary valuation based upon the Survey, it is necessary to conduct more detailed gender analysis of statistics to utilize them more actively as the basic data for gender policies in employment, the support for childcare and elderly care, the support for work-life balance and so on. In order to “recognize, reduce and redistribute” unpaid work and realize the substantial equality between men and women, policies such as paternity leave, the elimination of long working hours, equal pay for work of equal value and access to reentry to the labor market for decent work of women who left work for childcare and elderly care, are important.
- (3) In order to adequately reflect the needs of women and men in various fields of public policies of every ministries and agencies as well as local governments for ensuring the equal sharing of various kinds of paid work and unpaid work between women and men, it is necessary to develop a method of gender impact assessment as the important tools and consider to introduce a system and measures for gender budgeting.

II Family workers of urban and rural family enterprises and the Article 56 of the Income Tax Law

- Article 2 (c)、Article 11 (c)、(d)、(e)
- General Recommendation No.16

[Current Situation]

General Recommendation No. 16 of CEDAW recommends the states parties to take the necessary steps to guarantee payment, social security and social benefits for women who work without such benefits in enterprises owned by a family member.

In Japan, Article 56 of the Income Tax Law stipulates that any payments the spouses or other family members (women in majority) of rural workers and self-employed merchants/manufacturers receive cannot be recognized as necessary expenses; the value of their labor is added up to business owners’ (men in majority) income.

It prevents these spouses and other family members from gaining income certificates, causing such disadvantages as lower compensation than full-time homemakers in the event of traffic accidents, no loans available to buy a car or house, and difficulty in obtaining the entitlement to leave their children at a childcare center.

Article 56 is a remnant of patriarchy and so discriminatory that it hinders the economic self-reliance of rural

women and self-employed female merchants or manufacturers. It violates family workers' rights and should be abolished immediately.

There was a nationwide petition that people supported for the abolishment of Article 56 and 428 local assemblies made proposals on this issue as of December 2015.

In the deliberation of the Sixth Periodic Report on the Implementation of CEDAW, a Japanese government official, asked by a CEDAW committee member, assured the value of their labor would be recognized as necessary cost if there is a declaration based on books and records. As keeping books has become compulsory for every business owner since January 2014, the value of labor should be considered necessary expenses and thus Article 56 of the Income Tax Law is no longer necessary.

[Proposed Recommendations]

Article 56 of the Income Tax Law should be abolished, as a discriminatory law not allowing any payments to the family workers of urban and rural family enterprises.

■ Paragraph 15: Health

Related Article – Articles 2, 12

The State party indicated in its report that abortion is a crime, according to article 212 of the Penal Code, except to protect the life and health of the mother as provided for by the Maternal Protection Act (paragraph 359). The Committee is also informed that article 14 of the Maternal Protection Act requires a woman who seeks abortion to obtain an authorization from her male partner. Please provide details on the conditions in which abortion is authorized, in law and in practice, and indicate the measures envisaged to legalize abortion also in cases of rape, incest and severe malformation of the foetus.

[Current Situation]

1. Legal condition with regard to abortion

The Japanese government states that they consider “it inappropriate to repeal provisions including Article 212 of the Penal Code” in its Seventh and Eighth Periodic Reports. However, Article 212 of the Penal Code punishes only woman and not her male partner for performing abortion, and thus clearly violates article 2 (g) of the Convention. Furthermore, Articles 213 and 214 of the Penal Code that punishes abortion providers including medical personnel infringe the right of women to access health care services that is stipulated in the Article 12(1) of the Convention and acknowledged in paragraph 11 of the General Recommendation No. 24 by the Committee.

Legally speaking, it is true that the application of the Penal Code may be exempted if all the following conditions provided for by Article 14 of the Maternal Protection Act were met.

- 1) Obtaining consent from the woman and the spouse. If the spouse is not known or cannot express an intention, or if the spouse no longer exists after the pregnancy, the consent of the spouse is not necessary.
- 2) Performed by a doctor designated by a medical association.
- 3) Performed to a woman who falls under any of the following conditions:
 - i) a person for whom the continuation of pregnancy or delivery may significantly damage the person's physical health due to bodily or economic reasons
 - ii) a person who was raped in a violent or threatening manner or at a time when the person could neither resist nor refuse and becomes pregnant.

Yet, making abortion punishable by the Penal Code, and, through that, making abortion permissible only under conditions laid down by law and not in response to the will of the woman is an issue in itself.

With regard to a case of rape, the application of the Penal Code for an abortion may be exempted as it falls under the condition 3) ii).

In terms of incest, abortions may be performed by interpreting the condition 3) i) or ii), although there is no explicit provision under the Maternal Protection Act.

Likewise, there is no provision in the Maternal Protection Act in regard to severe malformation of the foetus, yet abortions may be performed under the condition 3) i). We understand that there are some groups of people who demand to add a new clause to the Maternal Protection Act in order to explicitly exempt the application of Penal Code for abortions in case of fetal abnormality. However, we strongly believe such an amendment should not be made, considering the history of this Maternal Protection Act, as this Maternal Protection Act is actually the former Eugenic Protection Law that the Japanese government had until as recently as 1996, with the intention of preventing what it regarded as the birth of “inferior” offspring. Under this Eugenic Protection Act, which was an offshoot of the “Sterilization Law” of Nazi Germany, forced sterilizations were performed without people’s consent (please also see para. 16). It was also this Eugenic Protection Act that exempted the application of the Penal Code to persons who were regarded as having a possibility to pass on disabilities or diseases to their children for performing artificial abortion.

As the influence of eugenics in Japan has not yet been wiped away, if the “abnormality” of the fetus were to be a condition for an abortion, this will work as a force toward suppressing the birth of children with disabilities, which violates the human rights of both women and persons with disabilities. For instance, in November 2015, a member of the Board of Education of *Ibaraki* prefecture publically said “It is better to reduce the birth of children with disabilities at the early stage of pregnancy”.

Considering such contexts, it is important to do away with any law that regards abortion as a crime and to provide support for women and the unborn child, whatever the nature of the pregnancy might be.

Furthermore, the Maternal Protection Act itself infringes the right of women to access health care services, as it requires a woman to obtain an authorization from her male partner for her abortion. For example, there are cases that women who suffer from domestic violence by their male partners are forced to give birth against their will due to such a legal condition.

In addition, there are cases where doctors would request a minor to obtain an authorization from her parents, even though there is no such provision under the Act. This kind of practice also hinders minors to access abortion.

2. Actual situation with regard to abortion

According to ‘Chapter 4: Maternal Protection’ from “Report on Public Health Administration and Services”, the total number of abortions performed in 2014 was 186,253. Out of these cases, 186,106 cases fell under the condition of person’s physical health and 147 cases were performed under the condition of rape and/or threat of rape. In the same year, there was no criminal case reported in regard to abortion (‘Table 31’“Statistics of National Police Agency (Heisei 25 nen)”). Since 1960s, the number of criminal cases in regard to abortion has been less than ten annually and in many of these years, no criminal cases were reported at all.

Recent two criminal cases in regard to abortion were reported in 2010. One was about a woman who was brought to a hospital after taking abortion pills. She was reported to the police by the hospital and the police report was sent to prosecutor's office under Article 212 of the Penal Code (yet she was not prosecuted in the end). The other was about a man, who was arrested under Article 215(1), as he performed an abortion on his female partner without obtaining her consent.

Although the number of criminal cases in regard to abortion is limited, the fact that abortion is criminalized in the Penal Code creates general notion among people including medical personnel that abortion is a wrongdoing that can even amount to a crime. This causes adverse effects such as giving a woman who have had an abortion severe mental suffering out of a sense of guilt or pressuring a woman to give birth and then abandon the baby as she misses the timing to abort.

[Proposed Recommendations]

As the Special Rapporteur on Right to Health said in 2011, all the artificial abortions should be decriminalized and safe abortion should be accessible for women when they want an abortion. Therefore, the Japanese government should remove Article 212 of the Penal Code that punishes a pregnant woman who undergoes abortion as well as Articles 213 and 214 that punish abortion providers including medical personnel.

At the same time, the Maternal Protection Act that provide conditions to exempt the application of these articles of the Penal Code should be abolished and replaced by a new act that protects and promotes reproductive health and rights.

In case the Maternal Protection Act continues to be in place, the government should

- 1) abolish the condition that requires a woman to obtain the consent of her male partner for her abortion and
- 2) NOT add a new clause that exempts the application of Penal Code for abortions in case of fetal abnormality.

■ Paragraph 16: Health

Related Article – Article 2,5,6,10

Please provide data on: (a) the availability and accessibility of comprehensive age-appropriate education on sexual and reproductive health and rights; and (b) the rate of contraceptives use. Please also provide information on measures taken to provide compensation to women with disabilities who had been subjected to forced sterilization. Please provide information, along with data, on the mental and psychological health of women.

[Current Situation]

(a) Education on sexual and reproductive health and rights

In Japan, the government recommends schools to incorporate sex education into all subjects and there is no independent subject that is dedicated to sex education. In addition, no specific license is needed to teach this issue, either. Although the government and municipalities provide guidebooks that indicate guideline for class planning, the exact contents of the sex education differ from one school to another.

Since 2002, there has been intense backlash against education on sexual and reproductive health and rights. The opponents of such education claim that it is too “radical” to teach the name of genitals at elementary schools or to inform students about sexual intercourse and contraceptive measures at elementary and/or junior high schools. Due to such a strong headwind, practices of sexual and reproductive education at schools have become withered and retrograded.

For example, the curriculum guidelines (Gakushu-Shido-Yoryo) for junior high schools by the Ministry of Education, Culture, Sports, Science and Technology indicates that “the process of getting pregnant would not be dealt (at schools)” and the guideline does not mention anything about either sexual intercourse or contraceptive measures. They may teach about condoms, but only as means of preventing sexually transmitted diseases.

A report “Sexuality Education in Junior High School in Japan” published by a group of scholars in 2007 also shows the following results.

- While more than 80% of the schools participating to this survey taught students about “Physical changes during puberty”, “Pregnancy and Childbirth” and “Sexually transmitted diseases”, less than 40% taught students about “Contraceptive measures”, “Masturbation” and “Consulting service in regard to sexual issues”.
- The average teaching hours dedicated to sex education among these schools was only three hours per year.

