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Japan Federation of Bar Associations

Japan Federation of Bar Associations

Submission to the Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights

- List of Issues to be taken up in connection with the consideration of the Third Periodic Report of Japan under Articles 16 and 17 of the Covenant -

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Contents

Foreword 5
Discussion by Article of the Covenant 6
Article 1 - Right of Self-Determination 6
A. The Ainu 6
B. Okinawan Issues 9
Article 2 - Treaty Entrenchment and Non-Discrimination 12
A. Government Responsibility toward Human Rights Infringements caused by International Cooperation and International Activities of Private Entities such as Corporations 12
B. Issue of Unratified Major International Conventions 14
C. Civil Legal Aid System 15
D. Discrimination against Buraku 15
E. Discriminatory Remarks 17
Article 3 - Equal Rights of Men and Women 19
A. Definition of Discrimination 19
B. Gender Equal Society 20
C. Abolition of Discriminatory Legislation within the Civil Code on Marriage (including Discrimination against Illegitimate Children), the penal code, and the anti-prostitution act 21
D. Violence Against Women 24
E. Minority Women 40
F. Sexual Minorities 42
G. Overcoming Gender Stereotypes 44
H. Contraception 45
I. Discrimination against Women at Work 45
J. Work-Life Balance 45
Article 6 - Right to Work 46
A. Unemployment Measures and Support for Job Placement 46
B. Non-permanent Employment 47
C. Equal Employment Opportunities for the Disabled 49
D. Right to Work of Non-Japanese Nationals 50
Article 7 - Right to Just and Favourable Conditions of Work 51
A. Work-life Balance 51
B. Gender Equality in Labor 52
C. Issues related to Employment of Irregular Migrant Workers by the Private Sector (Irregular Migrant Workers and their Rights pertinent to Working Conditions) 54
Article 8 - Freedom of Association and Right to Strike 56
A. Trade Unions 56
Article 9 - Right to Social Security 58

A. Anti-discrimination Clause in Domestic Law (in relation to Persons with Disabilities) . 58
B. Measures for the Socially Vulnerable (Persons with Disabilities) 59
C. Health Insurance (National Health Insurance) 60
D. Social Security for Retirees who are under 65 years old 61
E. Improvement of the Long-term Care Insurance Act 61
F. Long-life Medical Care System 62
G. Minimum Guaranteed Pension System 63
H. Pension Gap between Men and Women 64
I. Social Security for Non-Japanese Nationals 65
J. Pension non-eligibility (National Pension) for Foreign Residents 65
K. Social Security for Unemployed People 66
L. Women and Poverty 67
Article 10 - Right to Family 71
A. Employment of the Elderly 71
B. Adult Guardianship 72
C. Abuse against the Elderly 73
Article 11 - Right to an Adequate Standard of Living 74
A. Public Assistance and Emergency Medical Care for Non-Japanese Nationals 74
B. Public Assistance for Persons Applying for Refugee Status 75
C. Forced Eviction 76
D. Transition from Homelessness to Residence in Public or Other Housing 76
E. Public Housing Measures 77
F. Housing Measures for the Elderly, Persons with Disabilities and Others 77
G. Climate Change Issues 78
Article 12 - Right to Highest Attainable Standard of Physical and Mental Health 79
A. Medical Care System 79
B. Psychiatric Care 82
C. HIV/AIDS 83
D. Induced Abortions 85
E. Sex Education 87
F. Reproductive Medicine 88
G. Framework for the Promotion of Reproductive Health 88
H. Issues related to Regulation of Chemical Substances 89
I. Waste Materials 91
J. Conservation of Water Quality 92
K. Protection of Natural Environment 93
L. Public Participation Procedures for the Protection of Natural Environment 94
M. Urban Environment 95
Articles 13 & 14 - Right to Education 96
A. Education for Children with Disabilities 97

B. Right to Education for Children without Japanese Nationality, and Children with Roots Outside Japan 97
Special Report – Great East Japan Earthquake and Japan's Nuclear Energy Policy 100
A. Background of the Special Report 100
B. Livelihood of Victims 103
C. Measures on the Fukushima Daiichi Nuclear Power Plant Incident 105

Foreword

1. The Japan Federation of Bar Associations (JFBA) is a federation which all attorneys in Japan are obligated to join. The JFBA was actively involved in the consideration of the second periodic report of the Government of Japan conducted by the U.N. Committee on Economic, Social and Cultural Rights (CESCR) in August 2001, by submitting its own report and expressing opinions during the session of consideration. Following the announcement of the Concluding Observations of the CESCR on August 31 of the same year, the JFBA officially requested the Government to implement the recommendations contained in the Concluding Observations on September 6, held constructive dialogues with the Government, and released a statement from the President of the JFBA expressing its will to make every effort for a more effective implementation of the International Covenant on Economic, Social and Cultural Rights (hereinafter the Covenant) at all stages including the judicial system.[1]

2. The above-mentioned Concluding Observations included 31 paragraphs of recommendations based on 23 paragraphs of concerns. Ten years later, many of these recommendations have unfortunately not been implemented. Furthermore, Japan has in fact regressed in some areas relating to social, cultural and economic rights, with newly emerged problems including the widening of social inequality, an increase in non-permanent workers, and an increase in the unemployed and low-income earners.

3. In addition, the Great East Japan Earthquake of March 11, 2011, caused the death and disappearance of a huge number of people and the destruction of housing and other buildings. Moreover, the Fukushima Daiichi Nuclear Disaster induced the meltdown of the fuel rod of the reactor, raising the INES level to seven, the maximum value. The large-scale radiation leak, estimated at 770,000 terabequerels, resulted in a 20 km exclusion zone around the plant and forced eviction of many residents. Thus, the disaster has caused a serious impairment of the rights guaranteed by the Covenant including the rights to work, food and housing, health, and education.

4. In the Concluding Observations of the previous consideration, the CESCR clearly stated that the obligations concerning at least the core issues of economic, social and cultural rights legally bound the State Party, and that they were directly applicable. Nevertheless, to date, Japanese courts have not recognized the judicial canonicity of the substantive provisions of the Covenant. As a part of Japan's judicial sphere, the JFBA is determined to continue its efforts to achieve the direct application of these provisions by the courts.

5. In the light of the full implementation of the Covenant, the third periodic report of Japan is to be considered by the CESCR in an attempt to identify problems and solutions in Japanese society. To contribute to the consideration, the JFBA wishes to present its opinions in regard to the preparation of the list of issues by the preparatory working group.

Discussion by Article of the Covenant

Article 1 - Right of Self-Determination

1. *All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*
2. *All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*
3. *The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.*

A. The Ainu

A.1 Background

a History of the Ainu

6. The Ainu are a people indigenous to areas in northern Japan, Sakhalin and the Kuril Islands, and for whom the Ainu language is their native language. Their customs and culture of living in coexistence with the natural world, receiving the bounty of nature, and considering all creatures on the earth, whether animal or otherwise, to be equal, has been passed down to and followed by their descendants.

7. However, especially since the Meiji Era, under the policies of the Japanese Government, “Wajin” (referring to Japanese) began to settle and develop the land. As a result, the lifestyle of the Ainu underwent drastic changes. Under the Family Register Law, the Ainu people were deemed to be Japanese (commoners), the land on which they were living was placed under the control of the Government, and the unique customs and culture of the Ainu began to be eradicated.

b Past policies towards the Ainu

8. In 1878, the Ainu were referred to as “former aborigines” (meaning “barbarians from undeveloped lands”), they were given Japanese names like those of the “Wajin,” and their unique culture began to come under attack, until the Ainu became impoverished. Consequently,

the Government enacted the Hokkaido Former Aborigines Protection Law in support of the Ainu in 1899.

9. The law was enacted after 30 years of the settlement by "Wajin" in Hokkaido in order to provide the Ainu with land (land grants) to encourage them to develop a stable lifestyle through agriculture. However, as land suitable for cultivation was no longer available in Hokkaido and the land granted to the Ainu consisted entirely of mountains, ravines, swamps and cliffs, it was very difficult for them to sustain a stable agricultural lifestyle. Furthermore, the land was to be confiscated if it was not cultivated for 15 consecutive years.

10. Article 10 of the law provided that the common assets of the Ainu people would be managed by the head of the Hokkaido Government (the governor), which was insulting to the Ainu as they were deemed incapable of managing their own assets.

c Present situation of the Ainu

11. The Hokkaido local Government conducted for the first time in 1986 an investigation of the effectiveness of their Utari (Ainu) programs. It revealed a higher ratio in the provision of welfare benefit and a lower ratio of children going on to high school in comparison with "Wajin", and discrimination in relation to employment and marriage.[2]

12. As is apparent from the 1986 statement made by the then Prime Minister Nakasone that "Japan is racially homogeneous", there are many people who believe that Japan is a racially homogeneous nation and deny the existence of indigenous peoples.

d Problems with the new Ainu law enacted on May 14, 1997

13. The Hokkaido Utari Association (this name was changed to the "Ainu Association of Hokkaido" in April 2009), which is the largest organization of Ainu people, announced at its 1984 general meeting a proposed "Law Regarding the Ainu People" that would replace the Hokkaido Former Aborigines Protection Law.

14. In response, the governor of Hokkaido referred the matter to the "Utari Issue Committee" for examination. Three years later, the committee basically approved the proposals of the Association, and requested the national Government to enact a new law.

15. On May 14, 1997, the "Law for the Promotion of the Ainu Culture and for the Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture" was enacted and promulgated, and the existing law regarding the Ainu was repealed. The new law recognizes as fact that the Ainu are indigenous people, but because it does not recognize "indigenous rights" in the legal sense, it denies that the Ainu have the right to the return of their lands or to compensation for the harm they have suffered, thereby making the law simply a means for the promotion of Ainu culture.

e Understanding of Ainu by Japanese courts

16. The Nibutani area of Biratori-cho, located in Hokkaido Hidaka District, has been an important region in regard to the transmission of Ainu cultural traditions, including a ceremony called “Chippusanke,” a ritual performed at the launching of fishing boats for salmon fishing. Despite this, a dam construction project was announced, which immediately provoked a strong opposition campaign not only by the local Ainu residents but also by Ainu people from around Hokkaido.

17. In 1987, under the Land Expropriation Act, the then Hokkaido Development Bureau initiated forced expropriation against Ainu landowners who stridently opposed the construction of the dam. In May 1993, these land owners filed a suit at the Sapporo District Court against the Hokkaido Land Expropriation Committee, forming the start of the so-called “Nibutani Dam Project Injunction Case.”

18. On March 27, 1997, the Sapporo District Court stated in the decision regarding the Nibutani Dam Project that "as minority people that have preserved their unique culture, the Ainu people are guaranteed the right to enjoy their culture under Article 27 of the International Covenant on Civil and Political Rights, and Japan is required under Article 98-2 of the Japanese Constitution to honor these rights in good faith." It continued, “The authorized disposition is illegal, and its illegality is preserved by the decision on this expropriation case, on the grounds that the Bureau has failed to make any assessment necessary to judge whether the public benefits to be gained by the construction of Nibutani Dam, such as flood control, would override the expected forfeit of the Ainu people’s right to the enjoyment of their culture.” Nevertheless, the court rejected the plaintiff’s claim itself by the doctrine of circumstantial judgment. Furthermore, the court reserved its decision on the question of "whether the Court recognizes so-called “indigenous rights”, i.e., autonomy with regard to land, resources and Government."

f The Advisory Panel of Eminent Persons and related problems

19. According to the “Resolution Calling for Recognition of the Ainu People as Indigenous People” adopted by the Diet on June 6 2008, the Advisory Panel of Eminent Persons on Policies for the Ainu People was created in the cabinet. It convened meetings ten times during the period from August 11 2008 to July 29 2009.

20. The report prepared by the Advisory Panel indicated the following: the Ainu People are indigenous people; as specific measures to promote the Ainu language and culture, it is important to provide more opportunities to learn the language and the culture of the Ainu and to initiate programs to improve the status of the Ainu language (through the adoption of Ainu toponyms, for instance); the percentage of welfare benefits recipients among the Ainu is 1.5 times the Hokkaido average and approximately 2.5 times the national average; and the

percentage of Ainu children who proceed to enter university is about half the national average.[3] However, the report did not refer to the right to self-determination, nor present strategies on how to improve "opportunities to learn Ainu language and culture." Among the eight members of the Panel, the number of Ainu representatives remains only one.

g The Indigenous Summit of July 2008

21. In July 2008, indigenous communities from around the world gathered in Hokkaido to organize the "Indigenous Summit – Ainu Mosir 2008," to make recommendations to the G8 member countries. Their main recommendations were: (i) to introduce the "UN Declaration on the Rights of Indigenous Peoples" adopted in September 2007 as a national law in Japan; and (ii) to respect the practices of Ainu traditional lifestyle and their right to life, and for at least half of the members of the Advisory Panel to be Ainu people.[4]

22. In addition, the organizing committee of the Summit made their "recommendations to the Japanese Government," urging to reflect upon its past policies toward the Ainu and make official apologies for these in explicit wording, and to adopt the Ainu language as an official language to be taught in the compulsory education system.[5]

A.2 Proposed Questions for List of Issues

a	How does the Government view the participation of representatives of the Ainu people in the Advisory Panel and other parts of the policy-making process? Further, how does it plan to improve this?
b	In order to prevent future exploitation (with the Nibutani Dam as a typical example) ignoring voices of the Ainu people, does the Government intend to reflect the opinions of the Ainu people in future development programs in Hokkaido? If so, what form will this take?
c	How does the Government plan to improve the social status of the Ainu people in Hokkaido?
d	How does the Government guarantee the right of the Ainu to receive education in their own language?
e	Does the Government plan to ratify the ILO C169 Convention concerning Indigenous and Tribal Peoples in Independent Countries?
f	How will the Government implement the UN Declaration on the Rights of Indigenous Peoples of 2007, and especially the right to self-governance prescribed in Article 4 of the Declaration?

B. Okinawan Issues

B.1 Background

a Historical development

23. In Okinawa, a unified dynasty was established in the 15th century and a unique culture

different from Japan developed until 1871, when the Japanese Government abolished the Ryukyu Dynasty and placed the islands under the Japanese control. From around 1890, places of worship across Okinawa started to be integrated into the state Shinto religion, and were replaced with a Shinto shrine and gateway. Thus, the cultural integration of Okinawa into Japan started. During World War II, Okinawa became the battlefield for the worst fighting in Japan, with the loss of one quarter of the total Okinawan population.

b Present situation

(a) Concentration of military bases

24. In Japan, many US military bases exist throughout the country under the "Treaty of Mutual Cooperation and Security between Japan and the United States," and 75% of these US military facilities are concentrated in Okinawa prefecture. Because of the presence of military bases, various human rights problems and social problems have occurred specifically in Okinawa, including noise produced by landing and takeoff of aircrafts, aircraft or helicopter crashes, environmental destruction and contamination, damage to people's daily life, sexual assaults and traffic accidents caused by US military and civilian personnel, and hindrance of local development.

25. Moreover, the issue of the Japan-US Status-of-Forces Agreement has caused an exacerbation of problems related to US military troops and bases in Japan. The Agreement was made taking the historical circumstances of Japan's defeat in the War into account, thus starting as an unequal (provision of the military bases without compensation or limit on their duration, the so-called "budget allocation for sympathy," the right to refuse extradition of accused US military personnel, etc.) and unreasonable (absence of policies for environmental protection and guarantee of human rights, ignorance of the views of concerned local Governments, etc.) act. In particular, the fact that the Japan-US Status-of-Forces Agreement is based on the premise that Japan cannot excise primary jurisdiction on crimes committed by members of the US military in Japan has been a major hindrance in securing the lifestyles and human rights of civilians in Okinawa and protecting the environment of Japan.

(b) Cultural rights

26. There exists a strong opinion in Okinawa that the region is remarkably different from Japan in terms of language, culture and religion, making Okinawans a specific ethnic group. However, many people in Okinawa prefecture do not necessarily perceive themselves in this way. Therefore, the JFBA reserves judgment on whether we should consider Okinawan people to be an "ethnic group."

27. However, setting aside the question of whether we should use the word "ethnic culture," there is no doubt that, at least, the unique culture of Okinawa is different from mainland Japan and deserves full respect.

B.2 Proposed Questions for List of Issues

a	While UNESCO recognizes the unique and inherent ethnicity, history, culture, tradition and some Ryukyu languages of Okinawa, how does the Japanese Government recognize and protect Okinawa's ethnic, historic, cultural and linguistic characteristics?
b	How is the right to use Okinawan languages in school education and civil service guaranteed?
c	How does the imbalanced concentration of military bases in Okinawa impact on the enjoyment of the economic, social and cultural rights of Okinawan residents? Have any discriminatory actions been brought against those residents with specific cultural backgrounds in regard to their enjoyment of the above rights?
d	How does the Government plan to guarantee residents' rights to make claims for compensation when they suffer damage caused by the military bases in future?
e	How will the Japanese Government rectify the imbalanced concentration of military bases in Okinawa?

Article 2 - Treaty Entrenchment and Non-Discrimination

1. *Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures. General comment on its implementation.*
2. *The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*
3. *Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.*

A. Government Responsibility toward Human Rights Infringements caused by International Cooperation and International Activities of Private Entities such as Corporations

A.1 Background

28. As stated in the Concluding Observations of the CESCR on the second periodic report of Japan[6], the Concluding Observations of the CEDAW on the sixth periodic report of Japan[7], the Concluding Observations of the CRC on the third periodic report of Japan[8] and during the Universal Periodic Review of the Human Rights Council[9], the Government of Japan has repeatedly been advised about its relatively small proportion of ODA to GDP. In particular, since the substantial policy during the Koizumi administration, the amount of ODA has dropped steadily, causing concerns over the lack of political will to achieve a ratio of 0.7% in accordance with the international commitment that Japan has made.

29. Moreover, the activities of private corporations have triggered human rights infringements and environmental destruction, and created poverty and disparities in developing countries.

A.2 Proposed Questions for List of Issues

a	In regard to Japan's international commitment to maintain the proportion of ODA against GNI at 0.7%, it has recently hovered around 0.2%. Specifically, how and when does the

Government plan to realize the promised ratio of 0.7%?

b Japan places much importance on economic development in its ODA program, mainly focusing on infrastructure development with less attention on social development and human development. After the formulation of the Millennium Development Goals, Japan's approach has not yielded a direct contribution to the alleviation of poverty or disparities in developing countries. How does the Government plan to improve this?

c Regarding human rights infringement and environmental destruction triggered by projects under the ODA, how does Japan assess, monitor, redress, compensate or rectify damage caused by environmental destruction or the social impact and human rights issues of factors such as forced displacement?

d Despite the amendment of the Environmental Impact Assessment Law in April 2011, environmental assessment in Japan is based on the implementation of projects, with no zero-option and no obligation to propose alternatives. How does the Government intend to systematically use strategic environment assessment (SEA)?

e What measures is the Government taking in order to grasp the situation of poverty faced by local people in ODA recipient countries, and to strengthen relationship with the civil society of these countries?

f When does the Government plan to open dialogue with civil society organizations of ODA recipient countries, and how does it make high-level policy-making process (such as broad outlines) transparent? How is it broadening the involvement of the civil society, such as NGOs, in this process?

g What measures is the Government taking in order to secure the increased independence of ODA evaluation, and to reinforce the monitoring and inspection of ODA projects?

h While Japan's ODA, with the slogan of "aid with a human face", tends to give importance to the national interest rather than positive results gained by recipient countries, is the Government considering the future removal of STEP loans? Also, what kind of measures has it taken, and planning to take, to untie technical cooperation and grant aid? Furthermore, Japan's ODA focuses on individual projects with insufficient collaboration with other donors; does the Government intend to improve this?

i In ODA projects for social development or the Millennium Development Goals, what importance does the Government place on human rights within the projects?

j In international collaborations, how does the Government plan to improve the comprehensive sexual reproductive health service? Specifically, does it plan to maintain compliance with the UN Global Strategy on Women's and Children's Health, and the continued reduction in funding to multilateral agencies such as the UN Population Fund? How does it plan to realize effective gender mainstreaming in international cooperation? While there is an unease that, in ODA projects concerning food and water supply, Japan's national interest and benefits to the Japanese private sector may be given priority over the benefits to recipient countries, how does the Government secure access to water, food or farmland for the poor in recipient countries?

k	In the area of international cooperation regarding the environment and climate change, what kinds of proactive and comprehensive initiatives is the Government taking?
l	What kinds of proactive and comprehensive initiatives is the Government taking in relation to humanitarian assistance? How does it ensure that such initiatives work effectively for the interest of recipient countries, especially for the poorest sector of society?
m	What progress is the Government making in the effective implementation of cancellation of debt for developing countries? Currently yen credit is being extended to countries in receipt of debt relief, but does the Government plan to continue such actions?
n	What measures does the Government have in place to restrict economic activities of the private sector, individual persons and corporations that cause human rights violations, environmental destruction and poverty? How does it compensate damages suffered by victims?

B. Issue of Unratified Major International Conventions

B.1 Background

30. Japan has not yet ratified many core treaties of major international human rights treaties and ILO conventions, and for the realization of social rights, early ratification is needed.
The ratification of major international treaties has been urged in the Concluding Observations of the CESCR,[10] of the CEDAW,[11] and of the CRC.[12] Japan has also been urged by these UN treaty bodies to conclude the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.

