

Follow-up REPORT of FUDANREN to CEDAW

July 2011

Japan Federation of Women's Organizations (FUDANREN)

Japan Federation of Women's Organizations (FUDANREN) is composed of 20 organizations including women's groups as well as women's sections of trade unions and civil groups, with a total membership of 900,000. FUDANREN is submitting a shadow report on the implementation of the recommendations contained in paragraphs 18 and 28 of the concluding observations of CEDAW on the sixth periodic report of Japan, in order to complement the shadow report submitted by JNNC, Japan NGO Network for CEDAW.

This report was jointly prepared by the following affiliates of FUDANREN;

Women's Council of the National Federation of Merchant and Industrialist's Organizations

Japan Federation of National Public Service Employees' Unions Women's Council

National Federation of Prefectural and Municipal Workers' Unions Women's Section

New Japan Women's Association (Shinfujin)

National Confederation of Trade Unions (Zenroren) Women's Bureau

1 Discriminatory provision against family members who work with the self-employed person (on the paragraph 18)

The Third Basic Plan for Gender Equality states that the Government will make a comprehensive review of the taxation system. It should include Article 56 of the Income Tax Law. Because of this article, the value of labor by family members who work with the self-employed person is not recognized as necessary cost but as the business owner's income. The current system levies tax on the self-employed not on individual but on household basis. The fact that 80 percent of these family workers, who are facing disadvantages and discrimination because their labor is not recognized as income, are women calls for the abolition of Article 56 of the Income Tax law as a way to eliminate discrimination against women.

2 Participation in Decision-Making Process (on the paragraph 28)

(1) Hiring and promotion of Women by Central Government Bodies and Agencies

The percentage of women of the 2009 employment test of national government employee was 29.2% and it has gradually got close to the government target of 30%. However, regarding the "leadership position", the percentage of women is still low-rate. For example, women's percentage above the ministry proper manager or general manager is 2.2% and the percentage of specified post which is higher than the manager is 1.7%.

On another front, the number of female staff who retired before the retirement age has increased to a large extent. It was 1838 in 2006 and increased to 4520 in 2009. Breakdown of 2009; 2586 (57.2%) are 29-year-old to 39-year-old women who are pregnancy or child-rearing generation and 1685 (37.3%) are 40 to 59-year-old women who are managerial generation. There are some reasons why women's appointment has been made only a little headway. Women are required same career path as men that compel them personnel transfer with moving house (maybe not accompanied by family) or living far away from office. This working environment is all the more difficult for women who are already heavily burdened by housework and childrearing to be promoted and assume managerial duties. In addition, direction and supporting system for women who will engage in managerial position is not sufficient.

National Personnel Authority's guideline which was revised in January 2011 referred to a re-examination of career path and necessity of a transfer. The guideline mentioned that to make a job experience, the appropriate direction or training and the support after engaging managerial position is necessary. Based on this guideline, each department and agencies should make a plan which is considered work-life balance of staff and put the plan into practice.

The number of national government employees in Japan is 32 people for every 1000 people. Compared with foreign countries, this number is very few. Working long hours has become chronic in public servant's working place. This is because the number of posts for public employees is reduced every year and their work has become complex and increased due to the needs for administration. To make women's work and life go together with appropriate promotion, it is essential to ensure the quota which meets the demand for increasing work. The supporting system for women's work-life balance has prepared, however condition of a working place is not fully practical to use the system. Working condition should be prepared so that all needs in all working places are put into effect; for example, ensuring replacements to take a childcare leave.

(2) Hiring and Promotion of Women by Local Governments

The ratio of women in new employees of local governments is increasing year by year, but not reaches to 50 per cent.

A Cabinet Office survey shows that the ratio of hiring women at the prefectural office went up from 27.0 per cent, 2004 to 30.3 per cent, 2010, regarding senior positions from 17.3 to 22.4. At the municipal office, the ratio of women hired during the same period kept around 50 per cent, which relates to the fact that municipalities provide the jobs taken by the female staff much more than the male, such as 'daycare nurse' and 'hospital nurse'.

The improvement of career advancement of women took place much more slowly than that of the employment of women. The percentage of female manager — positions equivalent to section chief or higher — at local governments is less than ten per cent, as of 2010. The promotion of women is on a gradual increase, and at a fairly slow pace. In the order of the

municipal, the cabinet ordinance-designated city, and the prefectural office, the proportion of female manger becomes smaller.

The appointment of women to higher positions is carried out by a promotion test in some major city governments, and based on the years of experience without any paper exam in many others. In either case, women are undervalued in the selection with gender bias. In addition, a growing number of women miss the opportunity for advancement of their own accord; some decline an offer for a higher rank position; others reluctant to take a promotion test. This is because many of women get very concerned about balancing her duties as a manager and family responsibility, with personnel cut continuing and the complexity of jobs increasing at municipal workplaces.