As for the curriculum guidelines for senior high schools, it mentions about “the significance of family planning and mental and physical impact of artificial abortion”, though the basic position of Japanese sex education can be explained as “it is not appropriate for children to have sexual intercourse”. Therefore, at an expert committee of the Ministry of education, a comment like “it (sex education) should not be done in a way as to teach concrete contraceptive measures easily” was made. Therefore, at most of the schools, adequate and concrete information in regard to sexual and reproductive health and rights are not provided. Furthermore, education on issues of sexual minorities and sexual diversities are also insufficiently done.

Meanwhile, according to the 7th “National Survey of Sexual Behaviors of the Youth (Seishonen no sei-kodo zenkoku chousa)” conducted in 2011, 4.8% of girls and 3.8% of boys in junior high schools (12 to 15 years old), 23.6% of girls and 15.0% of boys in senior high schools (15 to 18 years old) and 46.8% of girls and 54.4% of boys in higher education (from 18 years old and above) have experienced sexual intercourse.

However, as explained above, the accessibility to “comprehensive age-appropriate” information in regard to contraception is not well ensured. This violates Article 10 of this convention as well as the Programme of Action of International Conference on Population and Development held in 1994 in Cairo.

Eventually, the number of artificial abortion performed to girls under 20 years old reached 17,854 cases, accounting for about 10% of all abortion cases in 2014. Such statistics show that quite a high number of girls experience unintended pregnancy as well as artificial abortion that adversely affects girls' physical and mental health.

Furthermore, in recent years, especially after Prime Minister Abe took power in 2012, the government has been promoting women to give birth at early age, through “providing correct knowledge of pregnancy and childbirth” as a part of “countermeasures to the falling birth rate”.

For example, in 2013, the “Task force for breaking through the fertility crisis”, a special council organized by the Cabinet office, proposed to give out a “notebook for life and woman” only to every teenage girl but not to any boys. The notebook was planned to indicate “the adequate age for pregnancy and childbirth” in order to “stop the tendency for people to marry and give birth later”. Yet the plan was later abolished, as a number of women in Japan strongly opposed to it.

The second example is a supplemental textbook for health classes of senior high schools published in 2015. This book was distributed reflecting the “Outline of Measures for the Low Birthrate Society” that was decided by the Cabinet on March 20 of the same year, and a graph that shows that “female fertility peaks at the age of 22” was inserted into it. It was later proved that this graph was actually falsified without any scientific grounds. Eventually, the Ministry of Education, Culture, Sports, Science and Technology corrected the graph, after a lot of women and scholars strongly protested against it. This supplemental textbook is problematic for other reasons as well. For instance, every “life plan” introduced in this book contains marriage and childbirth, which shows a lack of respect and recognition towards a life celebrating sexual diversity as well as a life without a child.

In addition, the Prime Minister is now upholding even a numerical target to increase total fertility rate to 1.8.

Such developments by the government amount to interference of the right of woman to make decisions regarding sexual and reproductive health, which was acknowledged in 7.2 and 7.3 of the Programme of Action of International Conference on Population and Development. It is particularly impermissible that the government tries to guide young women towards marriage and childbirth through educational spaces.

(b) The rate of contraceptives use

According to the “State of World Population 2015” by the United Nations Population Fund, the contraceptive prevalence rate for women aged 15 to 49 in Japan is 57% for “any method” and 50% for “modern method”. Both of

these rates remain more than 10 points lower than the average of “More developed regions”, which is 70% and 61% respectively.

The “5th Research on life and awareness of men and women (Dai 5 kai Dan-jo no Seikatsu to Ishiki ni kansuru chousa)” published in 2011 provides other data on rate of contraceptive use. Out of both men and women who have experienced sexual intercourse, 37.8% “always use contraceptive measures”, 19.1% “occasionally use contraceptive measures” and 17.8% “never use any contraceptive measures”. In terms of methods, 85.5% use condom for male, 15.9% try extravaginal ejaculation (coitus interruptus), 3.4% use birth control pills and 3.2% use Ogino method.

These rather low rates in contraceptive use are one of the results of the insufficient sex education in Japan.

Women with disabilities who had been subjected to forced sterilization

The Eugenic Protection Law, which was in force until 1996, included provisions for the sterilization of people with disabilities without their consent, and available statistics reveal that at least 16,477 people were subjected to this provision by 1996, 68% of whom were women. The UN Human Rights Committee issued a recommendation to the Japanese government in 1998 calling for a law to provide compensation for women with disabilities who had been subjected to forced sterilization (Concluding Observations, CCPR/C/79/Add.102, paragraph 31). However, the government failed to adopt the required legal measures, and has neither carried out investigations nor provided compensation.

In 2015, in a protest against the government, which has failed to provide compensation or apologies, a woman (now 69 years of age) who underwent forced sterilization without being informed when she was 16 years old lodged an appeal for the restoration of her human rights with the Japan Federation of Bar Associations.

The mental and psychological health of women

As for governmental data in regard to mental and psychological health of women, a statistic on ‘Depression and other mental illness’ in the “Comprehensive Survey of Living Conditions” by Ministry of Health, Labour and Welfare and the ‘Statistic on Mental Disabilities by Gender’ in the “Annual Report on Government Measures for Persons with Disabilities” by the Cabinet Office provide population numbers with mental illness and disabilities by gender. According to the former, the number of women who visit doctors due to depression or other mental illness amounts to 860,000 in 2013, exceeding the number of men, which stands at 645,000. Likewise, the latter shows that the number of women with mental disabilities is 1,851,000 in 2014, which exceeds the number of men, which is 1,350,000.

It is assumed that the adversary effects of violence and/or discrimination against women may cause such differences by gender in the number of affected individuals, as pointed out in General Recommendations 19, 21 and 24 made by the CEDAW Committee. However, the government has not conducted comprehensive research and/or analysis to see if gender based discrimination and/or violence is the reason for the relatively larger number of women with mental illness or mental disabilities compared to men.

[Proposed Recommendations]

- The government should provide comprehensive and appropriate information on sexual and reproductive health and rights including information on sexual intercourse as well as on contraceptive measures, and ensure the accessibility to such information for all generations including children.
- The government should stop interfering with education in a manner that induces women to give birth at early age.
- Based on a recommendation from the United Nations Human Rights Committee, violations under the former Eugenic Protection Law should be immediately recognized as human rights violations, and investigated by a special commission, following which apologies should be offered and compensation paid.
- The government should recognize the importance of mental and psychological health of women, conduct research focusing on gender and take appropriate measures based on that research.

■ Paragraph 17: Health “After the Fukushima Dai-ichi nuclear power plant accident”

Related Article : Article 12

The Committee is informed that the State party plans to lift the designation as evacuation zones of

contaminated areas with radiation exposure levels under 20mSv/year. It is also informed that: a) health examinations related to the nuclear disaster in Fukushima are limited to thyroid examinations and are only for residents of Fukushima Prefecture; and b) free medical treatments are limited to children under 18 years of age in Fukushima Prefecture. Please indicate the impact of such measures on the health of women, including pregnant women.

Article 12: On the Protection of Rights to Health of the women, girls and pregnant women after the Fukushima Dai-ichi Nuclear Power Plant Accident

[Current Situation]

1. Preface

The contamination by the radiation released from the Fukushima Dai-ichi Nuclear Power Plant Accident is still severe. The effects from the accident have continued and radioactive substances continue to spread.

However, the Japanese government has not taken sufficient measures in order to prevent risks to the health of women, girls and pregnant women who reside near the Fukushima Dai-ichi Nuclear Power Plant.

2. UN Recommendations

On May 2013, Anand Grover, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, made concrete and detailed recommendations to the Japanese government in order to improve the situation surrounding the victims' right to health after the nuclear accident (A/HRC/23/41/Add.3).

The recommendations cover a wide range of issues, but regarding health monitoring, he made following recommendations:

“Formulate a national plan on evacuation zones and dose limits of radiation by using current scientific evidence, based on human rights rather than on a risk-benefit analysis, and reduce the radiation dose to less than 1mSv/year;”

“Continue monitoring the impact of radiation on the health of affected persons through holistic and comprehensive screening for a considerable length of time and make appropriate treatment available to those in need;”

“The health management survey should be provided to persons residing in all affected areas with radiation exposure higher than 1 mSv/year.”

He also stated that “[a]s the possibility of adverse health effects exists in low-dose radiation, evacuees should be recommended to return only when the radiation dose has been reduced as far as possible and to levels below 1 mSv/year. In the meantime, the Government should continue providing financial support and subsidies to all evacuees so that they can make a voluntary decision to return to their homes or remain evacuated.”

In addition, in 2014 the United Nations Human Rights Committee made a recommendation that the Japanese government “should take all the necessary measures to protect the life of the people affected by the nuclear disaster in Fukushima and lift the designation of contaminated locations as evacuation areas only where the

radiation level does not place the residents at risk. The State party should monitor the levels of radiation and disclose that information to the people affected in a timely manner.” (CCPR/C/JPN/CO/6, para.24)

However, the Japanese government fails to take any of these recommendations into account, and its measures are seriously insufficient.

3. Effects on Health

(1) Insufficient Measures

Despite Mr. Grover’s recommendations, the Japanese government has not taken sufficient measures in order to implement health check surveys or to provide medical care to everyone who needs it.

As the Committee points out, the implementation of detailed health check surveys for the victims of the nuclear power plant accident is limited to thyroid examinations for children who are residents of Fukushima Prefecture.

Although it is pointed out that women and girls have higher sensitiveness to radiations compared to men (the WHO 2013 report points out that as to the future prospects, girls have higher risks of developing thyroid cancer compared to boys), there are no specific consideration or measures taken regarding the sensitivity towards radiation or the lifelong risk of developing cancer.

In addition, among residents of Fukushima Prefecture, medical fees are waived only for those under 18, and the residents who are 18 or over have to pay for the medical services they receive. As to residents of the neighboring prefectures, there are neither thyroid examinations for children nor free medical services for both adults and children.

(2) Insufficient Surveys/ Research on the Current Situations

As previously mentioned, since no detailed surveys have been carried out regarding the health risks other than thyroid cancer, comprehensive health effects on women, girls and pregnant women have not been fully grasped. Hence, to begin with, comprehensive research on the health effects for women and girls should be carried out.