B.2 Proposed Questions for List of Issues

a	Does the Government plan to sign and ratify the Optional Protocol to the International Covenant on Social, Economic and Cultural Rights?
b	Does the Government plan to ratify those optional protocols that stipulate the individual complaint mechanism, including that to the Convention on the Elimination of All Forms of Discrimination against Women, to the International Covenant on Civil and Political Rights, and others? What are reasons of non-ratification?
c	Does the Government plan to ratify the ILO C111 Discrimination (Employment and Occupation) Convention, the C175 Part-Time Work Convention, and the C183 Maternity Protection Convention?
d	Does the Government plan to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?
e	Does the Government plan to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against

Transnational Organized Crime?

C. Civil Legal Aid System

C.1 Background

31. While the civil legal aid system of Japan has been expanded with the enforcement of the Comprehensive Legal Support Act in 2004, reimbursement of the support expenses is basically required, and the scope of the aid under the system widely excludes those cases that clearly need legal aid.

32. In particular, the civil legal aid system is intended for Japanese or non-Japanese having domicile in Japan and duly residing in Japan (hereinafter, “nationals and others”) who cannot afford to pay the expenses necessary to prepare for and pursue the realization of their rights through civil action, or those whose livelihoods will be negatively affected by such payment (Article 30 of the Comprehensive Legal Support Act). Accordingly, (i) those without Japanese nationality are not eligible for civil legal aid under the Act unless they have their domicile in Japan and duly reside in Japan, and (ii) administrative procedures are not covered under the Act, thus irregular migrants cannot receive legal aid for immigration procedures or refugee status procedures. For this reason, immigrant women married to Japanese who have lost their legal status of residence while fleeing from domestic violence (hereinafter “DV”) are not eligible for legal aid.

33. For refugee status procedures that are not covered by the civil legal aid system, the JFBA currently provides assistance at its own expense; however, this should fundamentally be assisted by support from the state.

C.2 Proposed Questions for List of Issues

a	The Government is requested to disclose data regarding the number of applications for civil legal aid, and the number of accepted applications submitted by non-Japanese who have domicile in Japan and duly reside in Japan under the Comprehensive Legal Support Act, since the time of enforcement. Further, such data should be provided for each type of civil legal procedure.
b	In order to expand the scope of the civil legal aid program to include those without Japanese nationality, does the Government plan to amend the present Act or, for example, take alternative measures to provide civil legal aid to irregular migrants? If so, the Government is requested to disclose details of such plans.

D. Discrimination against Buraku

D.1 Background

a Historical development

34. Buraku refers to the residential area of people who have historically been discriminated against, despite the fact that they are ethnically indistinct from other Japanese. Even though the discriminatory categorization of Buraku under the feudal social status system was officially abolished in 1871, they continued to occupy a low position economically and socially. After World War II, with the implementation of the Government's Dowa Measures the social capital of Buraku improved, but the economic and social disparities between Buraku residents and those of other areas have not yet been dissolved.

35. Although a series of Dowa Measures were partially extended on March 31, 1987 with the introduction of the temporary legislation entitled "Law Regarding the Special Fiscal Measures of the Government for Regional Improvement Projects", in 2002, with the termination of the temporary law, the state projects concerning Dowa Measures were concluded.

b Current situation and recommendations of the Committee on the Elimination of Racial Discrimination (CERD)

36. While the Government of Japan has indicated its view that Buraku discrimination is not included in the grounds of discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination, CERD regrets the interpretation of "descent" by the Government, and has urged it to adopt a comprehensive definition of racial discrimination in conformity with the Convention.[13]

37. At the time of the termination of the Special Measures Law in 2002, the Government of Japan and Buraku liberation organizations reached an agreement on a full implementation of the Convention, the enactment of a law concerning the rectification of human rights violations and a law for the promotion of human rights education. With the exception of the law concerning the promotion of human rights education, these laws have not yet been enacted.

38. There is an absence of official indexes necessary to make plans for the improvement of the condition of the Buraku. Consequently, there exists a widespread opinion justifying the lack of measures taken on the Buraku issue which argues that "Buraku discrimination has ceased."

D.2 Proposed Questions for List of Issues

a How does the Government interpret the term "descent" in Article 1 of the Convention? As per the recommendation made by the CERD, does the Government have any intention to change its interpretation of this term?

b Does the Government plan to realize the matters agreed upon between themselves and Buraku liberation organizations at the time of the termination of the Special Measures Law, including the full implementation of the Convention (ICERD) and the enactment of a law concerning rectification of human rights violations?

c	Does the Government plan to conduct a survey for the improvement of living conditions of Buraku, and publish statistics?

E. Discriminatory Remarks

E.1 Background

39. It is not rare to come across discriminatory remarks being made in Japan on the basis of race, ethnicity, nationality, religion, political or other opinions, sex, sexual orientation, disability, social status, and economic status. These remarks are often made by politicians and other people in official positions, and these remarks often escalate to hate speech which promotes violence, hatred and discrimination.

40. Japan has reservations on Articles 4(a) and (b) of the International Convention on the Elimination of All Forms of Racial Discrimination. In reality, hate crimes against students of Korean Schools and Buraku people are prevalent, and harmful and discriminatory attacks towards them continue to occur.

41. The Governor of Tokyo, Shintaro Ishihara has made numerous discriminatory remarks against women and sexual minorities, including an occasion where he said that "it is wasteful and sinful that menopausal women remain alive any longer". He reiterated his statement again later, referring to the metaphor of salmon dying after laying eggs, and made a comment that is almost equivalent to saying that human women are against nature because they do not die after menopause. A former Minister of Health, Labor and Welfare, Hakuo Yanagisawa also described women as child-bearing machines in a public statement while he was still in office.

42. The Committee on the Elimination of Discrimination against Women expressed its concern that the over-sexualized depiction of women strengthens the existing stereotypes of women as sex objects and continues to lower girls' self-esteem[14]. The Committee expresses its concern at the high incidence of gender discriminatory statements and sexist remarks made by public officials, and the lack of steps taken to prevent and punish verbal violence against women. The Committee urges the State Party to take measures, including the criminalization of verbal abuse, to ensure that Government officials do not make disparaging remarks that demean women and contribute to the patriarchal system, which discriminates against women. It also urges the State Party to strengthen its strategies to combat pornography and sexualization in the media and advertising, and to report the results of the implementation in its next periodic report. It calls on the State Party to take proactive steps, including encouraging the adoption and implementation of self-regulatory measures, to ensure that media productions and coverage are non-discriminatory and promote positive images of girls and women, as well as increasing awareness of these issues among media proprietors and other relevant actors in the industry.[15] However, the Government has not made any significant achievement in this area.

43. Governor Ishihara once again made discriminatory remarks against sexual minorities, saying that "I can't help feeling that they are lacking in some way. It's probably because of their genetics." There have been no measures taken to prevent public officials from making such discriminatory remarks, and other than a few exceptions in the media, it is common for sexual minorities to be described in public in derogatory terms with no real understanding.

44. The Committee on Elimination of All Forms of Racial Discrimination, in the Concluding Observations of the 3rd-6th periodic report of Japan, expressed its concern at the reservations of the State Party to Articles 4(a) and (b) of the Convention. The Committee reiterated its view that the prohibition of the dissemination of ideas based upon racial superiority complexes or hatred is compatible with freedom of opinion and expression and, in this respect, encourages the State Party to examine its need to maintain reservations to Articles 4(a) and (b) of the Convention, with a view to reducing their scope and preferably their withdrawal. The Committee called attention to the fact that exercising the right to freedom of expression carries with it special duties and responsibilities, in particular the obligation to refrain from disseminating racist ideas, and calls upon the State Party once again to take into account the Committee's general recommendations No. 7 (1985) and No. 15 (1993), according to which Article 4 is of a mandatory nature, given the non-self-executing character of its provisions. It recommends that the State Party: (a) Remedy the absence of legislation to give full effect to the provisions against discrimination under Article 4; (b) Ensure that relevant constitutional, civil and criminal law provisions are effectively implemented, including additional steps to address hateful and racist expressions by, inter alia, stepping up efforts to investigate them and punish those involved; (c) Increase sensitization and awareness-raising campaigns against the dissemination of racist ideas and to prevent racially motivated offences including hate speech and racist propaganda on the Internet.[16]

E.2 Proposed Questions for List of Issues

a Racist, sexist remarks, and discriminatory remarks against sexual minorities by public officials

Please provide data for discriminatory remarks based on race, gender or sexual orientation made by public officials. Does the Government intend to prevent public officials from making such remarks through measures and sanctions?

b Hate crimes which promote violence, hatred and discrimination

A Korean school in Kyoto was attacked by xenophobic groups called "Zaitokukai: a group of citizens who are against privileges given to Koreans living in Japan" on December 4, 2009. They yelled in front of the school, repeatedly making discriminatory and threatening remarks such as "Koreans who feel discrimination, get out of Japan", "children of spies", and "Korean schools are training terrorists". How does the Government consider the concept of legal reform which increases the severity of offense of such hate crimes, making the offense heavier than other crimes?

Article 3 - Equal Rights of Men and Women

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

A. Definition of Discrimination

A.1 Background

45. The Convention on the Elimination of All Forms of Discrimination against Women stipulates the definition of discrimination against women in Article 1, whereas there is no such definition in domestic legislation in Japan.

46. The Committee on the Elimination of Discrimination against Women expressed its concern in the Concluding Observations of the sixth periodic report regarding the absence of a definition of discrimination against women in domestic legislation, as well as the absence of direct and clear incorporation of the Convention and of a specific definition of discrimination against women in accordance with Article 1 of the Convention in domestic legislation. The Committee called on the State Party to take urgent steps to incorporate the Convention and a definition of discrimination against women, as contained in Article 1 of the Convention, fully into domestic legislation and to report on progress made in this regard in its next periodic report[17]. The concerns expressed by the Committee have not been addressed by the Japanese Government as of the present time.

47. The Ministry of Health, Labor and Welfare has formulated the "Guidelines for the Purpose of Ensuring Employers Deal Appropriately with Prohibition of Discrimination on the Basis of Sex" based on Article 10, clause 1 of the Equal Opportunity Law (Notification no.614). In this guideline, decisions with regard to direct discrimination shall be made in accordance with "employment management category". The Committee expressed its concern that the "employment management category" in this Guideline may provide leeway for employers to introduce a track-based system which discriminates against women (CEDAW/C/JPN/CO/6). Although the dual-track employment system existed before 1986, it was formalized by many companies after the passage of the Equal Opportunity Law. With the dual-track system, new employees enter either a comprehensive career-track position or a general clerical non-career track position. Companies regard this dual-track system as the "employment management category" in the guideline. Definition of indirect discrimination is also limited, being much narrower than the one stipulated in the Convention on the Elimination of all Forms of

Discrimination against Women, and its effects are limited accordingly.

48. The Japan Federation of Bar Association has recommended for some time to introduce comprehensive legislation which prohibits discrimination, to incorporate provisions for a definition of indirect discrimination in the Equal Opportunity Law, to amend the current provision of limited definition mentioned above, as well as removing the provisions which stipulate that decisions with regard to direct discrimination shall be made in accordance with employment management category.[18]

A.2 Proposed Questions for List of Issues

a	What is the current situation of the Government's effort to incorporate a definition of discrimination against women in domestic legislation, as the Committee on the Elimination of Discrimination against Women has expressed concern over its absence and made a recommendation to incorporate it in domestic legislation?
b	Does the Government intend to introduce a new legislation which prohibits gender discrimination, incorporating a definition of discrimination? If so, please indicate the current status of progress.
c	Does the Government intend to incorporate the provision of indirect discrimination in the Equal Opportunity Law, rather than in notification from the Ministries?
d	Notification from the Ministry of Health, Labor and Welfare confine indirect discrimination to three provisions. Does the Government intend to reform the Act to indicate that these three provisions are examples of a wider range?
e	Does the Government intend to remove the article in the "Guidelines for the Purpose of Ensuring Employers Deal Appropriately with Prohibition of Discrimination on the Basis of Sex" from the Ministry of Health, Labor and Welfare which stipulates that decisions with regard to direct discrimination shall be made in accordance with employment management category?

B. Gender Equal Society

B.1 Background

49. The Committee on the Elimination of Discrimination against Women urged the Government to adopt temporary special measures to increase the representation of women in decision-making positions at all levels in its Concluding Observations[19], and the Committee requested the State Party to provide, within two years, detailed written information on the implementation of the recommendations. The Japan Federation of Bar Association conducted the study "Report on the Japanese Government's Follow-up to the Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/CO/6, paragraphs 18 and 28)" and submitted it to the Committee[20]. According to the Report, the representation of

women in decision-making positions is low in all areas of politics, national and local Government, the private sector, and education and research. The Government, in the Third Basic Plan for Gender Equality, set a numerical target for increasing the proportion of women in leadership positions to at least 30% by 2020 in all fields of society. However, some of the numerical targets are set too low, and there are no concrete measures provided for achieving the goals of these numerical targets. Special temporary measures bound legally system for political representatives such as MPs and parliamentary candidates, public officials, positions in education and research, and the private sector have not been introduced, and also for prioritizing companies which have such measures when inviting tenders. The only incentive might be the system of commendation for companies that have such special measures; the Government merely "asks" companies to introduce special temporary measures. This shows the Government's lack of correct understanding of Article 2 (e) of the Convention, which requires the State Party to "take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise."

50. In the previous Concluding Observations of the Committee on Economic, Social and Cultural Rights[21], and the Human Rights Council[22], concern was expressed with regard to ensuring greater equality between women and men in decision-making positions, but these issues have been insufficiently addressed.

51. Please refer to "Report on the Japanese Government's Follow-up to the Concluding Observations of the Committee on the Elimination of Discrimination against Women"[23] for more details for the current situation regarding participation of women in the decision-making process, and temporary special measures to enhance their participation in the decision-making process.

B.2 Proposed Questions for List of Issues

a	Various efforts are being made to expand women's participation in policy and decision-making processes in all fields of society in the Government's Third Basic Plan for Gender Equality. However, they do not go beyond requesting both public and private sectors to achieve these goals. There are no legal structures to support these measures, nor is there any incentive other than the system of commendation. Does the Government consider that they will achieve their goal of 30% by 2020 with these existing measures?
b	According to the "International Comparison of the Participation of Women in the Decision–making Process"[24] conducted by the Gender Equality Bureau and published in 2007 and 2008, it was suggested that the Government should introduce temporary special measures within the framework of the Constitution. Please clarify the reason for not having taken any temporary special measures or introducing new legislation to support these measures.

C. Abolition of Discriminatory Legislation within the Civil Code on Marriage (including

Discrimination against Illegitimate Children), the penal code, and the anti-prostitution act

[Discriminatory civil code on marriage (including discrimination against illegitimate children)]

C.1 Background

52. Since an outline of revision for the Civil Code was submitted in February 1996, there has been very little progress with regard to legal reform of discriminatory family law by the Government. The Government uses public opinion surveys to explain the lack of progress, and limits their responsibility within legislative reform with regard to this issue. On February 13, 2011, collective lawsuits for State compensation were filed to denounce the provision on the single surname for married couples as unconstitutional.

53. The Minister of Justice and Minister of Gender Equality took a stance to amend the discriminatory provisions in the Civil Code, and eliminate discrimination against children born outside marriage regarding share of inheritance, after the change of administration. However, since they have both resigned from office, the Government no longer intends to submit the bill to amend the Civil Code. Recommendations from international treaty bodies have been ignored in Government's reports.[25]

54. In July 2009, the Committee on the Elimination of Discrimination against Women requested the State Party to provide, within two years, detailed written information on the implementation of the recommendations with regard to amendment to the Civil Code. However, there was no significant progress during this period. The Committee recommended once again on November 4, 2011 that the State Party provide, within one year, additional information on: actions taken with respect to preparation and adoption of legal provisions for (i) allowing for the choice of surnames for married couples; (ii) equalizing shares in succession between children born within marriage and children born outside marriage; and (iii) abolishing the six-month waiting period required for women but not men before remarriage.

C.2 Proposed Questions for List of Issues

a	Please submit a report on the actions that the Government has taken with respect to preparation for the abolition and amendment of the provisions for the lack of choice of surnames for married couples, the waiting period required for women before they can remarry after divorce, the discrimination against women with regard to the minimum age for marriage, and discrimination against children born outside marriage regarding share of inheritance.
b	What are the legislative facts that are supporting these discriminatory provisions?
c	How does the Government evaluate the effects of these discriminatory provisions based on

	gender?
d	The Government has violated various international treaties (Covenant on Economic, Social, and Cultural Rights, Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child) by its failure to remove discriminatory provisions in the Civil Code and Family Registration Act. International treaty bodies have made recommendations to amend these provisions many times over recent decades, however, the Government has not met its obligation to implement these recommendations. How does the Government regard this situation as a member of the United Nations, and a ratifying country to these treaties?

[Discriminatory legislation in the Penal Code and Anti-Prostitution Act]

C.3 Background

55. In addition to the discriminatory provisions mentioned above, there exist other discriminatory legislations which include: (i) Penal Code 212, which penalizes women who have an abortion, and Penal Codes 213 and 214, which penalize those who are involved with abortion, and (ii) Article 5 of the Anti-Prostitution Act, which penalizes women who solicit prostitution.

56. Article 2 (g) of the Convention on the Elimination of All Forms of Discrimination against Women calls for the State Parties to repeal all national penal provisions which constitute discrimination against women. However, in Japan, there is a provision in the Penal Code to penalize abortion. Article 212 of the Penal Code stipulates that "when a pregnant woman carries out abortion on herself by the use of drugs or any other means, imprisonment with labor for not more than 1 year shall be imposed".

57. In the Concluding Observations of the sixth periodic report of Japan, the Committee on the Elimination of Discrimination against Women recommended that the State Party amend, when possible, its legislation criminalizing abortion in order to remove punitive provisions imposed on women who undergo abortion, in line with the Committee's general recommendation No. 24 on women and health and the Beijing Declaration and Platform for Action.[26] In the Interim report prepared by the Special Rapporteur of the Human Rights Council, Anand Grover, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, it is stated that "barriers arising from criminal laws and other laws and policies affecting sexual and reproductive health must therefore be immediately removed in order to ensure full enjoyment of the right to health."[27]

58. The act of soliciting for purposes of prostitution is prohibited on pain of penalty in the Anti-Prostitution Act, but there is no punishment for persons who purchase sexual services. In the Concluding Observations of the sixth periodic report of Japan, the Committee on the Elimination of Discrimination against Women expressed concern that prostitutes are subject to prosecution under the Anti-Prostitution Act, while their clients do not face punishment. The

Committee called on the State Party to take appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution. It also urged the State Party to take measures to facilitate the reintegration of prostitutes into society and provide rehabilitation and economic empowerment programs for women and girls exploited by prostitution.[28]

59. Nevertheless, the Government has not taken effective actions to redress the situation. It is stated in the Third Action Plan for Gender Equality that "with the low birthrate and progress in science and technology, as the legal structures on abortion and assisted reproductive technologies should be considered from many points of view, the Government plans to obtain information for the discussion, if needed."[29] On the other hand, the Committee on the Elimination of Discrimination against Women pointed out that the obligations undertaken under the Convention by the State Party upon ratification should not be solely dependent on the results of public opinion surveys, but on its obligations to align national laws in line with the provisions of the Convention, as it is a part of its national legal system.[30] The Government's position of offering "to consider the matter from many points of view" stated in the Third Basic Plan means nothing other than refusal to implement the Convention and a lack of political will on the part of the Government on these issues.

60. As to prostitution, the Third Basic Plan for Gender Equality only states that "the Government may consider amendment of the Anti-Prostitution Act," yet it does not mention any specific measures for discouraging the demand for prostitution.

61. Thus, the Japanese Government has maintained a negative attitude toward changing the legislation on abortion and prostitution.

C.4 Proposed Questions for List of Issues

a	Does the Government intend to abolish Article 212 of the Penal Code in the immediate future?
b	Please clarify future policy on prostitution, including the amendment and abolishment of the Anti-Prostitution Act.

D. Violence Against Women

[Sexual Violence]

D.1 Background

62. Regarding sexual crime in Japan, there are still many problems with substantive law provisions, procedural law, and protection of victims. Many perpetrators of sexual crimes remain unpunished, and there is not enough support for victims. The Committee on Economic, Social and Cultural Rights recommended in previous Concluding Observations that the State

Party should apply strictly its domestic legislation and implement effective sanctions on persons responsible for violence against women in general (E/C.12/1/Add.67). However, many perpetrators of this type of crime still remain unpunished, and the actual number of cases of sexual crime is unknown.

a In relation to issues regarding substantive law for sexual crime (mainly in relation to the Penal Code[31])

63. The Committee on the Elimination of Discrimination against Women expressed concern in its periodic report of 2009 that under the Penal Code, the crime of sexual violence is prosecuted only upon complaint by the victim and is still considered to be a crime against morality. The Committee further remained concerned that the penalty for rape remains lenient and that incest and marital rape are not defined explicitly as crimes under the Penal Code. The Committee recommended that the State Party should eliminate in its Penal Code the requirement of the victim's complaint in order to prosecute crimes of sexual violence, and to define sexual crimes as crimes involving violations of women's rights to bodily security and integrity, to increase the penalty for rape and to include incest as a specific crime.[32] In the Concluding Observations of the 4th and 5th periodic reports, the Committee on the Elimination of Discrimination against Women expressed concern that the penalty for rape is relatively lenient and that incest is not defined explicitly as a crime under the Penal Code. The Committee urged the State Party to increase the penalty for rape and include incest as a specific crime in its penal legislation, and implement policies in accordance with the Committee's general recommendation 19, in order to prevent violence.[33] However, no initiative was taken as of the 6th periodic report with regard to these issues.