In order for women to get more opportunities to advance their career, it is imperative to equalize the selection criteria and to build the awareness of those who work with them, and much more to improve this bad working environment for women.

Complementary report : The improvement of very poor treatment of Non-Regular Staff of Municipalities — Mostly Women — is an Urgent Task

Most of employees working on a non-regular basis at local governments across the country are women, placed under precarious employment and very poor working conditions. Even now, no laws protect non-regular employees at the public sector, and any necessary steps to redress the disparity between full- and part-timers have never been taken to the present. The Part-Time Employment Act in Japan does not ensure the elimination of the disparity because it exempts public service workers from its application.

The Ministry of Internal Affairs and Communications (MIC) announced the total number of municipalities' non-regular staff is 497,796, as of April 2008. Other surveys show that an average of around 30 per cent against the regular at each local government works on a temporary or part-time basis. According to these surveys, against 2.8 million regular staff (2010), the number of non-regular staff can be estimated at more than 800,000 and women at more than 600,000 (80 per cent of the total number of the non-regular).

Non-regular staff is employed by each local government according to the Local Public Service Act, falling into mainly two categories; 'Temporary Staff' and 'Part-Time Staff'.

The term of employment period of Temporary Staff is set at six months or under. The renewal of their employment contract is permitted only once. That of Part-Time Staff is not mentioned in the act, but set principally at "one year or under" in practice. Working hours of Part-Time Staff is often set at 'three quarters or under of full-time staff'.

The MIC says that 'temporary and 'part-time staff' shall do a 'temporary 'or 'support' job with their term of office limited. But, many non-regular employees at the public sector, in reality, do the same job permanent or full-time as the regular do, and work for years by repeatedly

renewing their employment contract. Most of those can earn only 2 million yen or under a year. They have no scheme for periodical pay raise, often not getting paid allowances like a bonus. Non-regular employees are discriminated in the treatment of special leaves and benefits program, as well. There is no end of the number of non-regular employees who are dismissed by municipal authorities, even after repeating the renewal of the contracts for years. Furthermore, some municipalities restrict the 'number of renewal of employment contract', two or four times, in guidelines for applicants. The cases frequently happened that the local authorities dismissed temporary employees only because the number of renewal of their employment contracts had reached to the limit

Municipal workers recently won two important court decisions.

One is a Tokyo High Court's ruling on 28 November 2007, on the case of 'Part-Time Nursery Staff of Nakano-Ward, Tokyo'. The judge approved four part-time daycare nurseries' appeal to seek reversal of their dismissal, saying, "Judging from the facts, the authority infringed the employees' right to expect the renewal of their contracts, under the circumstances illegal enough to the extent that the theory of abuse of right of dismissal should be applied to." The Judge added, "It is necessary to reform public laws to meet to the actual situations regarding the employment of part-time employees who are repeatedly and without interruption employed by a municipality."

The other is an Osaka High Court's decision on 9 September 2010 on the case of 'Hirakata City's Part-Time Staff'. The High Court approved the legality of the City's payments of bonuses to part-timers, saying, "Full-Time Staff of the City means such employees ; whose working hours are equivalent to those of regular staff, and; whose family budget mainly depends on their earning from the job of the city." The judge concluded, "The part-time employees on the case can be regarded as full-time staff," and stressed, "Whether an employee is full-timer shall not be determined by the form of employment that each employee is appointed."

Despite the requirement of the recent court decisions, the Japanese government refuses to take any measures to reform laws for redressing the disparity between the non-regular and regular staff at the public sector. After the Tokyo High Court's ruling, the MIC, instead, issued a notice April 2009, in which it requested every local government to strictly apply the Local Service Act to the employment of non-regular staff. As a result, some municipalities, with the notice, dismissed at once more than 100 temporary employees whose employment contracts had been renewed continuously for years by the authorities.

Now is the time when the Japanese government revises the current labor laws for improving very poor treatment to non-regular staff of local governments, as well as for eliminating the disparity between the regular and non-regular staff.

(3) Participation of Women in Political Life

In Japan, women currently account for 10.9% of the House of Representatives and 18.2% of the House of Councilors members, a slight increase from the previous level. Their representation in local assemblies also remains around 10%: 8.1% in prefectural, 12.9% in city and ward and 8.1% in town and village assemblies. In Tokyo Metropolis, women make up 18.9% of the Metropolitan Assembly members and 24.8% of the city and ward council members. It is notable that proportion of women members in local assemblies is increasing in urban districts but lagging behind in rural areas.