(3) Surveys on Thyroids

Fukushima Prefecture is carrying out thyroids examinations for children under 18, and many have been diagnosed with thyroid cancer or are suspected to have thyroid cancer.

As the result of the health survey in Fukushima from 2011 to 2013, 113 children under 18 have been either diagnosed or suggested with thyroid cancer. Among them, 38 were boys and 75 were girls. According to the second survey conducted in 2014, 39 children under 18 have been either diagnosed or suggested with thyroid cancer. Among them, 16 were boys and 3 were girls.

The fact that the 2014 survey found new thyroid cancer among the children who were not diagnosed by the first survey from 2011 to 2013 highly suggests that these new symptoms are caused by radiation. However both Fukushima Prefecture and the government deny the view that they are caused by radiation, and underestimates the risks of radiation.

(4) Surveys on Pregnant Women

According to the surveys on pregnant women conducted by Fukushima Prefecture, there are no differences found compared to other prefectures regarding abnormalities in childbirth. However, the tendency towards depression is 25% or more among pregnant women in Fukushima. And the results show that the majority of the causes for depression is related to health of children and themselves as well as concerns for radiation.

It can be suggested that the mental health [of pregnant women] is damaged as they are mentally broken down due to the lack of sufficient measures regarding the health effects of the nuclear accident.

As previously mentioned, it must be pointed out that there is a possibility of overlooking serious health risks because of the confined selection of the subjects and contents of the health surveys, the lack of measures to provide free access to medical services, and the underestimation of the damages. This can be a serious issue all the more when we see the shift of the rates of thyroid cancer symptoms.

4. Lifting of the Evacuation Area

In 2013, the Japanese government restructured evacuation areas and designated areas where its annual cumulative radiation dose exceeds 50mSv/year and cannot be expected to go under 20 mSv/year after five years as “difficult-to-return areas.” In 2015, the government decided to lift evacuation orders for all evacuation areas except for the “difficult-to-return areas” by March 2017. Due to the decision, TEPCO’s compensations for evacuees residing in the areas except for the “difficult-to-return areas” will be terminated.

In doing so, the aid that came along with the evacuation is going to be cut off, and the citizens who are economically disadvantaged will have no choice but to return to the contaminated areas and to reside there again.

Regarding this decision, no considerations were taken into account regarding the opinions of women, girls or pregnant women who are going to be affected.

On the other hand, the government has failed to provide sufficient support and compensations for residents who had evacuated from non-designated areas, and its support was limited to providing free housing for them. However, the government even decided to terminate the housing support in March 2017. Once more, no opinions of women, girls or pregnant women that are going to be affected have been taken into account.

Such decisions constitute de facto enforced return to areas where the annual cumulative radiation dose exceeds 1 mSv/year, and thus jeopardize rights to health of affected women and girls.

[Proposed Recommendations]

As stated above, despite the recommendations made by the UN, the government’s measures to guarantee the right to health of women and girls affected by the Fukushima Dai-ichi Nuclear Power Plant Accident is seriously inadequate, and is threatening the right to health of the affected women and girls. As to the effects of low dose exposure on the human body, diverse research has been done recently, and the Japanese government should fundamentally change its health policies on the grounds that even low level radiation poses risks to health and that children and pregnant women are more prone to the adverse effects.

As the Grover’s Recommendations points out, the government should take the following measures.

- To lower the annual cumulative radiation dose to 1mSv/year or less.
- Evacuees should only be recommended to return when the annual cumulative radiation dose level is under 1mSv/year, and that during the evacuation period, the government should continue to provide all the evacuees with support necessary to sustain their lives as evacuees with decent human dignity.
- To refrain from lifting the evacuation orders or terminating compensation payments against the will of the residents.
- To carry out health check surveys for all residents living in areas where they will be exposed to radiation of 1mSv/ year or more.
- To implement a long-term survey method that is overall and comprehensive and to provide necessary treatments for free of charge.
- To introduce detailed health monitoring for women, girls, and pregnant women.
- To reflect the will of women and girls that will be affected throughout the whole policy decision process.

■ **Paragraph 18:** National disasters

Related Article – Article 2

Please indicate whether the State party has incorporated a gender perspective into national disaster management and in relief and recovery strategies and indicate the measures taken to ensure the equal participation of women at decision-making level of natural disaster management.

•The efforts to incorporate the perspective of gender-equality into all phases of disaster risk reduction processes and support strategies for reconstructions

[Current Situation]

(1) As stated in the Seventh and Eighth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women(CEDAW), "Basic Policy for Reconstruction from the Great East Japan Earthquake" established in June, 2011, incorporated fundamental elements of the gender-equality perspectives, and it stated that the inclusion of diverse opinions of women, children, and persons with disabilities are to be fully reflected and engaged in the disaster risk reduction processes. We also welcome policy changes the Japanese Government made after the 2011 Great East Japan Earthquake, such as the revision of the "Basic Plan for Disaster Management" and the formulation of a new guidelines for disaster management efforts from perspectives of gender-equality and diversity in May 2013. We also identified some achievements Japanese Government made during the processes toward the final outcome document of the 3rd UN World Conference on DRR (March, 2015), "Sendai Framework for the DRR 2015-2030."

(There is still insufficient comprehension of the need for gender-equality and diversity in DRR programs.) The "Basic Principle" of "Disaster Countermeasures Basic Act is a key to disaster countermeasures. The basic principle, however, made no mention of the respect to the gender-equality and diversity. This would be a critical obstacle to promote gender mainstreaming in DRR programs.

While "Basic Policy of Disaster Reconstruction," and "Basic Guidelines of Disaster Reconstruction" which had been established based on the Basic Policy stipulated the above perspectives, however, the responsible office of Reconstruction Agency is far from effective to carry out reconstruction measures. The Japanese Government established the Reconstruction Agency in 2011, and set up gender-equality task forces which NGO groups had requested. However, its system has been insufficient to implement workable measures to mainstream gender in

disaster risk reduction programs. It is dispensable to obtain the necessary budget to improve reconstruction works, and to increase the number of personnel and the assignment of full-time staff. It is also necessary that the office's function is further enhanced, and its authority would be strengthened. It is important to eliminate the effect of vertically divided administrative functions. The development of cross-cutting and inclusive system would be needed in order to promote the gender-equality and diversity at all levels of disaster risk reduction practices.

(2) In order to get a better understanding of the situation of affected people and the recovery, data by sex and age should be accessible. However, the data concerning numbers of affected people by sex and age about 2011 Great East Japan Earthquake were not yet released to the public. "Basic Policy of Disaster Reconstruction" which was formulated in July, 2011, has 12 items on gender-equality and women-related policies. The situations of implementation and accomplishments should be released to the public without any further delay. It should be also important that the government makes the information available to the public regarding consideration for older people, disabled people, and other diverse people such as those who do not speak Japanese.

• **Measures to ensure women's equal participation in decision-making in DRR process for natural disaster**

(3) The proportion of women involved in decision-making processes is extremely low in Japan. The situation in disaster management is not an exception. Although the government set the target of the proportion of women in the decision-making processes at 30% by 2020 in all areas, it remains low in most fields. In the area of disaster prevention, thanks to the amendment of "Disaster Countermeasures Basic Act" in 2012, the figures have been increasing. For example, the proportion of women at the national/local Disaster Management Councils had increased from 3.5% in 2011 to 12.1% by 2014, and the number of the Councils with no women member had become 0 in 2013. However, increasing the number of women leaders to 30% by 2020 remains a dream. Further efforts to achieve target is necessary to be done (*according to the government*) through the positive action.

(4)

1. For the future, it would be important that the efforts would be made to promote a better understanding and to improve people's perception about the issue of gender among members of Disaster Management Council, as well as men and women working on disaster reconstruction and management.

2. In order to promote the integration of principles of "Sendai Framework for DRR 2015-2030" into domestic policy measures, it would be necessary that the training on disaster and gender for leaders, as well as men and women working on DRR programs should be carried out in an organized way with continuous planning.

At the 3rd UN World Conference on DRR, Women's Major Group (WMG) publicly confirmed that gender-equality, and the respect to women's human rights are the fundamental elements in disaster risk reduction." WMG made recommendations to achieve women's participation in all phases of disaster risk reduction; and to value and respect contributions brought by women in DRR practices.

Japan is ranked 101th out of 145 countries in 2015, in the GGGI (Global Gender Gap Index estimated by World Economic Forum). In response to WMG's recommendations, it would be essential that Japanese Government has a

strong political will to eliminate gender gap and to make our society truly gender equal. Government's policy measures to achieving gender-equality should be achieved both domestically and internationally.

■ **Paragraph 19:** Disadvantaged groups of women

Related Article- Article 2, Article 5

Please indicate whether the State party envisages adopting a comprehensive law and/or regulations to ensure a gender-sensitive approach to address the needs of refugee and asylum-seeking women and girls. Please indicate whether the State party considers recognizing gender-related forms of persecution as legitimate grounds for asylum. Please also indicate whether alternatives to detention of asylum seekers are implemented, as provided for in the Immigration Control and Refugee Recognition Act, in particular for asylum-seeking women who have specific needs. Please also indicate the measures taken to address the overcrowding in some detention facilities, including women's prisons.

[Current situation]

The Immigration Bureau of the Ministry of Justice established a Working Group on the Refugee Recognition System under the 6th Immigration Policy Discussion Panel in October 2013. The Report of the Working Group submitted to the Minister of Justice in December 2014 pointed out that the interpretation of the Refugee Convention by the Japanese government was restrictive, and that the government should examine the possibility of fear of persecution arising from gender-related issues. The report, however, mentions only FGM as a gender-related form of persecution.

The 5th Basic Plan for Immigration Control was published on September 15, 2015 based on the above Report as well as the Final Report of the Immigration Policy Discussion Panel. The Plan, however, did not indicate any concrete measures on interpreting the definition of refugees according to international norms. It also did not mention any gender-related forms of persecution. Regarding new forms of persecution, it merely states that the refugee examination counselors would submit proposals to the Minister of Justice. There is only a limited number of experts on the Refugee Convention or on international law among the refugee examination counselors. It is unlikely that the counselors would be able to submit proposals on measures to appropriately examine the forms of gender-related persecution in the refugee recognition procedures as well as on the application of the UNHCR guidelines and conclusions of the Executive Committee.