64. In the Concluding Observations of the Human Rights Committee in 2008, the Committee expressed concern that the definition of rape in Article 177 of the Criminal Code only covers actual sexual intercourse between men and women and requires resistance by victims against the attack, and that rape and other sexual crimes cannot be prosecuted without a complaint filed by the victim, except in cases where the victim is under 13 years of age. The State Party should broaden the scope of the definition of rape in Article 177 of the Criminal Code and ensure that incest, sexual abuse other than actual sexual intercourse, as well as rape of men, are considered serious criminal offences[34]. The Committee is also concerned about the low age of sexual consent, which is set at 13 years for boys and girls (Art. 24), and recommends that the State Party should raise the age of sexual consent for boys and girls from its current level of 13 years, with a view to protecting the normal development of children and preventing child abuse.[35]

65. Similarly, The Committee on the Rights of the Child expressed concern in its Concluding Observations in 2004 that the minimum age of sexual consent (13 years) is low. It also shows concern that the Penal Code maintains a narrow definition of rape as an act committed by a

male against a female. The Committee recommended that the State Party should raise the minimum age of sexual consent, and amend legislation on sexual exploitation and abuse to ensure equal protection for boys and girls.[36]

66. Nonetheless, since then, only the crime of gang rape has been added as an amendment to the Penal Code with regard to the crime of rape. In the Third Basic Plan for Gender Equality endorsed by the Cabinet, it is stated that the Government shall "examine" a review of the constituent elements of the Penal Code, and the report submitted by the Committee of Specialists on Violence against Women set up by the Government shows similar concern. However, there has not been any amendment regarding the constituent elements of the crime of rape since then.

67. In the Concluding Observations of the 4th periodic review, the Human Rights Committee expressed concern that "the courts in Japan seem to consider domestic violence, including forced sexual intercourse, as within the normal sphere of married life".[37] The Committee on the Elimination of Discrimination against Women also expressed concern that "incest and marital rape are not defined explicitly as crimes under the Penal Code".[38] In this regard, there is no article in the Penal Code to exclude marital rape from the definition of rape. Nevertheless, marital rape has not been prosecuted in most cases in reality, apart from in special circumstances such as that the marriage had already ended.

68. The interpretation of "assault or intimidation" as a constituent element for the crime of rape mostly relies upon the judgment of the Supreme Court, which stipulates "a level that makes it extremely difficult for the victim to resist against the act". However, it has been pointed out that above interpretation of "assault and intimidation" makes it very hard to prosecute cases of sexual assault performed against the victim's will.

69. Regarding the protection of the victims of sexual assault in criminal proceedings, the Human Rights Committee, for example, expressed concern about reports that perpetrators of sexual violence frequently escape just punishment or receive light sentences, and that judges often unduly focus on the sexual past of victims and require them to provide evidence that they have resisted the assault. The Committee recommended that the State remove the burden on victims to prove resistance against the assault, and prosecute rape and other crimes of sexual violence ex officio.[39]

70. In its consideration of reports submitted by States parties under Article 12-1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Committee on the Rights of the Child welcomed measures in place to protect the rights and interests of child victims and witnesses in criminal justice procedures. However, the Committee expressed concern that victims of crimes do not receive adequate support and assistance throughout the criminal and judicial processes. In particular, the Committee expresses concern at the inadequacy of formal arrangements to limit the number of

times children are required to testify and that the use of video evidence, in lieu of oral testimony, is not accepted during criminal proceedings. The Committee recommended that the State Party urgently review, in consultation with experts in the field, its procedures for the provision of support and assistance to child victims who are witnesses, with a view to ensuring that children are not subjected to additional trauma as a result of being required to testify repeatedly and consider, to this end, the use of video evidence rather than oral testimony in such proceedings.[40]

71. With regard to support for victims, it is stated in the Third Basic Plan for Gender Equality that appropriate use of the current system, including the protection of personal information of the victims in criminal justice procedures, should be emphasized.[41] However, it does not mention the necessity of legal reform to improve the criminal and judicial procedures and the support system for victims of sexual violence, and the Government plan has not made any outstanding achievement in this regard. Protection of the victims of sexual crime is included in the Second Basic Plan for Crime Victims[42], but it does not promote legal reform, nor has the Government's plan made any significant progress. Forensic evidence collected at medical institutions cannot be used as admissible evidence unless police are involved with the collection of the evidence, and there are expectations for the introduction of new legislation to resolve these issues.

b Other issues

72. The Human Rights Committee further expressed concern that there is a lack of doctors and nurses with specialized training in sexual violence, as well as of support for non-Governmental organizations providing such training (Art. 3, 7 and 26). The Committee recommended that the State should also introduce mandatory gender-sensitive training in sexual violence for judges, prosecutors and police and prison officer.[43]

73. The Committee Against Torture recommended in their consideration of reports submitted by the State Party that the State Party should take measures to provide education to address the discriminatory roots of sexual and gender-based violations, and provide rehabilitation measures to the victims, including steps to prevent impunity of perpetrators. It also recommended that the State Party should adopt preventive measures to combat sexual violence and violence against women, including domestic violence and gender-based violence, and promptly and impartially investigate all allegations of torture or ill-treatment with a view to prosecuting those responsible; however, there has not been any significant improvement since these recommendations were issued. The State Party was also encouraged to undertake training programs for law enforcement officials and the judiciary to ensure that they are sensitized to the rights and needs of victims, to establish dedicated police units, and to provide better protection and appropriate care for such victims, including, inter alia, access to safe houses, shelters and psychosocial assistance. It is also recommended that the State Party

should ensure all victims can claim redress before courts of law, including victims of crimes committed by foreign military personnel stationed on military base.[44]

74. An emergency telephone counseling service for victims of spousal and sexual violence was set up by the Government for a limited period of February and March 2011, and this can be highly valued in this regard. Nevertheless, there is no continuity for the project, no long-term support for the victims, nor any liaison and cooperation with medical institutions and the police, which are all necessary to carry out such projects. The provision of One-Stop Centers for victims would reduce the burden for the victims to visit various institutions and being asked to talk about their situation repeatedly. However, the establishment of One Stop Centers has been delayed, as pointed out in the Third Basic Plan for Gender Equality in 2010, and in the report submitted by the Committee of Specialists on Violence against Women set up by the Government, and there has been only one Center that has been set up since 2010.

D.2 Proposed Questions for List of Issues

a A number of recommendations have been made with regard to the crime of rape: there should be an emphasis on consent when deciding whether it is rape or not, the State should ensure that incest, marital rape, as well as the rape of men, are considered serious criminal offences, and the State should raise the age of sexual consent. What is the current situation regarding examination of these issues in the Government, as well as the review of the constituent elements for the crime of rape and punitive measure for this crime?

b Does the Government intend to eliminate the requirement for complaint from the victim as a constituent component of the crime of rape?

c What special educational programs have been undertaken by judicial professionals dealing with rape cases? Please provide detailed and specific explanation.

d How many cases of marital rape have resulted in a guilty verdict?

e Regarding the problem of focusing on the victim's past sexual history in the criminal proceedings, does the Government intend to introduce a rape shield in addition to the regulation in the Control of Court Proceedings in the Code of Criminal Procedure and Rules of Criminal Procedure?

Are there any special measures to reduce the burden on rape victims when they are required to prove their resistance against the assault? In order to protect the privacy of the victims and reduce the burden on them, what measures have been taken when the case goes through the lay judge system? How does the Government intend to improve the situation in this regard?

f With respect to access to emergency contraception, rape victims who approach the police are provided emergency contraception at public expense. Is there any other support guaranteed for victims? Does the Government intend to provide emergency contraception for those who do not report the case to the police?

g What measures have been taken for the victims of sexual violence? In particular, what are the measures for the male (child) victims of sexual violence?

h	Does the Government intend to establish a special shelter for the victims of sexual violence?
i	An “emergency telephone counseling service for victims of spousal and sexual violence” was set up by the Government for a short period in 2011. Does the Government intend to resume the service, and provide the service in the long-term? How is the Government going to utilize the results of analysis of this project in a concrete measure in the future?

[Domestic Violence]

D.3 Background

75. Many women suffer from violence from spouses and other partners. According to the “Study on Violence between Men and Women” published by the Cabinet Office in March 2009, one out of four women has suffered physical violence, and one out of ten women suffer violence from their spouses repeatedly. One in twenty women has felt threat to their lives due to violence from their spouses.

76. Complaints from victims of domestic violence at Spousal Violence Counseling and Support Centers amounted to 77,343 cases in 2010, representing an increase of 5,694 cases from the figure of the previous year, and the number is increasing every year. An overwhelming 99.2% of the complaints are made by female victims. (Research by the Cabinet Office as of April 2011)

77. The number of incidents recognized as cases of domestic violence by the police in 2010 was 33,852 cases, representing an increase of 6,694 from the figure of the previous year, and the number is increasing every year. Among these victims, 97.6% were women (figures given by the National Police Agency as of March 2011). 200 cases of murder by one’s spouse (ratio of arrest of husband: 63%), 1,339 cases of injury (ratio of arrest of husband: 94.7%), and 1,045 cases of assault (ratio of arrest of husband: 93.3%) were reported to the police in 2008, and the number of assaults reported to the police is increasing every year. The number of cases of bodily harm has remained around 1,340-1,350 cases every year since 2002, and there is no sign of decrease. 3,147 petitions were received at the court for the purpose of requesting protection orders in 2010, representing an increase of 369 cases from the figure of the previous year, and showing an annual increase. This increase is due to the promulgation of the Act on the Prevention of Spousal Violence and the Protection of Victims, growing recognition of the issue in the public eye, and increasing support system for the victims, including the system for protection thereafter. However, Japan remains a long way away from truly resolving the problem and unveiling the fact and reality of domestic violence.

78. Much is expected of the Third Basic Plan for Gender Equality, which gives specific directions for measures necessary to build a foundation for the prevention and elimination of violence against women, which includes: promotion of education campaigns that bring about a social climate of zero tolerance for violence, provision for effective support for female victims,

strengthening of cooperation between public and private bodies, improvement of the support system, and supporting the victim at every stage from protection to self-reliance. However, the plan has not set any clear numerical reduction targets for murder, injury and assault by spouses, and it is doubted whether the Government is taking a firm stance and resolution to eliminate violence between spouses, of which the majority of victims are women.

79. The Act on the Prevention of Spousal Violence and the Protection of Victims was amended in 2004 and 2007. Victims are now able to seek protection orders when they receive life-threatening intimidation. Protection orders prohibit the abusers from approaching victims through emails or phone calls, and also prohibit abusers from approaching victim's children and relatives. On the other hand, it has been stated in the "Report on Policy Assessment on the Prevention of Violence from Spouses: Results of Assessment and Recommendation" published by the Ministry of Internal Affairs on 26 May, 2009 that there is not enough support for the protection of victims, including promotion of employment for self-reliance, housing procurement, and schooling for children.

Promotion of Notification and Effective Consultation

(a) Regarding campaigns, education and training on the notification system for domestic violence, three prefectures have not facilitated any campaign or training to raise awareness about the system of notification for domestic violence, either towards the public audience or concerned bodies including medical professionals, and 15 prefectures (56% of the surveyed areas) have not facilitated training for medical professionals.
(b) Regarding operating hours for the telephone counseling service, some Support Centers have extended their operating hours to include evenings and holidays, and as a result the number of consultations increased. On the other hand, 21 Support Centers (46%) out of 46 Centers in the survey have no specific plan to extend their operating hours.
(c) Support Centers are required to report the number of domestic violence cases notified and consulted at the Support Centre to the Cabinet Office. Six support Centers out of the surveyed 27 prefectures have not reported these figures correctly.

Victim Protection and Self-reliance

(a) There is no data for the results of employment support provided at public employment security offices for the victims of domestic violence.
(b) In some public employment security offices, there is a need to enhance liaison and cooperation with the departments in charge in respective municipalities in order to provide necessary support for the employment of the victims of domestic violence whose divorce has not been formalized.

Housing Procurement

(a) Regarding special measures to prioritize victims when they wish to move into public housing, two project owners (out of 27 prefectures and 27 municipalities) have no special measure for priority housing for the victims of domestic violence, and 37 project owners

had only limited measures for priority housing and housing for singles.

(b) Regarding applications for public housing made by the victims of domestic violence, only 46 cases (14%) were able to move into public housing, while the number of applications for priority housing was 323 cases in 2006 (according to data from 19 project owners).

Schooling for Children

(a) Some school boards (13 school boards from 27 prefectures, and 8 school boards from 27 municipalities) have not given any instructions with regard to the management of information, including changes of address for the victim and/or their children, and changes of school for the victim's children.

(b) There is no common guideline among the surveyed 27 municipalities with regard to information management when the school board has liaison with and cooperate with the concerned agencies.

Regulation on the Inspection of Basic Resident Registration Card

(a) Regarding regulation on the inspection of the Basic Resident Registration Card, there is no common process for receiving confirmation of these regulations among the 27 municipalities in the survey. Some municipalities told applicants that a copy of their protection order was not sufficient when applying for regulation on card inspection, and other departments in charge did not conduct hearings of opinion from the concerned agencies in the municipality (8 cases). Some municipalities enquired into the matter in unnecessary detail upon receiving the application from the victims themselves, and other municipalities conducted hearings of opinion from the police even when a protection order had been issued. Opinion exists that these responses are not desirable as they put more burdens on the victims to explain their situation in unnecessary detail.

(b) There is one municipality which has no regulation on inspection of the electoral register (out of 27 municipalities in the survey).

80. The "Report on the Result of Survey by Questionnaire on the Application of the Protection Order System" published by the Committee on Gender Equality of the Japan Federation of Bar Association on 12 October, 2010, expressed concern that there is no system to reverse decisions when judges or court clerks reject or withdraw the petition for protection order. It has been reported that there are many cases where petition was rejected, withdrawn or dismissed even when it was apparent from the medical certificate that the applicants had been subject to violence by their spouses. Not all victims are in a position to be able to escape from the perpetrator due to factors such as concern for children's schooling, necessary arrangements they have to make at work, and victims often have to wait for suitable timing in order to avoid further violence from the perpetrators. It became apparent through the survey that there is a discrepancy between consultants at the Support Centers and the Court in understanding and assessing the danger of the situation.

Regarding exclusion orders, there have been cases where exclusion orders are issued on the

condition that the petition should be immediately withdrawn once victims remove their belongings from the residence, adding a requirement to give special consideration to the perpetrator, weighing the opinion of both sides. This requirement is not found in the article in the Act on the Prevention of Spousal Violence and the Protection of Victims, and it is highly problematic. Even when a victim is "highly likely to receive serious harm to her/his life or body due to renewed bodily harm by the spouse", the petition is often dismissed after the other party submits a pledge or essay repenting his deeds, or the attorney for the other party submits a written opinion which states that all communication will be made through attorneys. However, it is often the case that such a promise is broken within matter of a few days. Perpetrators very easily apologize and make promises never to repeat violence again, but words are no guarantee of action, and they often break promises in reality. According to the report, there are many judges and lawyers who do not really understand the nature of such crimes.

81. Regarding problems with protection orders which prohibit approach of victims' children, there was a case in which the petition was dismissed for the reason that the child was considered old enough (junior high school student) to avoid being approached by the perpetrator through their own choice. In this case, the perpetrator waited in ambush for the child at school persistently. It has been pointed out that when a victim seeks a protection order prohibiting approach of children, submission of the evidence for the perpetrator's act of stalking the child is often required, but in many cases it is difficult to submit such evidence.

82. It takes 12.6 days on average to process a petition for a protection order, according to the statistics of the Supreme Court. In the questionnaire survey by the JFBA, there was a case where a protection order was dismissed three months and one week after the petition was submitted to the Court. Thus, there are many issues to be solved: prolonged time for processing cases, a lack of sufficient training for judges and court clerks on the issue of domestic violence, and a lack of understanding of the situation among judicial professionals in the Court. Cases of re-requesting the petition for the second time or more, for the reason that the threat of danger still exists, are often not accepted easily. For example, there was a case where a petition for a protection order was dismissed on the grounds that violence was inflicted due to the victim having had an affair outside the marriage, thus taking the motivation for the violence and actions of the victim into consideration when deciding whether to issue a protection order or not, rather than focusing on the act of violence. There was also a case in the survey in which a petition for a protection order prohibiting the perpetrator from approaching the victim's relatives was dismissed for the reason that she was staying with them. These applications of the law are questioned by the attorneys in the survey.

83. These problems arise due to a lack of basic understanding of the issue among the judiciary. Domestic violence is different from other types of violence that are transient in nature, and many judges and other legal professionals lack real understanding about the structures and the

nature of domestic violence, and the damage it causes to victims. Therefore, it is crucial to introduce mandatory gender-sensitive training in sexual violence for judges, court clerks and other judicial professionals who deal with domestic violence cases. It is also necessary to provide similar training for law enforcement officials in order to follow the recommendations for the prevention of domestic violence mentioned above.

84. The majority of petitions for protection orders have been submitted by the victims themselves (including petitions submitted with assistance from Support Centers). Much is expected from legal support by the statutory agents. While the fact that the law on domestic violence was enacted and amended can be highly valued, there are still many areas that need improvement in the provisions and applications of the law, including prolonged time for processing the case. There is no system in the current legislation to order the perpetrator to pay for living expenses, child-raising costs, and medical expenses to the victim in addition to other expenses during the time when the protection order and exclusion order are issued. It is necessary to improve and enhance the legislation in order to protect victims, and prevent further violence.

85. With regard to non-Japanese national women suffering from domestic violence, their immigration status may be taken away when they cease to live together with their spouse in order to escape from violence. In Article 22-4-1-7 of the Immigration Control and Refugee Recognition Act, citing Article 25-13 (with regard to the revocation of Status of Residence) of the revised Ordinance for Enforcement of the Immigration Control and Refugee Recognition Act, it is stated that spouses of Japanese citizens or spouses of permanent residents in Japan who stay in Japan beyond the prescribed period of six months may be subject to revocation of status of residence, “except for cases in which the foreign national has a justifiable reason for not engaging in the activities while residing in Japan”.

86. Among these cases, there are victims of domestic violence who have no choice but to separate from their spouses. In such cases, foreign spouses who are victims of domestic violence cannot be made responsible for this separation. It also takes a certain period of time for victims to finalize their divorce, and attempt to find a way to make a living afterwards. If the foreign spouses’ residence status is not guaranteed during this period, they cannot go ahead with divorce proceedings, or even if they do, they may have to put themselves in a precarious position and have to suffer from disadvantages when they divorce. These situations are problematic also from the point of view of equality under the law (Article 14 of the Japanese Constitution), and the right of access to the courts (Article 32 of the Japanese Constitution).

D.4 Proposed Questions for List of Issues

a	Ten years has passed since the Act on the Prevention of Spousal Violence and the Protection of Victims came into effect. Since then, there have been increasing numbers of consultation for spousal violence, and increasing numbers of arrest due to spousal violence. What does the Government consider is most needed, and what is lacking when dealing with the situation, in

face of these realities?

b Does the Government intend to expand the telephone counseling service for the victims of domestic violence to be available 24-hours? Please provide information about the state of progress.

c How is the "Report on Policy Assessment on the Prevention of Violence from Spouses: Results of Assessment and Recommendation" published by the Ministry of Internal Affairs on 26 May 2009 utilized in the efforts of concerned Government agencies and municipalities to tackle the problem?

d Please give detailed and specific information about training on domestic violence among the judiciary.

e Is the Government conducting a study on the introduction of a system which mandates the abuser to make additional payment for the living expenses, child support and medical expenses of the victim during the time the protection order and exclusion order are issued? If so, please give specific information about the state of progress.

f The Act on the Prevention of Spousal Violence and the Protection of Victims cannot be applied to cases of violence occurring in non-marital intimate relationships (e.g. lovers) under the current legislation. How does the Government attempt to support and protect the victims of violence who are not covered by this legislation? Does the Government intend to reform the law in this respect?

g How many cases of violence in same-sex relationships have been dealt with under the Act on the Prevention of Spousal Violence and the Protection of Victims? Is it legally possible to apply the Act to violence in same-sex relationships? How does the Government protect and support such victims?

h Do any shelters for male victims exist?

i What measures is the Government taking to speed up the processing time for petitions for protection orders so as not to put victim's life in further danger?

j Are there any studies or research on the actual number of violations of protection orders? What measures have been taken in order to eliminate such violations?

k In a recent survey, only 58.4 % of respondents recognize hitting with an open palm as violence, and 52.5% of respondents recognize that making a pretence to punch someone is an act of violence, and these figures have not changed significantly since the study on domestic violence was initiated.[45] What does the Government consider to be the reason for this, and what measures is the Government taking to raise awareness on the issue?

l How does the Government support the self-reliance of victims in the medium and long term?

m Are there any developments in the legal system which enable non-Japanese national women to remain in Japan after they have separated from their violent spouses? In the application of Article 22-4-1-7 of the Immigration Control Act, how does the Government attempt to ensure the correct interpretation of the Act, including phrases such as "activities as a foreign national who has status as a spouse" and "except for cases in which the foreign national has a justifiable reason for not engaging in the activities while residing in Japan". Is the

	Government making any attempt to ensure the legal protection of victims of domestic violence who are foreign nationals through guidelines listing the cases where justifiable reasons are accepted, or through any other measures? Such measures are necessary to ensure the legal status of non-Japanese victims.
n	Please provide resources on the current situation of dating DV. How much research and training have been done on the awareness on dating DV (physical, verbal, and behavioral violence among couples who are not cohabiting)?

