

NGO Responses
to the list of issues and questions
with regard to the consideration of the sixth periodic report:
Japan

Committee on the Elimination of Discrimination against Women
Pre-session working group, Forty-fourth session

Japan NGO Network for CEDAW
1 June, 2009

<p>CEDAW/C/JPN/Q/6 issued on 20 November 2008</p>

1. Please explain whether the sixth periodic report was adopted by the Government and whether it was presented to Parliament.

1. The report was compiled by the Cabinet Office based on the inputs provided by competent authorities concerned in the implementation of the Convention. No Cabinet decision on the report was taken.
2. The report was never given to nor deliberated at the Headquarters for the Promotion of Gender Equality. This body is comprised of all the cabinet ministers with Prime Minister as president. The report should be reported to and deliberated at this body since Article 19 of the Basic Law for a Gender-equal Society articulates “international cooperation” as a basic idea in promoting to build a gender-equal society which is closely linked to international undertakings such as the Convention and any participation in world conferences.
3. On 13 June 2008 the government reported to the Council of Gender Equality the gist of the report and the submission of the report to the United Nations. The Council, however, did not deliberate on the report. It is hoped that the Council will actively be involved in completing any final version of the report. The Council is comprised of 12 cabinet ministers concerned and 12 learned persons with Chief Cabinet Secretary as chairperson.
4. The report was submitted to the Diet at the time it was submitted to Secretary-General of the United Nations. .

2. The report mentions that a specialist committee on monitoring and gender impact assessment and evaluation conducted a study and deliberated on the adopted opinion of the Council for Gender Equality on the state of implementation in each ministry and agency in the light of the previous concluding observations of the Committee on the Elimination of Discrimination against Women (see para 4). Please provide information on the recommendations made by the specialist committee in July 2005 and the measures that have been taken to implement those recommendations.

In July 2005, the Specialist Committee on Monitoring and Gender Impact Assessment and Evaluation of the Council for Gender Equality made a proposal “Regarding Actions to be taken in Response to Concluding Comments Including the Recommendations from CEDAW”. This Proposal was formulated by the Specialist Committee through conducting hearings from ministries on their action in response to the concluding comments from CEDAW in 2003. The proposal contained 6 items which shall be considered when preparing the Sixth periodic report of Japan

The Proposal contained following 6 items : 1) To include the Outcome of the measures implemented according to Concluding Comment from CEDAW in the report , 2) Promptly come to a decision regarding indirect discrimination and to publicize the CEDAW and the Basic Law for a Gender-equal Society, 4) Include data on minority women and the issue of human trafficking, 5) Promote understanding of the general public on the issues of a) equal minimum age for marriage (Article 731 of the Civil Code), b) shortening the waiting period required for women to remarry, and c) creating a system in which married couple can choose to have separate surnames, and 6) Consider early ratification of the Optional Protocol. The Proposal was immediately notified to each ministry and was reported to the 20th meeting of the Council for Gender Equality held October 2005. However, no meeting of the Council for Gender Equality or the Specialist Committee was convened since taking up an agenda to examine whether the Sixth periodic report of Japan was prepared according to the Proposal.

To begin with, the Specialist Committee is commissioned to research and oversee the consistent implementation of the Basic Plan for Gender Equality. Conducting a complete follow-up of the Concluding comments of CEDAW is beyond the Specialist committee’s capacity.

The government shall establish new Specialist Committee commissioned to monitor and evaluate the implementation of Concluding Observations from CEDAW.

3. In its previous concluding comments (see A/58/38, sect. IV, para. 357), the Committee expressed concern about the lack of any specific definition of discrimination in the domestic legislation and recommended that a definition of discrimination against women, encompassing both direct and indirect discrimination in accordance with article 1 of the Convention, be included in the domestic legislation. Please indicate what measures the Government has taken in response to the Committee's recommendation.

1. The government has not made an effort to review comprehensively provisions of domestic laws affecting women and girls discriminated against as defined by the in Article 1 of the Convention by the Committee. There is a lack of explicit legal definition that intended or not, any policy or practice that may prevent women from enjoying equal rights and freedom is considered discrimination against women. This absence of legal protection leads to a wide range of discriminatory practices against women. For example:

- laws and institutions may keep or enhance ideas and procedural practices of maintaining static gender roles assigned to women and men, such as tax and pension systems that encourage women to remain secondary wage earners of the family.
- speeches and expressions denigrating women's dignity and/or promoting violence against women are widely allowed under the guise of "freedom of expression" without any concern for punishment. Government officials have not tried to address gender-discriminatory remarks of public figures who are obliged to comply with the Japanese Constitution and international conventions upholding non-discrimination against women and minorities.

2. Only three categories were listed as examples of indirect discrimination in the amended Equal Employment Opportunity Law. This is not sufficient to reflect the actual situation in the workplace. It is problematic that the following four out of seven categories proposed as cases of "indirect discrimination" by the "Study Group on Policy regarding Equal Employment Opportunity for Men and Women" organized by the Ministry of Health, Labour and Welfare were dropped from the draft amendment in June 2004.

- (1) requiring applicants to have certain degrees or to have graduated from certain faculties (departments) , in hiring and recruitment,
- (2) requiring applicants to be registered as heads-of-household in the family register, in the application of welfare benefits or provision of family allowances
- (3) difference in treatment between men and women due to advantageous treatment for regular workers (full-time workers hired for an indefinite period), substantial difference in the job content or personnel system between regular and part-time workers (as well as difference in treatment between management career-track and clerical track workers)
- (4) difference in the provision of welfare benefits and family allowances between men and women due to exclusion of part-time workers

3. According to the report on the implementation of the Equal Employment Opportunity Law issued by the Ministry of Health, Labour and Welfare, the number of consultations regarding indirect discrimination received by the Equal Employment Opportunity Department was 462. These should be examined to see

if there are any cases of indirect discrimination which do not fall within the categories listed in the law. Such cases should be used to support the expansion of prohibited categories.

4. Has the Convention on the Elimination of All Forms of Discrimination against Women been invoked or referred to in any domestic court cases, and if so, what has been the outcome? Additionally, please specify what measures have been taken to increase awareness about the Convention among the judiciary and the legal profession in general.

1. There are 42 cases referring the Convention in any way, some of which are referring the Convention by citing plaintiff's claim. 14 of them make any comment on the Convention, but all the cases were dismissed. There is no case admitting the claim based on the Convention.

2. (The First Court Case about Governor Ishihara's insult)

According to the Tokyo District Court, "The view, (Governor Ishihara's,) ... is incompatible with ... the basic idea of the effort in the international society (to eliminate gender discrimination), such as the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women, ... " But the Court dismissed the petition on February 24, 2005 without any attempt to legislate in favor of women's rights.

3. The Osaka District Court judgment on July 31, 2000 (Sumitomo Electric Industries wage discrimination case) dismissed the plaintiffs' claims of discrimination based on the Convention. The case was settled at the Osaka Appeals Court. The Appeals Court actively referred to the spirit of the Convention in the preamble to its settlement provisions, which was very unusual. The government, which was the respondent in the case, argued in its preparatory document to the proceedings (District Court) that it was inappropriate to interpret the Convention as placing a duty on state parties to prohibit "all discrimination," and that the state parties were also not required to fulfill these duties "immediately" but were allowed to "pursue without delay," namely to take time to implement the provisions progressively.

4. JFBA (Japan Federation of Bar Associations) has engaged in a variety of activities to increase awareness about the Convention among its members.

Some kinds of trainings related to the Convention have been provided to the legal profession, including judges and prosecutors. But those trainings for the legal profession are far from satisfactory in content. Many legal professions are still ignorant of gender perspective.

5. Please describe the current status and progress achieved in the implementation of the Second Basic Plan for Gender Equality (see para. 29 of the report). The response should include information on the impact of each policy set out for each of the twelve fields identified in the plan towards practical realization of gender equality.

Field 2. Review social systems and practices and reform awareness from a gender-equal perspective

1. The Basic Plan states that the Government will make a comprehensive review of the taxation system, but it does not 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. Eighty percent of these family workers, who are facing disadvantages and discrimination because they are not recognized as income earners. We call for the abolition of Article 56 of the Income Tax law as a way to eliminate discrimination against women.
2. The term "gender free" used in referring to the concept of being "free from gender stereotypes and biases," has been the target of unjust attacks from those who assert that the term leads to "denial of the differences between males and females" and "destruction of family and traditional culture," and promotes "extreme sex education." Giving in to these attacks, the government included in the section on the information services of the Basic Plan explanation of "gender perspectives" that conveys impression that the use of "gender-free" encourages the practices contrary to the purpose of the gender-equal society. After the Cabinet Office issued an office memo advising them to refrain from using "gender free" in the texts of official documents, the term has disappeared from ordinances and programs of local governments as well as from school textbooks.

At municipal level, there have been moves hampering the effort to promote "gender equality," such as closure or change of the name of women's centers, adoption of a petition that calls, among other, on the municipality not to encourage gender study or research, and cancellation of a municipality-sponsored lecture meeting on the Domestic Violence Prevention Law. The government has not taken any action on these moves.
3. The first Basic Plan referred to "unpaid work" as an issue to be researched or investigated, but there is no reference to this issue in the Second Plan, a setback in the government's plan itself for gender equality.

5. Please describe the current status and progress achieved in the implementation of the Second Basic Plan for Gender Equality (see para. 29 of the report). The response should include information on the impact of each policy set out for each of the twelve fields identified in the plan towards practical realization of gender equality.

Field 4. Establish gender-equality for realizing dynamic rural areas

1. The Second Plan is to develop sustainable agriculture, forestry and fishery. However, the population of farmers in Japan is dramatically falling. This is due to the hardship the farmers have to face to operate agriculture especially after Japan signed the WTO agreement on agriculture that allowed agricultural products imported to Japan. For instance, the average wage of rice growing farmers is only one fourth of the national average minimum wage. Because the government made the agricultural price supports only applicable for large-scale farmers, many small farm households can no longer sustain their living, and as a result they are forced to leave their lands.
2. In order to empower women economically and encourage them to participate in decision making sites, the government promotes family management agreement. However, the number of farm households that signed the agreement only counts 1.5% of the total farm households. The reason is that even though the agreement determines the wage and holidays, it is hard to carry them out in their economical situation. Women get paid, but their wage is low, and usually their wages are used for the family living cost and management. Therefore, we cannot say that women's economic status is actually improving.
Women count 60% of the farmers in Japan. Yet the participation in decision making process is very low as we can see the fact that only 4% of agricultural committee is women. The reason is that women have to do housework, taking care of children, and nursing. They also have to do side business since agriculture itself cannot support their family. As a result, they lose their time for participating in social activities.

