

**Report by the Japan Federation of Bar Associations  
on the “Sixth Periodic Report on the Implementation of  
the Convention on the Elimination of All Forms of  
Discrimination against Women Japan”**

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## Table of Contents

Introduction	4
<b>Chapter I General Statement</b>	
1. Exordium	6
<b>Chapter II Particulars</b>	
<b>Article 1 Definition of Discrimination Against Women</b>	6
<b>Article 2 Measures of Enactment, etc. for Pursuing Policies of Elimination of Discrimination</b>	7
<b>Article 3 Measures to Ensure Full Development and Advance of Women</b>	14
<b>Article 4 Special Measures</b>	14
<b>Article 5 Elimination of Prejudice and Customs, Etc.</b>	17
<b>Article 6 Prohibition of Trafficking in Women</b>	18
1. Efforts against human trafficking	18
2. More detailed information regarding sex business in Japan	22
<b>Article 7 Elimination of Discrimination in Political and Public Activities</b>	23
<b>Article 8 Participation in International Activities under Gender Equality Conditions</b>	24
<b>Article 9 Gender Equality Regarding Nationality</b>	24
<b>Article 10 Elimination of Discrimination in the Field of Education</b>	25
<b>Article 11 Elimination of Discrimination in the Field of Employment</b>	25
<b>Article 12 Elimination of Discrimination in the Field of</b>	

Health . . . . .	33
<b>Article 13 Elimination of Discrimination in Other Economical and Social</b>	
<b>Fields . . . . .</b>	<b>34</b>
<b>Article 14 Elimination of Discriminations against Females in Rural</b>	
<b>Villages . . . . .</b>	<b>35</b>
<b>Article 15 Gender Equality under Law . . . . .</b>	<b>35</b>
<b>Article 16 Elimination of Discriminations relevant to Marriage and Family</b>	
<b>Relations . . . . .</b>	<b>36</b>

## **Introduction**

Japan Federation of Bar Associations (“JFBA”), which is a non-governmental organization in special consultative status to the UN Economic and Social Council, submits herewith its report on “the Sixth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women Japan” that is to be discussed by Committee on the Elimination of Discrimination against Women at the 44<sup>th</sup> session in July, 2009.

JFBA, found in September 1949, embrace all the attorneys and bar associations in Japan as its members. Bar associations are not subject to supervision of administrative authorities or courts, but have right of autonomy, and are independent corporate persons. As of September 1, 2008, about 25,000 members (of which about 3,600 are female members) are enrolled in JFBA.

The missions of attorneys are stipulated as the protection of fundamental human rights and the realization of social justice, in accordance with Practicing Attorney Law.

Therefore, JFBA and all the bar associations and attorneys have engaged in activities to eliminate discrimination against women, to protect women’s right, and to improve women’s status, while promoting the protection of fundamental human rights and the realization of social justice, mainly lead by the Committee on Equality of Men and Women.

With regard to implementing conditions of the Convention on the Elimination of All Forms of Discrimination against Women in Japan, in January 1994, JFBA submitted the report “The Japan Federation of Bar Associations Report on the Application and Practice in Japan of the Convention on the Elimination of Discrimination against Women” when review was made on the report of the Japanese government by the Committee on the Elimination of Discrimination Against Women at the 13<sup>th</sup> session; submitted JFBA’s opinion paper on the 4<sup>th</sup> report of the Japanese government when review was made on the report by the Committee at the 29<sup>th</sup> session in July 2003; dispatched our delegates to Pre-session WG in June 2003; presented information in conferences of NGO and attorneys in charge; and then submitted JFBA report responding to the 5<sup>th</sup> report of the Japanese government.

The Japanese government has taken various measures to implement the Convention

after the 29<sup>th</sup> session of the Committee on the Elimination of Discrimination against Women issued the Concluding Observations including concerns, advice and recommendation on the 4<sup>th</sup> and 5<sup>th</sup> report of the Japanese government. Such measures included establishment of prohibition provisions regarding indirect discrimination by enforcement of the amended The Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment ; with regard to violence against women, extension of scope of protection by amendment of The Law for the Prevention of Spousal Violence and the Protection of Victims; and new establishment of human trafficking charge by amendment of Penal Code, however, prohibition of indirect discrimination, prevention and rescue relevant to domestic violence victims and rescue of victims of human trafficking remain insufficient yet. Further, despite of concerns, advice and recommendation expressed by the Committee, the Japanese government fails to redress the wage gap based on gender, to amend discriminatory Civil Code, to make change dramatically in women's participation in decision making, and to ratify Optional Protocol so far.

Since the 6th Periodic Report presented by the Japanese government mainly describes progress of implementation of the Convention up to June 2006 following the production of the 5th Periodic Report of the Government, JFBA will discuss how the Concluding Observations of the Committee and recommendations by UN human rights-related bodies have been reflected in the conditions of implementation of the Convention in Japan, based on the data thereafter as well; in particular, while we highly evaluate that the Japanese government accepted the recommendation regarding the elimination of discrimination against women made by a working group on Universal Periodic Review ("UPR") in June, 2008 at the general meeting of UN Human Rights Council, we request to the Government to widely disclose the information regarding current situations towards resolution of the issue of discrimination against women, and JFBA will lay down the matters that the Japanese government shall disclose in reviewing the Convention and measures that the Japanese government should take to implement the Convention.

The numbers of items hereinafter refers to the numbers in the 6th Periodic Report of the Government.

## **Chapter I General Statement**

### **1. Exordium**

- 1 We request the Japanese government for prompt production of report on the progress of the implementation of the Convention on the Elimination of All Forms of Discrimination against Women after July 2006.

### **2. Progress of Gender Equality Measures and Actual Situations Surrounding Women in Japan**

17 Regarding faculty members of universities, colleges and junior colleges, please report us the ratios of female professors, associate professors, instructors and research associates respectively. In addition, with regard to high schools, junior high schools, and elementary schools, please report us the ratio of female principals, assistant principals, chiefs and teachers respectively.

19 The Government states, "in school education and social education, the government will further enhance education and learning for self-independence and to promote the concept of gender equality." Please report us how such education and learning have been provided.

24 Regarding wage difference, since over a half of female workers are non-regular workers, so the wage gap covering part-timers and contract workers should be reported.

In 2007, wage level of female part-time workers was as low as 47.7% of male regular workers.

26 The percentage of non-regular employees among female employees has risen to 53.4% in 2007. Regular employees account for 81.8 % of male workers, while regular employees account for 46.6% of female workers; thus there is a huge difference between them.

## **Chapter II Particulars**

### **Article 1 Definition of Discrimination Against Women**

Item 21 of the previous review and concluding observations of the Committee expressed concerns that "the term 'discrimination' is not clearly defined," and Item 22 Recommendation stated "it is recommended to reflect and integrate the definition of discrimination against woman, including direct and indirect discriminations, into the domestic laws in line with Article 1 of the Convention." Please inform us how you responded to them.

**Article 2        Measures of Enactment, etc. for Pursuing Policies of Elimination  
of Discrimination**

1 Obstacles that still remain and hamper gender equal participation of women in political, social, economical and cultural activities in Japan; measures taken to combat such obstacles

39 Please state that how proposals adopted in July 2004 by the Council for Gender Equality, “studying the possibility of a new mechanism for identifying sex in the collection and maintenance of statistical information” and etc. have been utilized after that.