Consideration on gender-related matters is also insufficient during the recognition procedures. During the primary examination process, interviews to women seeking asylum are supposed to be conducted by female inquiring officers, but the presence of doctors or lawyers is not recognized. Interviews held after filing an objection to the refusal of recognition would be conducted by a 3-member panel of refugee examination counselors, composed of both men and women. There are no panels consisting only of women. A female victim of torture requested an interview with a women-only panel, but her request was denied. Also, it is unclear whether inquiry officers or refugee examination counselors have received appropriate training on gender-related issues.

A female asylum-seeker, who was a victim of torture and sexual violence, and suffering from PTSD, was not recognized as a refugee in the primary examination, even though she still had clear injuries all over her body. After she appealed, it took approximately 5 years until she was interviewed, and as a result, it took 7 years until she was granted a special permission to stay due to humanitarian considerations.

While the UNHCR guidelines states that trafficking involving forced prostitution or sexual exploitation may be grounds for refugee applications, there was a case where a woman who had been forced to enter a mistress contract with a particular person by a family member since she was a minor and later engaged in forced prostitution filed an application for refugee status based on the ground that she was a victim of trafficking involving forced prostitution. But she was denied recognition as a refugee in the primary examination. In this case, only one woman was included in the three refugee examination counselors who interviewed upon appeal and a male examination counselor made remarks lacking consideration on the terrible experiences of the applicant.

The government provides applicants for refugee status with financial assistance to cover living and housing expenses, but it takes 3 to 4 months before the application is approved, during which the applicant receives no assistance for housing. Many applicants from African countries stay with people from the same countries they came from until they receive assistance, but there are many cases of women who are forced to have sexual relations in return for being allowed to stay. She would be later turned out of the house and be single mothers. Government assistance does not cover childbirth expenses, and even when the mothers manage to join the health insurance scheme, they would be left with debts of approximately 200,000 yen.

The Japanese government's principle in its immigration policy is "indefinite detention of all violators." When a deportation order is issued, alternative measures are not taken unless a "provisional release" is granted, even for women. The period of detention in general is long, lasting for around a year.

[Proposed Recommendations]

- * Measures must be taken so that persecution of women and sexual violence against women in situations of conflict or generalized violence would be taken into consideration appropriately in the interpretation of the Convention relating to the Status of Refugees and be applied in the procedures examining the recognition of refugee status by the Japanese government. In doing so, reference must be made to the international norms including guidelines issued by UNHCR and conclusions of the Executive Committee of the UNHCR.
- * Consideration on gender aspects including mental health care and addressing special needs must be taken without fail in the procedures for recognition of refugee status.
- * Training on gender-related forms of persecution should be provided for inquiry officers and refugee examination counselors who examine the applications for refugee status. Training to acquire knowledge and skills needed to interview applicants for refugee status suffering from the effects of torture and trauma should be provided.
- * Assistance for women applying for asylum in Japan should be promptly provided. In particular, measures should be taken to provide safe housings.
- * Unnecessary detention should be avoided, and alternative measures should be taken. In particular, women with special needs, such as victims of violence or those with mental illness should not be detained.

■ Paragraph 20-1: Disadvantaged groups of women "older women"

Related Article—Article 3, 13 General Recommendation No.27 of CEDAW

Please provide updated information on access by older women, migrant women, minority women, including indigenous women, women with disabilities and rural women to all rights covered under the Convention. Please provide, in particular, information regarding sexual violence against women with disabilities, and on measures taken to provide shelters for women with disabilities and older women victims of abuse. Please

provide information on measures taken to address the feminization of poverty, including the higher rate of women in poverty among older women and female headed households. Please also provide information on measures taken, including through the establishment of a policy framework and the adoption of temporary special measures, to eliminate discrimination against minority women and to appoint minority women representatives to decision-making bodies.

[Current situation]

1. Low or no pension benefits is the reason of the poverty among older women.

The poverty rate among female single households at ages from 70 to 79 is as high as 46.3 %. Women's average pension benefit is about 50% of men's and it is far from the amount necessary to enable older women to live independently. This is the reason of the growing poverty among older women. The large wage disparity between men and women causes their pension gap.

Of those who have only the Basic Pension Plan, 76% are women. It is so hard for them to pay the high insurance fees for the long duration needed, that many of them receive low payments or none. It is a big problem that the Government has conducted no surveys on pensioners with low benefits or no benefits, with their results to be included in the policies for them.

The Government plans to increase insurance fees until 2017 with the benefits to be reduced for 30 years to come due to financial difficulty. The pension income will be further decreased with this plan.

The general recommendation No.27 of CEDAW says, "States parties should provide adequate non-contributory pensions on an equal basis with men to all women who have no other pension or insufficient income security" (para.44). The Committee on Economic, Social and Cultural Rights recommended Japan in 2001 and 2013 to realize the "correction of the pension disparity between men and women" and establish a "minimum pension benefit". The Government should implement these recommendations.

2. Violation of the right of older women to receive necessary medical and nursing care

1) The Seventh and Eighth Periodic Reports write, "effort will be carried out for the establishment of high-quality medical and nursing care infrastructures" (para. 133). However, the government's policy is to reduce the public expenditure by the commercialization of public services including social welfare. Therefore, the reduction of public medical and nursing care services and increase of user fees violate the right of low income elderly women to receive necessary services.

The medical insurance system for the elderly 75 and over, introduced in 2008, is very discriminatory, as it separates the elderly from the ordinal health insurance, increases their fees, and leads to the deterioration of their medical treatment. Moreover, continuing changes in the medical system for the worse harm older women, such as by increase of medical expenses, boarding charges of recuperating patients and so on.

The Government should abolish this system following the general recommendation No.27; "States parties should adopt a comprehensive health care policy for the protection of the health needs of older women (...) to ensure affordable and accessible health care to all older women through, where appropriate, the elimination of user fees for them (...)" (para.45).

2) The Seventh and Eighth Periodic Reports write, "the long-term care insurance system is steadily becoming established as a system underpinning the daily lives of the nation's elderly" (para. 137). But in reality, people in

need of care cannot have satisfactory services because of the too expensive fee, unjust benefit restrictions, and shortage of facilities and staff. In fact, every time the long-term care insurance system was amended, the benefits have been drastically reduced. Burden on the users was increased, users with lighter disabilities refused of their services, and duration and contents of the provided services lessened.

Of the 6 million people certified as requiring care, over 1 million do not use the services from the long-term care insurance system as of January 2015. Some of them cannot bear the high fees of services, but the Government has conducted no national surveys on the certified people at home.

The Reports write also, "The long-term care insurance act system was revised to establish Regional comprehensive care system" (para. 137). The Regional comprehensive care system aims to promote in-home care in order to reduce the expense of the long-term care insurance. By this revision, 170 thousand people will be removed from the waiting list for intensive care homes for the elderly; 520 thousand are on the list at present.

Women make up 60% of those who care for family members at home, 70% of those who are certified as requiring care and 80% of care workers. It means the policy of the long-term care affects women very much. Though Japan, as an aging society, needs to increase care staff, nursing homes suffer from constant labor shortages even now; turnover rates of employees at such facilities are high due to poor working conditions, including low wages and longer working time.

The average wage of care workers is lower than that of all the workers by 100,000 yen. The decrease in care remuneration standards in April 2015 has affected seriously on the management of nursing-care establishments. Increasing the wage of care workers should become more difficult.

The number of those who have to leave work to care for family members is over 100,000 per year, and many of them are women. Lack of public care service violates also the women's rights to work. The Government announces "We'll nullify those who have to leave work for family care burdens," but it is without any concrete measures. Since it plans to decrease nursing homes and beds in hospitals to reduce the budget of social welfare, more people will leave work for family care.

3) More than 70% of elderly victims of abuse either in institutions or at home are women. In cities, towns and villages, the percentages of cases such as notification, counseling and confirmed abuse are higher when some abuse prevention networks among the concerned institutions of health and medical welfare and the professionals are constructed (Ministry of Health, Labor and Welfare 2013 FY).

It is necessary to strengthen coordination among institutions concerned and professionals for the prevention of and countermeasures against abuse of older women, and to establish shelters aiming for the protection of older victims of abuse.

3. It is necessary to increase the budget for social welfare and enhance public services.

Women in Japan live long, but it is necessary to increase the budget for social welfare and enhance public services such as pension, medical care and nursing care, to guarantee that they live with dignity.

■ **Paragraph 20-2:** Disadvantaged groups of women "women with disabilities"

[Current Situation]

1) Updated information on access by women with disabilities to all rights covered under the Convention

While government policy plans have begun to mention that women with disabilities face compounded difficulties (Reports of State Party, paragraph 128), specific measures and policies have yet to be drawn up. In addition, there is an extreme paucity of gender-based data in statistics on persons with disabilities, and this lack of gender statistics, which are indispensable for policy making, is a serious problem. As a state party to the Convention on the Rights of Persons with Disabilities, Japan is urged to take appropriate measures by highlighting this issue. As such, we would like to report on current conditions as found and investigated by NGOs.

Of the 28 members of the Cabinet Office's Second Commission on Policy for Persons with Disabilities (CPPD), only two are women with disabilities. These two members are continuing to voice their opinion that more women with disabilities should be included on the Commission, but no progress has been made on this point. NGOs have been demanding that more than half of the members of any committees or advisory bodies regarding persons with disabilities should be persons with disabilities, and one third should be women with disabilities. There are efforts being made to gain participation of women with disabilities in local municipalities, and there are cases where these views are reflected in local municipality ordinances and basic plans for persons with disabilities. (Examples are the Okinawa Prefecture ordinance, the Kyoto Prefecture ordinance, the Hyogo Prefecture basic plan, etc.) At present, none of the 717 national Diet members are persons who have disabilities. There are a few members who have disabilities among the roughly 35,000 assembly members in local assemblies, but women assembly members with disabilities number less than ten.

Furthermore, according to a gender balance survey that was conducted by organizations of persons with disabilities in 2010, even among NGOs playing an active role in the protection of human rights of persons with disabilities, 78.8% of the heads of the organizations were men and 15.2% were women, indicating that the movement of persons with disabilities is being led by men with disabilities (DPI, *A Voice Of Our Own*, 26-3, p.54).