5. Please describe the current status and progress achieved in the implementation of the Second Basic Plan for Gender Equality (see para. 29 of the report). The response should include information on the impact of each policy set out for each of the twelve fields identified in the plan towards practical realization of gender equality.

Field 9. Media

1. In the main media, such as newspapers and television, we can still often find such expressions that may re-reinforce the stereotyped gender role or the low status of women. There are no systematic actions to correct such gender stereotypes or to promote the challenge for gender equality.
2. There are no positive actions to increase the number of women who produce media, especially in the positions participating decision-making.
3. Such expressions as stirring up discrimination and violence against women are not regulated at all. Pornography is regulated, but it's not from the viewpoint of the human rights of women. As a result, pornography that detracts the dignity of women and stirs up violence is virtually left free. Regarding child pornography, selling, distributing, photographing and providing pictures on the internet are regulated; nevertheless, simple carrying is not yet illegal.
4. Mass media not only neglect to give the necessary information about Japanese military sexual slavery, but NHK, which had gathered data of "The Women's International War Crimes Tribunal" which passed judgment in 2000 on Japanese military sexual slavery, also altered the program under the political pressure by the Vice Chief Secretary of the Cabinet and so on in those days. NHK was appealed to the court by the NGO that had offered the data.

5. Please describe the current status and progress achieved in the implementation of the Second Basic Plan for Gender Equality (see para. 29 of the report). The response should include information on the impact of each policy set out for each of the twelve fields identified in the plan towards practical realization of gender equality.

Field 10. Improvement of the education and learning to promote gender equality and to enable diversity of selection.

1. The education to promote gender equality has gone backward. Due to the revision of the Basic Act on Education in 2006, the article of 'coeducation' was deleted from the Basic Act on Education, so that the theory of 'equality of both sexes' and 'gender equality,' and such principle of the education system were lost. 'Equality of both sexes' is little treated in the Revised Educational Guidelines in 2008 as well.
2. The Cabinet Office (2006) and Tokyo Metropolitan government (2004) issued their views not to use the word 'gender-free,' and to prohibit to prepare the rolls at school by listing students' family names in alphabetical order regardless sex because such practice was based on 'gender-free.' Since then the word 'gender free' has been eliminated from the ordinances or policies of communities. In consequence of the textbook authorization, 'gender' was eliminated from the textbooks in junior-high schools. Compulsive learning of home economics by both sexes in Japan was brought to realization by the ratification of the Convention on the Elimination of All forms of Discrimination against Women,(hereinafter referred to simply as the Convention), but the Ministry of Education, Culture, Sports, Science and Technology changed the curriculum and decreased the learning hours of home economics in primary, junior high, and senior high schools; and made it an elective subject so that stereotyped role-sharing might cleverly be succeeded.
It is a retreat of the scheme itself that the items of 'women's study' and 'gender study,' which were included in the first scheme, were excluded from the second.
3. Due to the revision of the Basic Act on Education, State and local governments shall provide the opportunities and information to parents with regard to family education. Rule models, such as 'keeping early hours and taking breakfast every morning,' or special value or special view of home might be forced on every family by the administration's offering of learning chances and information.
4. In the social education, reduction in the budget, retrenchment of the staff and reduction in administrative finance have weakened the inhabitants' right of learning. Most of the staff who work in the social education facilities are women in a precarious position as part-timers or non-regular workers. It is necessary to secure their position and to treat them as professionals.

5. Please describe the current status and progress achieved in the implementation of the Second Basic Plan for Gender Equality (see para. 29 of the report). The response should include information on the impact of each policy set out for each of the twelve fields identified in the plan towards practical realization of gender equality.

Field 11. Contribute to the Equality, Development and Peace of the global community

1. Penetration of international norms and standards in Japan

The Government is not making serious efforts to achieve the goal of “adhering to the Convention on the Elimination of All Forms of Discrimination against Women.” Instead, it continues to refuse to accept the recommendations regarding the promotion of gender equality and elimination of violence against women issued by UN bodies such as the Committee on the Elimination of Discrimination against Women, the Committee against Torture, and the Human Rights Committee. It neither works positively toward the ratification of the Optional Protocol of CEDAW.

2. Contribution to the “equality, development and peace” of the global society

In providing Official Development Aid, the Japanese government lacks gender-mainstreaming perspective, and there are only a few projects that are exclusively aimed to help the aid receiving country in its effort for eliminating discrimination against women. Also in international cooperation in health care, the Japanese government has not provided adequate aids for projects to promote women’s health, particularly reproductive health/rights.

In framing a security policy, the Japanese government gives no consideration to its impact on local people both at home and abroad, particularly on women and children. For example, in the discussions on sexual violence against women and children living in the neighborhood of U.S. military bases in Japan, or on releasing military tension in the Korean Peninsula, it never takes up the issue of guaranteeing security and human rights of women.

In 2007, a female member of the Self-Defense Forces in Hokkaido filed a redress suit against the Government claiming that she had not only been molested by a male colleague but forced to retire by her superior after reporting him about the sexual harassment. The case, in which the perpetrator was let go unpunished while the woman victim being imposed on punitive action, revealed the lack of human rights awareness and gender perspective on the part of the Self-Defense Forces.

Japanese women’s participation in the decision-making process lags behind on the whole, and this is especially true in the area of peace and security. “Contribution to peace” by the Japanese government is confined to the military sphere, which runs counter to the Japanese Constitution. Public Opinions are divided on this question. Many women’s organizations working on peace and security issues are concerned about the possibility of “contribution to peace” being exploited for the purpose of enabling the Self-Defense Forces to use force abroad.

6. The report indicates that the Government is reviewing the Human Rights Protection Bill which would establish a Human Rights Commission (see para. 44). In light of Japan's pledge at the Human Rights Council at the end of the Universal Periodic Review (see A/HRC/8/44/Add.1, para. 1(a), please indicate the progress made towards establishing a national human rights institution in accordance with the Paris Principles.

1. The Government pledged to establish a national human rights institution in accordance with the Paris Principles at the Human Rights Council, and yet intends to submit again the Human Rights Protection Bill which was rejected in 2003. At present no review of the Bill has been done to comply with the Paris Principles.
2. The proposed Bill has fatal flaws including the following :
 - (1)The human rights commission to be created by the bill would be under the virtual jurisdiction of the Minister of Justice as an extra-ministerial bureau of the Ministry of Justice, dependent on everything including the committee's budget, administrative staff, and local office or organization management for local activities. Therefore, it is problematic in terms of independence from the government.
 - (2)The concept of "human rights", which are the object for protection and remedy, is not clear. Among human rights infringements by public power, only "discrimination and abuse" are the object for protection and remedy.
3. The Government should promptly review the Human Rights Protection Bill and establish a Human Rights Commission in accordance with the Paris Principles. The government must satisfy the following six minimum conditions: (1) the committee should be placed under the jurisdiction of the Cabinet Office, not the Ministry of Justice, (2) the committee members should be appointed by the Recommendation Committee formed within the Diet, in accordance with the criteria that represent voices of all levels of Japanese citizens, (3) the staff of the secretariat should be appointed/dismissed independently by the national human rights institute, and not be exchanged with those in other government ministries and agencies, (4) Director-General as well as members of the Secretariat should have knowledge and experience required for human rights protection, and a lawyer should be appointed if a qualification as an officer of the court is necessary, (5) Independent local offices should be established, and (6) all of the human rights infringements specified in the Constitution and international human rights laws, especially those conducted by the public power, should be stipulated as being involved, and the committee has responsibility and authority to make policy recommendation and implement human right education.

7. Please describe steps taken to develop a comprehensive strategy to combat all forms of violence against women, including prosecution of perpetrators, provision of protection and assistance to victims, such as shelters and restraining orders to protect victims, and introduction of capacity-building and awareness-raising programmes for various groups (such as the police, lawyers, health and social workers and the judiciary) and the general public.

A comprehensive strategy to combat all forms of violence against women is developed by the Expert Committee on Violence Against Women (“Expert Committee”) under the Council for Gender Equality. However, serious shortcomings exist:

1. **Root causes of gender-based violence:** Government strategies fails to address social structures maintaining and/or magnifying gender inequality. For example, the need to address unstable, low-paid employment available to women is not considered through effective legislation when developing strategies to combat domestic violence or sexual harassment.
2. **Lack of education:** While government strategies focus on distributing general information to the public, it has failed to provide education for gender equality and sex education at all levels of public education programs due to the resistance by conservative policy makers. Thus, many boys and girls leave school with little or no chance to learn basic knowledge about gender-based violence. Training for public servants including judges, prosecutors and police officers remains insufficient.
3. **Punishments for perpetrators:** Despite the Expert Committee’s stress on a need for criminalizing and increasing punishments for gender-based violence it is not a priority of the government. Domestic violence and sexual harassment is not categorized as crimes punishable under the Criminal Code. Majority government sentiment does not consider increasing punishments for sexual violence crimes as a way to combat gender-based violence.
4. **Victim support:** Besides a short-term protection system for victims of domestic violence or human trafficking, no long-term or comprehensive support system for gender-based violence victims exists. Cooperation with and support for NGOs providing support for victims of male violence remains insufficient.
5. **Lack of strategic planning for women with special needs:** The government has not considered a special strategy to empower and support women of marginalized groups. Women who are migrants, ethnic minorities, living with disabilities, in poverty and sexual minorities are most vulnerable to gender-based violence. It may require for them to provide specialized assistance to access to support programs.
6. **Lack of an effective agency:** Part of the above-mentioned shortcomings can be attributed to a lack of resources and authority provided the Gender Equality Bureau. It is often the case that responses and recommendations of the Bureau for combating gender-based violence do not receive adequate attention, nor is logistical arrangements made for necessary implementation.

8. In its previous concluding observations (CAT/C/JPN/CO/1, para. 25), the Committee Against Torture expressed concern over “the lack of effective measures to prevent and prosecute violence perpetrated against women and girls by military personnel, including foreign military personnel stationed on military bases”. Please specify the measures taken in response to this concern.