**2. Whether there is a remedy at law regarding discrimination or not, and its effect**

41 Please state complaints about gender equality-related measures, and how such complaints were handled.

44 Regarding human rights organizations

Japan was recommended to establish domestic human rights organizations promptly in compliance with the Paris Principles by Human Rights Committee, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child. June 2008, the Japanese government has just accepted the recommendation regarding establishment of domestic human rights organizations in accordance with the Paris Principles made by working group on Universal Periodic Review (UPR) at the general meeting of UN Human Rights Council, and the early installation is sought for.

The Japanese government presented the Human Rights Protection Bill for establishment of Human Rights Commission to the Diet in March 2002; however, the bill contains fatal defects such as (i) Human Rights Commission to be established in accordance with the bill will be under jurisdiction of the Minister of Justice in effect as extra ministerial agency of the Ministry of Justice, which causes doubt about independency from the Government; and (ii) the concept of “human rights” subject to redress and protection is not clear, and with regard to violation of human rights by public power only “discrimination and abuse” become subject to inspection and redress. Therefore, a wide-range of citizen voices against the bill including JFBA has been raised and the bill has not been adopted yet. In 2005 a more passive and

discriminative bill than the previous one was laid upon with a nationality provision for the qualification of Human Rights Protection Committee members. With this movement, JFBA and other NGOs, which are seeking for establishment of a domestic human rights organizations in compliance with the Paris Principles, increased concerns that this kind of bill might be submitted to the Diet and adopted, resulting in suspension of movement towards establishment of such domestic human rights organizations.

46~47 Please state about the gender-related education to be provided to judges, public prosecutors, and other relevant officials in detail, including the persons covered, frequency and contents thereof.

47 The latter part of Paragraph 358 of the Recommendation by the Committee recommended "to conduct enlightening campaigns to increase awareness of the Convention, especially of the meaning and scope of the indirect discrimination; in particular, targeted at members of Diet, legal professions and other persons who engage in legal activities." Please report specifically about what kind of education and study sessions was provided to judges, with regard to the meaning and scope of the indirect discrimination.

### **3. Information regarding violence against women**

48 In order to thoroughly eliminate violence against women, what has the government been doing other than "making the general public fully aware of the problem"? Please make clear the measures taken in the context of connection between many abuses against women being a result of social and economical low status of woman and elimination of violence.

#### **(1) Efforts against spousal violence**

49 To be described in Article 16

#### **(2) Prevention of crime against women**

50 Please report conditions (the number of cases acknowledged, the number of indictments, and judgment made in the first instances) of crime of rape, crime of forcible indecency, crime of forcible indecency causing death or injury, crime of gang rape and crime of gang rape causing death or injury after the amendment of Penal Code. Especially, please inform us any change made after the amendment regarding crime of rape, crime of forcible indecency, forcible



indecent causing death or injury, comparing with those before the amendment.

51 How are changes made after 2006?

52, 56 How is the education to police officers, counseling staff, etc. conducted for questioning victims of sexual crimes? In such education, what do you teach as the cause of sexual crimes?

Among all the police stations throughout Japan, in what percentages of them male police officers are making questions to female victims? How they are handling the cases?

54 Please show us the actual activities to protect victims in stalker cases, together with data after 2006.

57 With regard to relatives and supporters of a victim of spousal violence, please inform us about how a protection order under the Amended Law for the Prevention of Spousal Violence and the Protection of Victims of 2007 is related to the application under the Stalker Regulation Law.

### (3) Prevention of Sexual Harassment

Damages by sexual harassment are serious, though most of them are not revealed and acts of sexual harassment have spread to every kind of areas of the society, even into work places and places of education. Sexual harassment can be committed because of underlying inequality and the disparity in power relationship between men and women in every area of society; therefore, a program to eliminate such sexual harassment is a must. It is urgently required to inspect actual conditions of sexual harassment in educational scenes throughout Japan, and guidance shall be made to each school so as to take measures such as establishment of complaint handling sections, training targeted at teachers and staff, and gender equality contents of educational curriculums. As for work places, under the amended Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment enforced in April 2007 the previous employer's duty of care to prevent sexual harassment is amended to "duty to prevent sexual harassment," and stipulates assistance in dispute settlement such as arbitration and disclosure of corporate names as set forth in the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment ; however, it is further required to have expressive prohibition provisions and create an organization

for prompt and proper rescue of victims, as well as to improve the system.

60 Please provide us with data after 2006.

62 Have surveys regarding actual conditions been made as of whether employers have installed preventive measures against sexual harassment in accordance with the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment ? If so, please specify the number of corporations that have measures, by size and the ratio thereof.

64 With regard to sexual harassment counselors with special knowledge and skill who are assigned to the Equal Employment Department, please inform us their number and the number of the Equal Employment Departments where such counselors have been assigned. In addition, please show us the number of cases that the Equal Employment Department received and their contents.

65 Please inform us of how complaint handling system of public authorities has improved and how data of complaint received and the handling of such data were processed.

67 Please inform us as of how preventive measures against sexual harassment required are taken after the amendment of Rules of National Personnel Authority #10-10.

69~70 The Government should promptly implement measures to prevent sexual harassment in schools.

Please tell us whether the actual conditions of sexual harassment are understood, not only in state universities and publicly run schools but also in wider educational scenes, and how are issues in the efforts to prevent such harassment addressed? Please state whether inspection has been made regarding proper operation of prohibition provisions or not. If the inspection has been made, then please describe the result and matters to be improved.

Please expressly state about how gender education is conducted that should address fundamental reasons that cause sexual harassment.

69 Please inform us of actual conditions of sexual harassment cases in state universities and publicly and privately run universities, conditions of consulting systems and facilities in those schools, the number of cases consulted, and measures taken responding to the consultations.

70 Please inform us of sexual harassment cases in publicly run schools, data regarding disciplinary actions against teachers and staff due to sexual harassment, data of complaints, and responses to those complaints.

(4) Protection of adolescents from information of sex and violence

- 77 Please inform us of data regarding receipt, notification, data requested to ISP, etc. for deletion relevant to illegal and harmful information on Internet, as well as measures against harmful information through hotline jointly managed by public and private sectors.
- 82 How are undertakings by Ministry of Education, Culture, Sports, Science and Technology being utilized in the field of education?

(5) Efforts against Prostitution

- 83 What is the reality of crimes related to prostitution? How in reality Law Regulating Adult Entertainment Businesses (*Fuzoku Eigyo Ho*) and Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children have been operated? Especially, has inspection been made on women who engage in sexual acts except intercourse under Law Regulating Adult Entertainment Businesses (*Fuzoku Eigyo Ho*)? Please inform us of findings if the government has made inspection on these matters.
- 84 The Government shall clarify what kind of legislative proceedings it intends to do in the future in order to prevent child prostitution and pornography.

(6) Campaign for Elimination of Violence

- 85~89 Please show us how the outcome of examination made by expert examination committees regarding violence against women and Cabinet Office has been reflected on specific measures against violence.

**4. Regarding Asian Women's Fund**

91~97 Issue of "comfort women"

The Government must promptly make talks with representatives of victims of "comfort women" cases without delay to verify demands of the victims, and take appropriate measures required to redress the damages, such as seeking for the truth, official apology, legal compensation, etc.

The Government so far reports only its efforts through Asian Women's Fund and stated, "...continuously strive to explain the efforts by the Government and citizens through the Fund," and we have to say that the Government lacks positive attitude to settle the issue of "comfort women" in compliance with the recommendation made by the UN human rights authorities.