Looking at social activities (CEDAW Article 13, Economic and Social Life), at the most recent Summer Paralympic Games, held in London in 2012, the proportion of women in the total number of athletes was 35%, and at the Winter Games held in Sochi in 2014, this proportion was 24% (Journal of the Nippon Foundation Paralympic Research Group, Vol. 1). Moreover, the gender ratio of coaches in competitive sports of persons with disabilities was 72.5% male and 25.8% female (Yamaha Motor Foundation for Sports, *Survey on the Sports Environment Surrounding Japan's Paralympians*). While it is not possible to make a simple comparison between the Olympic Games and the Paralympic Games due to the differences in the types of events held, it can be seen that, even among persons with disabilities, there are a large number of issues regarding women's participation in sports.

In terms of education, Japan has mostly segregated education, not inclusive education, and there are issues of the non-existence of gender statistics of schoolchildren in special classes in ordinary schools in addition to the fact that there have been no surveys of children with disabilities in ordinary classes. Looking at the special schools, out of a total of 19,576 graduates of special high schools, the trend is for there to be more males (35% of graduates were females and 65% were males). Of a total of 418 students going on to higher education, such as universities, while the general advancement rate is around 50%, it is extremely low for persons with disabilities at 2.1%, with

2.7% for women and 1.8% for men, which is not only an extremely low level but is also on a downward trend. Out of a total of 5,557 persons finding employment (employment rate 28.39%, the employment rate for those graduating from ordinary high schools being around 17%), 25.9% were women and 29.7% were men, and both figures are rising. Thus, the rate of women's educational advancement is slightly higher than that for men, while the employment rate is slightly lower. The above figures are from the Ministry of Education, Culture, Sports, Science and Technology's (MEXT) Basic Survey on Schools for March 2014. Survey statistics on persons with disabilities enrolled in universities do not show data by gender.

For employment, the questionnaire titled "Survey on the Employment Situation of Persons with Disabilities," which follows the Act on the Promotion of the Employment of Disabled Persons in Japan, does not ask respondents to indicate their gender. Therefore, it has been impossible to discern the employment situation by gender from government statistics. Each basic plan, including basic plans for persons with disabilities, for public statistics, and for gender equality, have mentioned the need for gender statistics, and even though this has been pointed out by organizations that include the Statistical Commission of the Cabinet Office, there has been no improvement.

While there is no great gender difference seen in the working hours of persons with disabilities, the ratio of regular employees for men with disabilities is 60.5%, whereas that for women with disabilities is 24.5%, indicating a clear difference in employment status (2003). There is also a disparity in the average monthly wage (2013), that for men being 175,000 yen and for women 140,000 yen (Re-tally of the Ministry of Health, Labor and Welfare's [MHLW] five-yearly Survey on the Employment Situation of Persons with Disabilities (2003) and calculated from the latest 2013 survey).

In single households of persons with disabilities, the gross annual income, including income from employment, is 920,000 yen for women, roughly half that for men (1,740,000). Compared to the income for all employed people, men receive only 42.5% and women 33.9%, an extraordinarily low level. Around 70% have an annual income from employment of 990,000 yen or less, and around 50% receive less than 500,000 yen (from the National Institute of Population and Security Research Survey on Two Cities, 2005-2006). Women's employment rates are low compared to men, and their monthly incomes are lower, with 52.9% of women receiving monthly incomes of 50,000 to 100,000 yen, according to one recent prefectural survey (Hyogo Prefecture Basic Plan for Persons with Disabilities from FY2015).

There are also serious issues in the health sector. There is a predisposition on the part of society to regard women with disabilities as neither a sexual nor a reproductive being and as people, who, as women, are in some sense inferior. Women with disabilities also experience insensitive treatment and discrimination on a daily basis, such as in bathroom assistance from persons of the opposite gender and mixed-gender rooms during hospitalization. Medical, health and welfare organizations related to pregnancy, birth and child rearing are almost totally unprepared for the use of facilities by women with disabilities. These women are often placed in an even more difficult situation by the refusal to give treatment or by negative attitudes. With regard to the system of provision of health and medical services, the gathering and provision of information and the establishment of systems for consultation, sufficient measures have not been taken from the viewpoint of a reasonable accommodation for women with disabilities. Barriers also exist in terms of examination equipment and facilities' environments.

[Proposed Recommendations]

- In order to ensure access to all rights provided for in this Convention, the need to make efforts to address the issue of multiple forms of discrimination against women with disabilities should be clearly provided for in laws (in each of the basic laws as well as in the Act on the Elimination of Discrimination against Persons with Disabilities, Act on the Prevention of Abuse of Persons with Disabilities, etc.) and in plans that should be formulated and implemented to make this a priority issue.
- With regard to all areas, including employment, where efforts are especially delayed, but also in education, health, violence and so on, in order to gain an accurate understanding of the current situation of women with disabilities, statistics on persons with disabilities should be upgraded to provide gender statistics with the data so that the information gathered can be used to gain a true understanding of the situation by gender.
- Establish an environment where women with disabilities can work under a situation which provides reasonable accommodation for people with disabilities.
- In order to have the views of women with disabilities reflected in measures and policies, having first placed members related to work with persons with disabilities in the majority on committees and councils on persons with disabilities, the proportion of women among the members with disabilities should be at least 30%.
- In residential facilities and so on, same-gender assistance should be made standard practice, and education about multiple forms of discrimination against women with disabilities should be included in the training curricula for staff and employees providing educational, employment, medical, health and other services. This training should include staff and employees of consultation rooms that deal with abuse and violence.
- Provide appropriate sex education and take necessary measures such as developing contraceptive methods and pelvic examination tables that are easy for persons with disabilities to use, and reform facility environments so as to make them barrier free, etc.

2) Sexual violence against women with disabilities

Official survey statistics on sexual violence against women with disabilities do not exist. However, according to responses to a questionnaire survey conducted by DPI Women's Network in 2011, the dominant response was that those surveyed suffered sexual abuse, with 35% stating that they had experienced sexual violence. The responses indicate that the offenders were their bosses at work, teachers or staffs at school, service providers at welfare facilities or healthcare settings, caregivers and family members at home. There are some cases where, for women who have intellectual disabilities, it is difficult for them to have their testimony accepted. Some offenders may take advantage of certain characteristics of women with disabilities, such as the inability to escape, counter sexual abuse or identify offenders by voice or physical appearance. Thus, women with disabilities, while being denied the right to sex and reproduction, are also exploited for sex.

[Proposed Recommendations]

The government should:

- Gain an actual understanding of sexual violence against women with disabilities.
- Make consultation contact points accessible for women with disabilities so they can consult in a variety of different ways.
- Create opportunities for women with disabilities to receive sex education, education for preventing sexual violence, and so on.
- Create opportunities for the staff of welfare facilities and teachers as well as school staff to receive training to learn about and make efforts toward the prevention of multiple forms of discrimination, including sexual

abuse, against women with disabilities.

3) Shelters for women with disabilities

Data on persons with disabilities who have experienced domestic violence has not been collected, but, of persons with disabilities who have been abused, 62.9% are women (FY2013 MHLW Report). Public shelters for domestic violence victims exist, but the upgrading of conditions for use by women with disabilities (elimination of barriers within the facility, a system for assuring bathroom assistance, the securing of interpretation facilities, etc.) has not been made an issue and is delayed. Many municipalities refer women with disabilities who have become victims of abuse or domestic violence to social welfare facilities. As it is possible for anyone to gain access to social welfare facilities, it is easy for the perpetrator to find the location of the facility concerned and thus the safety of the victim cannot be assured. There is also a problem for people who reside in social welfare facilities in that they are often abused by the staff and others in the facility.

[Proposed Recommendations]

The government should:

- Gather and maintain basic data on domestic violence against women with disabilities.
- Carry out and make the necessary system adjustments to implement the elimination of barriers within facilities and provide appropriate personnel support for assistance and interpretation to make it possible for women with disabilities to use public shelters.

■ **Paragraph 20-3:** Disadvantaged groups of women “Rural women”

Related Article– Article 12

[Current Situation]

The population in agriculture fell from 5,430,000 in 1985 to 2,270,000 in 2014. During the period, the number of women in agriculture decreased from 3,230,000 to 1,140,000. More and more farmers went out of business due to the financial difficulty in farming, mainly promoted by the liberalization of the agricultural market under the WTO Agreement, with no public policy assistance such as direct income support.

Women account for half of the agricultural population, in fact, the share of women in their 40s to 60s is higher than that of men. According a 2013 survey in Hokkaido, which has a relatively larger number of full-time farmers, 66.3% of female farmers worked more than 9 hours a day, 34.6% of which worked more than 11 hours, up from the ratios in 2007. In busy farming seasons, the hours of housework tend to be longer, 3 to 5 hours a day. Meanwhile, most of the spouses of the female farmers (62.8%) spent no time on housework, and the ratio is on the rise. This shows women take on most of the burden of domestic duties since longer work hours, caused by the economic difficulty in farming prevent male farmers from doing housework.

The ratio of women in agricultural committees is only 6.3%. Women in rural areas are working longer, with some of them having a second job, and doing housework and childcare. Thus, financial hardship, and longer work hours and housework make it hard for women to take part in decision making. The legal revision in 2015 abolished the public election system for agricultural committee members and enabled municipality mayors to appoint them. Also, the revision allowed farmers living in other areas and corporate representatives to be committee members on condition that more than half of the members were made up of certified farmers²⁰. Concerns are growing as the

²⁰ Certified farmers: farmers certified by municipalities based on their plans to enhance farming and to rationalize production and

legal revision to admit farmers in other areas and corporate representatives to enter the committees makes it difficult for female farmers with no certification to be appointed as a committee member.

Of the total number of women in agriculture, only half receive payment. Although the Japanese government promotes the Family Management Agreement, only 3.7% of the total farming households conclude the agreement. The agreement isn't legally binding and nearly half of the annual incomes of the farming households under the agreement are low: 600,000 yen to 1.2 million yen. Thus, in reality, women spend their incomes on living costs and farming expenses, showing that the agreement fails to contribute to the improvement of women's economic status in rural areas. Also, female farmers have no income certificates since Article 56 of the Income Tax Act doesn't admit the payment given to family members working for self-employed business as income.