While Japanese government officials did not take any measures to follow-up on recommendations made by Committee Against Torture in May 2007, violent sexual assaults by US soldiers continued to occur. Some of these include the gang rape of a 19-years-old Japanese woman in Hiroshima in October 2007, the sexual assault of a 14-years-old girl in Okinawa in February 2008 and the sexual assault and injury of a 22-years-old Filipino migrant woman in Okinawa in February 2008. As the sexual assault of an Okinawan girl invoked strong protests in local communities, Japanese government officials and US military authorities consulted local governments on preventive measures including stronger regulation of soldiers going on an outing outside of the bases, education for soldiers, installing security cameras, implementing co-patrol (US military and Japanese police), and monitoring US soldiers living outside of the bases. Yet, these measures do not directly address situations in which foreign soldiers get into the areas where local people are living, especially those residential areas situated next to military bases.

Further, while these sexual assault cases were heard and soldiers were convicted in the US Court of Appeals for the Armed Forces, none were prosecuted in the Japanese criminal court. This failure to follow suit invites serious doubt over the ability of the Japanese legal system to prosecute and punish perpetrators of sexual crimes. In case of the Okinawan girl, prosecutors dropped the charge because the victim withdrew her suit due to external pressure—under the Japanese rape law, a sex crime cannot be prosecuted ex officio without the victim filing a complaint. For two other discharged cases, without explicit account, prosecutors cited doubts about the non-consensual nature of the sexual acts despite the fact victims suffered brutal violence. Such impunity is caused by: out-of-date rape laws, gender and sexual bias held by prosecutors and judges, and the Status of Forces Agreement (“Agreement”) allowing US servicemen free movement outside of the bases while limiting powers of Japanese authorities to investigate, arrest, prosecute and try the case of sex crimes committed on Japanese soil. Despite the request of communities hosting the bases to renegotiate the terms of the Agreement, government officials are not considering to do so. Furthermore, a document discovered by a researcher reveals a secret negotiation between the Japanese and American governments in 1953. It indicates that Japan agreed to not exercise jurisdiction over crimes and accidents involving US military personnel stationed in Japan, except for only very serious cases. However, the Japanese government denies this secret agreement via requesting the National Diet Library to remove the documents from public access archive. Government officials insist these documents “could cause trouble for the relationship of trust with the US government.”

9. The report indicates (see para.172) that “the Law Concerning Partial Amendment to the Penal Code”, which was enacted in June 2005, establishes the trafficking in persons as a crime and increases the penalties for such a crime. Annex No. 21 of the report includes statistics on how many prosecutions have been filed against traffickers from 2001 to 2005. Please give further details about the results of those prosecutions in terms of convictions and sentences as well as statistical data and prosecutions since the enactment of the new legislation up to date.

1. “Crime of Trafficking in Persons” was enacted July 2005. According to the report by the National Police Agency, 117 victims were recognized as victims of the crime in 2005. The number has decreased every year and finally became 36 in 2008. Within three years, 2005 to the end of September 2008, the prosecutor filed formal charges in 36 cases adopting the Crime of Trafficking in Persons. Although the sentence conditions have not been disclosed to the public, 31 defendants among them were found guilty at the first-instance trial (district court), but only 20 defendants were sent to prison and the remaining 11 were given suspended sentences.

According to the 2008 report by the US Department of State on Trafficking in Persons, 12 cases of human trafficking with the purpose of exploitation of prostitution were found guilty and only 7 defendants among them were sent to prison in 2007. For the Crime of Trafficking in Persons, the maximum sentence is 10 years imprisonment with labor. However, most of the sentence terms are from 2 to 4 years imprisonment with labor. Unfortunately, principal offenders evade being arrested and only subordinate offenders receive punishment.

Trafficking in persons is a latent crime. Recently, the victims’ injuries have become difficult to identify due to the elaborate management and controlling system of the victims by the offenders to prevent them from escaping and leaking information to others.

2. Late January 2009, prosecutors filed charges against a victim of human trafficking. The charges were based on the Immigration Control Law because the victim had illegal stayed(using forged/altered passport). She was found guilty and given imprisonment with labor, suspended. Unfortunately, the reason she violated the Immigration law is because she was a victim of human trafficking. Because of this the charge brought against her and the subsequent finding of guilt was a mistake since her overstay was a result of her being a victim of human trafficking. Therefore, it is urgent that policemen, immigration control officers, prosecutors and judges be sufficiently trained in this aspect of the law.

10. In its last concluding observations (CAT/C/JPN/CO/1, para.25), the Committee against Torture expressed concerns related to the cross-border trafficking in persons which are facilitated by an extensive use of the entertainment visa, as well as at the inadequate support measures for victims which leads to victims of trafficking being treated as illegal immigrants and deported without redress or remedy. Please describe measures which have been taken to address those concerns as well as any protection measures and assistance given to witnesses and victims of trafficking.

1. As a result of reviewing the Disembarkation Permission Standard (Ordinance) for the issuance of an entertainment visa along with the amendment of the law in 2005 and 2006, the number of those who entered into Japan with an entertainment visa decreased drastically from approximately 1,350,000 in 2004 to 39,000 in 2007. However, there are still many cases where women who are in Japan with an entertainment visa should be protected as victims of trafficking in persons. The number of victims using forged/ altered passport (with a Japanese visa) is increasing. The number of cases in which women coming to Japan with entertainment visa status and then protected as victims of trafficking in persons is acknowledged with statistical data. At the same time, victims who possess fake or counterfeit passport (with Japanese visa) have been increasing.

2. Inadequate support for victims

There have been cases in which victims were prosecuted and given guilty sentences. 236 victims have been protected within 7 years at the Government Women's Counseling Offices and subsequently sent back to their own countries (80 among 236 received temporary protection by entrusted civilian shelters). Women's Counseling Office have many problems; staff being unable to understand the victim's mother languages, no professional interpreters stationed, inadequate support for their daily life with respect to their culture and customs, little budget for their medical and living expenses, no system to provide legal support by the lawyers, and no vocational training programs provided to the victims to become independent. Furthermore, private shelters do not receive financial subsidies by the government. Theoretically, it is possible for the victims to request compensation or to demand unpaid salary as damages. However this has many problems that make it impractical. Presently there is no system to assist victims with free legal support and/or victims lack finances to stay in Japan for the necessary period to implement legal procedures. Furthermore there is typically an inadequate safety condition upon return to their home country. It is also difficult to identify the offender's assets.

11. Please provide information on the measures taken to address the root causes of prostitution, to prevent the sexual exploitation of women and girls, to raise awareness of the health and safety risks of prostitution and to ensure the protection, rehabilitation and social reintegration of prostitutes who wish to leave prostitution.

1. From a human rights point of view, measures taken in Japan are not sufficient to effectively abolish prostitution nor are they adequate to control the demand for the sex industry and protect women who are involved in the industry. The Anti-Prostitution Law controls and punishes those who promote the act of prostitution or provide a place or the funds to manage a sex service business. However, the Anti-Prostitution Law fails in some respects: It can only be applied to the acts of sexual intercourse for payment but not to other forms of sex service transactions.

The year 2007 recorded that 11,236 registered sex service businesses dispatched women without a fixed office in 2007. According to the police authorities, the same number if not more, of non-registered illegal entertainment business existed in the same year. This has become a big business constituting 5% of the GDP that in turn has induced forced prostitution, unclean prostitution, child prostitution, the purchase of children and trafficking in persons.

Recently, the sex industry has been using the internet and cell-phones to develop a more tactical business enterprise. The use of modern technology has created an even more dangerous and exploitable environment for women who are involved in the entertainment business. The sufferings of women who are forced to provide sex without consent as well as the unreasonable exploitation of women by threats of violence have increased. Many victims tend not to report their injuries to the police because they fear arrest by the police, threats by YAKUZA, and the stigma toward prostitutes by the community. These trends are seen especially among migrant women working without qualification or a valid visa.

2. One of the roles of The Women Counseling Office is to protect and re-integrate prostitutes. However, its function is not widely recognized in the society and recently more than one half of its total operation has become simply consulting victims of domestic violence. Women are continually afraid to seek help.

Measures must be taken to allow women to ask for aid without fear of retaliation. The purpose of the Prostitution Prevention Law is to provide protection and rehabilitation rather than the advocacy of human rights. This may enhance the stigma for prostitution. Few victimized women voluntarily visit the Office .

Moreover, women arrested on a charge involving prostitution (mainly migrant women) may be found guilty for a criminal charge unless they are identified as victims of trafficking in persons.

12. In its last concluding observations (CRC/C/Add.231, para.51), the Committee on the Rights of the Child expressed its concerns at the practice of “enjo kosai”, or compensated dating, and at the low minimum age of sexual consent, which might contribute to this practice and hamper the prosecution of sexual abuse of children. The report acknowledges (see para. 201) that “the number of sexual acts committed in the name of patronage dating have drastically increased”. Please indicate what measures have been taken to address those concerns.

1. No discussion has been made to raise the minimum age for sexual relation.
2. In 2003, The Entertainment and Amusement Trades Control Act was enacted (partially amended in December 2008) due to the drastic increase of child prostitution cases through ‘encounter sites’ using internet. After the enactment of the law, the number of victimized children decreased, but it still exceeds 1000 children every year. The actual figure of victimized children in 2007 was 1100. The evaluation and the effect of the Law are not yet clear. The sophistication of transactions makes it difficult to make an arrest; for example the development of the “Encountering at a tea house (café)” has come into existence in order to avoid the application of the sex business laws.
There are more than 5000 cases of child commercial sex exploitation every year, but this is only a small percentage of the total number of cases. The law adequately identifies children as victims suffering sexually exploitation by adults, but the continuing support for the children is inadequate. Therefore, the fact of the matter is that many children are victims of the sex industry. The time is long overdue for the implementation of an educational program for the prevention of the illegal sex trade toward children and the abusers and for strict punishment of those who violate the law.
3. The government has not made an appropriate response to the anti-sex education movement for children headed by conservative legislative members and mass media that have been gaining strength since the year 2000. Adult entertainment information mainly targeting men is the only information available. Due to this fact, children are more vulnerable to sexual exploitation than ever before. Appropriate measures are urgently needed to educate children regarding their own sexual rights and how to act based on those rights.

13. The report notes that both the number of female national public officers in managerial positions and the ratio of female to male public officers are small. In addition, figures show a declining trend (see para. 228). Please indicate what measures the State party intends to take in order to increase the participation of women at managerial levels, including temporary special measures, in line with article 4, paragraph 1, of the Convention and the Committee's General Recommendations Nos. 23 and 25.