The Committee on the Elimination of Discrimination Against Women of the 29<sup>th</sup> session stated in its concluding observations #361 and 362 on the 4<sup>th</sup> and 5<sup>th</sup> reports of the Japanese government, “Regarding so-called ‘comfort women’ issue, the Committee keeps in mind that the concerns regarding this issue still continues, while the Committee appreciates the information provided by the Japanese government in connection with measures taken after the reviews of the 2<sup>nd</sup> and 3<sup>rd</sup> reports,” and it “recommends the Japanese government to make efforts to find out measures to settle the so-called ‘comfort women’ issue definitely.” Previously, the Committee expressed concern in its concluding observations on the 2<sup>nd</sup> and 3<sup>rd</sup> reports of the Japanese government, “[the Committee] expresses its disappointment that [those reports] do not seriously reflect the issue regarding sexual exploitation against women during the World War II. The Committee keeps in mind that the undertaking that the Japanese government made to this Convention requires Japan to secure sufficient protection of human rights of all the women including female foreigners and immigrants, and it recommends to take specific and effective measures to handle war-related crimes and to report the measures taken in the next report to the Committee” to the Japanese government.

The Committee on Economic, Social and Cultural Rights demanded in Paragraph 53 of the concluding observations on the 4<sup>th</sup> report of the Japanese government by saying, “the Committee strongly recommends that the contracting state shall discuss with representatives of ‘comfort women’ before too late to determine a method to make compensation to the victims in line with expectations of ‘comfort women’ and to find appropriate coordination method.” The concern addressed by the above concluding observations of the Committee on Economic, Social and Cultural Rights as “insufficient protection of women who became subject to slavery-like acts...,” appears to have in mind the insufficient measures of redress by the Japanese government for the victims of “comfort women” cases by the Japanese Army during the World War II.

The resolution to condemn adopted on July 27, 2007 by the US House of Representatives against the wartime slavery by the Japanese Army during the World War II also directly accuses insufficient measures of redress for the victims by the Japanese government. The Japanese government, however, made a comment that such resolution by the US House of Representatives is “based on factual error,” and has not tried to take any measures so far. Further, the Government keeps ignoring above demands made by the Committee on the

Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights up to present.

The Government did not express its acceptance nor promise to discuss on recommendation that calls for serious response to the recommendation of UN mechanisms on comfort women issues (Special Rapporteur on violence against women, Committee on the Elimination of Discrimination against Women, and Committee against Torture) regarding the issue described in the report of the UPR working group at UN Human Rights Council held on June 12, 2008.

## **5. Regarding minority women**

98~100 The Government makes a report on issues that minority women hold, but failed to provide information regarding their actual conditions and the details of the issues.

The Government should disclose the data regarding reality of the minority women that was pointed out in the previous review and in Paragraph 29 of the concluding observations of the Committee, including, but not limited to, education, employment, health, social welfare, and damages by violence, etc.

The Government expressly stated that it would accept the recommendation to respond to issues that the minority women face as set forth in Paragraph 8 in the UPR working group report at the plenary session of UN Human Rights Council mentioned above.

103 The Government failed to explain the reason why it would not ratify the Convention on the Elimination of All Forms of Discrimination against Women Optional Protocol, stating only "it has not concluded and is giving consideration to this matter."

The Japanese government has not ratified or even signed the Optional Protocol that is for all individual communication procedure in International Conventions on Human Rights, nor it has declared its acceptance, which shows an attitude far from faithful performance of a major human rights convention. Since Japan tries to play an active role and perform its responsibilities globally in the field of human rights as a member of Human Rights Council, it is not permissible to place individuals in Japan in a situation inaccessible to individual communication procedure, an international mechanism to guarantee human rights. On June 12, 2008, at the general meeting of UN Human Rights Council, regarding the recommendations set forth in the Report of the UPR Working Group, the Government promised to discuss ratification of human rights

conventions and optional protocols excluding Second Optional Protocol of Human Rights Regulations, and the Government is urged to accept all the individual communication procedure promptly.

### **Article 3        Measures to Ensure Full Development and Advancement of Women**

104~114

Japan is now in a situation with widening of economical gap among its citizens, and single female parent households are facing substantial difficulties. Please disclose data relevant to income, residence, employment, etc. of single female parent households, as well as issues and measures that single female parent households are facing at. For details, please refer to Article 13.

### **Article 4        Special Measures**

#### **1. Participation of Females in State Policies and Decision -Making Process**

In Japan females account for a small percentage in the National Advisory Councils, etc., and in the future positive actions shall be made to councils, etc. where the ratio of females is extremely low. As for local public bodies, the government should make each municipality understood the importance of positive actions, then urge it to make efforts for such movement.

The Committee on the Elimination of Discrimination against Women of the 29<sup>th</sup> session states in its final comment on the 4<sup>th</sup> and 5<sup>th</sup> reports of the Japanese government, “the Committee is concerned about the low representation of women in high-level elected bodies including in the Diet, local assemblies, the judiciary and the diplomatic service, and as mayors, prosecutors and police” and points out, “the Committee recommends that the State party take further measures to increase the representation of women in political and public life through, inter alia, the implementation of temporary special measures, in accordance with article 4 , paragraph 1, of the Convention, in order to realize women’s right to participation in all areas of public life, particularly at high levels of policy-and decision-making. The Committee urges the State party to support training programs for future women leaders and carry out awareness-raising campaigns regarding the importance of women’s representation in decision-making for achieving gender equality. ”

In Japan, however, female participation in decision-making process and employment field is still extremely low. The ratio of female representatives in

the Diet is, as of April 2008, 9.4 % for the Lower House (45 females in total 480 representatives), and 18.2 % for the Upper House (44 females in total 242 representatives). Among management level public officials, such as section and office managers of head quarters and directors and designated positions of local authorities, females account for only 1.7 % in FY 2005, and in the assistant director class in the head quarters and the director class in the regional organizations, females account for only 5.9 % in FY 2006; the percentage of females remains very small. Though, as for administrative classification such as Class I Examination, the percentage of female officials newly employed in FY 2007 has increased to 25.1 % from the previous year, the ratio of females per type of test constantly increases as the level of testing becomes lower, with Class III having the highest percentage of females, the Class II, and then Class I; the higher the decision-making process level the lower the ratio of females who are offered employment. In addition, the more senior the position is, the smaller the percentage of female officials takes office. In case of the National Advisory Councils, etc., in FY 2007 female members account for 32.3 % and female specialists, etc. account for 13.9%.

116 Please answer as of whether temporary special measures are taken or not in order to increase female participation in decision or policy making process of the government. If yes, please inform us of the details as well.

118 Please provide us the latest data.

119 Please report the progress of plans to promote employment and promotion of female officials in each department and agency and the details thereof.

120 Please inform the contents of “a goal for the Government as a whole.”

122 Please provide us the latest data.

124 Please report on the “new goal” set for women’s share in the number of applicants who pass the recruitment examination for national public officers .

## **2. Participation of Females in Policies and Decision-Making Process of Local Public Bodies**

125 Please inform us of establishment of the target numbers and target deadlines for female participation in councils, etc. in prefectures and government designated cities, as well as the contents thereof. Please provide with the information regarding the progress too.