[Trafficking in Persons]

D.5 Background

87. The Anti-Prostitution Act enacted in 1956 has been utilized for cases of prostitution, whereas the Business Entertainment Act has been utilized to regulate and control the sales of sexual acts other than prostitution.

88. The Anti-Prostitution Act regulates prostitution with a view to protecting public morality, and lacks the perspectives of violence against women and discrimination against women. It is prohibited in the Act to solicit for the purpose of prostitution, and to procure a person for prostitution on pain of penalty. In addition, prostitutes are subject to prosecution under the Anti-Prostitution Act, while there is no punishment for the person purchasing the sexual act.

89. With regard to the Government's measures for trafficking in persons, the Cabinet Office has been in charge of coordinating the different Government ministries and agencies concerned, and each agency has been handling policy planning and implementation respectively. The Action Plan to Combat Trafficking in Persons was proposed in the Cabinet Meeting on Crime Control in order to tackle the problem more effectively, and it was adopted in December 2009. In this Action Plan, it is stated that "the GOJ will examine the necessity of establishing a bureau that handles policy planning and implementation concerning trafficking in persons in an integrated manner."

D.6 Proposed Questions for List of Issues

a	Please explain the current situation for the establishment of a bureau that handles policy planning and implementation concerning trafficking in persons, as proposed in the Action Plan of 2009?
b	When the Government develops policy and measures for trafficking in persons, these must be coherent with other policies and measures for foreign nationals. In the Action Plan to Combat Trafficking in Persons adopted in 2009, it is stated that "cooperating with the framework for the promotion and examination of policies surrounding non-Japanese residents" is necessary. Please give specific explanation of the Government's policy on foreign nationals.

c	Victims of human trafficking are victims of crime. However, the victims of human trafficking, and other foreign nationals residing in Japan do not fall within the scope of the Government's framework for criminal policy in reality. On the other hand, it is stated in the Action Plan of 2009 that "cooperating with the framework for the promotion and examination of measures for crime victims" is one of the main objectives for strengthening the system to promote action against trafficking in persons. Please give detailed explanation on how the Government prioritizes measures for protecting the victims of human trafficking in the broader framework of measures against victims of crime.
d	It is necessary to raise awareness on the issue among the general public through education and campaign programs in order to eliminate trafficking in persons. Please explain the state of progress for initiatives in the following areas: school education and social education, demand-side of sexual exploitation and demand-side of labor exploitation.
e	Does the Government intend to introduce new legislation to regulate the demand-side of sexual exploitation (i.e., those who purchase sexual acts and pornography)? If so, please give detailed and specific explanation.
f	With regard to trafficking in persons for the purpose of labor exploitation, please give figures for the number of arrests of traffickers, and number of victims protected from the exploitation of labor.
g	In the Action Plan of 2009, it is stated that the Government shall examine medium and long-term protection policies in general, and protection policies for male victims in particular. Please give specific explanation of the current situation.
h	Please provide figures for the annual budget for measures against trafficking in persons.
i	Does the Government intend to amend the Anti-Prostitution Act from the point of view of violence against women and exploitation of women?
j	What measures are aimed at rehabilitating young girls and women victims of trafficking and sexual exploitation, and how does the Government support their reintegration into society?
k	Are there any effective and appropriate measures to prevent the sexual exploitation of women, including measures to discourage the demand for prostitution?
l	What programs does the Government provide for the rehabilitation of young girls and women victims of sexual exploitation? Furthermore, what measures does the Government take for the economic empowerment of such victims? Does the Committee intend to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime?

[Sexual Harassment]

D.7 Background

90. More than 23,000 consultations were made at prefectural Labor Department equal employment bureaus in 2009, and more than half of these consultations were related to sexual

harassment. Sexual harassment is pervasive, occurring not only in workplaces, but schools, medical institutions, social welfare facilities and almost all other social settings.

91. There exists no legislation which prohibits sexual harassment explicitly in Japan. Dispute settlements are conducted in the manner stipulated in the Equal Employment Opportunity Law: advice, guidance, and recommendation from the Director-General of the Labor Department Bureau; dispute mediation, advice, guidance and recommendation from the Minister of Health, Labor, and Welfare; and publicizing the names of the companies that fail to prevent sexual harassment, dealing punitive measures for false reports, and punitive measures for failure to report. When sexual harassment involves acts that fall within the scope of the crimes of rape and indecent assault, it shall be punished under Criminal Code. Otherwise, there is no punishment for the act of sexual harassment per se.

92. Compensation for sexual harassment cases tends to be low, which provides little help to victims, nor acts as a sanction for the perpetrator.

D.8 Proposed Questions for List of Issues

a	Please provide detailed reports on the implementation status of Article 30 (publication of the names of companies that fail to prevent sexual harassment) and Article 33 (punitive measures for companies that fail to report cases of sexual harassment, or that make false reports of cases of sexual harassment) of the Equal Employment Opportunity Law.
b	Please clarify the reasons why there is no provision that prohibits sexual harassment explicitly in the Equal Employment Opportunity Law. Is there any plan to introduce a provision for the prohibition of sexual harassment and sanction for the offense?
c	Please provide a report on sexual harassment in academic, medical, social welfare and sports fields.
d	Please provide reports on sexual harassment at private, national, prefectural and other public universities and colleges, including the counseling system, number of consultations made, and countermeasures for cases of sexual harassment.
e	Please provide reports on sexual harassment by school personnel, including number of disciplinary actions taken for such cases, data regarding complaints, and responses to complaints.
f	Regarding sexual harassment in academic, medical, social welfare, and sports fields, what support system for psychological recovery for victims has been developed?

[Pornography (including the exploitation of minors)]

D.9 Background

93. In regard to the protection of human rights of children, data for the trafficking of children, child prostitution, and child pornography collected and categorized according to age, sex,

ethnicity, and geographical location of children and occurrence has not been publicized. It is necessary to collect such data and build a database in order to take effective measures against the problem. Publicly and privately funded Hotline Centers which receive reports on harmful material should also be established. Hotline Centers should report such cases to the police, request Internet service providers to delete harmful material on the Internet upon receiving the reports, and build a database of this information.

94. The law permits the simple act of possession of child pornographic images in Japan at present, allowing child pornography to be produced, circulated and become widespread in society, and it is argued that this should be banned. Another viewpoint considers that production and distribution of simulated (e.g. drawings) child pornography, which is legal at present, should also be prohibited. Some are critical of the fact that it is legally permissible to produce, distribute and possess pornographic images of women above eighteen years old, as it encourages the normalization of violence against women and children. There has been criticism of Japan regarding these problems internationally.

95. As international treaty bodies point out, there are the following issues with regard to legal regulation on child abuse in Japan from the point of view of protecting the victims.
Regarding child trafficking and incest, consideration for special constituent components is needed since it is difficult for children to report cases immediately after incidents have occurred, and they are often victimized by family members. In general, the crime of sexual violence is prosecuted only upon complaint by the victim except in cases where the victim is under 13 years of age, and this requirement could impede the process of investigation when attempting to resolve the issue through criminal proceedings. Period of prescription could become an obstacle to penalize the abuser, and it should be abolished.
In addition, provision for support and assistance to child victims who are witnesses is insufficient, and they are subjected to further trauma as a result of being required to testify repeatedly. Although there has been much research conducted on methods to avoid further traumatization in the judicial and criminal proceedings, these methods have not been fully implemented or utilized, nor has the Evidence Act has not been amended accordingly.

96. There are not enough measures for physical and psychological rehabilitation and social integration of child victims of crime, and financial support and funding for these programs are not sufficient.

D.10 Proposed Questions for List of Issues

a	Please provide the figures for victims of child trafficking, child prostitution, and child pornography according to age, sex, ethnicity, and geographical location.
b	Does the Government intend to prohibit and penalize the simple act of possession of child pornographic images, the production of simulated child pornography, and the production, circulation and possession of pornographic image of women above eighteen years old? If not,

	please indicate the Government's concrete measures against the normalization of sexual violence.
c	Please provide reports on the data gathered by publicly and privately funded Hotline Centers which receive reports on harmful material, report cases to the police, and request Internet service providers to delete harmful material.
d	Does the Government intend to abolish the period of prescription against minors?
e	Are there any plans to review the criminal trial procedure in consultation with specialists in the field, so as to avoid further traumatization of child victims, and offer care and support to them? Are there any plans to review the testimony method for child victims?
f	Are there any plans to introduce new penal provisions for child trafficking?
g	What measures exist for physical and psychological rehabilitation and social integration of crime victims?

[Issue of "Comfort Women"]

D.11 Background

97. In the third periodic report submitted by State parties under Articles 16 and 17 of the Covenant, paragraph 53, the Japanese Government reject the recommendation made by the Human Rights Council,[46] stating that it is not appropriate for the "comfort women" issue to be brought up in the review of the country report.[47] The Human Rights Committee[48] and the Committee on the Elimination of Discrimination against Women[49] made further recommendation to resolve the issue of "comfort women".

98. Thus, various human rights bodies have been issuing recommendations on the problem for over ten years. Japan has stood as a candidate for membership of the Human Rights Council, and has pledged to take up a leading role for defending human rights, and faithfully observe international law on human rights. Considering the pledge the Government has made, the issue of "comfort women" should be regarded as a fundamental issue that cannot be avoided, and the Japanese Government should attempt to make a final resolution on the issue once and for all, in accordance with the international effort to eliminate violence and discrimination against women.

99. The constitutional court of South Korea decided on August 31, 2011 that it is unconstitutional for the Korean Government to make no tangible effort to settle disputes with Japan over the latter's refusal to compensate Korean women mobilized as sex slaves during its 1910-45 colonial rule of the Korean Peninsula. Following the court decision, the Director-General of North East Asia of the Korean Ministry of Foreign Affairs officially requested the Minister of Japan at the Japanese embassy in Korea to start negotiation over the issues, while Japan declined to hold talks on the issue, maintaining that the issue was settled in the 1965 agreement.[50]

100. South Korean President Lee Myung-Bak urged Prime Minister Yoshihiko Noda on 18th December, 2011 during his visit to Japan to place priority on resolving the long-standing issue of compensation for women forced into wartime sex slavery. In their talks Noda said that the "comfort women" issue has already been "settled," but added that efforts are being made from a "humanitarian standpoint".[51]

101. The Japan Federation of Bar Associations and the Korean Bar Association issued a joint statement and a proposal regarding the “comfort women” issue in December 2010, and it was proposed that the Japanese Government should: (i) pass legislation to restore the dignity and honor of victims, including compensation, (ii) establish a public institute to thoroughly investigate the extent of the problem, and (iii) raise awareness on the issue, and make the truth about the problem known in the general public through education and campaign.[52]

D.12 Proposed Questions for List of Issues

Is there any intention for the Government to accept the recommendations and judgments made by international treaty bodies and the Korean Constitutional Court, which clearly declare the responsibility of Japanese Government, and, rather than persisting in the position that the issue is already settled, make a sincere attempt to restore the dignity and honor of the victims?

E. Minority Women

E.1 Background

a Minority Women

102. The Japanese Government does not recognize the necessity of grasping the situation of minority women, and there is no policy framework regarding them in the first place. As a result, there is no consideration for minority women in various policies and measures in the Government.

b Women in agricultural areas and the fishery industry

103. Women account for 60% of the farming population, but the ratio of women in managerial positions in Agricultural Committees and Agricultural Cooperatives, and the ratio of women in decision-making positions remains low. Increasing numbers of farmers have been giving up farming due to declining income, however no effective countermeasure has been taken due to a lack of statistical data and information.

c Migrant Women

104. Considerable numbers of women who are foreign nationals have been subjected to domestic

violence. However, since they are in a precarious position because of their visa status within the framework of Immigration Control Act, they are hesitant to escape from the perpetrator. Information and support systems that they can access are very limited. Furthermore, with the introduction of the new Immigration Control Act, which includes a strict information management system for resident foreign nationals with sanctions in cases of non-compliance, it is expected that migrant women may face more critical situations.

d Women with Disabilities

105. There exist almost no measures for women with disabilities. The Convention on the Rights of Persons with Disabilities states in Article 6 that State Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure their full and equal enjoyment of all human rights. However, Japan is far from realizing this provision at present. Surveys on persons with disabilities do not normally collect and analyze data by gender, therefore it is difficult to have a clear picture of the special needs and problems for women with disabilities, and to take effective measures for them.

e Elderly Women, and Women in Other Vulnerable Positions

106. Elderly women face various problems including serious health issues, but the Government's measures are far from sufficient. Poverty that elderly women and single mothers face is aggravated, because there is a wide gap between pensions for women and pensions for men, and the elderly care system and income support system have been revised for the worse.

f Zainichi Korean Women

107. Children of Zainichi (resident in Japan) Koreans face human rights violations as their schools are systematically segregated, and discrimination against them is encouraged and promoted. Asian ethnic schools such as Korean schools and Chinese schools, and also Brazilian schools do not receive financial support from the Government, and they are all excluded from preferential tax treatment and school health services. In addition, students who graduate from these schools are not given the qualification to enter Japanese university. There are many cases where Korean school students were harassed and subjected to violence in public, but the Government has not taken any countermeasures against these problems.

g Indigenous Ainu Women

108. Ainu people have lived in Ainu Mosir (which means "the great land where humans live", north of Japan) since before the colonization by the Japanese 140 years ago. They have developed their own culture, society and history, and they have their own beliefs, value system and knowledge. However, through the process of colonization and modernization, their identity and cultures were denied, places and methods of living were taken away, and they were forced

into poverty and discrimination. As a result, there remains a large gap between Ainu people and “Wajin” (Japanese).

109. Ainu women are subject to multiple discrimination, and their situation is even more serious. Their situation cannot be improved under ordinary legislation.

h Okinawan Women

110. There are many elderly Okinawan/Ryukyuan women who were not able to complete compulsory education, let alone higher education, yet there has been no survey conducted for the literacy rate of women in this region, and they are not guaranteed an opportunity to study. There are several US military bases in Okinawa, and numerous cases of sexual violence by American soldiers and civilian employees have been reported. Under the Japan-U.S. Status of Forces Agreement, Japan has limited jurisdiction, and it is difficult to prosecute the perpetrators. Since the Government is not involved with cases that occurred when the perpetrator is off-duty, there is also insufficient compensation for the victims.

E.2 Proposed Questions for List of Issues

a	Please provide data for minority women in Japan, especially in the following aspects: education, employment, health, social welfare, and exposure to violence.
b	Has there been any comprehensive survey on the current situation of minority women including Indigenous Ainu women, Buraku women, Zainichi Korean women, and Okinawan women?
c	Please provide an overview of women in vulnerable positions, who are subject to multiple discrimination with regard to employment, healthcare, education and social welfare. Women in vulnerable positions include: women in agricultural areas and the fishery industry, single mothers, women with disabilities, refugees and migrant women.
d	Has the Government introduced any policy addressing the special needs of women in vulnerable positions? Has the Government introduced gender-specific policies and programs that would cater to the specific needs of vulnerable groups of women?

F. Sexual Minorities

F.1 Background

111. The Yogyakarta Principles (“Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity”) were adapted for the human rights of sexual minorities at the UN Human Rights Council on 26 March, 2007. General Comment 20 of the International Covenant on Economic, Social, and Cultural Rights states that “Other status” as recognized in Article 2-2, includes sexual orientation. It also expresses concern that same-sex couples are not guaranteed legal equality to opposite-sex

couples, and gender identity is recognized as among the prohibited grounds of discrimination; for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the workplace.[53]

112. In Japan, there is no provision to justify discrimination based on sexual orientation and gender identity, however, such discrimination is prevalent, and there is not enough support for LGBT persons. Many LGBT are subjected to harassment, and sometimes they have to leave their jobs, are forced to leave their jobs, and sometimes even commit suicide because of their sexual orientation and gender identity.

113. In its review of the 5th report submitted by Japanese Government, the Human Rights Committee is concerned about discrimination against lesbian, gay, bisexual and transgender persons in employment, housing, social security, healthcare, 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 protection under the Law for the Prevention of Spousal Violence and the Protection of Victims (Art. 2 (1) and 26). The Committee recommends that the State Party should consider amending its legislation, with a view to including sexual orientation among the prohibited grounds for discrimination, and ensure that benefits granted to unmarried cohabiting opposite-sex couples are equally granted to unmarried cohabiting same-sex couples, in line with the Committee's interpretation of Article 26 of the Covenant.[54] However, there has barely been any improvement in line with these recommendations.

F.2 Proposed Questions for List of Issues

a	Does the Government have any plans for new legislation to prohibit discrimination against sexual minorities, and protect their rights other than the Act on Special Cases in Handling Gender for People with Gender Identity Disorder?
b	Does the Government have any plans to impose sanctions for discrimination and violence on the grounds of sexual orientation and sexual identity (hate crime), and if so, are there any plans to make such offenses more serious?
c	Does the Government have any plans to introduce new legislation that prohibits de jure and de facto discrimination against sexual minorities, and guarantee equal opportunities at every stage in social education, school education, and employment?
d	In order to eliminate discrimination, what measures are the State Party taking to prevent violence based on gender orientation and gender identity, and how does the Government protect and support the victims of these crimes, and victims of domestic violence in same-sex relationships? Does the Government have any measures to cope with these special needs?
e	In Japan, there are many obstacles faced by same-sex couples, 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 the exclusion of same-sex partners from protection under the Law for the Prevention of Spousal Violence and the Protection of Victims (Art. 2 (1) and 26). Does the Government have any plans to redress discrimination against same-sex couples with regard to these issues?
f	What is the state's policy on legal protection for same-sex couples or couples of which one or both parties feels uncomfortable with their prescribed gender? In particular, what are the policies and legal structures for human reproduction, adoption, and child-raising in relation to reproductive health rights and rights to form a family for everyone? Can the State Party provide information on these issues?
g	In the Act on Special Cases in Handling Gender for People with Gender Identity Disorder, it is stated that people with gender identity disorder cannot change their sex registered in the family register unless they satisfy all five conditions stipulated in the Act. Does the Government have any plans to change these requirements?
h	Does the Government have any plans to include a definition of people who have well-founded fear of being prosecuted for reasons of sexual orientation and gender identity in their country of origin in the Immigration Control Act?

G. Overcoming Gender Stereotypes

G.1 Background

114. The Committee on the Elimination of Discrimination against Women expressed its concern at the persistence of deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, which impedes the achievement of gender equality in Japan, and called upon the State Party to further enhance its efforts and to take proactive and sustained measures to eliminate stereotypical attitudes about the roles and responsibilities of women and men.[55]

115. In the Third Basic Plan for Gender Equality, it is stated that one significant barrier to achieving a gender-equal society is gender stereotyping with regard to the roles and responsibilities of women and men, and the Government will develop a proactive publicity and education campaign to dispel these stereotypes and foster awareness of gender equality,[56] however, there are the following points that needs to be clarified.

G.2 Proposed Questions for List of Issues

a	What specific measures is the Government taking to dispel gender stereotypes regarding the roles and responsibilities of women and men in family and in society? What kind of publicity and campaigns does the Government promote to achieve this goal? Furthermore, what sustained and proactive efforts are the Government making to achieve this goal, and what are the next steps?

b Does the Government plan to work with the mass media to promote cultural change with regard to the roles and tasks that are considered suitable for women and men?

c Does the Government plan to enhance the education and in-service training of the teaching and counseling staff of all educational establishments at all levels with regard to gender equality issues, and to speedily complete a revision of all educational textbooks and materials to eliminate gender stereotypes?

d Does the Government intend to combat pornography and sexualization in the media and advertising, and to report the results of the implementation in its next periodic report?

e Please clarify what measures the Government is taking in the following areas, so as to ensure that media production and coverage are non-discriminatory, and promote positive images of girls and women through encouraging the adoption and implementation of self-regulatory measures.

(a) Activities to increase coordination and cooperation between the Liaison Council for the Promotion of Gender Equality and media proprietors and other relevant actors in the industry.

(b) Activities as positive measures to increase awareness of these issues among media proprietors and other relevant actors.

H. Contraception

Please see Article 12.