The table (18-2) shows a slight increase in the ratio of female national public officers in managerial positions. However, in any case, the ratio, which has been 1.7% since 2004 is extremely low. In 2008, the government made a 5% target for the ratio of female national public officers in managerial positions by the year 2009 as part of the Promoting Women's Participation in Decision-Making Projects. But, the target will not be achieved. The main reasons which the government often mentions are that the severe working conditions for national public officers and the fewer number of promising female candidates of the exam for national senior public officers. But the most important reason is the government has not taken any positive actions to increase female national public officers in managerial positions, although the positive actions are stipulated in the Basic Law for a Gender-equal Society.

Recommendations made by ICCPR mention that the numerical targets which the Japanese government set for promoting women's participation in decision making are too low. Therefore, the current 30% target for increasing the ratio of female leaders by the year 2020 should be replaced by 50%. In order to reach the target, all Ministries should take positive actions, including the 50% numerical target for the recruitment of promising candidates for national senior public officers and the promotion of female officers to managers. Furthermore, penalties, such as reducing the Ministry's budget, should be carried out for the Ministries which can't achieve the target.

14. According to statistical data provided in the report, women continue to be underrepresented in decision-making in many areas, in particular in the Diet, 9% in the House of Representatives in 2005 and 13.6% in the House of Councilors in 2004, in the national government 9.1% of all ministers in 2006, in the judiciary 13.7% in 2005, in local governments and in local assemblies. The Committee, in its previous concluding observations (A/58/38, para. 368), recommended that the State party increase the representation of women in political and public life through the implementation of temporary special measures. It also urged the State party to support training programs for future women leaders, and furthermore, to carry out awareness-raising campaigns regarding the importance of women's representation in decision making for achieving gender equality. What measures are being undertaken by the State party to increase the number of women in the various levels and branches of Government, including the adoption of temporary special measures?

Both national and local governments have not basically undertaken any positive actions to train future women politicians for the following main reasons; 1) male politicians' complaints for discrimination against men and 2) keeping political neutrality. A very few local governments have organized training seminars for future female local politicians. Several women's organizations and groups have organized training courses for future/incumbent female politicians. A considerable number of the trainees for such courses were able to become politicians and they were also empowered. However, there is a limit in the number of participants as no public subsidies were provided to those NGOs who organized courses.

Although the ratio of female parliamentarians have slightly increased, Japan has fallen further down the global ranking. It is worth noting that nearly 40% of village and town assemblies have no female members. The Japanese government has not fulfilled any responsibilities for increasing women in politics. The Second Basic Plan for Gender Equality which was adopted by the Cabinet in 2005 does not refer to the promotion of women's political participation. Since 2004, the government only conducted a study on women's participation in decision making in several other countries in 2007-2008. The concluding chapter of the report, which was published in March 2008, pointed out the effectiveness of utilizing (the) government subsidies to political parties in order to increase the ratio of female candidates. In response to that, the government should launch actions such as revision of the election law.

Women's participation in advisory committees has been improved steadily. However, there are problems in the selection processes of advisory committee members such as the same person occupying several posts, excluding experts who oppose the positions of the governments. There is no positive action for minority women. Only male experts are members of advisory committees which deal with minority issues.

15. The report notes (see para.15) that the percentage of women in institutions of higher education is on the rise except at university level where a gap between men and women still exists (36.6% for women and 51.3% for men). Please provide information on measures taken to reduce this gap.

The Government report says that the percentage of female students in higher education institutions, including junior colleges and specialized training colleges, exceeds that of male students. The main reason for this trend is more girls have been advancing to two year junior colleges and specialized training colleges, which require less tuition compared with 4 year universities. However, as those junior colleges are not categorized as institutions for higher education, in the international indicators, such as gender gap index, this makes Japan's ranking in enrollment ratio of women in higher education lower.

The main reason why more girls enter junior colleges rather than four year universities is that Japanese parents have different expectations of children's education depending on their sex. That means if their child is a boy, 65% of parents want to let the child study at four-year universities, while 41% of fathers and 47% of mothers want to let their child study at four- year universities, if the child is a girl. (*The basic study report on life and consciousness of adolescents in Japan, 2001*) Consequently, career guidance teachers at high schools tend to advise female students to go to junior colleges rather than four year universities.

The government has not undertaken any policies to improve this situation. Furthermore, there is no scholarship exclusively addressed to female students for their advancement to four year universities. There are two types of government scholarship services, one type is with no interest rate and the other is with a minimum interest rate. Both require repayment. The gender ratio of beneficiaries is 54.3% for female students and 40.2% for male. The ratio of the female beneficiaries is higher than that of female students which account for 59.8% (Male 40.2%). The government should provide female students from low-income families with education grants for higher education.

16. While the report indicates that both the number and percentage of women teaching in universities and junior colleges are on the rise (see para..17), women account only for 18.7% of teachers. Please indicate measures undertaken to increase the participation of women in the teaching profession at university and junior colleges.

According to the Survey on School Teachers conducted by the Ministry of Education, Culture, Sports, Science and Technology and Culture in 2007, the ratio of female teachers at four year universities and two year colleges was 18.2%. But, the following table indicates that more men are found in higher posts and more women are in lower posts, i.e. while the ratio of female professors was 11.7%, that of teaching assistants was 51.3%. Furthermore, the lowest paid part-time lecturers are mostly women. No measures to improve the status of part-time lecturers have been undertaken at all.

Since 2006, the Japanese government has launched a project to assist female scientists. It covers various activities, including establishing day care centers at higher educational institutions and research centers, assisting female researchers for balancing their work and child rearing, and taking special measures to employ more female researchers. However as the budget for the project is limited to a three-year term, only a small number of researchers have benefited from the project and institutions that have participated in the project have to find other financial sources to continue the activities after three years.

The government should provide enough financial support for recruiting and promoting female researchers in addition to setting numerical targets for increasing female researchers. Furthermore, there should be incentives for the institutions to make significant achievements and penalty provisions for the institutions which can't reach the minimum target.

Table: Ratio by gender in the posts of universities in Japan (Survey on School Teachers conducted by the Ministry of Education, Culture, Sports, Science and Technology , 2007)

	Total	male	female	Female ratio
Total	167,971	137,325	30,646	18.2
Presidents	656	609	47	7.2
Vice presidents	615	588	27	4.4
Professors	67,927	60,369	7,558	11.1
Associate professors	39,926	32,660	7,266	18.2
Lecturers	20,221	14,814	5,407	26.7
Research Assistants	32,776	25,468	7,308	22.3
Teaching Assistants	5,850	2,817	3,033	51.8

17. During the constructive dialogue where the Committee considered the fourth and fifth periodic reports of Japan, one of the members of the Committee raised the issue of the Discriminatory Statement Against Women by a Public Officer. (See CEDAW/C/SR.617 Para. 59). What kind of steps have been taken by the government after the dialogue, in order to ensure that public officers do not make any gender-discriminatory insults, which degrade women and symbolize discriminatory, unfair machismo?

1. No steps have been taken. At the constructive dialog held in 2003, the chief representative of the Japanese government claimed, "The strongest sanction and prevention against public officers' problematic statements is exposure of the statements by mass media." This is a regrettable response that shows the Japanese government is not aware of the responsibility of the state party under the Convention. Furthermore, discriminatory insults have been made repeatedly because the mass media gives only temporary coverage to such discriminatory statements, and this minor exposure fades in public memory within a very short time.
2. Some court case examples: In the first case against Ishihara, from December 2002 to September 2005, the female plaintiffs called for an apology and restoration of their honor against the Governor of Tokyo Metropolitan City, Shintaro Ishihara, who said, "It is wasteful and sinful that menopausal women remain alive any longer." The petition was dismissed by the Tokyo District Court and Tokyo High Court. In the second case against Ishihara, from April 2006 to November 2008, the female plaintiffs called for an apology from the Governor, who repeated his discriminatory statement against the plaintiffs at the press conference just after the first case decision was issued. The petition was dismissed by the Tokyo District Court and Tokyo High Court without even touching upon the issue of women's rights, the physical and mental damage and the defamed feeling caused by the verbal attack. The Supreme Court also dismissed the women's appeal on November 11, 2008. The lawsuit was brought to court by the plaintiffs, who intended to fight for women's rights by seeking restitution for their damages through proper legal mechanisms, and to incite discriminatory verbal attacks against women by those in public office as criminal acts, but it was dismissed without judging whether there was violation of obligations under the Constitution and CEDAW.
3. Issue: 1) The judicial division does not try to adjudicate Constitutional issues of gender-discriminatory statements by public officers. 2) The administrative division is supposed to make it known to everyone that oral discrimination is also an abuse of human rights and an act of violence against women. However, the administrative division has been failing to enact laws per the definition of the Article 1 of the Convention and to criminalize oral violence and discrimination. Due to its neglect of the situations where machismo and gender-discriminatory values of public officials have been cultivated, the government of Japan has failed, both in upholding its responsibility as a state party of the Convention and in its obligation to the Constitution.

18. The report is silent on both maternity and paternity leave entitlements. Please indicate the parental leave entitlements for both women and men, as well as the percentage of men taking advantage of paternity leave, including measures taken to encourage men to take such leave.

1. Around 70% of female workers have resigned or have been forced out of work at the time of pregnancy and child birth. This is a persistent phenomenon. Moreover, recently, there is a rapid increase of companies which, using economic crisis as an excuse, dismissed employees due to pregnancy and childbirth or treated them disadvantageously.
2. Regarding child care leave, according to the Law on Child Care and Family Care Leave, a worker may take child care leave once with regard to her/his child less than one year of age. However, in case of a fixed-term employee, there are strict conditions, including the followings. (1) The employment was kept by the same employer for more than one year. (2) The employment of the worker is likely to be kept after the day on which her/his child reaches one year of age.
3. Regarding the ratio of workers who took child care leave, it is reported that 89.7% of women took the child care leave in 2007. However, the ratio of women who had worked one year before childbirth and continued to work six months after childbirth is only 30%. Such a situation also should be paid to the attention. When employees return to work, also, there are many cases in which employees were transferred to different sections or forced to change to non-regular workers. The ratio of men who took child care leave, 1.56%, is extremely low.

The number of fixed-term employees who took child care leave is very small. Only 6,052 fixed-term employees took the child care leave in 2007 (This figure refer to the number of fixed-term employees who received childcare leave benefits under the employment insurance).