Regarding national elections, the electoral system for the House of Representatives was changed in 1994, and an electoral system that combines the small-constituency system and the proportional representation system was introduced. Under the single seat constituency system, only one candidate who gained the most votes is elected, meaning all other votes not cast for the winner are wasted. In Japan, one has to have a huge amount of money just to run for the parliament: a deposit for candidacy is 3 million yen for single-seat constituency and 6 million yen for proportional representation. At local level, many electoral districts for prefectural assembly members are not allocated more than two seats. As for city and ward councils, due to the subdividing of cities and towns as they merged to form an ordinance-designated city, electoral districts with only one or two seats are increasing. These tendencies, coupled with municipal mergers and reduction of assembly member seats, have made it difficult for women to stand for elections even at local level. Traditional electoral practices such as briberies involving politicians; authorities of local communities, companies and other kinds of organizations forcing district voters to support certain candidates, and inheriting of seats to one's family members are still prevalent.

The Third Basic Plan for Gender Equality reiterates the target the government established five years ago, that is, "to increase the share of women in leadership positions to at least 30% by 2020 in all fields of society." However, it does not specify concrete measures to achieve the target. Furthermore, it is a matter of great concern that the governing parties intend to cut the number of proportional representation seats, in which women have a greater share and which justly represents the voters' will. We urge the government and all political parties to present their own schemes to raise the percentage of women in the parliament, and to drastically reform the electoral system to one that centers on proportional representation so that the parliament justly represent the will of the people.

(4) Why gender equality in employment is not progressing, and what should be done to break the stalemate

Despite recommendation by the CEDAW Committee in its concluding observations that disparities in wages between men and women should be rectified, the wage gap has widened during the last year. This is proof that the government's action is behind the need to resolve the problem.

Deregulation of the labor market has paved the way for replacing full-time permanent jobs

with contingent ones, further widening wage disparities. The wage gap is also attributed to relatively lower wage levels being applied to many of jobs that depend on women workers.

These facts call for efforts to take the following measures:

Revise the Equal Employment Opportunity Act for Men and Women in order to make wage disparity adjustments and make positive action effective.

- i) Revise the law to eliminate indirect discrimination against women based on employment jurisdiction or employment status.
- ii) Upgrade positive action from the present “effort requirement” to a compulsory action; make it compulsory for business proprietors to come up with a plan to implement positive action and to require them to report on the progress of its implementation, and establish incentive measures as well as punitive provisions.

*The Third Basic Plan for Gender Equality says the percentage of business enterprises participating in positive action should be raised to 40 percent in 2014 from the present 30.2 percent. The target percentage should be raised.

*It is necessary to increase the effort to familiarize employers with positive action.

Promote the establishment of public contract laws, which should include a provision calling on employers to take active part in gender equality efforts in public procurements.

Increase support for women in both work and life.

It is necessary to increase measures to support women in both work and life in order to resolve the present problem facing women, who are forced to quit their jobs in order to have a first child, and in order to rectify the M-shaped curve.

The Third Basic Plan for Gender Equality says that the percentage of women continuing with their jobs after giving birth to their first children should be raised to 55 percent in 2020 from the present 38 percent. Given the prevalence of dismissals and other disadvantageous practices against women workers because of pregnancy and childbirth, it is necessary to strengthen the Equal Employment Opportunity Act for Men and Women provision to prohibit unfair treatment of women and to include a provision to require employers to get employees’ consent to a transfer a distant office if they have certain family responsibility. Many workers are employed by small- and medium-sized companies, and the need now is to increase government subsidies to such companies in connection with employees’ childbirth and child

rearing. The Basic Plan also says the percentage of male workers using childcare leave to 13 percent by 2020. But this target is too modest that the plan should be reviewed.

Male workers are often forced to endure long work hours, shifting most family responsibilities onto women. This is one of the problems making it difficult for women to continue to keep their jobs. It is necessary to revise the Labor Standards Law to impose the upper limits to work hours.

Since the number of babies and pre-school children on the waiting lists for child care centers is increasing (In October 2010, there were 48,356 children waiting to get in child care centers.), more child care centers should be established. Currently, the government is planning to introduce a “new childcare system,” which would destroy the public child care system. We must stop it in order to secure the sound development and growth of children. The public child care system and after-school programs need to be improved.

Under the name of responding to “diverse ways of work”, employers have replaced regular full-time jobs with contingent ones for working women. More than half of the female workers are employed as non-permanent workers. It is necessary to regulate fixed-term employment and promote a labor policy that takes regular full-time employment as a matter of course. To this end, the following legislative measures should be taken to give contingent workers equal treatment as permanent full-time workers. No new system that would lead to indirect discrimination should be considered, such as diversification of permanent full-time employment and part-time permanent workers.

*Revise the Part-time Employment Act to make it more effective.

*Regulate fixed-term employment of workers

*Regulate temporary agency workers and other indirect employment.

Compensation for social work supporting childcare and nursing care is rated too low. An overwhelming majority of those workers are women. Raising wages for them is necessary.

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