The average age of farmers is 65.9. The aging and declining population in rural areas has made local hospitals and schools disappear, denying rural people the same access to services for education and health as urban residents.

As the national health insurance program, covering most of the farmers, provides no compensation benefits for absence from work (injury, sickness and maternity allowances), female farmers suffer from health problems, caused by insufficient rest at the time of sickness, injury, or before and after delivery. (This is the case for the following working women: self-employed women including general practitioners, women working for self-employed family business, part-time female workers) Rural women demand that the national health insurance system should include injury, sickness and maternity allowances and the system to offer home helpers should be established to ensure days off. The existing system to enable livestock farmers to be absent from work by sending "helpers" to them is now difficult to continue due to the decreased number of farmers. Farmers are required to join the national pension program. However, the program pays an average of less than 50,000 yen a month, too low to live without help from others. There is an additional public pension program for farmers but as its premiums are too high, participants are only about 110,000 (5% of the total farmers, 30% of which are women).

The Government has never conducted any surveys on rural lives since its survey on gender equality in rural areas in 2001. Surveys on rural women in all of Japan's prefectures needs to be done, with their results to be included in the policies for women. Furthermore, protecting family farming with necessary support is essential to make Japan's agriculture sustainable.

■ **Paragraph 20-4:** Disadvantaged groups of women "Female Headed Households"

Article 13

[Current Situation]

Poverty of Female Headed Households

1) Threat to Life:

40% of mothers in female headed households work as regular workers, and 47% as part-time workers. Their average yearly income is only 44% of that of households with both parents and children (70% in male single-parent households) The rate of unemployment varies from approximately 10% to 20% depending on the age of the mothers. Many of them have to hold multiple jobs with low income as non-regular workers. As the result of overwork, they lose their health and jobs ending up in difficult situation in which children do not get enough to eat

management. The number of certified female farmers is 5,950, only 2% of the total certified farmers.

for their growth. These women are socially isolated and it is difficult for them to get access to the social welfare system.

In 2014, a single mother in her 40s in the Tokyo metropolitan area, who could not pay the rent any more with her low income as part-time worker, killed her own 13 years old daughter on the morning of their eviction from the prefectural housing. She said she had thought that they could not live if they had lost their house. The local government did not provide them with the necessary information on the financial support system or Maternal and Child Living Support Facility, and the explanation they gave of livelihood protection system was insufficient. In 2013, a mother in her 20s and a child starved to death in Osaka City after electricity and gas had been stopped. 80% of female headed households report financial difficulties; however, only 14% of them receive public welfare support. The reason behind this number is a strong aversion to government welfare-payment recipients. The welfare office attempts to reduce the number of recipients accusing applicants for their divorce or insisting that single mothers should work.

Approximately 40% of single mothers did not know the existence of 21 public supporting schemes to enter work force that is available for female headed households. The lack of information leads to poverty.

2) Divorce due to Spousal Violence:

70% of single mothers have experienced spousal violence. It affects the physical and psychological health of the mothers making it difficult for them to find jobs and support their families. They need more support for their physical and psychological recovery.

Act on the Prevention of Spousal Violence and the Protection of Victims stipulates the mandates of the Spousal Violence Counseling and Support Center in each prefecture as “providing survivors with services” such as employment promotion and housing procurement; however, their services are not sufficiently working.

3) Child Support :

Less than 40% of female headed households have child support agreements with their ex-husbands, and only 20% of them actually receive the payments. Child Support Counseling and Assistance Center (known to only 11% of female headed households) was established in 2007 and the Civil Code was revised to oblige ex-spouses to pay the expense of bringing up children in 2011. Nevertheless, the actual payment of child support has not increased. A new system needs to be installed to ensure the right to child support.

4) Poverty of Children:

Poverty among female headed households leads to poverty of their children. OECD reported in 2015 that the rate of poverty of children in Japan was 15.7% (one in six children) and it was 11th highest among 36 countries of OECD members, exceeding the average rate of 13.7%. Poverty of female headed households have enormous impact on the health and education of children, throwing them into inequality of opportunity. The government established Kodomono Mirai Ouen Kikin, (Children’s Future Support Fund), hoping for donation from the private sector; nonetheless, it is the government’s task to address. The government must take necessary measures to drastically improve the situation.

From Social Welfare to Self-reliance

The revision of the Act on Welfare for Mothers with Dependents and Widows and Child Rearing Allowance Act, etc. took place in 2002 and Outline of Independence Support Measures for Fatherless Families changed the policy from financial support to employment promotion and self-reliance. This was a part of the government policy to reduce social welfare budget based on the idea of economic liberalism promoted by the Cabinet at the time. The decreased child rearing allowances is no longer sufficient to financially support single parent families. Behind these changes, there are negative images of single mothers, such as that they selfishly got divorced to receive welfare from the government. These images are even stronger towards unmarried single mothers and they are often urged to work harder even though they already have multiple part-time jobs. As more than a decade has passed since the Outline, the effect on employment rate and income must be reviewed.

[Proposed Recommendations]

- 1 The employment rate of 81% for women in female headed households is relatively higher than other countries; however, the relative poverty rate exceeds 55%. The Japanese government must take effective measures to solve this paradox by ensuring the following.
 - Equal treatment for non-regular workers, equal pay for work of equal value
 - Expansion of financial support for single-parent households
- 2 Children in female headed households have to face with struggle to escape the cycle of poverty. The government must take effective measures to prevent poverty among children.

***Reference**

“Nationwide Survey on Fatherless Families in2011”Ministry of Health, Labour and Welfare (conducted once in every 5 years)

“Report of Committee on Socially Challenged Men and Women -Employment Status Survey, Comprehensive Survey of Living Conditions Special Study –” March 2010 Gender Equality Bureau Cabinet Office

■ Paragraph 20-5: Disadvantaged groups of women “Minority women”

Article 2

[Current Situation]

1. Absence of policy on minority women

The government of Japan has not ever conducted a research or survey on the situation of minority women. Neither does it recognize the necessity of knowing their situation or the need of taking action for their well-being.

Minorities’ perspective has long been absent from the government policies. Frustrated by the government’s indifference, Ainu, Buraku and “Zainichi” Korean women conducted a survey on themselves from 2004 to 2005 and published the findings including numerical data. They launched together on advocacy activities suggesting and pressing the government to take measures specifically designed to tackle the problems faced by the minority women and to meet their needs. However, in the last ten years, no progress has been made. The government even kept refusing to let the minority women representatives to meet the members of the Council for Gender Equality Specialist Committee on Monitoring and explain the survey findings. The Third Basic Plan for Gender Equality 2010, for the first time, introduced the terminology “multiple discrimination” but it did not mention anything about measures to tackle the problem. The government refuses to set up a specific framework dealing with the

issue of minority women denying the necessity of doing so despite of the Committee's recommendation.

One of the other obstacles in this connection is the government's refusal to recognize Ainu, people of Okinawa, "Zainichi" Koreans and other immigrants and migrant workers as minorities protected by the ICCPR article 27. In order to shed light on how multiple forms of discrimination affect minority women in Japan, it is imperative to collect data extensively and to analyze how such factors as age, ethnicity and legal status interact to the detriment of these women. In collecting data, cooperation and participation of minority women should be sought. In developing policies and planning measures, effective participation of minority women must be ensured.

[Proposed Recommendations]

- The State party should inform the Committee of the actual human rights situation of minority women based on the data collected, particularly with regard to education, employment, health, right to autonomy and exposure to violence.
- The State party should reflect the perspectives of minority women in its policies and measures relating to or affecting minority women in order to eliminate intersectional discrimination against minority women and resolve disparities.

2. Participation of minority women in decision-making process

Participation of minority women, even as a matter of form, in decision-making processes has never been ensured. The government, in spite of repeated requests made by minority women, has never invited minority women representatives to decision-making bodies' meetings, let alone promoted effective participation. As for the policies on Okinawa where 74 percent of the U.S. military bases in Japan are located, the governments of the U.S. and Japan have always made decisions affecting people of Okinawa ignoring their opinions, particularly those in opposition. Representation of women of Okinawa is literally non-existent. Immigrants, including those from Japan's former colonies and their descendants living in Japan for generations, let alone "new comers", are still not recognized as members of the society. Not only do they have no voting rights even in the local elections, they are excluded from local referendum.

[Proposed Recommendations]

The state party should ensure effective participation of minority women in all decision-making processes that would have impact on them by making it a rule to appoint minority women representatives as members of decision-making bodies of relevance both at local and national levels.

■ Paragraph 21-1: Marriage and family relations

The report indicates that a draft law revising the Civil Code unifies the marriageable age between men and women, introduces a system allowing a husband and wife to adopt separate surnames, and shortens the period of prohibition of remarriage required for women (para. 384). Please indicate the steps taken to expedite the adoption of this draft law and to eliminate the period of prohibition of remarriage for women. Please also indicate whether the State party envisages adopting legal provisions requiring child maintenance from the father.

In June 2015, the Headquarter for Women's Empowerment Promotion of the ruling Liberal Democratic Party recommended unifying the marriageable age between men and women. However no measure has been taken to

revise the Civil Code.

The LDP reiterated opposition to a system allowing a husband and wife to adopt separate surnames in its campaign pledge for the 2012 election for the House of Representative. Prime Minister Shinzo Abe and other Ministers openly oppose such a system, which makes passage of such a bill improbable.

On 16 December 2015, the Supreme Court ruled the Civil Code clause requiring the same surname for husband and wife constitutional, stating that “the same surname system is well established in Japanese society and unifying surname for family members can be found reasonable,” even though it recognized that the clause disproportionately disadvantages women. With regard to the argument on the violation of the Convention on the Elimination of All Forms of Discrimination Against Women, the Supreme Court dismissed it as a matter of formality that it does not qualify as a reason for final appeal and avoided to rule on the interpretation of the appellate court that the Convention is not directly applicable or self-executing and thus does not directly accord rights to the citizens.

Opinion polls conducted by the government and news agencies find that people supporting the separate surname system outnumber those opposing such a system. However the government is reluctant to revise the Civil Code, stating that support of larger majority is necessary for such a revision.