126 Please provide us the latest data.

128 Please report the target of promotion of female officials to management level,

frequency of trainings for female officials and their contents, ratio of female officials who hold management positions (per title) in local public bodies.

### **3. Support for Efforts by Corporations, Educational and Research Institutions, and Other Various Entities and Organizations**

129~134 Positive Actions

- (1) Certain range of business owners should be imposed of obligations to take positive measures to redress the discrimination based on sex, and provisions should be set up for promoting such actions.

The Government, however, amended the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment of 2006, and clearly stated under Article 8 of the amended law that positive actions for women are not in breach of any law. The amendment was enforced commencing on April 1, 2007.

The percentage of corporations who engage in positive actions once increased during the period from 2000 to 2003, but turned to decrease in these years. Thus, such voluntary efforts cannot bring in many participant corporations. Therefore, it is necessary, with regard to the report of actual conditions to business owners and planning and installation thereof, to make such measures, not obligations to make efforts, but obligations to take measures.

- (2) The 6<sup>th</sup> Periodic Report of the Japanese government only describes positive actions in “3. Support for Measures taken by Private Corporations, Educational and Research Institutions, and Other Organizations and Groups” therein. And as for support for positive actions, it only added a provision that, when business owners disclose or intend to disclose actual conditions, the Government may provide consultation or other assistance to business owners.

The Government should make clear that this assistance in accordance with the Equal Employment Opportunity Law is meant the temporary special measures sought for in the final comment by the Committee mentioned above and under the General Recommendation #25.

- (3) The Government should report on the measures it took or considers to take in the future responding to General Recommendation# 25 of Committee on the Elimination of Discrimination against Women and Paragraph 370 of the final comment of the previous review.
- (4) Further, please report on the effect on elimination of actual gender gap between



women and men workers by the positive actions that were set forth in Paragraphs 129 through 134 in the Report of the Government.

General Recommendation # 25 (30<sup>th</sup> session; 2004) made a specific recommendation to the contracting states regarding Paragraph 1 of Article 4 Adoption of Temporary Special Measures, and regarding Paragraph 36; it requests that “contracting states should make a report on the type of temporary special measures to be taken for a specific field under relevant articles of the Convention. The report under the provision should contain specific goal and objectives, timetable, the reason that it chose special measures, a method that makes females accessible to such measures, description of organization that is responsible for implementation and progress thereof.

#### **Article 5            Elimination of Prejudice and Customs, Etc.**

145

- (1) It stated “...endeavor to eliminate misconceptions about the philosophy of gender equality and the definition of ‘gender’ perspective, to avoid any arbitrary application and interpretation”. Please clarify what kind of misconceptions exist and what kind of arbitrary application or interpretation they are.
- (2) In addition, please clarify what the conditions of so-called ‘gender bashing (gender free bashing)’ are in Japan.

159 When media make decisions on policies, it is essential to have a gender viewpoint, and the Government should support media in efforts to increase female management.

Please submit statistical materials relevant to the ratio of females in the media and the ratio of females with title.

161,162

- (1) As a result of survey of public opinions regarding Gender Equality, as for the idea of “a husband should go to work, and wife should stay home and take care of the family,” it is pointed out that there is an apparent generation gap. Please inform us as of whether specific efforts (efforts targeted at 60 years and over) based on this kind of results are made or not. If yes, please report the specific contents.
- (2) Please state more specifically the reason why misunderstandings about gender is persistent (in particular gender bashing) in Japan.
- (3) Further, despite of various efforts made so far, still the benchmark phrase to

measure stereotyped perception of gender role “a husband should go to work, and wife should stay home to take care of the family” is still supported by the majority of the males with pro (49.7%) and con (43.3%). If it is grasped how the idea comes from, please clarify the reason.

## **Article 6 Prohibition of Trafficking in Women**

### **1. Efforts against human trafficking**

- (1) If a conduct made by a victim of trafficking in human being violates some penal regulations, and if such conduct has direct connection with the situation as a victim of trafficking in human being, the Government should request a special body providing for protection for victims to protect the victim, and following investigation should be made carefully.
- (2) In case where a foreigner without lawful status of residence is a victim of human trafficking, the change of the status to the lawful status of residence should be made, not under the special permit program for status of residence where the stay is determined at the discretion of the Minister of Justice, but the stay shall be permitted as her right.
- (3) The Government should position women’s counseling centers as facilities to protect victims of human trafficking only in emergency, and should establish Support Center for Victims of Human Trafficking (tentative name) to provide subsequent protection and support, having specialists, program for recovery of damage and fund therefor. In addition, it should provide private shelters with direct and sufficient monetary support for facility management fees, labor fees, etc.
- (4) The Government should enact Law Concerning Protection of Victims of Human trafficking (tentative name) which would blanket the establishment of Support Center for Victims of Human Trafficking (tentative name) and measures regarding protection and support of victims of human trafficking, and which would become ground for residence, medical care, cost of living, etc. during the period of tentative protection supported by the Government and until obtaining long-term stable status of residence such as “permanent-resident status.”
- (5) The Government should examine actual operations of Law Regulating Adult Entertainment Businesses (Fuzoku Eigyo Ho) and “Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children” (hereinafter referred to as “Law for Prevention of

Child Prostitution, Etc.”), and identify what kind of legislative proceedings should be taken in the future in order to prevent trafficking in women, child prostitution and child pornography.

170 Excluding a case where victims themselves took refuge in the police after escaping from their offenders, those who are found in forcible investigation by the police of sex-related shops are apt to be arrested on the ground of violation of laws such as the Immigration Control Law, when the police could not confirm that they are victims of trafficking in human being immediately. If the following investigation by the police reveals that they are victims of human trafficking, then they would be subject to protection, otherwise, they would not be protected even if they are victims. In addition, human trafficking is a crime with which many perpetrators involve across state borders; at least the country of origin and the receiving country of the victim involve. Therefore, it is essential to secure safety of the victim and her family or related persons in both the country of origin and Japan. At present, however, there is no effective measure for that purpose.

A series of amendments of laws by the Japanese government seems inadequate in consideration for protection of and self-reliance support for victims, since the focus is heavily on punishments of perpetrators. For the purpose of installation of comprehensive and effective measures, the Government should establish a Law Concerning Support for Victims of Human trafficking (tentative name) that stipulates protection and support, legal status, and returning of victims, information exchange, education and training of personnel of law-enforcement agencies, protection of damage, development of basic plans by the state and prefectures, cooperation with NGOs, etc., cooperation with and among countries and international regions, monitoring and evaluation thereof, and annual report, etc. The Government must set up a responsible department that comprehensively controls over the entire measures against human trafficking in accordance with this supportive law, and establish a special working group organized by related agencies and NGOs.

We request the Japanese government to report us as of whether it has any intention to establish such supportive law for victims or not.

Further, Article 3 of the Protocol to Prevent Trafficking in Persons expressly states that human trafficking includes, in addition to sexual exploitation, “forced labor or services, slavery or practices similar to

slavery ,servitude “etc. and other activities for exploitation of labor. Please inform us the measures by the Japanese government against human trafficking for the purpose of “labor exploitation.”

175 In case where a foreigner without lawful status of residence is a victim of human trafficking, the change of the status to the lawful status of residence should be made, not under the special permit program for status of residence where the stay is determined at the discretion of the Minister of Justice, but under a system that will permit the stay as the person’s right, for the sake of protection and self-support of the victim. To be specific, it should consider to create Victim of Human Trafficking Recognition Program (tentative name) stipulating, a) system to allow tentative stay, b) to grant “permanent resident” status of residence to those who are recognized as victims of human trafficking, and c) a complaint filing program by a third party independent of Immigration Service. In such case cooperation of the victim in charging the perpetrator shall not be a condition to grant the status of residence.