4. Income security during child care leave is insufficient. Under the Employment Insurance Act, an employee receives 50 percent of the wage paid before the leave (provisional until the end of March, 2010). That is one of the reasons why employees are discouraged to take child care leave. Moreover, an employee receives only 30 percent of the wage during the leave and the remaining 20 percent six months after returning to work.
5. At present, the government considers to revise the Law on Child Care and Family Care Leave. In order to increase the ratio of men taking child care leave, it is necessary to improve the prevalence of long working hours and to change companies' culture which hinders men from taking child care leave. It is also important to improve the environment of the society as a whole and to enhance income security during child care leave.

19. The report explains the dispute settlement system put in place in case of dispute between female workers and their employers, which aims at conciliation but does not provide information in cases of failure of such conciliation (see para. 303-305). Please indicate what legal avenues are available to the employees in case of violations of the revised Equal Employment Opportunity Law and what sanctions are foreseen for the employers found to be in breach of their obligations under this legislation. Please provide statistics about the number of cases brought by women and the outcome of such cases.

1. According to the 2006 revision of the Equal Employment Opportunity Law, the number of cases of consultations provided by the Equal Employment Department of the Prefectural Labour Offices in 2007 increased to 29,110 (42% from female workers) that is 1.5 times of the corresponding figure of two years before. The Department issued correction guidance to 4,547 employers (in 2007) regarding 15,069 cases of such issues as sexual harassment (9,854), motherhood-maternal health management (4,675), recruitment and hiring (257), and assignment, promotion, demotion and education and training (151). It is reported that more than 90% of the cases were corrected by the end of 2007 fiscal year.
2. If an employer does not comply with correction guidance, the name of the company is published. However, there was no such a case so far.
3. There are cases in which the Dispute Adjustment Commission is involved. The number of cases accepted by the Commission increased from 5 in 2006 to 62 in 2007. However, in case that an employer rejects the start of conciliation, it does not start. Among 56 cases in which conciliation started, only 27 cases were settled. This was because the Commission judged that there was no possibility of settlement through conciliation and they ceased to proceed to the final stage.
4. The support for the settlement of individual disputes was applied in 546 cases (3.3 times compared to the previous fiscal year) in which correction guidance had been ineffective.
5. It is necessary to strengthen the power of the Equal Employment Department in order to facilitate settlements. However, the government considers decreasing even the number of Equal Employment Departments as part of the decentralization reform.

20. The report indicates (see para. 292) the revised Equal Employment Opportunity Law provides assistance for employers who institute positive action. Please provide further information about actions that were undertaken by employers, the assistance that employers received under the revised law and to what extent such assistance benefited to the women employees.

1. In order to institute positive action, the revised Equal Employment Opportunity Law stipulates, besides the existing provisions, the assistance for the disclosure of positive action implemented by each company. The Ministry of Health, Labour and Welfare commissioned to the Japan Institute of Worker's Evolution the establishment of the Positive Action Support Site which introduces actions taken by each company. However, the number of registered companies is only 349 as of January 17, 2009.
2. The Support Site reports the situations of each company regarding the female-male ratios of employees and regular workers, a gap between women and men regarding the length of service in a company, the ratio of women in managerial positions and women in top management. A target of positive action was also set by each company, and the results and challenges are publicized. The progress has been made in some companies. However, in Japanese corporate culture where the notion of the sexual division of labour is extremely strong, positive actions only taken voluntarily by companies are ineffective.
3. Based on the 2003 survey of the Ministry of Health, Labour and Welfare (Answered by 5,261 companies among 7,000), the Japan Institute of Worker's Evolution conducted the Survey on Positive Actions Taken by Companies (Answered by 927 companies) at the end of 2007. According to the Survey, the ratio of companies who answered "Both men and women are assigned in every department" decreased, and the ratio of companies who answered "There is a department where only men are assigned" increased in 2007, compared to four years before. The number of women in managerial positions increased 1.32 times, but the increase of the ratio of women, from 3.1% to 4.1%, is small (8.2% according to the 2007 statistics of the Ministry of Health, Labour and Welfare). Moreover, the increase in the number of female non-regular workers hinders the equality of opportunity between women and men.

21. According to the report, in 2005, the average wage of female workers (excluding part-time workers) was 65.9% of male workers. Apart from the Guidelines on the Improvement Measures of Wage and Employment Management for Eliminating Wage Disparity between Men and Women compiled in 2003 by the Ministry for Health, Labour and Welfare and the application of which is voluntarily, please elaborate on any other measures developed and undertaken to address the wage gap between men and women.

1. The Ministry of Health, Labour and Welfare reestablished the Study Group on the Issue of Wages Disparity between Men and Women in June of 2008, but the target of the study is only regular workers. Women account for 70% of non-regular workers, 60% of which are part-time workers. The average wage of female part-time workers is only 47.7% of regular male workers (2007). In the first place, it is the problem that the issue of non-regular workers' wage is excluded from the study.
2. The revised Part-Time Work Law (enforced in 2008) stipulates the prohibition of discriminatory treatment of part-time workers Equivalent to ordinary workers. However, the Law covers only part-time workers who meet all of the following three conditions. (1) Job Description (description of his/her work and the degree of responsibilities) is equal to that of ordinary workers. (2) Company transfer and overtime work are applied, just as applied to ordinary workers. (3)The labour contract is without a definite period. The percentage of part-time workers who meet these conditions is below several percent. It is ineffective in narrowing the wage gap.
3. Regarding regular workers, the average wage of female workers was 67.6% of male workers in 2004 when the ratio was the peak, 65.9 in 2005 and 66.9 in 2007. The wage gap was not improved. The ILO Committee of Experts on Applications of Conventions and Recommendations recommended in its individual observation "in order to implement the principle of equal remuneration for work of equal value, there is a need to study and develop measures of objective and non-discriminatory job evaluation." It is the urgent task to establish an objective job evaluation system to rectify the pay gap between women and men existing in the two-track employment management system and to treat regular workers and non-regular workers equally. It is necessary to conduct a survey on wages of non-regular workers and the study on the pay gap.
4. Regarding women working for private companies, the yearly income of 43.7 percent of those women, or 7,690,000 women, is below 2 million yen that is the poverty line. These five years, the number of such women has increased by 1 million. A key factor for this large increase is the rapid increase in the number of female non-regular workers. The work environment is especially severe for single mothers and elderly women of a single household.

22. The report mentions that the guidelines concerning the Equal Employment Opportunity Law were amended (see para. 290). Please provide details about those guidelines, in particular with regard to how they encompass indirect discrimination in the sections relating to employment management, recruitment and hiring, assignment (including allocation of work and vesting authority) and promotion.

1. The employment management categories (type of jobs, form of work, form of employment, etc.) provided for in the Guideline under the Equal Employment Opportunity Law amount to indirect discrimination for the reasons given below, and should be deleted. The provision should be changed to prohibit any discrimination between men and women in recruitment and hiring.

In 1985, the Guideline stipulated that women should not be excluded from recruitment and hiring within the “recruitment and hiring categories (type of jobs, form of work, form of employment, etc.). With the amendment of the Equal Employment Opportunity Law in 1999, the “hiring and recruitment category” was renamed as “employment management category.” At the time of the amendment of the Law in 2007, the name and substance of the term remained unchanged.

The inclusion of “employment management category” in the Guideline provided an opportunity for many companies to introduce the career-track system in personnel management. After more than 20 years since the enactment of the Equal Employment Opportunity Law, the proportion of women engaged in the management track jobs is just 2 to 5%. Because of the “employment management category” in the Guideline, the door to equality in training, promotion and pay raise was closed for the workers in the clerical track, who were women. The Law protects equality for only a handful of women in the management track. The “employment management category” creates indirect discrimination, which retains the wage gap between men and women under the cover of difference in types of jobs and forms of employment.

2. An actual example of indirect discrimination created by the difference in form of employment, which is an “employment management category,” companies have increasingly stopped hiring workers for the clerical track jobs, and started to hire women as non-regular workers under fixed term contracts of 3 to 5 years. It is a form of indirect discrimination to recruit and hire only women under fixed-term contracts.

23. Please give further details about the measures employers have an obligation to take under the revised Equal Employment Opportunity Law to prevent sexual harassment in the work-place (see para. 61 of the report). Please clarify whether this revised law includes punitive measures to enforce compliance other than publicizing the names of offending companies. Please indicate to which extent the new measures foreseen by the revised Equal Employment Opportunity Law have been enforced.

1. Regarding employers' obligation to take necessary measures under the revised Equal Employment Opportunity Law, the Guidelines spell out details about the typical cases of sexual harassment and the measures employers should take. According to the revision of the law, the number of consultations provided by the Equal Employment Department increased to 29,000 in FY2007 that was 1.5 times of the figure of two years before. Among them consultations on sexual harassment account for 54.3%, more than half of which were from female workers.
2. The number of applications for the support of the director of each Prefectural Labour Office to settle individual disputes is 546. Among them 300 cases, whose ratio is 54.9%, are regarding sexual harassment. However, the number of cases applied for conciliation was only 53 (85% of all the cases applied for conciliation). There are many cases in which disputes were not settled, because in case those offenders did not respond to conciliation, the support was stopped at an early stage.
3. The power of the Equal Employment Department of the Prefectural Labour Office is limited to a mere formal advice and guidance to companies such as the establishment of working regulations and consultation windows, and there is no punitive measure against offending companies except to publicize the names. The number of cases of correction guidance to companies who violated the Law was 15,069 whose 65.4% was concerning sexual harassment. The Equal Employment Department reports that, as a result of correction guidance, more than 90% of cases were corrected, but the names of the companies who did not comply with guidance were not publicized.
4. Many of the victims suffer PTSD or depression, but the number of cases recognized as labour-related illness is only 5 throughout Japan. Moreover, the secondary victimization at consultation windows frequently occurs. The situation of female worker victims is becoming much more serious.

24. In its previous concluding comments (see A/58/38, sect. IV, para. 366), the Committee requested the State party to provide, in its next report, comprehensive information, including sex disaggregated data, on the situation of minority women in Japan, with regard to their educational, employment and health status and exposure to violence. Please provide such information.

The Japanese government does not have any data regarding the status of minority women and, thus, cannot provide such information. At the same time, the government has not even acknowledged the need to comprehend the situation of minority women or for policies regarding them. Comprehensive information about minority women cannot be provided without conducting a survey, but it has become clear through negotiations with the government, held twice since 2007, that the latter does not have the will to execute it. The government has not ventured to understand the situation because carrying out a survey will clarify gaps and discrimination in the society and require it to implement corresponding measures.