I. Discrimination against Women at Work

Please see Articles 6 and 7.

J. Work-Life Balance

Please see Article 7.

Article 6 - Right to Work

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

A. Unemployment Measures and Support for Job Placement

A.1 Background

116. As stated in the Government Report, the unemployment situation in Japan has worsened. The Government has strengthened its support for job placement for new graduates, and in addition it has launched a "second safety net" project for the unemployed, by providing them with housing, extending financial assistance for their living costs and supporting them in finding jobs. It also started a "support system for job seekers" on October 1, 2011 under the "Law Concerning Support for Employment for Specific Job Seekers through Vocational Training" promulgated on May 20, 2011. However, with the low level of the ratio of jobs to applicants at 0.67 and the ratio of full-time jobs to applicants at 0.43 (both as of October 2011), it is difficult to find a stable job.

117. Also, welfare recipients have been on the increase, reaching the largest-ever number of 2,065,896 in September 2011. Meanwhile, it is standard for one local public officer in the welfare benefit program to be responsible for 80 households. In practice, many officers are responsible for more than 100 households. As a result, they do not have enough time to provide effective support for those job-seeking welfare recipients who are of a working age, thus many of recipients find it difficult to end their use of the welfare program by finding a job.

118. Furthermore, children and young people have increasingly become long-term "stay-at-home" who do not go to school, work or have any form of commitment to society. According to the Ministry of Welfare and Labor, it is estimated that 255,510 households out of all 51,102,005 throughout the country, or 0.5% of the total, have a stay-at-home family member(s) aged above 20, as of the end of March 2006. It is necessary to give these people not only

employment support, but also daily-living support. Currently, the Cabinet Office has launched a project called the "Personal Support Service" and conducted a model project. The next step will be to start a full-scale version based on lessons and achievements learned from the model project.

A.2 Proposed Questions for List of Issues

a	Why are the Government's current unemployment measures and job assistance service failing to result in an increase in stable employment?
b	What kind of policies are needed to overcome the above problem?
c	While the use of welfare benefit assistance programs provided by local Governments has increased among those who are of a working age, the rate of independence from the assistance program through getting a stable job has not increased. What reason does the Government attribute to this?
d	How does the Government plan to address the problem of excessive work imposed on local public officers in charge of the welfare benefits program and insufficient support of the job assistance program for those in need?
e	The Government is requested to indicate the extent to which the Personal Support Service project has reached thus far, and what has been achieved? Does it plan to progress to the full-scale implementation from the model project?

B. Non-permanent Employment

B.1 Background

119. There is no specific definition of "non-permanent employment," but it is commonly understood that it indicates 1) employment with a fixed term such as one year or several months¸ 2) employment with shorter work hours than other colleagues (part-time labor), and 3) dispatched workers (indirect employment).

120. According to a Government study, the ratio of non-permanent employment in the entire workforce has continued to increase every year, with a percentage of 16.4% in 1985, 26.0% in 2000, and 34.3% in 2010 ("Labor Force Survey" of the MIC). Currently, one third of the total workforce is occupied with non-permanent employment. The increase of non-permanent employment is mostly attributable to the fact that employers refrain from employing regular workers by substituting them with temporary workers for the purpose of cutting back on personnel costs, and the fact that they use easily available non-permanent workers as an adjusting valve. Non-permanent workers do the same jobs as regular workers do, but they are paid less and are subject to easy discharge on the grounds that they are not regular employees. This is a serious problem as there is no protection for these workers.

121. From the above, it is clear that non-permanent employment involves various potential

problems, however, there is no mention in the Government report indicating how it views these problems or how it intends to address them.

122. Regarding temporary employment, the Labor Policy Council under the Ministry of Welfare and Labor submitted a proposal entitled "Recommendable Fixed-Term Labor Contracts" on December 26, 2011, based on which the Government has undertaken the development of a bill. However, the "proposals" are quite inadequate from the viewpoint of the protection of workers as it specifies, for example, legislation of entrance control, i.e. the conclusion of fixed-term labor contract is only limited when there are rational grounds. The JFBA, therefore, has requested the Government that: 1) it should be explicitly stated that any labor contract is fundamentally indefinite; 2) conclusion of fixed-term labor contracts should be limited only when there are rational grounds (entrance control); 3) a fixed-term labor contract should have a maximum three-year term with the provision that when such a contract exceeds three years, it has to be changed to an indefinite labor contract; 4) the problem of wage gaps between fixed-term workers and regular workers, and men and women has to be resolved. Future developments in the law-making process need to be carefully observed.

123. Regarding part-time labor, the "Revised Law concerning Improvement of Employment Management of Part-time Workers" was enforced on April 1, 2008. However, the revised law strictly limits the scope of part-time workers subject to the protection, which has aroused criticism that it does not help solve the gender gap in circumstances where the majority of part-time workers are women. Currently, discussion towards a further revision of the law is underway. An effective revision is desired.

124. Regarding dispatch labor, currently the Diet has been deliberating the revision of the "Law concerning the Adequate Management of Labor Dispatch and Improvement of Work Conditions of Dispatch Workers." The JFBA published its review on December 5, 2011 urging: i) an immediate enforcement of prohibition on registered types of dispatch labor, ii) prohibition of dispatch to manufacturing jobs, iii) prohibition of dispatch of day-laborers, and iv) the creation of a "considered employment system." Current opinion arguing for the wide acceptance of dispatch labor, leaving workers to the mercy of free competition, is persistent and strong; thus further lobbying is all the more necessary.

B.2 Proposed Questions for List of Issues

a	How does the Government consider the opinion that employment contracts should basically not be limited in term?
b	Does the Government plan to have a regulation similar to the so-called "entrance control" practiced in France that limits the conclusion of fixed-term labor contracts only for those contracts that have rational reasons? If not, what are its reasons?
c	What is blocking the advance of equal treatment in working conditions, such as pay for part-time workers in comparison with regular workers? What kind of strategies does the

Government have to solve the cause of this?

d Considering the fact that majority of part-time workers are women, what kind of measures, including those under the social security system, does the Government have in mind?

e Please indicate problems that have emerged in the context of dispatch labor, and countermeasures that the Government will take against them.

C. Equal Employment Opportunities for the Disabled

C.1 Background

125. Those with disabilities have naturally been deprived of opportunities for employment due to the nature of their disability. Thus, they have been deprived of the opportunity to lead an ordinary life in which they work, earn and build their own lives. In 2008, the Government introduced a scheme called "Special Reduction Permission", which permits the employment of those with disabilities at pay below the legal minimum wage, despite the fact that it specifies that those workers with disabilities are protected under the minimum wage law.

126. Those with disabilities working in workshops for the disabled are exempted from the application of the minimum wage, and are paid distinctively low wages. In such cases, they have to manage their living costs in combination with the disability pension, or they scrape a living together with assistance from their parents. Therefore, the exemption of application of minimum wage law under the Special Reduction Permission scheme should be repealed in the future. The "Promotion Council for the Reform of the System for the Disabled" has started a discussion about the present situation in which those with disabilities are paid a small amount of money lower than the minimum wage on the assumption that they are employed as part of a welfare program.

127. Also, it is often reported in the media that workers with disabilities are abused in their workplace.

C.2 Proposed Questions for List of Issues

a In the Government report, why were workers with disabilities not included in the list of workers who are to be protected under the rule of equitable pay?

b What were the reasons for the Government's introduction of the Special Reduction Permission, which denies the guarantee of the minimum wage for workers with disabilities?

c Are there any other categories of workers who are not protected by the minimum wage law? If there are, please explain the reason why. Also, how does the Government guarantee the living standards of those workers who are exempt from the minimum wage?

d Has the Government ever conducted a survey to determine if workers with disabilities are abused in their workplace? What kind of measures is the Government taking in order to

prevent abuse and improve the workplace environment?

D. Right to Work of Non-Japanese Nationals

D.1 Background

128. The report of the Japanese Government states that no restrictions are imposed on the permission to engage in work for foreign nationals who are permanent residents, however, in the private sector, it is often disclosed that special permanent residents (Korean nationals and their descendants) are treated differently from their Japanese colleagues. Also, those with other types of visa status are treated differently in their employment and work conditions, for reasons not limited to their visa status.

129. Especially in regard to the employment of non-Japanese nationals in the civil service, the Government sets the requirement that those who are to be "involved in the exercise of public power or in the decision-making process" must be Japanese nationals. This definition is widely interpreted and used, and in practice, the employment of non-Japanese nationals is limited, with a few exceptions such as employment as physical (on-site) workers.

130. Therefore, it is required to ask exhaustively about the Government's position in regard to the right to work of non-Japanese nationals, and the practical realization of this right.

D.2 Proposed Questions for List of Issues

a Does the Government consider that non-Japanese nationals have the right to work in Japan, and if so, what types of jobs they can engage in? Answers should be divided by the categories of: special permanent residents (those from the former colonies of Japan, i.e. the Korean peninsula and Taiwan, who have lived in Japan continuously since pre-war times, and their descendants); other types of permanent residents; other types of foreign residents; undocumented migrants; refugees; and asylum seekers.

b Please provide information about the work situation of non-Japanese nationals in private businesses and corporations. Please answer whether discriminatory treatment against non-Japanese nationals is practiced in private businesses and corporations at the time of employment and in their working conditions, and explain about measures that the Government is taking to redress such discrimination.

c Please provide information about the existence of limits imposed on the employment of non-Japanese nationals in the public sector, both at the national and local levels, and the types of jobs and job descriptions that non-Japanese public workers engage in. Also, please provide information about the total number of national public officers as well as local Government workers in Japan, with the number of employees according to types of jobs.

Article 7 - Right to Just and Favourable Conditions of Work

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

A. Work-life Balance

A.1 Background

131. In December 2007, the Government of Japan formulated the "Charter for Work-Life Balance" and "Action Policy for Promoting Work-Life Balance". In June 2010, a "Council of Executives of Public and Private Sectors to Promote Work-Life Balance" consisting of representatives from economic circles, labor circles, local authorities and related ministries revised both the Charter and the Action Policy to incorporate the new concept of "decent work", and set numerical targets for 2020. During the same period, the Government made active efforts in putting its policies into practice. It revised the Labor Standards Act, as well as the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave. Awards for good practices were announced, and the "Change! Japan" campaign was launched in order to build momentum. According to the Charter, a work-life balanced society is: (i) a society in which people can achieve economic independence through work, (ii) a society in which people have time to lead healthy and affluent lives, and (iii) a society in which people have various working and lifestyle choices. Realization of such a society is essential for people to have decent lives in which they can achieve work-life balance, work with enthusiasm, fulfill family responsibilities, enlighten themselves and participate in local community activities.

132. However, the current state of our society makes it difficult for women to become economically

independent. Feminization of poverty is increasing due to lower wages and unstable employment of female workers. The proportion of employees who work 60 or more hours per week is 10.8%, and the rate of paid annual leave consumption is 47.7%, which illustrates that both men and women have their time overwhelmingly consumed by work. The ratio of men who take childcare leave is 1.72%, and time spent by men with children less than six years old on child-rearing and household chores was an average of 60 minutes per day. Family responsibilities are still very much taken care of by women. For both men and women to have a fulfilled family and social life, equal remuneration for work of equal value must be realized, and wage disparities between regular and non-permanent workers must be corrected. Unstable employment and long working hours must also be improved. In addition, men's active involvement in child and family care must be promoted, and measures to enhance childcare and the nursing assistance system, as well as economic assistance to supplement childcare costs, are required.

133. We have all learned lessons from the Great East Japan Earthquake and nuclear plant incident of March 11, 2011. One of the things learnt was that we cannot live without clothing, food and housing. To have a humane life, not only these three needs must be met, but people must also be able to find purpose in their work, to take care of family responsibilities, and to play a role as a member of their local community. It is a pressing issue for the Government to enhance the Labor Standards Act as well as the livelihood support system, in cooperation with the private sector, for the Japanese people to achieve a balanced life, especially those women in hardship.

A.2 Proposed Questions for List of Issues

a	The Revised Law concerning Improvement of Employment Management of Part-time Workers has failed to resolve wage disparities between regular and non-permanent workers. Is there any reason why the Government does not implement active measures, including consolidation of the legal system, to realize equal remuneration for work of equal value? What are the obstacles, and what can be done to overcome those obstacles?
b	The proportion of men participating in child-rearing and family care is extremely low. The Government aims to increase the ratio of men taking childcare leave to 13% by 2020, but this target implies that even in ten or twenty years time, women will not be released from the burden of family responsibilities. Are there any other additional work-life balance policies under consideration? If so, what progress has been made?

B. Gender Equality in Labor

B.1 Background

134. As reported in Article 3, "Equal Rights of Men and Women" of this report, remuneration standards for women in Japan are extremely low compared to that of men. The main reason for

this is that women are inclined to take part-time jobs that have lower wage standards than regular employees. The Government also suggests that forms of employment taken by men and women are different, and part-time female workers make adjustments so that their income does not exceed a certain level. Furthermore, even those women in formal employment have difficulties continuing work due to childbirth, child-rearing and family care. The ratio of women in managerial positions and higher job categories remains low, which also contributes to the lower remuneration standards of women.

135. As the Committee on Elimination of Discrimination against Women noted in its concerns, the Labor Standards Act of Japan does not provide a section which refers to the principle of equal remuneration for equal work, and work of equal value in line with the Convention on Elimination of Discrimination against Women and ILO Convention No. 100. The Committee of Experts on the Application of Conventions and Recommendations pointed out in its 2008 report on Japan's application of ILO Convention No. 100 that "the Committee recalls that section 4 of the Labor Standards Act (…) does not fully reflect the principle of the Convention, because it does not refer to the element of equal remuneration for work of equal value." Also, as mentioned in Article 3, Definition of Discrimination of this report, wide remuneration disparities, especially low remuneration for women, are tolerated under the name of employment management by career track or difference in employment patterns, such as informal employment represented by part-time employment.

136. As regards the issue of sexual harassment, please refer to Article 3, "Violence against Women" [Sexual Harassment], of this report.

B.2 Proposed Questions for List of Issues

a	What are the reasons why Article 4 of the Labor Standards Act has not been revised to stipulate the principle of equal remuneration for work of equal value? Are there any revisions being considered? If so, please clarify the content of the revision.
b	In regard to the principle of equal remuneration for work of equal value, how would the Government assess, or has it considered, the standard of "equal value" for non-equal work in order to apply Convention No. 100 as a State Party? If such assessment has been considered, please clarify the content of the consideration.
c	As a State Party to the Convention, what measures has the Government taken to comply with the recommendations made by the Committee of Experts on the Application of Conventions and Recommendations?
d	To resolve remuneration disparities between men and women, how is the principle of equal remuneration for work of equal value being notified and advocated at labor and management organizations, and in school education? Are there any guidelines or materials being created and distributed? If so, please provide us with the guidelines and materials.
e	Please clarify how labor and management organizations are instructed to implement a fair,

equal and transparent remuneration system and human resource assessment system.

f What are the Government's plans to improve the career track employment management system?

g Disparities between men and women after higher education lead to disparities in employment. What measures are being taken to resolve disparities in education and to improve employment of women?

h To comply with ILO Convention No. 156 which Japan has ratified, it is necessary to make sure that workers are not disadvantaged by taking childcare leave or part-time work. Are there any plans to reinforce measures against such breaches of compliance, including penalties against dismissal of workers requesting maternity leave and childcare leave?

i Ratification of ILO Convention No. 183 on maternity protection by the Government is desired as soon as possible. On the basis that discrimination against women should not be tolerated and maternity protection is not discriminatory, what measures are being taken to ensure workers are familiar with maternity protection at workplaces?

j Is full remuneration ensured both during maternity leave and childcare leave?

k Are childcare leave and benefits for absence from work recognized for non-permanent workers?

l Are there any effective policies to enable men to take childcare (paternity) leave?

m Are there any policies to prevent workers with family responsibilities from being disadvantaged?

n What measures are being taken to ensure that workers are not discriminated against because of their family structure?

o What measures are being taken to decrease the number of children enlisted on waiting lists of nursery schools?

p How is family management agreement (a participatory decision making arrangement for family-run agricultural business; this arrangement allows all household members to engage in discussions on management policies, division of labor and worker-friendly working environment, thereby increasing workers' motivation and satisfaction) being promoted?

q Are there any plans to revise the tax system, including income assessment for family workers in Income Tax Act Article 56 (a provision which stipulates that when a spouse or relative of a worker who does not fall under the Blue tax return system engages in the worker's business, their salary cannot be considered a deductible expense)?

C. Issues related to Employment of Irregular Migrant Workers by the Private Sector (Irregular Migrant Workers and their Rights pertinent to Working Conditions)

C.1 Background

137. The Labor Protection Law is also applied to workers without Japanese nationality or permission to engage in work. However, in most cases, such workers work under poor

working conditions, as they are either unaware of the Labor Protection Law or afraid of requesting protection to the public authorities in fear of being caught by the immigration authorities.

138. The Government of Japan is not taking any effective measures to solve this issue.

C.2 Proposed Questions for List of Issues

a	Please provide information that presents the actual state of workers without Japanese nationality or permission to engage in work. Please include statistics on the number of such workers, their job types, and working conditions.
b	Please explain what measures are being taken by the Government of Japan to ensure that the Labor Protection Law is applied to such workers as those described above, and that employers actually observe the Law in practice.

Article 8 - Freedom of Association and Right to Strike

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

A. Trade Unions

A.1 Background

139. Membership rates of trade unions are declining, and corporate in-house unions are ill-suited to achieve protection of the rights of workers. Also problematic are the slow progress in the unionization of non-permanent workers, and the fact that there are factors preventing their unionization. Further, protection of the basic labor rights of civil service employees is insufficient. Behind this lack of protection is the idea that “civil service employees achieve their positions by appointment, and therefore their relationship is different from the employment relationship purely based on contract.”

140. In order to realize the rights of workers including those in the civil service, it is necessary to reconfirm those rights.

A.2 Proposed Questions for List of Issues

a	If the positions of civil service employees are based on “relationship by appointment,” in what specific ways are they different from the labor contractual relationships of private sector workers?
b	What is the Government’s view on the idea of bringing the employment relationship of civil service employees closer to a contractual relationship, from the perspective of protection of civil service employees?

Article 9 - Right to Social Security

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

A. Anti-discrimination Clause in Domestic Law (in relation to Persons with Disabilities)

A.1 Background

141. A background element of discrimination on grounds of disability is the perception that people may not be able to fully contribute as part of the workforce because of insufficient physical or intellectual capabilities or social adaptability, and may become a burden when their families are not able to support them economically. This perception easily leads to the tendency to exclusion. There are also many people, who, during the education process, were not able to attend local schools due to their disabilities. They would often be placed in schools that are cut off from the community (schools for the blind, for the deaf and for other disabilities have now been renamed "Schools for Special Needs Education"). After graduation, they would usually not be able to find employment because of their disabilities, and even if they did, their opportunities would be considerably restricted. Thus, many people with disabilities have difficulties in finding a place for themselves in Japanese society.

142. In view of the lack of respect for the dignity of persons with disabilities due to such circumstances, there is a need to change the system to regain their dignity by reforming society. One possible measure is the legislation of an "Anti-Discrimination Law".

143. In September 2001, during the 26th session, the Committee on Economic, Social and Cultural Rights (hereinafter, the Committee) stated in its list of concerns, "25. The Committee notes with concern that discrimination against persons with disabilities continues to exist in law and practice, particularly in relation to labor and social security rights." Also recommended in paragraph 52 is the adoption of a law against all kinds of discrimination relating to person with disabilities: "52. The Committee recommends that the State Party abolish discriminatory provisions in statutes and that it adopt a law against all kinds of discrimination relating to persons with disabilities."

144. The establishment and implementation of an anti-discrimination system is crucial for the achievement of the full participation and equality of persons with disabilities, and for enabling each of these people to seek their own way of life.

145. The Japanese Government amended the provisions regarding discrimination against persons

with disabilities in the Basic Law for Persons with Disabilities in August 2011. However, it is questionable whether the provisions are justiciable norms applicable to specific cases in the court of law.

A.2 Proposed Questions for List of Issues

a	The Basic Law for Persons with Disabilities was amended (August 2011), but as a "Basic Law," is there a possibility that it may not provide the legal grounds for judicial remedies for individuals who have been discriminated against for reasons of disability?
b	Are there any specific measures being taken to adopt an anti-discrimination law, separate from the Basic Law, which can be applied to specific cases as justiciable norms? Please indicate a concrete roadmap towards the adoption of the law.
c	Please show what institutional reforms have been undertaken to eliminate discrimination against persons with disabilities, particularly in the areas of employment and education.
d	The Convention on the Rights of Persons with Disabilities was supported by Japan, and has entered into force, but the Japanese Government has not yet ratified it. Please indicate when and under what conditions the Government intends to ratify the Convention.

B. Measures for the Socially Vulnerable (Persons with Disabilities)

B.1 Background

146. Regarding measures for persons with disabilities in Japan, the Basic Plan for Persons with Disabilities was formulated in 2007 for the following 10 years, as was the Five-Year Plan for Implementation of Priority Measures. Since then there has been a change of Government, and in December 2009, the Council of Disability Policy Reform was established under the Cabinet Office, with persons with disabilities participating as members. The Council's task has been to comprehensively identify issues and indicate the direction for measures to be taken. However, to achieve these measures, budgetary support is indispensable. Also, even if a system for anti-discrimination were to be established, the Government needs to act affirmatively before society as a whole would accept the system as a norm.