178~180 Please provide us the latest data.

180 Unless found in confinement, we fear that in not a small number of cases it may be difficult to determine if they are victims of human trafficking or not (please refer to 170). Please state how and who are going to determine on what kind of specific criteria as of whether the person is a victim of human trafficking or not. And please state cases where the Japanese government did not judge the person as a victim even though the person herself insisted as being a victim of human trafficking.

181 Please inform us the outcome of analysis of human trafficking-related information that was collected through close alliance with relevant agencies.

183, 184 Please provide us the latest data.

183 Regarding protective measures against human trafficking

Measures to help victims of human trafficking for their physical and mental recovery are quite insufficient. Only facilities providing public shelters for women suffering from Domestic Violence damage and so on are women’s counseling centers established by prefectures, and the Government requests respective prefectures to accommodate victims of trafficking in human being as well in the women’s counseling center. However, it is pointed out that women’s counseling centers lack staff and facilities even for supporting Domestic Violence victims, and the period that they can stay there is capped at two weeks as a rule (up to four weeks

even with extension), without resident staff familiar with background of human trafficking and conditions of victims or proper interpreters, nor a program that provides medical care or counseling independently. Those women's counseling centers may be able to provide clothing, food and residence, but it has not any program or fund to provide further protection for victims of human trafficking beyond that. Therefore, protective activities there are limited.

However, there are victims of human trafficking throughout Japan, and to use women's counseling centers located in all prefectures enables a relevant agency near to the victim to go out to protect victims urgently, and is meaningful. However as described above, because of limited function for women's counseling center to engage in protective activities for victims of human trafficking, they shall be positioned as facilities for emergency protection. The Government should establish Support Center for Victims of Human Trafficking (tentative name) as a specialized agency that has professional staff and program for redress from damage and with fund at its cost and responsibility.

Private shelters play an important role as major facilities that engage in protection of victims before the establishment of the center, and also will play an important role, after the establishment of the center, as facilities that provide victims with protection in tandem with the center. Therefore, the Government should support private shelters by providing direct and sufficient financial aid including facility maintenance fees and labor fees.

The social security system in Japan including public assistance system covers only its "citizens" in principle, the system applies *mutatis mutandis* only to foreigners who have long-term stable status of residence such as "permanent resident," and not to most of victims of human trafficking; any security such as medical care, living expenses, residence cost, etc. is not provided to those victims.

Please report as of whether the government has a plan to establish a specialized agency for protection and support for victims of human trafficking. In addition, please describe the actual conditions regarding training for staff of women's counseling centers, interpreters, medical care and counseling provided there.

184 Please give us detailed information regarding financial aid to private shelters.

Places actually accept victims of human trafficking are private shelters, and

only two shelters accept victims continuously in Japan. All of them are making tremendous efforts and contributions, but it is hard to obtain public subsidies for victims without proper status of residence and those shelters are experiencing extreme financial hardship. Commencing from April 2005, when a victim of human trafficking is accommodated in a private shelter via women's counseling center, ¥6,500 per person per day is to be paid to the private shelter as tentative protection commission fee by the Government and prefectures. The amount, however, is not enough for proper protection, and any direct aid such as maintenance fee and labor fee of the facility remain untouched. The Government should make direct and sufficient financial aid such as maintenance fee and labor fee of the facility to private shelters.

188 Discussions are required on research and study concerning how to restrain demands in Japan, actual conditions thereof, analysis of factors that generate demands for exploitative commercial sex services and exploitative labor, enlightenment of human rights and provision of information through school education, social education, media, etc., targeted at perpetrators and potential perpetrators, enlightenment of human rights and provision of information for corporations and organizations that engage in matrimonial agency, employment service, travel, transportation, hotel, and escort services, etc. policies on regulations regarding sex business and the contents.

Please inform us what kind of measures is taken in order to restrain demands, including amendment of laws. If enlightenment campaign is run in order to restrain demands, please describe the details as well.

## **2. More detailed information regarding sex business in Japan**

198 Please inform us of the number of arrests under Penal Code relevant to prostitution-related crimes and due to violation of Law Regulating Adult Entertainment Businesses. In addition, reasons for dismissal should be outlined.

199 Please inform us of the reality and the number of arrests of persons who support, instruct, and enforce women to enter into the country, stay, work in bars, snack bars, restaurants, and engage in relevant activities. In addition, please report us of the actual conditions regarding persons who purchase sex.

206 Under "Law for Prevention of Child Prostitution, Etc.", such acts as bringing children to Japan upon agreement with the children for the purpose

of child prostitution, etc. are not subject to punishment. Please inform us of the measures against such acts.

209 The Government should examine the reality of operations of laws including Law Regulating Adult Entertainment Businesses ,etc and the Law for Prevention of Child Prostitution, Etc., and should address possible legal measures to prevent child prostitution and child pornography.

With regard to crimes related to child prostitution and child pornography, please state the actual operations of the laws. Further, please provide us with the information regarding the reality of purchasers and customers thereof, as well as measures targeting at purchasers, producers and distributors of pornography and the overall society, including education and enlightenment.

210 Please tell us the number of disclosures in violation of Article 13, Paragraph 3 of Travel Agency Law. Please report us on guidance for and supervision over tour agents by the Government in detail.

221 With regard to foreign women without proper status of residence who were found in connection with crime of prostitution, please inform us of treatment those women would receive in case they are not recognized as “victims of human trafficking, etc.”

222 Please report us the actual conditions of sex and pornography purchasers and clients of women of 18 years old or over. Further, please provide us with the information regarding measures against the crime targeting at purchasers, producers and distributors of pornography and the overall society, including education and enlightenment.

#### **Article 7 Elimination of Discrimination in Political and Public Activities**

223 The Government should take measures to ensure a certain minimum percentage of women to assume office of higher positions in the Diet, the public sector and administrative departments in order to realize further gender equality in higher positions of the Diet, the public sector and administrative departments.

- (1) What causes the small percentage of women assuming higher positions in the state and local assemblies, the public sector and administrative departments? What kind of specific plan is discussed in order to improve the situation?
- (2) Does the Government have any intention to take measures to ensure a certain percentage of women to assume office?

**Article8          Participation in International Activities under Gender Equality  
Conditions**

240 Please clarify and describe what causes the extreme small percentage of female ambassadors. Please report what kinds of measures are taken in order to increase the ratio of women.

**Article9          Gender Equality Regarding Nationality**

The Report by the Government does not mention to Article 9, but as the recent trend related to the nationality, we point out issues as follows:

So far, the Government has not acknowledged Japanese nationality for a child who were born between parents who are not legally married , so-called “child born out of wedlock,” even if the father is a Japanese and the mother is a foreigner, and acknowledged by the father after birth. Regarding this point, Committee on the Elimination of Discrimination against Women expressed its concern in the concluding observations regarding the 4<sup>th</sup> and 5<sup>th</sup> reports of the Japanese government (adopted in July 2003) regarding the discrimination against children born out of wedlock and resulting material impact on women under laws relevant to family register and right of inheritance as well as in administrative measures, and the Committee requested to abolish discriminative laws and regulations still existing in the Civil Code (Paragraphs 371 and 372), and to amend laws and administrative measures in accordance with the Convention.