As for the period of prohibition of remarriage required for women, the Supreme Court ruled it unconstitutional only when it exceeds 100 days. Thus the government is planning to revise the clause to shorten the time period of prohibition from 300 days to 100 days. The discriminatory clause itself will be maintained.

Due to the latest revision of the Civil Code, payment of child maintenance is now clearly indicated as one of examples of the issues to be decided in uncontested divorce cases. Since April 2012, divorcing couples are required to report agreement status on the payment of child maintenance when they report the divorce. However only the requirement of reporting would not be expected to address the problem effectively.

[Proposed Recommendations]

The government should make efforts to resubmit bills to revise the Civil Code to unify the marriageable age between men and women, introduce a system allowing a husband and wife to adopt separate surnames, and abolish the period of prohibition of remarriage required for women.

■ **Paragraph 21-2:** Marriage and family relations “discrimination against children born out of wedlock”

Related article— Article 16, Paragraph 17 and 18, Concluding Observations of the CEDAW

Please also indicate the steps taken to ensure that children born out of wedlock are not discriminated against through the family registry system.

[Current situation]

Regarding Paragraph 18 of the previous Concluding Observations, recommending 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”, the provision of inheritance discrimination against children born out of wedlock in the Civil Code was abolished in December of 2013, but no fundamental reforms of other discriminatory legal systems have been undertaken. Still now, the concept of “legitimate” has been kept and the discriminatory expression, that is, a “child not legitimate” is used. Many discriminatory legal systems, including the provision of the Family Register Act concerning the discriminatory description in the birth notification are kept. Discriminatory

consciousness against unmarried mothers who give birth to a child and children born out of wedlock persists in society still now. For that reason, percentage of children born out of wedlock within all the children is only 2.2% **【*1】** in 2013.

1. Forced discriminatory description in the birth notification

According to the law, a person who notifies the birth of a child born out of wedlock has to be the mother. Even if the father acknowledges the child, he father is not entitled to become a person who notifies the birth. According to the Family Register Act **【*2】**, “Whether the child is legitimate or not legitimate” is a required matter to be filled out. In accordance with it, the mother is required to mark the column of “a child not legitimate”, whose meaning is “a child not orthodox” **【*3】**. It is the real situation that many of the mothers who marked it, felt distress, and were left to regret later that they marked “child not legitimate”.

The government has changed the procedures on the birth notification since 2010. According to the new procedures, in case a mother rejects marking the column, the notification of birth is accepted even without the marking of a “child not legitimate”, if there is the description of “The child takes the surname of the mother” or “The child enters in the mother’s family register” in the column of other matters. However, mothers are not informed that there is such an alternative at first when they arrive at the desk of the public office. If there is no marking on whether a “child legitimate or child not legitimate”, a mother is requested to mark it. If she continues to reject to do so, then the above alternative is shown. The notice from the government to the municipality determines the procedures of the notification work as such.

Although we demanded the Ministry of Justice to “stop requiring mothers to mark it, the Ministry reject it, saying “It is the legal matters to be entered in the birth notification”. The government says “It has been improved”, but this is the real situation and still now the forced marking continues as seen above.

2. The discriminatory description of the family relations in the family registration

Regarding the family registration, a child born out of wedlock was apparently discriminated in the column on the form on the relations with the biological parents. In the column, a child born in wedlock was described as “first daughter/son”, “second daughter/son” and so on, in accordance with the birth order by sex, and a child born out of wedlock was described as “female/ male”. In 2004 such description method was reformed. However, there are problems as follows.

(1) The reform of the system in which the family relations are corrected through the application from a person concerned

Regarding family relations with the biological father and mother in the family registration based on the birth notification submitted after November of 2004, both a child born in wedlock and a child born out of wedlock are described in the form of “the first daughter/son”. However, the description of the family relations in the form of “female” or “male” in the family register created before the reform have been left unchanged **【*4】**. There is a procedure in which the description is corrected through the application from a child born out of wedlock or the mother. However, among children born out of wedlock, whose number was estimated 2 to 3 million in November of 2004 when the system was reformed, the number of those who applied for the correction of the description was just a little more than 30,000, or around 1%. As the change of the system has been rarely informed publicly, the opportunity for persons concerned to know that is very limited. Furthermore, under the situations that social

discrimination against a child born out of wedlock still persists, it is unreasonable to request her/him to come forward as a child born out of wedlock.

The family registration is the system which presupposes the disclosure to the third party even if it is limited. If such situations continue, most of children born out of wedlock before the reform of the system remain discriminated even after their death.

The discriminatory description in the family relations entered before the system reform of 2004, which has been left uncorrected, should be eliminated at the responsibility of the national government. Although the government says, "The descriptions cannot be corrected otherwise than through the application", citing as the reason the vast amount of office work. However, it is no excuse for neglect of the discriminatory description. The description of family relations itself is not necessary now and it should be abolished.

(2) Introduction of the new kind of discrimination against a child born out of wedlock by the reform of the system. The Family Register Act stipulates that "his/her relationship with his/her natural parents" shall be entered as the family relations 【*5】. Therefore, if a woman, who gets married and gives birth to a child, gets divorced and remarried, the combination of the father and the mother is changed and a child is counted starting again with the "first daughter/son".

Following the reform of the system, the family relations of a child born out of wedlock is described in the same form of "the first daughter/son" as that of a child born in wedlock. On the surface, it looks like the differentiation has been eliminated. However, a child born out of wedlock is counted in relation only to the mother and described in accordance with the order of "children born out of wedlock" by sex to whom the mother gives birth, irrespective of the father's acknowledgment. The relation with the father is not considered. Taking an example, if a woman out of marriage gives birth to baby girls with two men, the baby girls are described as "the first daughter" and "the second daughter" respectively, even if the relation with the father for each baby is confirmed. Even if the baby girl is the first child for the second man, she is "the second daughter". It generates a misunderstanding that he has a first daughter elsewhere.

Taking another example, in case of children of the same parents, if they are children born in wedlock and children born out of wedlock, they are counted separately. In case that a married couple has a baby girl, gets divorced, and the same couple has another baby girl born out of marriage, both of the babies are described as "the first daughter", notwithstanding that the sisters were born between the same parents.

As seen above, the present system violates even the Family Register Act that stipulates the description of "the relations with the biological father and mother", and has introduced the new kind of discrimination against children born out of wedlock. This means that the system is designed so that, in principle, a child born out of wedlock has no father, and that the weak relationship with the father, compared to the relationship with the mother, is presupposed.

3. The infringement of the right to take the father's surname

In principle, the Family Register is registered in units consisting of a couple and a child/children with the same surname, not necessarily a child/children born of the couple (a couple's surname is the same.) If a married man has a child with a woman, who is not his wife, acknowledges the child and changes the surname of the child with the

permission of the court, the child is recorded in the family register of the father. This means that the child is recorded in the same family register as that of the legal wife of the father. In case that the father applies to the family court for the surname change of the child, the family court asks the wife her opinion. In most cases, the wife disagrees with it and the child cannot take the surname of the father. This is because the family register system is the system for the registration of a family, but not the system for the registration of an individual.

4. Anyone can see at first sight whether a child is acknowledged by her/his father or not: the fixed form of the Family Registration generates the discrimination.

The form of the family register is fixed. Even if the father-child relation is not established, there is the column of the father and it is left blank [*4]. Anyone can see at first sight that the child is born out of marriage and not acknowledged by the father. Therefore, the child and the mother feel distress.

A copy of the family register is often requested for employment or marriage engagement. Because of the blank column of the father, many children born out of wedlock suffer from anxiety that their marriage engagements may be broken, or, they may be discriminated in the workplace. There is such a case that a child born out of wedlock, who came to know that the column of the father in the family register was blank, cried and blamed the mother, saying “My life has ended”.

The form of the family register, from which it is apparent that a child is born out of wedlock and the father of the child is not confirmed, should be reformed.

5. Forced adoption of a biological child

In accordance with the 1987 amendment of Article 795 [*6] of the Civil Code, in case that a person who has a spouse adopts a minor child born out of wedlock, the spouse also has to adopt the child. The provision forces biological parents (most of the cases are mothers) to adopt their biological children. Therefore, mothers of children born out of wedlock feel distressed, questioning why they have to adopt their biological children.

This provision has been amended from the viewpoint of the benefit of a child that, if the father alone adopts a child, the relation with the biological parent, who does not adopt the child, remains the “child not legitimate”. However, the provision on discriminatory inheritance against a child born out of wedlock has been abolished, and forced adoption of a biological child has no practical benefits. Adoption of a biological child should not be forced, even if the spouse adopts the child.

6 . Discrimination in the tax law

Tax exemption for widows/widowers in the Income Tax Act [*7] is that, in calculation of the income tax for a person whose spouse is dead or who gets divorced and not remarried, a certain amount is deducted from the taxable amount of income. It is applied to the case of a spouse’s death irrespective of whether she/he has a dependent or not, and the case of divorce with a dependent, but not the case unmarried and single even with a dependent.

As tax exemption for widows/widowers is not applied to a person who has no experience of getting married, the taxable amount of income for single mother/father becomes bigger. In addition to that, childcare fee, the national health insurance tax and so on, which are determined by the amount of income tax, become higher and their

economic burden becomes heavier. The average income of single-mother families is very low. Among them, the average income of unmarried single-mother families is lower than that. In such a situation tax exemption for widows/widowers is not applied to them. As a result, many children born out of wedlock have been placed in more severe economic situation.

Even in case of a woman who is single with a dependent child born out of wedlock, if she has the experience of getting married, tax exemption for widows/widowers is admitted. In terms of unmarried mothers who are single, they are the same as those who have never married. However, they are divided and made to confront each other by whether they have the history of getting married or not. In this sense, also, this system has a big problem.

Tax exemption in the tax law should be admitted to every unmarried mother/father who has a dependent child.