B.2 Proposed Questions for List of Issues

a	Were any changes made in the long-term plans for measures for the socially vulnerable after the change of Government?
b	Please report on the progress of the Council for Disability Policy.
c	The Working Group on the Integrated Welfare Service under the above Council submitted a proposal on the outlines of an Integrated Welfare Service Law for Persons with Disabilities that should be adopted after abolishing the Independence Support Law for Persons with Disabilities. Has the Government abolished the Independence Support Law, and has it

established any new legal structures to support the human rights of persons with disabilities based on the proposal?

C. Health Insurance (National Health Insurance)

C.1 Background

147. The Head of the National Health Insurance Division of the Health Insurance Bureau, Ministry of Health, Labor and Welfare issued a notice on June 8, 2004 regarding the application of the national health insurance system to foreign residents. According to the notice, national health insurance is applicable to non-Japanese nationals, who: (1) are registered under the Alien Registration Law, who are residing with status of residence provided by the Immigration Control and Refugee Recognition Act, and whose period of residence is set for a year or longer, or (2) whose period of residence is less than a year but according to the materials based on the status of residence provided by the Minister of Health, Labor and Welfare, have resided in Japan for a year or more since the start of residence.

148. The First Bench of the Supreme Court issued a ruling on January 15, 2004, regarding whether non-Japanese nationals fell under the category of "persons who have an address" set forth in Article 5 of the National Health Insurance Law. The Court stated that the residence status held by the person in question as well as the period of residence were important factors to be considered. The Court continued that, since any foreign national without status of residence could be deported from Japan under the Immigration Control Act, such a person might have an unstable residence. It was, therefore, appropriate to consider that, in order for a non-Japanese national without status of residence to fall under the category of "person who has an address," it was necessary at least that the person had completed alien registration designating the municipality as their place of residence and applied for special permission to stay, as set forth in Article 50 of the Immigration Control Act, so that the person seemed to be continuously living a stable life within the area of the municipality, and was likely to maintain such a life also in the future when taking into account the following matters: how the person entered Japan; whether the person had a status of residence upon entry to Japan and how long the initial period of stay was; how the status of residence has subsequently been extended or changed; whether the person has a spouse or child and other matters relating to the family, including the nationality of spouse or child; their actual period of stay in Japan; and their living conditions.

149. However, for anyone living in Japan, even when they do not have Japanese nationality, an address is the basis of a person’s daily life, and it should not matter whether the status of residence is legal or not. Whether the person may be deported due to illegal entry is a matter under the Immigration Control Act, but as the person’s daily life will continue in Japan until the moment of deportation, eligibility for national health insurance, which is indispensable for

a healthy life, should be recognized.

C.2 Proposed Questions for List of Issues

a	Please explain the restrictions on the applicability of national insurance or employees' health insurance, such as those regarding residence status for persons who do not hold Japanese nationality.
b	Please indicate the number of non-Japanese residents who are ineligible for the public health insurance scheme, as well as measures for medical care services for those people.

D. Social Security for Retirees who are under 65 years old

D.1 Background

150. The Committee on Economic, Social and Cultural Rights recommended in its Concluding Observations of the review of the 2nd Report of Japan that, "as the age of eligibility for the public pension system gradually increases from 60 to 65 years, the State Party undertake measures to secure social security benefits for those retiring before the age of 65." However, under the current situation, as a general rule, the provision of pensions benefits starts at the age of 65. Since the only payment available from age 60 is that from the early payment system of the pension scheme, the amount is insufficient, and there is a huge disparity in the level of living standards between retirees who under 65, and those who are 65 or older. The situation has not improved in that respect, which was clear even at the time of the 3rd Report of December 2009.

D.2 Proposed Questions for List of Issues

What social security measures are being taken for retirees who are under 65 years old?

E. Improvement of the Long-term Care Insurance Act

E.1 Background

151. The Long-term Care Insurance Act was adopted in April 2000 in Japan, enabling people who need long-term care to receive care services for 10% of the cost up to a certain amount, while the remainder of the cost would be covered by the funds paid as long-term care insurance premiums by the public. According to the 3rd Government Report of December 2009, infrastructure for providing services has steadily been improved since the system was introduced (Comments on the General Provisions of the Covenant 7(2)), the wrongdoing of care service providers was prohibited by the amendment of the Long-term Care Insurance Act and the Act on Social Welfare Services for the Elderly enacted in May 2009 (Comments on the General Provisions of the Covenant 7(2)), and the protection of the elderly from abuse was

enshrined by the Act on the Prevention of Abuse of Elderly Persons and Support for Persons Giving Care to Elderly Persons enacted in April 2006 (Comments on the General Provisions of the Covenant 7(2)).

152. Yet the ageing of Japanese society has progressed, and it is expected that the number of elderly persons requiring care will increase rapidly. Currently, beneficiaries of care services pay 10% of the cost up to a certain amount, and the rest is covered by public funds. However, with the increase in the number of elderly and the decrease of the younger people, it is projected that there will be difficulties in maintaining the system financially.

153. Moreover, the wages for care service workers are low in general due to lack of funds. This and the harsh working conditions are the reasons for the high severance rate and the rate of workers leaving the service compared with other areas of work. According to the Survey on Employment Trends published by the Ministry of Health, Labor and Welfare in 2010, the average severance rate in all industries was 14 to 16%, while the same rate for care service workers and visiting care workers was higher at 17 to 20%.

154. Further, with the adoption of the above long-term care insurance system, care providers receive fees for their services from public funds. However, the fees in the care service industry are low in general, making it difficult for businesses to make a profit, and it is claimed that abuse of the system is rampant. There was a major scandal in Japan involving illegal activities by a major care provider in the past.

155. To respond to this issue, the JFBA has argued in its Collection of Basic Policies (No. 1-3) that in order to protect the rights of elderly requiring care to live in the community, the home care and welfare service should be improved, measures and support systems regarding general livelihood including pensions, income security, medical care service, housing and employment should be drastically strengthened, taking into consideration the local characteristics and needs of individuals concerned, and facilities for consultation and support should be established.

E.2 Proposed Questions for List of Issues

a	Please explain the budget for the Long-term Care Insurance Act and the necessary insurance premiums, taking into accordance the prospect of the ageing society.
b	Please explain the reason for the high rate of care service and home-care workers leaving their jobs, and measures to remedy this situation.
c	What measures are being taken to prevent wrongdoing by care providers? What is the rate of wrongdoing by care providers? What penalties are given to these wrongdoings?

F. Long-life Medical Care System

F.1 Background

156. In Japan, in order to decrease the financial burden of medical care costs for the elderly, the long-life medical care system was introduced in April 2008. This entailed removing all elderly people of age 75 and over, as well as those with disabilities between 65 to 74 years of age, from the national or employees' health insurance schemes to which they belonged and to admit them in an independent insurance scheme exclusively for the "latter-stage" elderly, with a separate insurance fee.

157. According to the 3rd Government Report of December 2009, medical care for the elderly aged 75 and older has improved with the adoption of the long-life medical care scheme (Report on Specific Rights, Article 9, 2 (2) (c)), and services for the elderly requiring care were also improved with the adoption of the long-term care insurance scheme (Comments on the General Provisions of the Covenant 7 (2)).

158. However, regarding the long-life medical care scheme, the financial burden for medical care on the elderly was considered too high, and too severe for them. It was decided that the scheme would be abolished in March 2014. The Government has yet to indicate any policies that should take the place of the soon-to-be abolished system, and the problem of the medical care service system for the elderly remains unresolved.

F.2 Proposed Questions for List of Issues

Please indicate the contents of the system that will replace the long-life medical care system.

G. Minimum Guaranteed Pension System

G.1 Background

159. The national health insurance and pension systems, which provide universal coverage, were established in 1961. However, today, even when a person pays the full premium for the whole qualification period of 40 years, the basic pension (annual amount 788,900 yen as of 2011) would fall below the amount of the standard livelihood assistance of a model elderly household of two, in which both members are elderly (approximately 120,000 to 150,000 yen per month). The amount of disability benefits is also low. There has been an increase in the number of people who fall into arrears (36.1% in fiscal 2007) or are exempted from paying insurance premiums (the exemption rate is around 19%), for reasons including high cost of premiums or low income. As a result, there has been an increase in the number of people who lose some or all of their earning abilities due to old age, disabilities or death, who are not eligible for pensions because they have not fulfilled the requirements, or who receive an insufficient amount. There is a need to create a non-contributory (tax-based) minimum guaranteed pension system with an explicit basis of rights, to secure the livelihoods of those

who are unable to earn sufficient income for themselves or their families due to loss of some or all earning abilities for reasons of old age, disabilities or death.[57]

G.2 Proposed Questions for List of Issues

Please explain the following issues regarding the situation in which the amount of basic old-age pension benefit falls below the minimum amount of living costs in the livelihood assistance system.
a On what criteria is the pension benefit amount determined in the national pension scheme?
b What measures are being taken to guarantee the livelihood of the elderly whose only income is from old-age pension benefits?
c Does the Government plan to set a minimum pension amount necessary in order to guarantee a minimum standard of living?

H. Pension Gap between Men and Women

H.1 Background

160. After the Second World War, the standard family structure in Japan was considered to be one in which the male, a regular employee in a seniority based, life-long employment system, was the major breadwinner. He would live with his wife, who stayed at home and did the housework, and with his children and elderly parents, who were all dependent on his earnings. Under this family model, childcare and care for the elderly were borne by the family, and undertaken by the wife, who was a full-time housewife. Since receipt of social security funds was concentrated in the second half of the lives of the male regular employees after retirement from their companies, these expenses were focused on pensions and medical care services. However, even these were not sufficient in comparison with other advanced countries. In particular, for elderly people in families that did not conform to the above standard model, such as those who were self-employed or those who lived alone, the old-age pension benefit amount was too low to maintain their livelihood. Other social benefits were even more insufficient. Childcare and care for the elderly and others were supported mainly by unpaid work within the families by the wives, This structure was facilitated and strengthened by the creation of Category 3 for dependent spouses in the insurance scheme, tax-deduction for spouses, low paid part-time work and other income supplementing work by the wives.

161. This structure has deprived many women of the opportunity to exercise their abilities and become economically independent. The mid-career break for childcare and care for the elderly and others, as well as the non-recognition of care work within families in the social security system, has resulted in low or nonexistent pension payments to elderly women.[58]

H.2 Proposed Questions for List of Issues

Regarding the substantive pension gap between men and women, please explain the situation, and indicate whether there are any measures being taken to resolve the problem.

I. Social Security for Non-Japanese Nationals

I.1 Background

162. Although the nationality requirement has been removed from the legal text of laws related to social security, except from the Public Assistance Act, in reality many of those who do not hold Japanese nationality are unable to receive sufficient security under the social security system. The reasons for this situation are thought to be avoidance by employers in joining the various social insurance schemes, and insufficient systems for enabling pensions adjustment with other countries. Furthermore, people who do not hold Japanese nationality but nevertheless are members of Japanese society are refused payments from the health insurance schemes or public assistance funds due to their lack or type of status of residence under the Immigration Control Act. The ineligibility of elderly resident Koreans for pensions mentioned below is another unresolved problem.[59]

I.2 Proposed Questions for List of Issues

Please explain the issues below regarding non-Japanese nationals.

a Does social security for the protection of workers cover non-Japanese to the same level as Japanese nationals? Is the participation rate of non-Japanese workers in social insurance schemes the same as for Japanese? If coverage or participation rate is different, what measures are being planned to redress the difference?

b Does social security for livelihood, medical care and family support extend to non-Japanese to the same level as Japanese nationals? If there are differences, what measures are being planned to remedy the differences?

J. Pension non-eligibility (National Pension) for Foreign Residents

J.1 Background

163. The Japanese Government adopted a temporary measure at the commence of the national pension system for Japanese nationals who were aged 35 or older on November 1, 1959 to shorten their contribution period, as they would not have been able to fulfill the requirement of having contributed for 25 years before reaching the age of 60. For Japanese nationals who were over 50 years of age on April 1, 1961, the Government introduced a measure to pay old-age welfare pension benefits from the age of 70 even if they had not joined the national pension, so that no one would be left without coverage. Similar measures were implemented for the people of Okinawa, when Okinawa was reverted to Japan.

164. However, when the nationality requirement was abolished in 1985, there were many people with permanent or long-term residence status who were unable to fulfill the eligibility requirement of having joined the scheme for 25 years. However, since no measures were adopted to shorten the required qualification period, there are in fact many resident foreign nationals who have not been able to join the national pension system.

J.2 Proposed Questions for List of Issues

a	Please provide information regarding the specific requirements for joining the national pension scheme for non-Japanese nationals, and the actual number of those who have joined the scheme.
b	In order to receive national pension payments, it is necessary to contribute a certain amount of premiums. Were any measures taken to shorten the required 25-year contribution period for those non-Japanese for whom it was impossible to pay the premium for the required period when the nationality requirement was abolished, as had been done earlier for Japanese nationals? Are such measures being planned?

K. Social Security for Unemployed People

K.1 Background

165. Unemployed people can find new, decent, work only when their livelihoods during the time of unemployment are sufficiently ensured. For that purpose, radical reform is needed of employment insurance, which is a system of livelihood security during unemployment. Specifically, the scope of those eligible for employment insurance must be widened, and at the same time, types of employment that do not fall within the scope of eligibility must be strictly limited to rare exceptions. Also, living standards during the time of unemployment must be ensured by measures such as relaxing the conditions for receiving unemployment benefits, increasing the benefit amount and extending the period for receiving benefits.

166. Further, an unemployment assistance system must be created for people in their working years to support living and housing costs as well as an employment support system, so that people such as new graduates who are ineligible for employment insurance, self-employed people who have closed their businesses, or unemployed people who have lost their eligibility for employment benefits, would not find themselves in difficulty and be compelled to take jobs that they are unwilling to take.

167. To participate in the labor market, it is not enough for individuals to look for work on their own. The Government must establish a jobseeker-oriented job placement system and an employment assistance system, as well as an accessible and effective vocational education and training system.

168. Currently, support measures called the “second safety net” are in place for unemployed people (part of which was taken over by the Job Seeker Support Act), but there are problems, such as strict conditions for use, and the fact that contact offices are split between local Government offices and social welfare councils, making it confusing and difficult to apply. Also, some provisions are not benefits but loans, and people who are unable to repay these loans may end up receiving public assistance after becoming “indebted.”

K.2 Proposed Questions for List of Issues

a	Regarding public assistance and employment support measures for unemployed people, is there a time limit for assistance, and if so, please explain the situation of people who find themselves still unemployed at the end of the assistance period.
b	If an unemployed person loses their home at the same time as their job, are there any measures to guarantee their housing? If such measures exist, please explain the effectiveness of these measures.

L. Women and Poverty

L.1 Background

169. The relative poverty rate of single mother households and single households of elderly women are above 50 per cent in Japan. 80% of single households of elderly women and 70% of single mother households live with an annual income below 2,000,000 yen. One out of three single women live in poverty.

170. More than half of female workers are not permanent employees, and full-time female workers earn two-thirds of the wages of their male counterparts on average. Wages of female workers of all status including part-time workers are half of those of male counterparts.

171. 70% of women resign their job when they become pregnant or when they give birth. The number of dismissals of female workers on the grounds of pregnancy and childbirth is increasing. Women’s advancement in society is impeded, and Japan was ranked 94th out of 134 countries in the Gender Gap Index by the World Economic Forum.

172. In the Concluding Observations of the Committee on the Rights of the Child, it is stated: “66. During the dialogue the Committee was informed about the improved child allowance system for all children effective as of April 2010, but no data are available to assess whether this new measure will decrease the proportion of 15 per cent of the population living in poverty any more effectively than the currently applied measures, such as the Public Assistance Act and other measures aimed at assisting single-parent families, in particular those where the head of the household is female. The Committee is concerned that financial and economic policies (such as labor deregulation and privatization strategies) may affect parents and in particular

single mothers due to salary cuts, the gap between women's and men's wages, and rising expenditures for childcare and education. 67. The Committee recommends that the State Party allocate appropriate resources to eradicating child poverty, including through the formulation of a poverty reduction strategy, taking into account the complex determinants of poverty, the child's right to development and standard of living to be ensured for all families, including single-parent families. It also urges the State Party to take account of parents' limited capacities to cope with such economic strategies as labor deregulation and flexibility due to their child-rearing responsibilities, and to carefully monitor whether providing financial and other support can secure the family life necessary for children's well-being and development." Thus, the severity of poverty in single mother households and the lack of countermeasures have been stressed.

L.2 Proposed Questions for List of Issues

a Poverty of Women

(a) How often does the Government conduct periodic surveys on women in poverty in order to determine their actual circumstances?

(b) What are the concrete measures the Government is taking on the poverty of women?

b Employment

(a) It is necessary to introduce new legislation and amend current legislation in order to thoroughly prohibit gender discrimination with regard to employment, including: stipulating the prohibition of gender discrimination in Labor Standard Act, introducing provisions recognizing the principle of equal pay for equal work and work of equal value, and amending the Part-Time Work Law to prohibit discrimination according to types of employment. Does the Government intend to accomplish these, and make it easier for part-time workers to gain regular employment?

(b) Are there any statistics on the regulation of dispatched workers according to gender?

(c) Does the Government have any plans to ensure the viability of the principle of equal pay for equal work and work of equal value as stipulated in ILO Convention 100? Does the Government intend to ratify ILO Convention 111 on Discrimination, and Convention 175 on Part-Time Work in the near future?

c Such gender discrimination as mentioned above needs effective remedial measures. Does the Government intend to improve these measures in terms of procedure and verification?

d Social Security and Medical Services

(a) What measures is the Government taking to expand the range of application for employment insurance benefits for part-time and temporary workers?

(b) Does the Government have any concrete measures for women living in poverty?

(c) Does the Government plan to take any concrete measures to expand the medical service to all foreign women living in Japan?

e Securing Women's Safety and Survival

(a) How is the Government expanding their plans for women's shelters and step houses?

(b) How is the Government improving their measures for the rehabilitation and social integration of female victims of violence once their safety is secured? How is the Government improving support for domestic violence victims with regard to housing and employment?

(c) Are there any plans to revise the criteria for calculating child support, and the method to ensure the payment of expenses from the father of the child to the mother, in order to prevent single-mother households from falling into poverty after separation?

(d) Does the Government have any plans to increase the childcare allowance for those who are in need of employment support?

f Support for Women in Vulnerable Positions

(a) Elderly Women

Does the Government have any plans to amend eligibility for pension benefits, and change the pension system so that all pension benefits will be funded by tax revenue, in order to redress the imbalances of the current pension system (e.g. problems of nonexistent or low pension provision, disparity in pension benefits especially among divorced couples)?

(b) Women with Disabilities

- Has the Government conducted a survey on the actual circumstances of women with disabilities?
- What specific measures exist for women with disabilities?
- What special measures exist for women with disabilities with respect to securing their reproductive health?

(c) Non-Japanese Women

- Non-Japanese workers tend to suffer from disadvantages at work, and it is difficult for victims of violence who are of foreign nationality to receive protection and support. Are there any effective measures to redress these situations? In particular, when non-Japanese women have to rely on their husbands for their visa status, they will face insecurity over their visa status once they are separated under the current Immigration Control Act. Does the Government have any plans to amend the Immigration Control Act?
- Is the Government preparing to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?

g Social Security System and Taxation System Neutral to Lifestyle Choices

(a) Family households where the husband is the breadwinner are prioritized in the social and taxation system at present. Does the Government intend to reform the social system from one that is based on household units to being based on individual units, in order to make a shift to a social security system and taxation system that are more neutral to lifestyle choices?

(b) Does the Government have any plans to revise legislation so that provisions for insured persons of class 3, exemption for spouses, Article 56 of the Income Tax Act, and

exemption for widows will be applied to single women?

(c) What concrete measures is the Government taking to reduce the disparity in pension benefits between women and men?

(d) The relative poverty rate has not been reduced through the social welfare system and taxation system in Japan. What effective measures does the Government intend to take in order to redistribute wealth more evenly across the population?

h Measures for Promotion

(a) Does the Government intend to establish a new human rights institution, and set up an independent mechanism for investigating cases of discrimination against women, and violation of human rights against women?

(b) What kind of education programs and awareness-raising programs is the Government facilitating in order to promote gender equality and women's empowerment?

(c) Does the Government ensure the participation of women in the processes of decision-making, implementation, and evaluation of policies that affect women's lives?

(d) How does the Government ensure the observation of the International Conventions and recommendations from international treaty bodies, and how is it preparing for the ratification of other international treaties for eliminating discrimination against women?

(e) Does the Government have any plans to set up a committee of specialists for the complete implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Platform for Action?

(f) What measures does the Government plan to take for international collaboration incorporating the area of social security, in addition to the implementation of the above treaties domestically?