Having received the Committee's Concluding Observations, the Japanese government added the item "Minority Women" to its sixth periodic report, but in the three paragraphs contained, there was no mention of the situation of minority women. There is also no mention of minority women at all in policies and guidelines, as well as pamphlets regarding gender equality.

From 2004 to 2005, we, indigenous Ainu women, discriminated Buraku women and Korean women resident in Japan conducted, on our own, the first survey of minority women dealing with issues of education, employment, social welfare, health and violence, and pressed the government to come to see our situation. The government, however, continues to be silent. Excerpts from the survey results are attached. Although the conditions under which the surveys undertaken by each of our three groups were different and limited, it can be seen that there is a gap in educational attainment and that there is a tendency for minority women to work long hours until they reach old age. To accurately grasp the situation of minority women and take appropriate measures, it is necessary for the government to secure the budget required and conduct a survey in consultation with minority women. Unless minority women make a point of taking part in deliberations on policy regarding women, their point of view will not be known or reflected in policy.

25. The report does not provide any information regarding the situation of migrant or refugee women. Please provide information, in particular, regarding the economic and social status/conditions of women migrants and refugees and the relevant policies to support migrant and refugee women, and protect them from violence and exploitation.

1. The Government of Japan refuses to make any attempts to understand the current status of **migrant women** who have come to Japan for international marriages or work. As a result, enforcement policies protecting the rights of these women are tantamount to being virtually *nil*.

Regarding the measures with regard to DV, in spite of the 2003 CEDAW's **Consideration of the reports** (paragraph 361-362) [Committee is further concerned about the particular situation of foreign women who experience domestic violence and whose immigration status might depend on their living together with their spouse. The Committee is concerned that fear of repatriation might be a deterrent for those women to seek assistance or take steps to seek separation or divorce.], the Japanese Government's efforts to cope with these concerns are inadequate. Especially, the proposal to revise the Immigration Law scheduled for deliberation at the upcoming National Diet is a case in point. It is feared that the newly proposed Foreign Resident Administrative System will institute excessive obligatory and criminal stipulations, as well as other new immigration regulations to include as a reason for canceling a migrant woman's spouse visa the fact that she "does not continue to live as one with spousal visa status and resides in the country for more than three months," thus making it extremely difficult for a migrant DV victim to request rescue and protection.

In order to protect migrant women from violence or exploitation, it is essential to carry out the following policies and measures:

- (1) Enacting a law to ban human trafficking,
- (2) Safeguarding the legal status of migrant women in international marriages and providing various types of support to their daily lives,
- (3) Expanding job categories available to migrant women, and guaranteeing them women workers' rights.

2. Regarding **refugee women**, there are no statistics regarding refugee women in documents published by the Ministry of Justice. Many asylum seekers are not allowed to work, and yet the government assistance offered is extremely limited. Unable to work or receive public assistance at all while their cases are being heard, some women face extreme hardship. Some are held in detention while seeking asylum, as their legal status is unstable. In particular, if detained following the issuance of a deportation order, they are held indefinitely, even if they are in the process of seeking asylum. There is also the problem of insecurity in the case of mothers and children being separated, as well as the cost of health insurance. Furthermore, medical examinations for pregnant women are not free, and because asylum-seekers cannot enroll for National Health Insurance, such check-ups are inadequately provided.

26. The report notes that women have a longer lifespan than men (see para. 13) and predicts that the aging rate of the population will continue to increase rapidly to rise to 28.7% in 2025 and 35.7% in 2050 (see para. 14). Given the health risks and other vulnerabilities faced by older women in Japan, please expand on government policies and initiatives specifically targeting this section of the population, beyond the measures aimed at improving the nursing system (see para. 110 to 114).

The government's policies targeting older women are far from sufficient. The following challenges have to be urgently dealt with.

1. Poverty Problem

Wage disparity between men and women and/or the difference of their length of service due to women's leaving job at the time of childcare or other reasons cause a great gap in the amount of pension between men and women. The income of most of women who receive their pension is under the standard of welfare. The ratio of non-pensioned, estimated to be more than one million, is larger in women than in men. The discontinuance of old age addition to welfare is so great a damage to women that poverty of women is quite serious. It is necessary to realize the system of "correction of the disparity in pension between men and women" and that of "the minimum pension system."

On the other hand, the government's policy to make older people independent doesn't work.. For example, it's extremely difficult for women over 65 years old to find a job, and their choice of work is so limited that only one % of the new applicants to the public employment security offices can get a job.

2. Medical System

Continuing worsening medical system gives damage to older women, such as a rise of medical expenses targeting old age, a rise of boarding and rooming charges of recuperating patients and so on. Above all, the medical system of older people over 75 years old is cruelly discriminatory system, which forces them to separate from the health insurance, thus causing a rise in their charge and deteriorating their medical treatment. The government should obey the public opinion that demands the abolition of this system.

3. Nursing-care System

The government reports that the system of nursing-care insurance has been well established, but in fact there are older people increasing who cannot get necessary care because they are unable to bear high charge of insurance and nursing care. The government is going to make the nursing-care system even more cruel to older people who need it by turning the recognition system for the worse and by restricting them to use the service irrationally, etc. The government says that they will re-examine the nursing-care reward in order to improve the working condition of care workers many of whom are women. The effect, however, extends only to large-scale enterprises, but is not useful to the workers' labour surroundings.

27. The report indicates the ratio of abortions in the teenage population was 10.5 out of 1000 females in 2004 (see para. 355). What steps are being taken to promote a comprehensive sex education plan, including education on reproductive health, so that adolescent girls have access to age-appropriate reproductive health and family planning information and to affordable contraceptive methods? Does the Government plan to decriminalize abortion?

1. The Penal Code of Japan stipulates in Article 212 that “when a pregnant woman causes her own abortion by drugs or any other means, imprisonment with work for not more than 1 year shall be imposed.”

Although the report by the Japanese government asserts the legitimacy of this Article, it is clear that it violates Article 2(g) of the Convention as well as Clause 14 of General Recommendation 24 of CEDAW, which requires State parties to refrain from obstructing actions taken by women in pursuit of their health goals. Obstruction includes criminalizing medical procedures needed only by women, as well as criminal punishment for women who undergo these procedures. Clause 31(c) of the Recommendation clearly requires that “legislation criminalizing abortion be amended and punitive provisions for women who undergo abortion be removed.”

The Penal Code also violates Clause 21 of General Recommendation 21 of CEDAW, which guarantees women’s rights to decide on the number and spacing of their children.

In relation to abortion, Japan also has a Maternal Protection Law, under which abortion is recognized as a legal medical procedure. Under this law, most abortions are justified, so long as they are performed in accordance with the requirements of the law.

However, as long as Article 212 of the Penal Code remains, a woman who has an abortion, even in the first trimester, can be punished. The existence of the article itself, which punishes only women, is an intolerable example of discrimination against women. It is a law that should be abolished immediately by the Japanese government.

Regarding abortion methods, women’s right to choice is restricted by rulings of the Japanese Ministry of Health, Labour and Welfare, which has restricted abortion methods based on such unscientific criteria as the financial merits for the hospital. Only surgery (dilation and curettage) is designated as a standard abortion method in Japan, even in early-stage abortions, but medical abortions and manual vacuum aspiration should also be permitted, improving the conditions for implementation.

2. Although the rate of teenage abortion is on a declining trend, 10.5/1000 is still too high, and the response by the Japanese government is far from sufficient.

Although the Japanese Ministry of Health, Labour and Welfare reports that they have implemented activities to disseminate information on reproductive health as well as projects to provide counseling to adolescents, in fact, they have made little progress in making information available regarding reproductive health services, including family planning, and in improving accessibility to such information and services.

Additionally, the main method of contraception in Japan is still the use of condoms. Access to contraceptive pills and reproductive health services is very limited because of their high costs and lack of information about them. Because the Japanese Ministry of Health, Labour and Welfare has refused to approve emergency contraceptive pills, including even such widely accepted oral emergency

contraceptive kits as “Preven”, low- to medium-dose contraceptive pills are usually used as substitutes. Even then, most Japanese women do not know that emergency contraceptives may be used to avert an unwanted pregnancy.

What is worse, in the field of sex education, there have been many setbacks in the past several years. The National Plan for Gender Equality has been amended for the worse, deleting “fulfillment of sex education” as stated in the First Plan. Instead, as the government yielded to political pressure by conservative groups, the Second Plan calls for a “review” with the intent to “prohibit extreme sex education.” This change has made many teachers shrink back from active engagement in sex education. The Ministry of Education, Culture, Sports, Science and Technology has also changed its curriculum guideline from “active development of sex education curricula” to the less proactive stance of “sex education that takes into account students’ developmental stages.” The constraint on sex education—the concern that students may not be “ready” for certain information—makes sex education more difficult in Japan, putting at risk the reproductive health of adolescents.

28. In its last concluding observations (see A/58/38 para.371), the Committee expressed its concerns that the Civil Code still contained discriminatory provisions, including those with respect to the minimum age for marriage, the waiting period required for women before they can remarry after divorce and the choice of surnames for married couples. The report does not indicate on any concrete actions that the Government has taken to repeal the legal provisions in the Civil Code discriminating against women. Please provide this information.

The Ministry of Justice reported that it continues its efforts to increase public awareness, but the efforts of the Government have been rather retrogressive since 2005.

The Government in the Second Basic Plan for Gender Equality approved by the Cabinet on December 27, 2005 merely stated that it “continues its efforts to deepen public awareness” but the Government has taken no steps since then on an optional system allowing married couples to register separate surnames. In the authorization of high school textbooks, the negative comments made by the Ministry of Education, Culture, Sports, Science and Technology on the descriptions of the separate surnames of married couples resulted in the deletion or retrogressive revision of those descriptions.

The Government has conducted a poll on the choice of surnames every five years. The Minister of Justice announced that the Minister would deal with the optional system based on the result of the poll conducted in 2006. Minister turned to cautious attitude, stating that “the national opinion is split” for the reason that in the poll published in January 2007 the number of respondents in favor of the optional system decreased compared to the previous poll. However, the number of respondents “against” exceeding that of “in favor” is only among those who are over 60 years old. Moreover, respondents of senior generations were 1.6 times of younger generations in number. Therefore the poll did not reflect the views of young generations of the marriage couples. Above all it is wrong that public opinion is used as an excuse for failure in revision of law when human rights issues are involved.