Japan Federation of Bar Associations also issued warning and requested for the Government to revise such interpretation and operation and amend the Nationality Law to clear suspicions, insisting such interpretation and operation of the Nationality Law is discriminative against equality under the law that is stipulated in Article 14, Paragraph 1 of the Constitution, as well as breach of Article 24 of the International Covenant on Civil and Political Rights and Article 2 of the Convention on the Rights of the Child.

On June 4, 2008, in a litigation case where confirmation is sought for Japanese nationality of a child who was born between a Japanese father and a foreign mother and was acknowledged by the father after its birth, the Supreme Court made a decision confirming that the child has Japanese nationality.

JFBA highly appreciates this decision as a landmark judgment that declares the historical treatment as mentioned above as unconstitutional in accordance



with the international human rights standards.

#### **Article 10 Elimination of Discrimination in the Field of Education**

259 Given the fact there is imbalance in majoring fields between males and females in universities and graduate schools, please provide us with data regarding advancement rate per gender and per department. Further please refer to the necessity to increase female researchers and female faculty members.

#### **Article 11 Elimination of Discrimination in the Field of Employment**

##### **1. Promotion of measures to secure gender equal employment opportunity**

##### **(ii) Prohibition of indirect discrimination**

286~290

The Government limits the indirect discriminations prohibited in the new “Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment” that was enforced in April 2007 to only those listed in the ministerial ordinance; the Government, however, should make them as a list of examples to be set forth depending on guidelines. In addition, regarding “wages,” it shall ban not only direct discriminations but also indirect discriminations and make clear that those discriminations are to be subject to remedy under the Law.

The Japanese government sets forth a certain regulations regarding the prohibition of indirect discriminations in the above mentioned new “Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment,” but it limits the indirect discriminations subject to prohibition to those listed specifically. As a result, the scope of cases to be redress has become extremely narrow, because, for example, the following cases are to be excluded from the indirect discriminations prohibited under the Law; that welfare programs of internal loan or use of resort facility of the company are applied differently depending on the applicant’s status on the family registry, or that regular employees are treated favorably in decision on working conditions, or that part-timers are excluded from application of welfare programs.

288 It says, “the Ministry reviews or adds new provisions, if necessary, by closely monitoring the trend of court precedents and the extent of consensus reached between labor and management.” Please inform us of specific plan to

make addition and revision of the Ministry of Health, Labor and Welfare Ordinance in the future and information gathering method therefor, and information it obtained up to present.

299 (1) Please provide us annual information for the year 2000 and after on actual conditions of course-based management system and the ratio of corporations conducting course-based management system (the relevant numbers of males and females in different courses; the ratio of females in the main career track; the ratio of females in the regular services).

With regard to the influence on the difference of wages, raise and promotion between men and women by the course-based management system, if the government has any intention to study or if have studied such, please inform us the result.

(2) A part that stipulates that legal decision shall be made by an Employment Management Category system in the “Guidelines for Business Owners to Properly Address to Offering and Recruiting, and Allocation, Promotion and Training” set forth in Article 10 of the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment should be eliminated.

The course-based management system under Article 10 of the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment has started being installed mainly in major companies around the time of the establishment and enforcement of the Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment, and the percentage of corporations that answered “yes” regarding implementation of course-based management system increased from 2.9 % in 1989 to 11.1 % in 2006. As for companies with 5000 employees and more, 47.3% had the system in 1989, and 55.0% in 2006. (The FY 2006 Basic Survey on Employment Management of Women by Ministry of Health, Labor and Welfare)

“Report of the Study Group on the Issue of Wage Disparity Between Men and Women” issued by the Ministry of Health, Labor and Welfare in November 2002 points out that larger wage difference between men and women exists in companies with the course-based management system than those without such system. Further, in the report issued on July 23, 2004 by the Ministry, “Concerning Implementation of Course-based Management System, and Its Guidance” reports that in companies with course-based

management system the percentage of females in the main career track remains as low as 3%. In companies with course-based management system, most of the female employees are assigned to a category of employment, so-called “general services”, under the category, wages are kept low and promotion is slow, resulting in disadvantages for women, thus this becomes one of big reasons why gender equality in wages cannot be redressed easily.

Cases once treated as discrimination against women are actually considered as a difference in “Employment Management Category” such as the course-based management system, resulting in the discrimination being preserved. Therefore, the framework that the legal judgment shall be made per “Employment Management Category” should be abolished.

## **2. Improvement of terms of employment in various working styles**

### **(1) Part-time working**

As we stated in paragraph 26 of the Chapter I General Statement of this report, the percentage of non-regular female employees is increasing and the percentage of regular female employees is extremely lower than those of male employees.

Regarding wage difference, in accordance with “Basic Survey on Wage Structure” by the Ministry of Health, Labor and Welfare, the wage level of general female workers was, when assuming that of general male workers as 100, 60.6 % in 1989 and 68.1 % in 2007; the wage level of female part-time workers was 42.9 % in 1989 and 47.7 % in 2007. The difference of wages between general female workers and general male workers remains large, but the wage difference between female part-time workers and general male workers is left much larger as well.

May 2007, Law concerning the Improvement of Employment Management, Etc. of Part-Time Workers was amended (hereinafter referred to as “Amended Part-time Work Law”), and the Amended Part-time Work Law was enforced on April 1, 2008.

Amended Part-time Work Law classifies part-time workers into two categories: “part-time workers who shall be deemed to be as regular workers” and other part-time workers, and the Law prohibits discriminative treatment of the former part-timers. It defines the “part-time workers who shall be deemed to be as regular workers” as those who satisfies all the requirements sets forth from

(i) through (iii) below.

- (i) Part-time workers who engage in the same contents of duties and the same level of responsibility in connection with the duties (hereinafter referred to as “Contents of Duties”) with those of regular workers who are employed with the company (hereinafter referred to as “Same Duties Part-time Workers”);
- (ii) Workers who enter into employment contract under which a fixed term is not provided for (including an employment contract with fixed term that is deemed to be the same with the employment contract without fixed term by repeatedly being renewed based upon social convention); and
- (iii) Given customs and other situations of the company, the Contents of Duties and allocation would be changed within the same scope with those of the regular workers through the period to the termination of the employment relationship.

By the way, according to the press, the number of the “part-time workers who shall be deemed to be as regular workers” defined under the Law only account for 0.5 to 0.6 million out of about 12 million part-time workers.

Therefore, we have to say that this kind of regulations would not present any effective measures to redress discriminations. Further, it is not clear to whom the phrase of “level of responsibility “in above (i) exactly refers and what kind of responsibility it is, and as in (iii) when a possibility of change of “allocation” is a requirement, it may result in discrimination and violation of right of workers who could not follow the order of change of allocation (including relocation) due to family affairs; in any event, either requirement is not appropriate.

Under these regulations, workers who submit complaints have to allege and verify themselves that they satisfy Items (i) through (iii), which is extremely difficult.

Part-time Work Law covers part-time workers whose designated working hours are shorter than those of regular workers. However, in Japan, from a long time ago there have been “part-timers” called full time part-timers who work for the same number of hours with regular workers. Those full time part-timers have been discriminated in work conditions including wages as in part-timers who work short-time. The most of them are females, and redress of discrimination against full time part-timers is another important issue.