Article 10 - Right to Family

The States Parties to the present Covenant recognize that:

1. *The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*
2. *Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.*
3. *Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.*

A. Employment of the Elderly

A.1 Background

173. In Japan, the Law concerning Stabilization of Employment of Older Persons was amended in 2004. Article 3 of the Law stipulates that consideration should be given to ensuring employment opportunities for the elderly according to their willingness and abilities. Discrimination in recruitment and hiring on grounds of age was prohibited as a general rule. Furthermore, with the 2006 amendment, enterprises were required to raise the mandatory retirement age, among other obligations. Public employment offices, moreover, provide employment support for the elderly including provision of information on job offers, and consultations regarding employment ("In response to the Concluding Observations" dated September 24, 2001, paragraph 47). According to the 3rd Government Report dated December 2009, employment of the elderly has been ensured.

174. However in reality, job offers submitted to public employment offices (known as "Hello Work") have unjustifiable age limits, and discrimination on grounds of age is continuing.

A.2 Proposed Questions for List of Issues

Why is the Government unable to rectify the problem of age discrimination faced by the elderly? Please explain what measures are being taken to improve the situation.

B. Adult Guardianship

B.1 Background

175. A system of adult guardianship was adopted in Japan in 2000. Adult guardianship is a system in which a person is appointed to act juristically (as a guardian) on behalf of a person whose ability to make judgments has declined, due to dementia (a state of declining cognitive abilities due to postnatal organic disorder in the brain, such as Alzheimer's disease) or other reasons. The guardian will conduct juristic acts to protect persons whose ability to make judgments is insufficient.

176. It is estimated that the number of elderly people requiring guardians is high in Japan's ageing society. However, there are many elderly for whom guardians are not appointed, and who fall victim to fraudulent transactions and scams.

177. Moreover, with the increase in number of the elderly, it is clear that there will be a shortage of professional people such as lawyers and judicial scriveners available as guardians. Therefore, developing and supporting layperson guardians is crucial. National and local Governments, however, have no capabilities or funds to conduct such development or support, and currently, the development and support of layperson guardians are showing almost no progress.

178. Guardians are also in a position to manage the property of their wards. Recently, numerous cases of misappropriation of the ward's property and other wrongdoings by the guardians have been discovered. It is estimated that such abuses are widespread.

179. The 3rd Government Report of December 2009 does not mention adult guardianship, but it is now over 10 years since the implementation of the system, and there are a number of problems such as those mentioned above. The JFBA Collection of Basic Policies dated June 16, 2010, recommends that adult guardianship be reformed to become a more user-friendly system.

B.2 Proposed Questions for List of Issues

a	Please indicate the number of people thought to require adult guardianship, and the number who have actually been appointed guardians. If there is a discrepancy in the numbers, please indicate the reasons for this discrepancy.
b	What measures are being taken by the Government to develop layperson adult guardians (i.e., guardians appointed from family members, or other non-professionals)?
c	Please clarify the data on cases of wrongdoing by adult guardians. Please explain what measures are being taken to discover and prevent such cases.

C. Abuse against the Elderly

C.1 Background

180. As there have been many cases in Japan of elderly people receiving care who were subjected to physical, economic and other forms of abuse because of their vulnerable status, the Act on the Prevention of Abuse of Elderly Persons and Support for Persons Giving Care to Elderly Persons (hereinafter, the Abuse of Elderly Act) was enacted in November 2005. The Act stipulated the duty of State, among other parties, regarding the prevention of abuse of the elderly.

181. However, the 3rd Government Report of December 2009 makes no reference to the abuse of the elderly, and the JFBA Collection of Basic Policies dated June 16, 2010 recommends strengthening of public-sector support to render the Abuse of the Elderly Act more effective (No. 1-3). Currently, prevention of abuse against the elderly has stalled. In particular, many of the elderly who are abused do not in fact report the abuse, and it is estimated that many cases of abuse against the elderly are left undiscovered.

182. Under the Act, local Governments are responsible for taking preventive measures, but in reality, many authorities are not aware of the measures, or fail to implement them, and it is said that official response is insufficient.

C.2 Proposed Questions for List of Issues

a	What measures are being taken to identify abuse against the elderly? Further, what measures are being taken when the authorities receive information of such abuse?
b	Please explain the measures in place to support elderly victims of abuse, categorized by physical, economic, mental and other forms of abuse.

Article 11 - Right to an Adequate Standard of Living

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. General comment on its implementation.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

A. Public Assistance and Emergency Medical Care for Non-Japanese Nationals

A.1 Background

183. On October 25, 1990, at the regional block conference for public assistance consultations officers organized by the Ministry of Health, Labor and Welfare, the Ministry instructed the local Governments to limit the scope of application of the Public Assistance Act to non-Japanese nationals to only those with permanent and long-term residence status. The Ministry stated that for other non-Japanese nationals, public assistance and emergency medical assistance would not apply. As a result, when those without Japanese nationality face difficulties due to unforeseen accidents, such persons are not eligible for any public assistance.

184. In this regard, the Oita District Court issued a judgment on October 18, 2010, in a case of a claim by a person holding permanent resident status who required public assistance. It held that the legislature provided a broad margin of discretion in deciding what legislative measures should be taken regarding the non-inclusion of permanent residence status holders in the scope of protection under the Public Assistance Act. It also ruled that Article 9 of the Covenant on Economic, Social and Cultural Rights did not confer concrete rights on individuals, and dismissed the claim.

185. On the other hand, the Kobe District Court on June 19, 1995, while dismissing the claims of plaintiffs arguing that the State should cover the medical costs of non-Japanese residents as emergency medical assistance under the Public Assistance Act, held that, "in view of the objectives of the International Covenant on Economic, Social and Cultural Rights, as well as the fact that the right to a healthy and cultural minimum standard of living is directly related to the survival of a person, some measures should be taken for emergency medical care of foreigners regardless of their nationality or residence status."

A.2 Proposed Questions for List of Issues

a	Does the Public Assistance Act apply to those without Japanese nationality? Does the Government plan to take any measures to apply public assistance fully or in part to persons who are not permanent residents, or who do not have residence status?
b	Does even emergency medical assistance not apply to those without residence status?
c	When an application for public assistance from a non-Japanese national is dismissed or rejected, is there an appeals system available? If so, please explain the review process for each step of the appeals procedure.
d	Please provide information on the number of non-Japanese persons and households who receive public assistance, and their proportion among the total persons and households receiving assistance.

B. Public Assistance for Persons Applying for Refugee Status

B.1 Background

186. It is not unusual for decisions on refugee status to take several years. There are no specific qualifications regarding applicants for refugee status; they are not permitted to work as a general rule. As a result, there are some applicants who engage in work which contravenes their status, under unfavorable conditions. As yet, there appear to have been no cases of employers being punished for hiring persons applying for refugee status. However, according to the law, employers can also be punished (Article 70 no. 4, Article 73, Article 73 paragraph 2 no. 1), and many well-intentioned employers are reluctant to hire them. There are also many applicants for refugee status who are detained, and in order for them to be released provisionally, they need a personal guarantor, and are required to pay a deposit. If the applicant cannot work or receive assistance, the guarantor may be required to cover the living costs of the applicant, which often makes it difficult for applicants to find someone willing to be guarantor.

B.2 Proposed Questions for List of Issues

a	Please provide information on the total number of applications for refugee status, of people

who were granted status, and the average time it took to complete the refugee application procedure for each year since the last review of the Government Report.

b Please explain whether applicants for refugee status who do not have permission to work under the Immigration Control Act have a right to work (to employment) or not, and the available assistance for applicants and their families.

C. Forced Eviction

C.1 Background

187. Many cases of forced eviction by public authorities are conducted in the form of execution by proxy. Therefore, if local Governments were required to report on the matter, it should be possible to get a full picture of the situation, but the Government has not taken such an action. Nor has it conducted any examination into whether persons who have lost their place of residence through forced eviction have received appropriate protection. Forced eviction can be permitted only when it is absolutely necessary, when appropriate alternative housing is provided, and with full consideration of the human rights of the people concerned. In reality, these conditions have been relaxed to allow eviction when it is merely necessary, and with insufficient provision of alternative housing.

C.2 Proposed Questions for List of Issues

Please indicate the reasons why the Government cannot obtain full information regarding the situation on forced evictions by public authorities, including the number of cases. Please indicate also whether the Government would be unable to take measures in the future to gain such information.

D. Transition from Homelessness to Residence in Public or Other Housing

D.1 Background

188. Surveys on the situation of homelessness in Japan have been conducted, and they show that the number of homeless people is decreasing. But there are still many people who are homeless, and there has been no progress on comprehensive measures to respond to the issue. The Government envisages a framework based on the Act on Special Measures concerning Assistance in Self-Support for Homeless, in which homeless people would first stay at a Self-Sufficiency Support Center, find work (or apply for public assistance) and then move into housing. This may yield positive results for people who have recently become homeless, however, it is not an effective policy for people who have been homeless for a long period of time.

D.2 Proposed Questions for List of Issues

Please indicate the obstacles preventing homeless people from promptly moving into public or other housing.

E. Public Housing Measures

E.1 Background

189. In Japan, securing housing has been considered to be a matter left to the individual's own effort, and recently, the tendency to view housing not as a "right" but a "market" matter has gained strength. As a result, many people in poverty who cannot bear the burden of paying rent are increasingly losing their homes, becoming homeless, including "net-café refugees" (people without homes, who spend the night in internet-cafés operating 24 hours) or people sleeping outdoors.

190. However, a home is the most basic foundation for a person to conduct his/her social life as a human being. Therefore, there is a need to change policy into one that treats housing as a social security matter to be ensured by the State. Public-sector support for a private rental housing market with sufficient stock must be strengthened by changing the current policy, by providing incentives for home-ownership, increasing public housing, and developing diverse forms of social housing for rent. Furthermore, a system to provide rent support for people with low income, as well as a system to provide public guarantees for rent for those who cannot find guarantors should be created.[60]

E.2 Proposed Questions for List of Issues

Please explain the measures being taken to ensure access to appropriate and affordable housing for all people, while the numbers of public housing is decreasing.

F. Housing Measures for the Elderly, Persons with Disabilities and Others

F.1 Background

191. The 3rd Government Report explains briefly about the elderly (limited to introducing the relevant laws) but there is no mention of other housing measures. People who cannot live in their own homes must live in hospitals or institutions away from the community. Policies to enable such people to live in their communities have made no progress (particularly regarding persons with disabilities).

F.2 Proposed Questions for List of Issues

Please indicate measures being taken for people with special housing needs, such as families with children, elderly people or persons with disabilities, to ensure affordable and appropriate housing. Also, please explain measures being taken for people who cannot live with their families to enable them to live in their communities, as well as the situation regarding their housing.

G. Climate Change Issues

G.1 Background

192. The Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report revealed that unless industrialized nations as a whole cut greenhouse gas emissions by 25% of the 1990 level by 2020 and by 80% by 2050, there would be serious negative consequences for the world[61]. It is necessary to stipulate these targets in a legally binding form, and to swiftly adopt legal provisions to take economic measures, such as procedures to purchase renewable energy at fixed costs, an emissions trading system with a view to regulating the total volume, and a carbon tax according to CO2 emission levels.

193. The then Prime Minister, Yukio Hatoyama declared at the UN Special Summit on Climate Change in September 2009 that Japan would reduce emissions by 25% from 1990 levels by 2020.

194. However after the Great East Japan Earthquake on March 11, 2011, it is concerning that there have been calls from members of the Government for exemption from non-compliance measures against failure to keep the obligation to reduce emissions by 6% under the Kyoto Protocol, as well as for a review of the 25% reduction target.

G.2 Proposed Questions for List of Issues

a	Is the goal declared by the then Prime Minister Hatoyama to reduce CO2 emissions by 25% from 1990 levels by 2020 still a valid target? What percentage reduction, and comparative to which year's levels, has the Japanese Government set as targets for the reduction of CO2 emissions by 2050? In particular, please explain about the concrete plans for reductions after 2013, when the first commitment period under the Kyoto Protocol has concluded.
b	Please explain concrete expansion targets for renewable energy for 2020, 2030, 2040 and 2050. Also, what institutional frameworks (for example, guaranteed purchase of all energy produced) are being planned to ensure the promotion of renewable energy?
c	Please indicate the expected introduction period, tax base and tax rate of the carbon tax.
d	Please give an overview of the planned domestic emissions trading system.

Article 12 - Right to Highest Attainable Standard of Physical and Mental Health

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

A. Medical Care System

A.1 Background

195. The system in Japan to ensure the right of all people to enjoy the highest attainable standard of health is weak.

196. Due to the recent Government policy to reduce medical costs, hospitals in many communities have closed, clinical departments have been reduced and the distribution of medical personnel has become uneven, resulting in problems of access to medical care in communities. Places of medical care, mainly hospitals treating acute-phase patients, have come under strain, and they face difficulty in securing medical personnel including doctors and nurses. In particular, obstetric and pediatric care are failing.

197. The rate of ageing (the proportion of the population who are 65 years of age or older) is expected to reach 30% in 2025, increasing from 23.1% in 2010[62]. Specialization and cooperation of medical and nursing care in areas such as home medical care and the visiting nurses system are still insufficient for the creation of a universal system for the provision of medical service.

198. Due to the decreasing workforce and the income disparity of the working generation, it is becoming difficult to depend on the insurance premiums contributed by this generation to cover the costs of medical care for the elderly. A “health gap” is emerging based on income disparity, as the cost of insurance premiums and out-of-pocket payments have become too

expensive for some people. It is necessary to redesign the medical system to be more universal and sustainable.

199. "Information asymmetry," the lack of communication of information from the providers of medical care to patients and their families, remains a problem, and the promotion of "patient-centered medical care" based on the rights of the patient is still insufficient.

200. Further, reproductive health/rights are neglected in the area of medicine and health, and the protection of health throughout women's lifetimes is insufficient.

A.2 Proposed Questions for List of Issues

a On laws stipulating patients' rights

(a) Is informed consent required by law?

(b) Is there a law providing for investigation of the causes and prevention of recurrences of medical accidents? If not, are there any plans to adopt such a law?

(c) Is there a law clarifying the criteria of intractable diseases? If not, are there any plans to adopt such a law?

(d) What welfare measures are being taken for patients with intractable diseases who have difficulty being employed or are living on their own? What measures are being planned?

(e) What measures are being taken for persons living alone with chronic or other diseases, and facing urgent situations, to support them in household work and hospital visits, when other procedures are unavailable? What measures are being planned?

(f) Is there a law regarding no-fault compensation? If not, are there any plans to adopt such a law?

(g) What measures are being taken, or planned to be taken regarding "drug lag" (the time lag due to delay in approval of new drugs) or "device lag" (the unavailability of the latest medical technology and devices due to delay in approval)?

(h) What measures or responses are being taken to prevent harm caused by medical drugs?

b Doctors and medical care

(a) Please explain the measures being taken to reduce staff shortages and to achieve appropriate distribution of doctors and nurses. In particular, are measures being taken to set distribution and concrete numbers of personnel, in light of the shortage and uneven distribution of personnel in obstetric and pediatric care?

(b) Are secondary medical areas including emergency medical care, medical care during nighttime and holidays, perinatal care, and pediatric care sufficient? What measures are being taken to ensure that they are sufficient?

(c) What is being done to secure specialist doctors and provide financial assistance for safe perinatal and pediatric care? What concrete measures are being taken to reduce cases of maternal deaths and disabilities arising from childbirth?

(d) What measures are being taken to ensure that female doctors can continue to work

without having to leave their jobs because of pregnancy and childbirth?

(e) What measures are being taken to allocate sufficient numbers of nurses in acute-phase medical care?

(f) What measures are being taken to ensure access to medical care for all persons for whom paying medical costs is difficult, and to alleviate the burden on medical services?

(g) What measures are being taken on the utilization of midwives?

c Medical fees and medical insurance system

(a) What measures are being taken to ensure that the system of medical fees based on treatment does not lead to over-treatment and over-payment?

(b) What measures are being taken to alleviate the burden on patients regarding special or specified medical care coverage?

(c) What measures are being taken to respond to the excessively large burden of insurance premiums on the poor in medical insurance, particularly the long-life medical care insurance scheme?

(d) Are there plans to include pregnancy, childbirth, abortion and birth control in the health insurance coverage (provision in kind)?

(e) Are there any plans to include all workers, including non-permanent workers in the scope of eligibility for social security?

(f) Regarding insurance premiums of dispatched workers, does the Government recognize the duty of enterprises where the workers are dispatched to (the destination enterprise) to pay the premiums when the dispatching company fails to pay the contribution?

(g) Regarding national health insurance, what measures are being taken to alleviate the financial burden and ensure access to medical care for low-income people, including those who are in arrears in insurance premiums, or who are not covered by insurance?

(1) Reproductive health/rights

(h) Japan published the “Kan Commitment” initiative in 2010 as an international cooperation policy, but is it in accordance with the international cooperation policies of UN organizations and other countries? How will the policy be implemented? What are the plans for expanding reproductive health services? Are there plans to reverse the decrease in contribution to international Governmental organizations, such as the UNFPA?

(i) How is the Government planning to increase awareness of reproductive health/rights domestically?

(j) How does the Government disseminate information on reproductive health/rights in school and social education? How effective is this dissemination?

(k) Regarding reproductive health services in general, including birth control and abortion, what measures are being taken to enable all women to access information and services?

(l) What progress has been made in gender-specific medicine? Are there plans to make genuine efforts in gender-specific medicine, to introduce financial measures to alleviate the economic burden for breast cancer screening, to provide gender and age-sensitive mental health services, to facilitate cooperation on an equal basis between psychiatry and

other departments in the medical and public health systems, and to formulate concrete guidelines or other measures on the human rights of female patients?

(m) What studies have been conducted on the effects of long working hours or late-night work on pregnancy and childbirth? Are there any plans to investigate the situation, and to introduce concrete legal and other measures regarding the health of women in the workplace (including mental health), including reproductive health/rights of working women?

B. Psychiatric Care

B.1 Background

201. Regarding psychiatric care, there has been an increase in people suffering from schizophrenia, as well as dementia, depression and other mental illnesses, while Japan lags far behind regarding measures for such patients. The human rights of these patients are also neglected. There is no system in which preventive measures are taken, in which patients can receive support for consultations and quality medical service from the early stages, or in which patients can continue to live safely and independently in the community. The number of patients in psychiatric hospitals remains high, but particularly young people are being discharged from these hospitals with no guarantee for a stable life in society.

202. According to the Ministry of Health, Labor and Welfare, there were 72,000 patients in 2007 whose discharge from hospital was not approved because there were no preparations for their social rehabilitation, even though there was no need for further treatment in the hospital (so-called "social hospitalization"). The Ministry has declared that it will take measures to prepare society to accept ex-patients of psychiatric hospitals, and to resolve the issue within 10 years.

203. In Japan, the procedures for involuntary treatment are: "involuntary admission" under the Mental Health and Welfare Law (1,803 patients as of June 2008), "admission for medical protection" under the same Law (124,920 patients as of June 2008),[63] "admission order" (590 patients as of June 2011) and "hospital attendance order" under the Mental Illness Treatment and Observation Law (enforced on July 15, 2005). The procedures under the latter Law do not apply to all psychiatric patients, the scope being limited to people "who have committed particularly serious crimes such as murder or arson, for reasons of mental illness." These people will be provided medical care with particular attention.

B.2 Proposed Questions for List of Issues

a What is the reason for setting lower standards for psychiatric care compared with medical care in general, such as the number of staff per patient with mental disabilities? Is the Government

	considering improving these standards?
b	What measures have been taken to resolve the issue of "social hospitalization"? To what extent has the number of such patients decreased through these measures? Has the Government conducted any follow-up surveys on the lives of patients after they leave hospital?
c	What are the Government's plans to reduce involuntary hospitalization and treatment under the Mental Health and Welfare Law and Mental Illness Treatment and Observation Law?
d	Is the Government aware that the Mental Illness Treatment and Observation Law violates the Convention on the Rights of Persons with Disabilities? What is the purpose of institutionalizing treatment with particular attention for psychiatric patients who have committed serious crimes compared with other patients requiring similar treatment?
e	Are all necessary measures being taken to ensure effective and thorough supervision by the judiciary, with an emphasis on human rights, of restraining procedures in public and private psychiatric institutions?

C. HIV/AIDS

C.1 Background

204. Regarding HIV/AIDS, it is true that Japan is in a period of fewer new infections, and it has a high standard for medical treatment. However, respect for human rights is neglected in the response to the epidemic. There are also problems in measures which target specific groups.

205. These issues have been pointed out in the Concluding Observations of the Committee on the Rights of the Child on the 3rd Report of Japan,[64] as well as that of the Committee on the Elimination of Discrimination against Women on the 6th Report,[65] but the Government has not responded fully to these requests.