[Proposed Recommendations]

1. The government is called upon to eliminate the column of “Whether the child is legitimate or not legitimate” in the birth notification. The discriminatory description, or “a child not legitimate”, should be removed from laws and regulations.
2. The government is called upon to eliminate the discriminatory description of the family relations which is left unchanged in the family registration of a child born out of wedlock, not through application of the person concerned, but by the responsibility of the government. The abolishment of the column should be included in the consideration, if it is necessary for the elimination of the discrimination.
3. The right to take the father’s surname should be completely guaranteed to a child born out of wedlock. If it is difficult in the present system, the reform of the system should be included in the consideration.
4. The government is called upon to reform the form of the family register, in which the column of the father is left blank in case that the father-child relation is not confirmed and therefore it is apparent that the child is not acknowledged by the father.
5. The government should amend Article 795 of the Civil Code which stipulates that, in case that the spouse of the biological parent of a child born out of wedlock adopts the child, the biological parent also has to adopt the child. Adoption of a child by her/his biological parent should not be forced.
6. The government is called upon to amend xxx of Article 2 of the Income Tax Act to admit tax exemption for widows/widowers to every unmarried mother/father who brings up a child.

【* 1】 International comparison of the percentage of the birth of children born out of wedlock

Name of country	Year of 2008	Percentage (%)	The most recent year	Percentage (%)
Japan	2 0 0 8	2 . 1 1	2 0 1 3	2 . 2 1
Republic of Korea	—	—	2 0 1 2	2 . 1
France	2 0 0 8	5 2 . 6	2 0 1 1	5 5 . 8
Germany	2 0 0 8	3 2 . 1	2 0 1 2	3 4 . 1
Italy	2 0 0 8	1 7 . 7	2 0 1 1	2 3 . 4
Sweden	2 0 0 8	5 4 . 7	2 0 1 2	5 4 . 4
The United Kingdom	2 0 0 8	4 5 . 4	2 0 1 2	4 7 . 6
The United States	2 0 0 8	4 0 . 6	2 0 1 2	4 0 . 7

Note: The figures of the United States are provisional.

Data : Eurostat "Population and Social Conditions"

U.S. Department of Health and Human services

"National Vital Statistics Reports" The National Statistical Office of Korea

*Data from 2013 Demographic Report of the Ministry of Health, Labour and Welfare and the demographic statistics of 2014 of the Ministry of Internal Affairs and Communications

【 * 2 】 Paragraph 2, Article 49 of the Law of Family Registration (Birth Notification)

At the time of notifying a birth, notifying person shall enter the following matters in the notifying sheet.

1. Whether the child is female or male, and whether he/she is legitimate or not legitimate.

【 * 3 】 Birth Notification

dd/mm/yyyy

A person who submits the birth notification

To whom it may concern



is required to mark this column.

Child	(Pronunciation) Name			Relations with Father and Mother	<input type="checkbox"/> Legitimate <input type="checkbox"/> Not legitimate	<input type="checkbox"/> male <input type="checkbox"/> female
		Surname	FirstName			
	Time of Birth	dd/mm/yyyy		am/pm		
	Place of Birth					
	Address (Place of Resident Registration)					
		Name of Head of Household		Relations with Head of Household		
Father and Mother	Name of Father and Mother Date of Birth (Age when the child was born)	Father		Mother		
		dd/mm/yyyy (Age)		dd/mm/yyyy(Age)		
	(omitted)					

【 * 4 】 Family Register

The column of family relations with the discriminatory description which anyone can see at first sight, the father of an unacknowledged child

REGISTERED DOMICIL Name	1-4 Ogikubo, Suginami-ku, Tokyo Kohno Taro
MATTERS OF FAMILY REGISTER REGISTRATION OF	【Registered Date】 dd/mm/yyyy

FAMILY REGISTER	
PERSON DESCRIBED IN FAMILY REGISTER	【Name】 Taro 【Date of Birth】 dd/mm/yyyy 【Spousal Status】 Husband 【Father】 Kohno Tadashi 【Mother】 Kohno Yoshi 【Family Relation】 First Son
PERSON DESCRIBED IN FAMILY REGISTER	【Name】 Ume 【Date of Birth】 dd/mm/yyyy 【Spousal Status】 Wife 【Father】  【Mother】 Yamada Haru 【Family Relation】 

Blanc means that Ume is not recognized by her father.

“Female” means that she is born out of wedlock.

【 * 5 】 Article 13 of the Family Register Act

In addition to the registered domicile, the following matters shall be entered in a family register for each person in the family register:

- (iv) the names of his/her natural parents and his/her relationship with his/her natural parents;

【 * 6 】 Article 795 of the Civil Code *Reformed in 1987

A married person shall adopt a minor only jointly with the spouse; provided, however, that this shall not apply in cases where he/she adopts a child in wedlock of his/her spouse or his/her spouse is incapable of indicating her/his intention

【 * 7 】 (xxx) of Article 2 of the Income Tax Act

Widow: This shall mean a person listed as follows: Among persons who have been bereaved of or divorced from their husbands and who have not married thereafter or whose husbands' whereabouts are unknown, those as specified by Cabinet Order who have any dependent relatives or other persons specified by Cabinet Order whose cost of living is included in their own.

Article 81 of the Income Tax Act

1. In case that the resident is a widow or widower, JPY270,000 shall be exempted from the total amount of income, retirement income and income from forestry for the year.
2. The exemption pursuant to the previous provision is called “tax exemption for widows and widowers”.

■ **Paragraph 22:** Optional Protocol to the Convention

Related articles: The Optional Protocol and para. 20 of the Concluding Observations (2009)

Please provide information on any progress made with regard to the ratification of the Optional Protocol to the Convention and indicate a timeframe for its possible ratification.

[Current situation]

(1) Progress made with regard to the ratification of the Optional Protocol to the Convention

The Third Basic Plan for Gender Equality, decided at a Cabinet meeting in 2010, stated “with regard to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (the Convention), we will seriously proceed with consideration of its early ratification” at the beginning of the section on “Consideration of Treaties not yet Concluded” in the “Priority Field (xv) Respect for International Regulations and Contributions to the ‘Equality, Development, and Peace’ of the Global Community.” However, in implementing the Basic Plan, there has been no concrete progress toward ratification so far. Furthermore, in the Fourth Basic Plan for Gender Equality, which was recently published, it is stated that “with regard to the Optional Protocol to the Convention, we will seriously proceed with consideration of its early ratification in light of the fact that there are an increasing number of State Parties to the Optional Protocol” in the section on “Consideration of Treaties not yet Concluded” in “(2) Concrete Measures to be Taken” under “1. Observance of the International Norms including the Convention and Discussions in International Conferences” in “12. International Cooperation and Contribution in the Area of Gender Equality.” The new draft only adds the phrase “in light of the fact that there are an increasing number of State Parties to the Optional Protocol” to the same statement in the Third Basic Plan, which indicates a lack of enthusiasm in the Government.

In the National Diet, a “Petition on the Ratification of the Optional Protocol to the Convention” or “Petition on Requesting Early Ratification of the Optional Protocol to the Convention” have been adopted every year by the Committee on Foreign Affairs of the House of Representatives since the consideration of Japan’s periodic report in 2009. A “Petition on the Ratification of the Optional Protocol to the Convention” or “Petition on Early Ratification of the Optional Protocol to the Convention” have also been adopted every year by the Committee on Foreign Affairs and Defense and the Plenary Session of the House of Councillors. However, unfortunately, there has been no progress made. This is nothing other than disrespect of the Diet by the Cabinet.

(2.) Possible cases to which the individual communication procedure could be applied

There have been two employment cases rejected by the Supreme Court in the past two years:

- a. A sexual harassment case against Canon Marketing Japan Inc., rejected in October 2014;
- b. A wage discrimination case between men and women against the Chugoku Electric Power Co. Inc., rejected in March 2015.

The female plaintiffs in these cases mustered up the courage to bring their cases before the courts after having endured great suffering caused by these incidents for many years. The resulting rejections by the Supreme Court were a great shock to them and they almost lost the energy to live. These cases could be communicated to the CEDAW Committee, if Japan ratifies the Optional Protocol.

[Proposed Recommendations]

The Government should immediately begin serious consideration towards ratification of the Optional Protocol, which sets forth the individual communication procedure, and clearly indicate a time frame for ratification.

Today, the individual communication procedure, along with the state reporting system, is considered to be one of the principal and common mechanisms of the international implementation measures of human rights treaties. The Japanese Government has not accepted any of the individual communication procedures of human rights treaties including that of the Convention. According to the Government, their reason for not accepting the system is the

possible violation of “independence of the judiciary.” However, the nature of decisions or “views and recommendations” adopted by the Committee in the individual communication procedure are different from that of judicial courts and it is difficult to think such decisions will violate the “independence of the judiciary.” On the contrary, they will strengthen the independence of the judiciary by promoting the domestic application of international law.

Appendix: Table of correspondence between the list of issues and paragraphs of this report and their author NGOs

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		4-3	Harmful practices	The International Movement Against All Forms of Discrimination and Racism-Japan Committee / Buraku Liberation League Central Women's Division/ Ainu Association of Sapporo/ Apuro Korean Women's Network in Japan/ Human Rights Association for Korean Residents in Japan
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		6-2	Violence against women “Counselling to victims (minority women) of domestic violence”	The International Movement Against All Forms of Discrimination and Racism-Japan Committee / Buraku Liberation League Central Women's Division/ Ainu Association of Sapporo/ Apuro Korean Women's Network in Japan/ Human Rights Association for Korean Residents in Japan
	7		Violence against women “The Measures for Sexual Violence in Manga and Pornography”	People Against Pornography and Sexual violence
	8	8-1	Violence against women “Measures taken to protect, provide remedies to and assist minority, indigenous and migrant women”	Solidarity Network with Migrants Japan The International Movement Against All Forms of Discrimination and Racism-Japan Committee / Buraku Liberation League Central Women's Division/ Ainu Association of Sapporo/ Apuro Korean Women's Network in Japan/ Human Rights Association for Korean Residents in Japan
		8-2	Violence against women “Measures to disseminate and implement legal provisions protecting the status of residence of migrant women who are victims of domestic violence”	Solidarity Network with Migrants Japan
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			Japan Accountability Caucus for the Beijing Conference
			The International Movement Against All Forms of Discrimination and Racism-Japan Committee / Buraku Liberation League Central Women's Division/ Ainu Association of Sapporo/ Apuro Korean Women's Network in Japan/ Human Rights Association for Korean Residents in Japan
			Information Network for Amending the Civil Code
			Society for Abolishing the Family Registration System and Discriminations against Children Born out of Wedlock
			Japanese Association of International Women’s Rights