307~308

- (1) Please inform us of the actual number or ratio, its male-female ratio, and actual conditions of redress of discrimination regarding “part-time workers who shall be deemed to be as regular workers” under the Amended Part-time Work Law.
- (2) Also, regarding part-time workers other than “part-time workers who shall be deemed to be as regular workers,” please inform us of the actual number or ratio, its male-female ratio, and actual conditions relevant to improvement of discrimination for each type of part-time workers.
- (3) Please inform us of the actual number or ratio, its male-female ratio, and actual conditions relevant to improvement of discrimination of so-called full time part-timers.

## **(2) Temporary Works**

In accordance with a survey conducted by the Ministry of Health, Labor and Welfare, about 3.21 million temporary workers engaged in work in FY 2006, which represents 26.1 % increase from that in FY 2005. Out of them, register-type temporary workers account for 61.6 %, while regular employment-type temporary workers account for 38.4 %. In accordance with an analysis by gender, 37.7 % of male temporary workers belong to register-type and 62.3 % are regular employment-type; on the other hand, regarding female temporary workers, 75.8% of them belong to register-type and 24.2% to regular employment-type. As for wages, assuming they work eight hours, one day wage of overall temporary workers under general temporary workers agency services, in average, is ¥10,571 (0.5 % increase over the previous year), and that of workers under specified temporary workers agency services is ¥14,156 (0.7 % decrease over the previous year).

Temporary workers of regular employment-type work eight hours per day and five days per week, are often paid by month, and their average annual earnings are about 3.37 million yen, while register-type temporary workers work seven hours per day and five days per week, are often paid by day, and their average annual earnings are about 2.42 million yen.

JFBA pointed out, “After ten years of enforcement of former Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment , at last prohibition of discriminations including offering and recruiting, allocation, and promotion was set forth, and in a form of a law,

gender equality appeared to have forwarded; however, discriminations against temporary workers have been permitted on the ground of difference in employment style," and insisted to establish equal treatment of temporary workers to workers at their work places.

As mentioned above, even at present, 75.8% of female temporary workers are on register-type temporary works that offer unstable status and low wages. It is necessary to make efforts based on the principle of same wage for same valued work towards elimination of gap on the ground of difference in employment style.

309~310

- (1) Please provide us with details regarding the number and male-female ratio of temporary workers, respective numbers and male-female ratio of regular employment type temporary workers and register type temporary workers, respective wages and wage differences between males and females of regular employment type temporary workers and register type temporary workers, and employment terms of respective regular employment type temporary workers and register type temporary workers.
- (2) Please inform us of movement of enactment concerning equal treatment of temporary workers.

## 5. **Equal Remuneration in respect of Work of Equal Value**

317 Article 4 of the Labor Standards Law should be amended to include the principle of equal remuneration in respect of work of equal value expressly.

Though, now, apparent wage discrimination based on gender is rare, instead, cases that apply different wages to similar works dependent on classification of employment types have increased dramatically. Non-regular employment style works, such as part time work, are dominated by women, resulting in lingering existence of difference of wages between males and females. In order to legally redress such situations, Article 4 of the Labor Standards Law should be amended to include the principle of equal remuneration in respect of work of equal value expressly

Please confirm if the Government is under discussion of legislation of the principle of equal remuneration in respect of work of equal value.

ILO Committee of Experts on the Application of Conventions and Recommendations stated in the Report of 2008 concerning Convention #100, Relationship with Japan, "Article 4 of the Labor Standards Law does not

quote an aspect of equal remuneration in respect of work of equal value; therefore it does not reflect the principles of the Convention.”

317 Please report us on annual statistics regarding difference of wages between males and females in 2003 and after.

319 Please inform us of effectiveness of preparation of guidelines and distribution of leaflets through management and labor organizations for the purpose of enlightenment and education, and how it worked to reduce wage gap between males and females.

318 Please state specifically, in order to establish fair and transparent wage system and to improve personnel assessment system, what kind of wage system and personnel assessment system are installed, and what are the measures taken to promote fair and transparent wage system and personnel assessment system other than preparation of guidelines or distribution of leaflets.

## **6. Domestic work by females**

322

- (1) Women still undertake domestic work including rearing children and caring sick family members. Given the fact that this function is rooted into the consciousness of traditional gender roles, specific measures shall be taken to enlighten citizens to recognize that the consciousness of traditional gender roles has faults and shall be corrected and to increase the ratio of obtaining child care leave and family care leave by both males and females.
- (2) Please inform us of the outcome of time-budget survey conducted as a part of Survey on Time Use and Leisure Activities. Are there any measures taken based on this survey result in order to promote equal sharing of domestic work between males and females other than efforts under child care leave and family care leave-related laws? If so, please inform us of such specific measures.

Concluding observations of the Committee expresses deep concern in the sentence 3 of Paragraph 369 on difficulties that women are facing to make balance between individual and domestic life and job and public responsibility, and in the sentence 3 of Paragraph 370 it recommends to promote equal sharing of domestic work between males and females and to encourage to change expectation in homes and labor markets for women based on fixed concept.

## 7. Further improvement of conditions during child and family care period

332 Child care leave and family care leave cover only 40 %, in principals, of earnings through employment insurance. In addition, the average official wage per hour for general workers such as regular workers is, when assuming 100 for males, 68.1 for women, and when compared between male general workers and female part-time workers, assuming 100 for male general workers, the average wage for female part-time workers is as low as 47.7; it is difficult for males to take Child care leave and family care leave from economical view point too.

- (1) With regard to those who gave birth or whose spouse gave birth during in office, 88.5 % females took child care leave, but only 0.57 % males took the leave. The rate of males who took leave is extremely low.

Please inform us of the outcome of the analysis by the Government about the causes.

- (2) Please state about the ratio of females and males who obtain family care leave when care is required. Please provide us with analysis of reasons why males obtain less family care leave.

333 It is stated that commencing in FY 2005, grants have been given to model business owners who make efforts to build up work places that allow males to participate in rearing children. Please inform us of the number of grants given, contents of specific efforts and the results from FY 2005 through FY 2007.

336 It is described that “the Act on Temporary Measures concerning the Promotion of Shorter Working Hours” was revised from the law that intended to reduce working hours in accordance with a plan across all the workers flatly to the law aiming at voluntary efforts to be made by both management and labor to improve setting working hours, etc. in consideration of individual lives of workers such as child caring, and the amended law was enforced on April 1, 2006. Please state actual conditions of working hours of men and women and effect of reduction of working hours after the enforcement of the revised law.

339 Please report on applications of parental leave program for male staff and flexible working hours program for staff in need to take care of a child or family member that the National Personnel Authority established in December 2004. As for the flexible working hours program for staff in need to take care of a child or family member, please state the ratio of male staff and



female staff.

## **8. International Comparative Report on Social Conditions concerning Declining Birthrate and Gender Equality**

349,350 Please disclose the contents of measures taken for gender equality based on International Comparative Report on Social Conditions concerning Declining Birthrate and Gender Equality.

### **Article12 Elimination of Discrimination in the Field of Health**

359 Please report the current conditions and issues relevant to reproductive medicine including surrogate birth.

362 Only the statement of an item calling for improvement of environments for proactive birth control by women is not enough to describe the right of women to decide sex-related matters by themselves. Please provide us with information about how women make decision on sex by themselves, as well as statistical information on methods of birth control, etc., from a view point of "Reproductive Health Rights" mentioned in the Gender Equality Master Plan (Cabinet decision on December 12, 2000).