While many countries where the minimum age for marriage was set differently between men and women have recently made amendment to allow the same minimum for them, the Government does not mention the need of amendment of the law.

The waiting period required for divorced women before her remarriage was provided for the purpose of avoiding conflict over paternity determination of the child whether a child from the former marriage or from the latter marriage. This provision is no more necessary now that the medical technology has advanced. The revision of this provision was considered by the ruling parties in 2007 together with the revision of the related provision of presumption of paternity but did not result in the amendment due to the objection by the then Minister of Justice.

29. Please provide information on the type of property that is distributed on dissolution of relationship, and indicate, in particular, whether the law recognizes intangible property (i.e. pension funds; severance payments; insurance). Please also indicate whether the law provides for the distribution of future earning capacity and human capital, or consider enhanced earning capacity or human capital in any manner in the distribution of property upon dissolution (e.g. through a lump-sum award reflecting the other spouse's estimated share in this type of asset, or by allowing for an award of compensatory spousal payment).

1. Intangible property obtained through the cooperation of both parties during the marriage can be distributed on the dissolution of relationship. But there are many limitations on the distribution of the intangible property. For example, future severance payments can be taken into account only on the condition that there is high possibility of receiving in the near future. Insurance is also taken into account only when the amount paid is concrete. This claim for distribution of property shall be extinguished at the expiration of two years from the day of divorce. After the amendment of the Employees' Pension Insurance Act in 2004, a premium payment record during marriage can be distributed as marital property but still the scope of the distribution of pension is very limited.
2. Article 768 of the Civil Code stipulates that the family court shall determine whether to make a distribution, and the amount and method of that distribution, taking all circumstances into account. But the Civil Code does not stipulate the classification of the property divided and how to divide the marital property clearly. No article stipulates or defines enhanced earning capacity or human capital. The family court may consider compensatory aspect as part of "all other circumstances" (768) for those who may not support themselves after divorce. But this consideration is merely supplementary or thought of as a relief, thus in many cases compensatory spousal payment has been very small or not awarded at all in reality. Many women leave the job due to marriage or pregnancy, or take part-time job which makes it very difficult to live economically independent after divorce. On the other hand many men are enhancing their earnings capacity with the support of their wives during marriage. This kind of situation is hardly taken into account as compensatory aspect on the distribution of the property.
3. Women's housework has been taken into account as part of their contribution in the acquisition of the marital property. Marital property with some limitation mentioned above has been split 50/50 in many court cases recently. But it is very difficult to find the other party's property. Still in many cases of divorce by agreement or conciliation pro se, women's housework may not been considered as an equal contribution in the acquisition of the marital property, nor no distribution of marital property is given. In the case of a large amount of divorce by agreement no future earning capacity or human capital are taken into account in the distribution of marital property. The economic disadvantage the other spouse may suffer after divorce remains the main concern of many women considering divorce, which makes it difficult or impossible for them to choose divorce.

30. In light of the Committee's last concluding observations (see A/58/38 para.375), please indicate any progress made with respect to the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

The Government replied only to the extent that "Japan has neither concluded nor accepted the communications procedures under any international human rights treaties yet. Currently Japan is giving consideration to this matter" in response to the Committee's last concluding observation that stated "the Committee encourages the State party to continue to consider the ratification of the Optional Protocol to the Convention" (para.103).

The Optional Protocol is the document essential to strengthen the effectiveness of the rights under the Convention and 96 States have already become parties. However, consideration on the communications procedures by the Government actually means the study meetings organized by the Ministry of Foreign Affairs inviting the relevant ministries and scholars on the individual complaints procedure under the International Covenant on Civil and Political Rights and it seems that neither study nor consideration has been conducted on the individual complaints procedures under the Convention on the Elimination of All Forms of Discrimination against Women.

On the other hand, a petition for ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women has been adopted unanimously across the parties eleven times so far at the House of Councilors. That means that the national will seeking ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women among the communications procedures under the international human rights treaties that Japan ratified has been expressed most clearly and repeatedly through such a formal body as the Diet.

The Government should make its political will clear to start moving toward the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in response to the explicit will of the Diet to request the ratification and based on the fact that it has studied enough the communications procedures under the International Covenant on Civil and Political Rights and considered issues of its concern about that mechanism for many years.

Critical Issues that are not addressed in the List of Issues

Proposal 1: Discrimination against children born out of wedlock is violation of the absolute human rights of women to get pregnant and give birth to a child.

Children whose parents are not legally married are referred as “illegitimate children” and discriminated with regard to inheritance in the Civil Code. This discriminatory provision has promoted various forms of social discrimination.

There is an item to indicate “a legitimate child” or “an illegitimate child” in the birth registration forms and failure to tick either one leads to rejection of such registrations. Because of the implication the word legitimacy conveys, imposing the mothers of children born out of wedlock to indicate their children as illegitimate has caused tremendous anguish to them. In addition, those children whose birth registrations were rejected are not registered in family registry, which results in various disadvantages including their exclusion from governmental services. The Human Rights Committee in its concluding observations in 2008 made a recommendation that “[the State party] should remove any provisions discriminating against children born out of wedlock from its legislation, including Article 49, of the Family Registration Law prescribing that birth registration forms shall indicate whether or not a child is ‘legitimate’”.

The Committee on the Elimination of Discrimination against Women in 2003 stated that “it is concerned about discrimination in law and administrative practice against children born out of wedlock with regard to registration and inheritance rights and the resulting considerable impact on women”. However, the Government has failed to take this recommendation seriously and revise the law. Furthermore, the Government made a reply in the Diet to the effect that “the Committee on the Elimination of Discrimination against Women wrongly interpreted the Convention taking up the issue of discrimination against children born out of wedlock with regard to inheritance as discrimination against women since there is no discrimination between a boy child and a girl child with regard to inheritance rights.”

In spite of the fact that the existing discrimination in the Civil Code and the Family Registration Law in Japan not only has directly imposed considerable disadvantages on the mothers of children born out of wedlock but also promoted social discrimination, the Government has left such situation and taken no human rights awareness raising measures on the social discrimination against those children and their mothers.

The Government has ignored the recommendation of the Committee on the Elimination of Discrimination against Women by denying discrimination against children born out of wedlock as discrimination against women. But discrimination against children born out of wedlock is violation of the absolute human rights of women to get pregnant and give birth to a child. It is clear from the fact that the Nairobi Forward-Looking Strategies adopted by the Third World Conference on Women in 1985 explicitly stated that “legal or other appropriate provisions should be made to eliminate discrimination against single mothers and their children”.

Proposal 2: The issue of Japan's military sexual slavery, the so-called "comfort women" issue, should be taken up as one of the principal issues for the review of Japan's report.

1. In the concluding observations of the last report, the Committee recommended that "the State Party endeavour to find a lasting solution for the matter of 'wartime comfort women'". However, the government report merely describes the projects of the Asian Women's Fund and does not refer to any new measures the concluding observations requested. The AWF, whose projects were directed only to a limited number of victimized countries, dissolved in March 2007. Further, the government report neglects the fact that the bills for the government to provide apology and compensation to the survivors on the government's own responsibility, have been submitted to the Diet in vain several times.
2. After the last review of the Committee, several UN and other international human rights organizations including the Committee against Torture (CAT), the Human Rights Committee (CCPR), the Universal Periodic Review of Human Rights Committee (UPR) and the ILO, have made recommendations over the "comfort women" issue. Several parliaments, including the United States, the Netherlands, Canada, ROK, Taiwan and the European Union, passed resolutions calling on the Japanese government to seek solutions for the issues of "comfort women". In particular, CCPR issued concrete recommendations on the issue, referring to matters including the acceptance of legal responsibility, apology that is acceptable to the majority of victims, prosecution of perpetrators, legislative and administrative measures for compensation, educating the general public, and the refutation and sanction for denial¹. In response, the Japanese government issued an official statement that "a recommendation [of the committee] is not legally binding and is not such that it is a duty for a State party to the International Covenant on Civil and Political Rights to adhere to."² This attitude of the Government of Japan is a denial of the efforts of the international community to improve human rights situations through the UN human rights mechanisms.
3. Nine out of the ten claims filed by "comfort women" survivors at Japanese courts against the Government of Japan for apology and state compensation have been finally dismissed by the Supreme Court, thus exhausting domestic remedies. Unless the Government of Japan takes new measures, the victims are left unremedied, and the issue is kept unresolved without Japan acting according to its international obligations under the Convention. Eighteen years have passed since the first victims spoke out. The survivors are now of very senior age and many of them have passed away³. There is an urgent need for the Committee to take up this issue once again in its periodic review of Japan's report, and further clarify the kind of measures to be taken by the government of Japan that the committee called for in its previous concluding observations of 2003.

¹ Concluding observations of the Human Rights Committee. Para. 22. Human Rights Committee Ninety-fourth session, Geneva, 13-31 October 2008. (CCPR/C/JPN/CO/5)

² The Cabinet's response in writing on January 13, 2009, to the official inquiry in writing form MP Tanioka.

³ e.g. In ROK, out of 234 survivors registered, 141 survivors passed away. In Taiwan, out of 58, 38 survivors passed away, as of March 2009.

Proposal 3: The Japanese government should implement policies to recognize the multiple discriminations faced by women with disabilities and to protect their human rights. In particular, it should work to eliminate domestic violence against them and provide compensation for forced sterilization. To do this, it must conduct surveys of persons with disabilities and compile statistics disaggregated by gender.

The section on “Measures for Women with Disabilities” in the government’s report actually contains nothing at all dealing with women with disabilities. In fact, it is difficult to find any policy at all. Article 6 of the Convention on the Rights of Persons with Disabilities, expresses a clear recognition that women and girls with disabilities are subject to multiple discrimination and calls for appropriate measures to guarantee them the exercise and enjoyment of the human rights. The situation in Japan is far from this ideal.

The Japanese government’s surveys on the situation of persons with disabilities do not publish gender-disaggregated data. As a result, the government cannot grasp the problems of women with disabilities, and cannot implement necessary policies. In 1991, the UN Committee on the Elimination of Discrimination against Women recommended that State Parties provide information on women with disabilities and on measures taken to deal with their particular situation (General Recommendation 18). In 2003, the Committee, in its recommendation (A/58/38(SUPP)) to the Japanese government, following Japan’s fourth and fifth periodic reports, called on it to collect and analyze data disaggregated by gender and age. However, the Japanese government has yet to comply.