365~368 Please describe specifically regarding what kind of sex education is provided responding to development stage, including curriculum. Further, provide us with data and reference materials relevant to sex education.

365~367

(1) The Report said, "on the basis of discussions held by the Central Council for Education," however, the report on progress of discussions by Curriculum Working Group of Elementary and Secondary Education Group of Central Education Council made on February 13, 2006 explained as, "Regarding sex education in schools, it is important to develop and grow scientific knowledge such as development of mental and physical functions, ability to control actions by reason, and feelings to respect oneself and others, based on ability to understand human relationship and communication skills, while standing on the basic stance that children are unable to assume social responsibilities fully and that sexual conducts by children are not appropriate from a view point of preventing sexual transmittal diseases." That means, in the future, the Government is going forward to review the sex education from the similar point of view. Is it right?

- (2) In such a case, please report if the review will be made so as not to give instructions of birth control, etc., from the stand point that “sexual conducts by children are not appropriate.”

### **Article 13 Elimination of Discrimination in Other Economical and Social Fields**

373~374 Please report data relevant to living conditions including earnings and residence of mothers and widows of single female parent households, including single mothers, as well as measures against issues revealed by the data.

When implementing supportive actions for mothers and widows, it is necessary to make appropriate support to satisfy their needs after grasping actual current living conditions of single female parent households, etc. Annual average earnings per single female parent household is ¥2,119,000 (average earnings of entire households is ¥5,638,000), and 10.6 % of the earnings come from “social benefits other than public pension and retired pension” (including child care allowance). There is absolutely no description about current conditions of single female parent households in the report of the government, including the fact that their earnings are lower than those of total households.

Please disclose data regarding support for financial independence, including use thereof.

In connection with the Living Protection Law, additional subsidiaries for single mothers with children from 16 to 18 years of age gradually eliminated in three years starting from April 2005, and other additional subsidiaries for single mothers with children under 15 years old will be completely eliminated in the three year period from April 2007 to April 2009.

As a result, suits are brought up in Kyoto, Hiroshima, Aomori, and Sapporo, alleging that the deletion of additional subsidies for single mothers is threatening the right to live, and seeking for abolishment of decision to change the public assistance system.

374

- (1) Please report influences relevant households may suffer in detail (reduction in child care allowance) as a result of policy changes in supportive measures for single female parent households from financial support to employment support. Regarding employment support measures, issues are pointed out

that those specific measures do not fit to needs of users, therefore, data regarding the specific contents of supportive measure and the use shall be reported.

- (2) A series of amendments of laws are enforced regarding payment of child care support in order to reinforce performance of child care support, including amendment of the Law for the Welfare of Fatherless Families and Widows (Article 5, Obligations to make efforts to pay child care support), amendment of the Civil Execution Law (amendment of execution procedures of claims for periodic payments, reduction in scope of prohibited attachment, indirect enforcement), etc. however, only 38.8 % of single female parent households resulting from divorce make arrangement of child care support, and only 19.0 % are actually receiving child care support.

Report should be made on receiving conditions of child care support including arrangements of child care support at the time of divorce and amounts thereof.

For your reference, together with the 5<sup>th</sup> Periodic Report of the Government, statistics materials relevant to single female parent households and single male parent households (90 and 92) were submitted, which illustrate earnings of single female parent households and conditions relevant to receipt of child care support after divorce, and etc.

#### **Article 14 Elimination of Discriminations against Females in Rural Villages**

385 Regarding data # 44 and 45 on the list of materials, please inform us of the number of certified farmers in each classification, as well as the number of farm corporations and the male-female ratio of representatives of the corporations.

#### **Article 15 Gender Equality under Law**

Please refer to Article 9, Gender Equality Regarding Nationality, and Article 16, Paragraph 1, Improvement of laws relevant to families.

#### **Article 16 Elimination of Discriminations relevant to Marriage and Family Relations**

The Government should propose an amendment of Civil Code to the Diet and enforce it without delay, and the amendment should include reduced waiting period required for women to remarry after divorce, gender equal minimum age for marriage, and implementation of the choice of surnames for married couples.

1. Improvement of laws relevant to families

393 Please inform us how do you respond to the pending amendment of marriage and divorce system (Outline of amendment to Civil Code in 1996).

In the final comment by the Committee on the Elimination of Discrimination against Women to the Japanese government in 2003, the Committee expressed its concern about discriminatory provisions in the Civil Code (Paragraph 35), and urged to repeal those provisions and to bring legislation and administrative practice into line with the Convention (Paragraph 36). Since then five years have lapsed, but still the discriminatory provisions remain existing in the Civil Code. The repeal of these provisions (amendment of Civil Code) has been pending for twelve years because some members in the Diet are opposing the amendment. The Government shall aggressively pursue measures to realize the amendment of the Civil Code. It is apparent that lapse of time would not attain understanding in the course.

JFBA supports the choice of surnames for married couples, and has insisted to abolish discriminations such as waiting period required for women to remarry after divorce, minimum age for marriage and discrimination against child born out of wedlock.

2. Domestic Violence

395

- (1) The Law for the Prevention of Spousal Violence and the Protection of Victims shall be amended further.

Please inform us of the result of analysis made by the Government about causes of the violence, as well as specific measures to remove the causes.

The amendment of 2007 has not solved the issues in the protection order system (the protection order does not have enforcement power; the period of eviction (expulsion) (英文「stop the violence」中の退去命令の用語です) order is short as two months; acts subject to prohibition are limited, etc.).

- (2) As more fundamental resolution to prevent violence to a woman (female) by her spouse, education of human rights and gender equality is necessary. How is the education of human rights and gender equality conducted in the

compulsory education curriculum and high school education curriculum in order to repeal violence against women such as domestic violence? Please answer specifically by educational stage.

397-399 Please state that how the Government is going to fund securing quality and quantity of staff to procure Spousal Violence Counseling and Support Center to perform its functions to the fullest.

400-401 Trainings for relevant officials

(1) In the final comment by the Committee on the Elimination of Discrimination against Women to the Japanese government in 2003, the Committee stated, "it recommends to launch a campaign to improve recognition of the Convention, in particular, meaning and scope of indirect discriminations, specially aiming at the Diet members, judges, and those in legal professions." Did the Government engage in this kind of campaign? If it did, please report on it in detail.

The Law for the Prevention of Spousal Violence and the Protection of Victims stipulates provision of training for relevant officials, but the Item 47 of the Report of the Government does not clearly state how the training is provided for those in judicial profession.

(2) Effective education of human rights and gender equality should be provided to legal professions such as judges, including the limit of ongoing The Law for the Prevention of Spousal Violence and the Protection of Victims and appropriate future amendment, in order to make legal professions thoroughly aware of domestic violence against women.

(3) How is the education for legal professions such as judges conducted?

(4) How is the education for officials of the Government and local municipalities other than legal professions conducted?

403 How many users used the support system themselves to prevent damages due to violence from spouses under Article 8-2 of the Law for the Prevention of Spousal Violence and the Protection of Victims?

405-407 As a method of enlightenment, shouldn't it be considered to discuss to use the media that provides more effective tool than leaflets.

422 Please provide us data including the number of calls received regarding violation of human rights such as discrimination against girls, etc., from the time of establishment of "Children' Hot Line" to present, and about victims and other callers, as well as the contents of issues.

End of documents