No progress has been made in preventing domestic violence against women with disabilities, grasping the reality to protect victims and make physical and psychological recovery possible, and making consultations and shelters accessible to persons with disabilities. Nothing has been done to provide women who have disabilities with educational, work and income opportunities to gain independence, which is necessary to the prevention of and recovery from abuse.

The Eugenic Protection Law, which was in force until 1996, included provisions for the sterilization of people with disabilities without consent, and 16,520 people were subjected to this provision by 1994, 68% of them women. It is possible that illegal sterilization is still carried out today. The UN Human Rights Committee issued a recommendation to the Japanese government in 1998 calling for the provision through law of the right to 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.

Proposal 4: The Japanese government should clearly guarantee Reproductive Rights and develop quality policies on Reproductive Health.

1. The National Second Plan for Gender Equality does not stipulate any guarantee of reproductive rights, and the policies of the Japanese government have made light of the rights of women to make choices regarding her own body.

The Maternal Protection Law requires a woman who wants an abortion to obtain the authorization of her male partner. But while both the woman and her partner are parties to the application for an abortion, only the woman may be punished by the Penal Code for having an abortion without the consent of her partner, which is clearly discriminatory.

The above-mentioned article of the Maternal Protection Law should be abolished because it also violates Article 16 of the Convention, which guarantees equal rights for women in all matters relating to marriage and family relations, and Clause 14 of General Recommendation 24 of the CEDAW, which prohibits State parties from restricting women's access to health services or to the clinics that provide those services on the ground that women do not have the authorization of husbands, partners, parents or health authorities.

Although 15 years have passed since the ICPD, not only the concept but also the term “reproductive health/rights” has not become widely recognized in Japan. What is worse, due to political pressure by right wing groups, it is becoming increasingly more difficult to use the term “reproductive rights.”

However, the Japanese government should undertake a drastic reform of the Maternal Protection Law and the Maternal and Child Health Act from the standpoint of reproductive health/rights and the rights of women to make choices regarding her own body. The Japanese government also needs to develop policies to increase awareness of and respect for “reproductive health/rights,” especially in the field of education.

2. The Japanese government has not fulfilled its responsibilities or borne its share of costs to ensure safe motherhood. The Ministry of Health, Labour and Welfare has continued to deny coverage for pregnancy and delivery under the national health insurance system on the grounds that they are not diseases.

Even for antenatal checkups, which are necessary for safe delivery, the Japanese government does not cover all the expenses, and municipalities have discretion over the number of antenatal checkups and amount of subsidies, so that there is considerable disparity in services and costs depending on where one lives. Some women cannot afford or access antenatal health services, so that a high-risk delivery results. There have even been fatalities among pregnant women who needed emergency obstetric care but were refused by hospitals.

Furthermore, women who can not afford to pay health insurance have difficulty access to medical services, even when they suffer from complications relating to pregnancy and delivery. Most are low-income earners or are foreigners of illegal residency. Even a woman who is covered by the national health insurance only receives a lump-sum allowance for childbirth; all other expenses relating to delivery are her own responsibility.

Less than half of working women are full-time and permanent employees, which means that the majority of women are not covered by a social security scheme. There have also been many cases in which

women were fired or terminated at the end of a fixed-term labor contract, immediately after informing the employer that they were pregnant, which illustrates that there is little guarantee of reproductive health rights in the workplace.

In response to the declining birth rate, the Japanese government enacted a law in 2003 defining its basic countermeasures. However, this law and related national policies neglect the rights of women to make their own decisions in matters affecting their lives and reproductive health. While urging women to bear more children, the government has failed to address many problems such as insufficient perinatal services, insufficient support for child raising, the acute shortage of obstetricians, and refusals by hospital emergency rooms to accept women needing obstetric care.

Proposal 5: The Japanese government should legislate to prohibit discrimination against women of sexual minorities and to protect their rights.

The Human Rights Committee has expressed its concern⁴ on discrimination against those who are lesbian, gay, bisexual and transgender in employment, housing, social security, health care, education and other fields regulated by law, as exemplified by Article 23(1) of the Public Housing Law which applies only to married and unmarried opposite-sex couples and effectively bars unmarried same-sex couples from renting public housing, and by the exclusion of same-sex partners from the protection under the Law for the Prevention of Spousal Violence and the Protection of Victims. (Arts. 2(1) and 26) The Committee has stated⁵ that the Japanese government should consider amending its legislation, with a view to including sexual orientation among the prohibited grounds of discrimination, and ensure that benefits granted to unmarried cohabiting opposite-sex couples are equally granted to unmarried cohabiting same-sex couples. During the first Universal Periodic Review of Japan in the Human Rights Council, the Japanese government was recommended to “take measures to eliminate discrimination based on sexual orientation and gender identity”⁶ and declared its acceptance of the recommendation.

On the contrary to these, there is no reference to measures or policies on transgender, lesbian and bisexual women in the sixth periodical report on the Convention on the Elimination of All Forms of Discrimination against Women by the government.

The Japanese government should, without exclusion, take measures to prevent violence on the basis of sexual orientation and gender identity, to protect and support the victims of such violence, and to protect and support the victims of domestic violence in same-sex partners.

The Japanese government should also prohibit legal or de facto discrimination against women and girls of sexual minorities at all levels of social education, school education and employment and legislate to guarantee them equal opportunities.

The Japanese government should legislate to recognize same-sex relationships between women including those whose biological sex does not match their gender identity, to guarantee them the right to have children and raise them and the right to sexual and reproductive health including access to information and service related to it.

It is necessary for the government to modify the existing systems regarding medical and legal treatment of those people with gender identity disorder based on their diverse needs.

The government should include well-founded fear of persecution on the basis of one’s sexual orientation among the grounds to grant asylum into the definition of refugees in the Immigration Control and Refugee Recognition Act.

⁴ Concluding observations of the Human Rights Committee. Para. 29. HUMAN RIGHT COMMITTEE Ninety-fourth session, Geneva, 13-31 October 2008. (CCPR/C/JPN/CO/5)

⁵ *ib.*

⁶ Report of the Working Group on the Universal Periodic Review of Japan. Para. 60-11. HUMAN RIGHTS COUNCIL Eighth session. (A/HRC/8/44)

Proposal 6: In order to realize the principle of equal pay for work of equal value, the principle must be explicitly included in the Labor Standards Act, and a gender neutral job evaluation system established as a measure to promote the principle.

1. In order to close the gap due to difference in forms of employment, such as part-time workers, “dispatch” or agency workers, and fixed-term contract workers, the principle of equal pay for work of equal value must be explicitly included in Article 4 of the Labor Standards Law. A gender neutral job evaluation system must be established to promote the principle.
2. The ILO Committee of Experts on Applications of Conventions and Recommendations recommended in its individual observation that Japan should “take steps to amend the legislation to provide for the principle of equal remuneration for men and women for work of equal value.” The government argues in response that the principle of equal pay for work of equal value is already included in the existing Article 4 of the Labor Standards Law, and that there is no need for further legislation of the principle. But it is not clear whether the principle is actually included in Article 4, which stipulates that an “employer shall not engage in discriminatory treatment of woman as compared with a man with respect to wages by reason of the worker being a woman,” and therefore, the principle should be explicitly written in the Law or its Ordinance for Enforcement.
3. Court cases regarding discrimination against women in wages and promotion have been increasing since 1990s. The cases against the Sumitomo manufacturing companies took 10 years until they were finally resolved, and the Showa Shell case lasted 15 years until the Supreme Court decision. The case against the trading company, Kanematsu, is still ongoing, and it has been 14 years since it was initiated. The plaintiffs endure huge mental and financial sacrifices because of the long years of the judicial process. In the Showa Shell and Kanematsu cases, the Tokyo Appeals Court decided that the treatment in the respective companies did not amount to discrimination, because the jobs were not the same as that of the male comparators. The Court also stated that discrimination that occurred before the enactment of the Equal Employment Opportunity Law was not illegal. The Supreme Court in the Showa Shell case dismissed the appeal without reviewing the Appeals Court judgment. Having a clear legal provision on the principle of equal pay for work of equal value would lead to a swifter elimination of discrimination.

List of the member organizations of Japan NGO Network for CEDAW (JNNC)

in alphabetic order, as of 1 June 2009

	Organization
1	Action Center for Working Women
2	Ainu Association of Hokkaido, Sapporo Branch
3	Apeuro Women's Survey Project
4	Asia-Japan Women's Resource Center
5	Asia-Pacific Human Rights Information Center
6	Association for the Support of Children out of Wedlock
7	Association of Indigenous Peoples in the Ryukyus
8	Buraku Liberation League Central Women's Division
9	Committee to Support Female SDF Official's Court Case of Human Rights
10	DPI Women's Network Japan
11	Equality Action 21
12	Gay Japan News
13	Human Rights Now
14	The International Movement Against All Forms of Discrimination and Racism-Japan Committee
15	Japan Accountability Caucus for the Beijing Conference
16	Japan All Solidarity Network for the Settlement of the "Comfort Women" Issue
17	Japanese Association of International Women's Rights
18	Japan Family Farmers Movement, Women's Section
19	Japan Federation of Women's Organizations
20	Japan Network Against Trafficking in Persons
21	Japan Network against Wartime Sexual Violence
22	Japan Network on Education for the Advancement of Gender Equality
23	Japan's Network for Women and Health
24	Japan Women's Council I
25	Kyosei-Net for LGBT
26	mNet • Information Network for Amending the Civil Code
27	The National Confederation of Trade Unions Women's Bureau
28	National Federation of Business and Professional Women's Clubs of Japan
29	Nerima article 24 of Constitution Watch
30	Nerima Gender Watch
31	New Japan Women's Association
32	NPO Dispatched Labour Network
33	Okayama Communication Network of the World Conference on Women
34	Okinawa Citizens' Information Centre
35	Plaintiff of a case of gender-based wage discrimination in Showa Shell Sekiyu
36	Plaintiffs of a case of gender-based wage discrimination in Kanematsu Corporation
37	Regumi Studio Tokyo
38	Solidarity Network with Migrants, Japan
39	SOSHIREN
40	Space Allies
41	Women against Sexist-Ageist Remarks by Governor Ishihara
42	Women's Active Museum on War and Peace (WAM)
43	Women's Council of the National Federation of Merchant and Industrialist's Organizations
44	Working Women's Network