C.2 Proposed Questions for List of Issues

a	Are measures on HIV/AIDS described in the national plan for health promotion? Has it failed to be made a priority issue for Japan? The "Guidelines for the Prevention of Particular Infectious Diseases in Relation to Acquired Immune Deficiency Syndrome" are merely a Notice of the Minister of Health, Labor and Welfare, and the provisions of the Act on Prevention of Infectious Diseases and Medical Care of Infectious Patients are vague. Are there plans to adopt a specific law on the issue?
b	Access to early testing and treatment is being hindered by social discrimination and stigmatization, and it is estimated that the number of people who are HIV positive is approximately 5 times the number who are being currently treated. Although there has been an increase in the volume of testing, provision of tests with voluntary counseling (VCT) has not been improved, and many cases of infection have been discovered during routine tests before

surgery or health checks for pregnant women. What measures are being taken to increase the provision of VCT to people who need to be tested?

c What measures are being taken to respond to the insufficient protection of patient anonymity, as well as insufficient counseling in medical institutions?

d What measures are being taken against social discrimination and stigmatization?

e Are there cases of involuntary testing, testing without consent or testing in groups? Are all tests for pregnant women done voluntarily? Have there been any cases of dismissals or forced evictions based on the test results? What measures is the Government taking to counteract, and aid victims of, such cases?

f What has been achieved regarding education on HIV/AIDS? How are gender stereotype roles or norms of sexual behavior dealt with in the education?

g Regarding people who inject drugs, the main global trend is harm reduction, as indicated in the Vienna Declaration of the International AIDS Conference.[66] Has Japan introduced a comprehensive policy based on harm reduction? Are there any statistics on HIV/AIDS among people who inject drugs? If there are, how is the reliability of the statistics guaranteed? What measures are being taken for people who inject drugs?

h What measures are being taken for HIV/AIDS prevention among sex workers in a form that does not violate their human rights?

i Is there any information or data regarding increasing rates of infection of sexually transmitted diseases, including HIV/AIDS, in women? What measures are being taken in response? Is there any information or data regarding changes in the patients' conditions which are particular to women?

j What measures are being taken to improve regional disparity in medical care, disparity between medical institutions and the shortage of medical institutions that can respond the particular needs of women?

k What is the situation regarding discrimination against people who have tested HIV positive, or discrimination and harassment against sexual minorities in medical institutions and workplaces? What measures have been taken to respond to, remedy and prevent such occurrences?

l What improvements are being planned regarding the obstacles to accessing medical care for migrants, or for situations in which access is dependent on the patients' status of residence?

m Are the infection prevention measures for specific target groups (men who have sex with men, (MSM), gay, bisexual, transgendered and others, people who inject drugs, sex workers, etc.) functioning effectively? How is this effectiveness verified? What measures are being taken to improve effectiveness?

n Are there any obstacles to participation in HIV-positive patient organizations or other civil society organizations in their activities regarding HIV/AIDS? What measures have been taken to improve this situation?

o What measures has the Ministry of Education, Culture, Sports, Science and Technology taken to introduce sex education that includes education on HIV/AIDS prevention? Have any

concrete effects of these measures been verified? Are there any plans to administer sex education that includes education on HIV/AIDS prevention more actively?

p How effective is the access of youths to services and education regarding sexually transmitted diseases, including HIV/AIDS?

q Regarding measures on sexually transmitted diseases, particularly in response to the needs and circumstances of women, are there any plans to adopt sex education and active policies to improve access to services by foreign women who are HIV-positive, sex workers and undocumented foreign residents, without discrimination?

r Are the policies and measures related to HIV/AIDS in full coordination with the Declaration of Commitment on HIV/AIDS and the International Guidelines on HIV/AIDS and Human Rights? What measures are being taken to comply with these documents?

D. Induced Abortions

D.1 Background

206. In most European and North American countries, induced abortions based solely on the request of the woman who requires the procedure are recognized. In Japan, however, the Penal Code includes the crime of abortion as a punishable offense. The Maternal Protection Act requires spousal consent for induced abortion procedures, and although it permits abortions for economic reasons, the permissible reasons are limited.

207. The need for amendment of the provision on the crime of abortion is already mentioned in this document's section on Article 3, thus will not be explained further in this section.

D.2 Proposed Questions for List of Issues

a Regarding the Maternal Protection Act (in particular, on the requirement of spousal consent)

(a) The current Act stipulates the requirements for justifying induced abortion, which is a crime under the Penal Code, and to render it legal. In all cases of abortion, the Act requires the consent of the patient's spouse to conduct an abortion procedure. When the relationship with the spouse is deteriorating, for example in cases of domestic violence, it is difficult even to discuss the issue of consent. In such cases, this clause in the Act has become a significant obstacle in practice. Is the Government planning to review the clause from the perspective that it constitutes an obstacle to women's access to necessary medical care?

(b) Does the Government have any information on the number and causes of induced abortions that have not fulfilled the requirements of the Act? If so, please provide this information.

b Obstruction of women's access to abortion

(a) The Concluding Observations on the 6th Report of Japan by the Committee on the

Elimination of Discrimination against Women contain comment on sexual health education and access to sexual health information and all services, including termination of pregnancy, in paragraphs 49 and 50. What improvements has the Government made in this regard?

(b) Has any survey been conducted on women's access to information and services regarding induced abortions, as well as the satisfaction rate of such services? If so, please provide this information.

c On methods of induced abortion

(a) In Japan, curettage is the main method used in early abortions. However, this method places serious physical, mental and economic burdens on the women undergoing the procedure. The Word Health Organization guideline on safe abortions lists suction and medical abortions (abortions using pharmaceuticals) as recommended methods for earlier term abortions. However, in Japan, approval (mifepristone has not yet been approved, while misoprostol was approved for use in different symptoms) and dissemination of these methods by the Ministry of Health, Labor and Welfare have not progressed. This has become an obstacle for women's access to abortion. Are there any plans to approve these methods of abortion? Does the Government have any information on the methods currently being used in abortions?

d On the cost burden of abortion

(a) Abortions can be costly (cost for early abortions can be around 100,000 yen, and cost for mid-term abortions can be several hundred thousand yen). Are there any plans to provide abortion services for free or to provide coverage under health insurance, from the perspective that the high cost constitutes an obstacle to women's access to abortion? In particular, for pregnancies caused by sexual violence, the prefectural police provide an amount slightly over 100,000 yen from public funds, albeit only when the case fulfills certain conditions. However, this amount is insufficient for covering mid-term abortions, and victims who do not want to go to the police after being subject to sexual violence cannot avail themselves of the funds. Are there any plans to expand the public funding of mid-term abortions for victims of sexual violence, as well as to simplify the methods of designating victims of sexual violence as beneficiaries of public coverage, or of applying for public funding?

e Stigma

(a) Stigmatization of abortion continues, and the Government does not seem to be taking measures against it. What measures does the Government intend to take to remove the stigma regarding abortion, and what policy measures will it introduce?

f (Former) Eugenic Protection Act

(a) Under the former Eugenic Protection Act, sterilization procedures were conducted on people without their consent for "hereditary diseases." Even when limiting the figures to those that appear in official statistics, approximately 16,500 cases of sterilization procedures were conducted between 1949 and 1994. 68% of the patients were women.

The Act also included provisions on abortion for eugenic reasons. Has the Government conducted any studies into these facts?

(b) The Human Rights Committee in 1998 recommended that the Japanese Government compensate the victims of involuntary sterilization and illegal hysterectomies. What actions has the Government taken to apologize and to compensate these victims?

g On reproductive health/rights

(a) There are no laws in Japan protecting reproductive health/rights. Are there any plans to adopt a law which has the objective of protecting and dealing comprehensively with reproductive health/rights?

E. Sex Education

E.1 Background

208. After protests from some MPs, course material for sex education was removed from junior high schools, and sex education at a school for disabled children was strongly criticized by the school board and members of Metropolitan Assembly. Thus, there have been setbacks for sex education in Japan. In the Third Basic Plan for Gender Equality endorsed in 2010, it was stated that (the state) "will implement developmentally appropriate sex education in schools", however, objectives and concrete plans are not given.

209. In the recommendations from the Committee on the Rights of the Child, it is stated that the State Party should ensure the inclusion of reproductive health education in the school curriculum and fully inform adolescents of their reproductive health rights, including the prevention of teenage pregnancies and sexually transmitted infections, including HIV/AIDS, and ensure that all programs for prevention of HIV/AIDS and other sexually transmitted diseases are easily accessible to adolescents. The Committee on the Elimination of Discrimination against Women recommended in its Concluding Observations for the 6th review of the periodic report from Japanese Government that the State Party should promote sexual health education targeted at adolescent girls and boys. It also recommended that the State Party should ensure access to sexual health information and all services, including those directed at termination of pregnancy, for all women and girls.[67]

210. However, the Japanese Government dismisses the importance of sex education, and due to resistance from conservatives, sex education is retrogressing, and the health of young people, especially young girls, is under threat.

E.2 Proposed Questions for List of Issues

a Does the Government have any plans to promote comprehensive sex education that encompasses reproductive health, including contraception, abortion rights, and rights to

self-determination for pregnancy and reproduction for adolescent girls and boys?

b What are specific measures is the Government taking to ensure that reproductive health education is included in the regular curriculum? Further, what are the actual contents of these programs, and how prevalent are they?

F. Reproductive Medicine

F.1 Background

211. Examination of the legal and ethical issues regarding matters such as surrogate motherhood is insufficient. Regulation in a form that does not violate the reproductive health/rights of any woman, while protecting the rights of the child who is born, is necessary. Side effects and the physical and mental burdens on women are of concern in regard to infertility treatment and research in assisted reproductive medicine.

F.2 Proposed Questions for List of Issues

Are there any plans to adopt laws and guidelines to protect the rights of all women in relation to reproductive medicine in general?

Are there any plans to adopt concrete laws and policy measures on support for infertility, and to provide explanation of side effects with due consideration to avoid placing an excessive burden on the people seeking care?

Are there any plans to adopt laws and policy measures that prevent humans from becoming tools or means in reproductive medicine research, as well as to alleviate the physical and mental burdens on egg donors?

G. Framework for the Promotion of Reproductive Health

G.1 Background

212. There is a wide difference between the framework for reproductive health stipulated in international treaties, such as the Conventions of the International Labor Organization, and that of the reproductive health system in Japan, and the latter still needs to improve its environment to ensure reproductive health.

G.2 Proposed Questions for List of Issues

a Japan has ratified Convention 102 of the International Labor Organization with the exception of Part 8: Maternity Benefit, and thus does not guarantee reproductive health as one of the minimum standards for social security. Does the Government have any plans to reform domestic legislation and ratify this part of the Convention?

b	The reason Japan has not yet ratified ILO Convention 103 (and its revisions in Convention 183) is due to the Ministry of Health and Labor and Welfare's stance that pregnancy and childbirth are not illnesses, and thus shall not be covered by national health insurance. Issues relating to reproductive health are treated under individual policies and provisions at present. Are there any plans to change the current situation?
c	Japan has not ratified ILO Convention 103, or its revised version Convention 183, and women still suffer from discrimination due to pregnancy and childbirth. Are there any plans to reform domestic legislation and ratify the Convention?
d	What are the Government's measures on maternal healthcare, and how does the Government create favorable conditions for maternal healthcare? In particular, does the Government have any plans to fully subsidize the expenses for childbirth and medical check-ups for pregnant women?
e	What measures is the Government taking in order to increase the number of doctors and midwives in obstetric care? Are there enough resources for emergency obstetrics care to satisfy the existing needs?

H. Issues related to Regulation of Chemical Substances

H.1 Background

213. Many of the environmental criteria established by the Government to prevent the incidence of pollution have not been met. As a result, there have been no measures to protect the health of the Japanese population or the environment from harmful chemical substances causing serious environmental damage, such as hormone-disrupting chemicals or dioxin.

214. Current legal regulations regarding indoor air pollution include the Building Standards Law, the Act on Maintenance of Sanitation in Buildings, and the Order for Enforcement of the Act. However, the guideline values on the indoor concentration of chemical substances issued by the Ministry of Health, Labor and Welfare, as well as the Guideline on Lowering the Concentration of Formaldehyde in Indoor Air in Workplaces, are simply recommendations, and are not legally binding. There are over 20 million known chemical substances, but the toxicity and other characteristics of the overwhelming majority of these substances are as yet unknown. In many cases, it is difficult to identify substances causing problems. However, at present the Ministry of Health, Labor and Welfare has established standard values of indoor concentration for only 13 chemical substances. Regulated substances under the School Sanitation Standard and the Building Standards Law are also limited. Children, medical patients who are hypersensitive to chemical substances, as well as other people who are sensitive to chemical substances, sometimes suffer negative health effects even when the concentration is below the standard level. The current standard values do not give any considerations to such people.

215. The Air Pollution Control Act and other laws regulate outdoor air pollution, requiring enterprises that discharge volatile organic compounds (VOCs) to notify the Governor of the prefectures in which the discharging facilities are located, and to comply with emission standards. The requirements under these regulations, however, apply only to major facilities that discharge large volumes of VOCs. For other facilities, voluntary efforts would need to be made.

216. The Act on Asbestos Health Damage Relief was adopted in 2006, but only two diseases are designated within the scope of the Act, (i) mesothelioma caused by asbestos, and (ii) lung cancer caused by asbestos. Moreover, the contents of the relief measures to be provided under this system are far below the levels of the compensation provided for under the Workers' Accident Compensation Insurance or for pollution-related health damage. Further, for the families of workers killed by health damage due to asbestos, whose qualifications to receive compensation have lapsed because of prescription, the only available benefit would be the special survivor pension. The symptoms of health damage due to asbestos, however, take a long time after exposure before becoming apparent. Even when the victims develop symptoms of mesothelioma or lung cancer, they may not recognize that these were caused by exposure during work. There are many cases in which victims were not able to apply for Workers' Accident Compensation, and their claims for compensation for medical treatment or for absence from work are often extinguished since these have a shorter prescription period.

H.2 Proposed Questions for List of Issues

a	Regarding hypersensitivity to chemical substances, are there any plans to: (i) vest the administrative guidelines and other rules with legally binding force, (ii) expand the scope of regulated chemical substances, (iii) target public facilities in particular for regulations, and (iv) regulate products which are sources of pollution?
b	Are there any plans to strengthen the precautionary principle (in which, when there is a threat of health damage or destruction of the ecosystem - even when the risk caused by the chemical substance is scientifically uncertain - the chemical substance would be banned, or appropriate regulation including limitations in the use of the substance, and introduction of lower risk alternatives would be required by law, or promoted through economic incentives with appropriate timetables) and producer responsibility (which requires producers to: (i) ascertain and provide information on the chemical substances contained in their products for the appropriate management of the process from production to disposal, (ii) report data regarding safety within a certain period on existing substances under production, and ban production and use of the substance when safety cannot be proven)?
c	Regarding relief measures for victims of asbestos, are there any plans to include within the scope of beneficiaries, people with similar diseases (such as asbestosis) to those designated asbestos-related diseases under the Workers' Accident Compensation scheme, along with people with: (i) mesothelioma caused by asbestos and (ii) lung cancer caused by asbestos?

d	As the symptoms of health damage due to asbestos appear long after exposure, there are many cases of claims for compensation for medical treatment or absence from work lapsing due to the shorter prescription period. Are there any plans to review the application of prescription to claims against companies and other entities for civil compensation (3 years) or statute of limitations (20 years), in cases other than those under Workers' Accident Compensation scheme?

I. Waste Materials

I.1 Background

217. The Act on Special Measures concerning Removal of Environmental Problems Caused by Specified Industrial Wastes was adopted in 2003 after the cases of illegal industrial waste disposal in Teshima and Aomori Iwate. Under the Act, the national Government subsidizes around 60% of restoration costs, and the initial intention was to solve all major incidents of illegal waste disposal in the country within 10 years. However, the Government initially managed to allocate a budget of only 100 billion yen, and in the end, around half of the budget amount was required to deal with just the Teshima and Aomori Iwate cases. Since there were many similar cases around the country, restoration, including removing all waste, for all illegal disposal cases that have been discovered would have required over one trillion yen.

218. Regarding stable-waste landfill sites (waste sites limited to the "5 stable waste" types such as plastic, that may simply be a hole in the ground without water insulation facilities), since it is impossible in reality to separate the "5 stable waste" types from other materials in waste for disposal in landfill, many waste sites are causing environmental pollution in the surrounding areas. In Chikushino City, Fukuoka Prefecture, an employee of a waste treatment operator died as a result of the hydrogen sulfide that was produced by the waste.

219. For a complete solution of the waste materials issue, it is important not to produce waste in the first place. Although the current legal structures regarding resource-recycling and waste management adopt waste production (discharge) reduction as an ideal, they do not ensure effectiveness, as they place almost no concrete duties on business operators and other entities, but rely on voluntary efforts to reduce waste production.

I.2 Proposed Questions for List of Issues

a	Regarding illegal disposal of waste, what was the budget amount initially allocated under the Act on Special Measures concerning Removal of Environmental Problems Caused by Specified Industrial Wastes, and what was the amount actually needed to respond to illegal waste disposal? What measures are being planned to secure funds to respond to illegal disposal, based on those figures?

b	Are there any plans to strengthen and clarify the duties of business operators discharging waste, to introduce a system in which the industry as a whole would reimburse the funds to counteract illegal disposal, or to introduce a mandatory insurance for waste treatment operators?
c	Are there any plans to abolish the category of “stable-waste landfill”?
d	What concrete requirements for business operators and others will be created or strengthened in order to reduce waste disposal, and to limit or control the use of hazardous substances?
e	Are there any plans to require manufacturers of certain products to collect these products free of charge at the time of disposal and reuse them?

J. Conservation of Water Quality

J.1 Background

220. Hazardous substances from golf courses, waste disposal sites and other places flow into water sources such as rivers, while trichloroethylene used in high technology industry facilities and dry cleaning is polluting the groundwater. Recently, chloronitrofen (CNP) used in herbicides has been suspected of causing gallbladder cancer, and there is concern that health damage from water pollution is becoming a reality.

221. The water quality of tap water from dams and estuary barrages is often worse than that from natural sources. However, construction plans of dams and estuary barrages are based on unreasonably overestimated demand forecasts. ignoring population and economic trends. For example, the designs of the Nagaragawa Estuary Barrage and the Shitara Dam are based on the premise that the population and economy will continue to grow, even though in Japan the population has already started to decline, and the economy shows no particular sign of growth.

222. The water quality of bodies of water for public use, such as rivers, is low (approximately 80% in rivers), as assessed by the rate of compliance with the biochemical oxygen demand (BOD) (or chemical oxygen demand, COD) tests, which are major indices on water quality. The improvement of water quality has not progressed. One of the major reasons for this is the domestic wastewater discharged through daily activities such as cooking, washing and bathing. However, the improvement of the sewerage system as a countermeasure for domestic wastewater has made little progress, despite the huge investment (over 4 trillion yen annually).

J.2 Proposed Questions for List of Issues

a	Are there any plans to introduce restrictions on construction of facilities such as golf courses and waste disposal sites in water source areas?
b	How is the trend of population decrease considered during review of plans regarding constructions of dams or estuary barrages?

c	What is the volume of sewage treated in combination septic tanks, single-purpose septic tanks (not using sewers) and their proportional use in treated sewage as a whole in Japan and in each prefecture? How have these volumes and proportions changed from 1990 to the present?
d	What are the quantitative targets, and the time frame for achieving those targets, for sewage treatment using the above methods?

K. Protection of Natural Environment

K.1 Background

223. Environmental rights or the right to enjoy the natural environment have not yet been recognized as a right of the people in the courts, substantive law or administrative procedures in Japan. There are still no prospects of halting development plans which will destroy the environment of important wetlands and their surrounding areas, such as the reclamation works in Awase Tideland and Isahaya Bay.

224. More than 50 years have passed since the official recognition of Minamata Disease, but there are still no prospects of provision of full relief for all damage caused. The draft bill prepared by the Government avoids placing responsibility on the State, placing it instead on Chisso Co., Ltd., the company that caused the incident. Therefore there is a concern that there may be many victims who will be unable to receive any aid if the company ceases to exist.

K.2 Proposed Questions for List of Issues

a	On October 15, 2009, the Naha Branch of the Fukuoka Court of Appeals upheld the decision of the Naha District Court to order a ban on all future public spending by Okinawa City and Prefecture related to the Awase Tideland Reclamation Project and the Eastern Bay Area Development Project in Okinawa City. The Appeals Court forbade all future spending after the finalization of the judgment, except for research expenses. Neither of the parties appealed, and the judgment became final. What is the Government's view on the facts that despite this judgment, Okinawa Prefecture and City continue to pay expenditures, and that development works have restarted on October 14, 2011?
b	Does the Government intend to halt the reclamation work on Awase Tideland?
c	On December 6, 2010, the Fukuoka Court of Appeals, dismissing the Government's appeal, upheld the Saga District Court decision to order the Government to open the southern and northern tide gates in the sea dikes constructed as part of the Isahaya Bay Reclamation Project within 3 years of the finalization of the judgment, and to keep them open for the following 5 years. The Government did not appeal, and the judgment became final. When, and using what method, does the Government plan to open the tide gates?
d	What relief measures are being considered for the victims of Minamata Disease who have not yet been officially recognized as sufferers? In particular, what measures does the Government

plan to take in the case that Chisso Co., Ltd., ceases to exist?

L. Public Participation Procedures for the Protection of Natural Environment

L.1 Background

225. The Environmental Impact Assessment Act was partially amended on April 22, 2011. However, even after the amendment, the provisions in the preparation of the draft Environmental Impact statement (Article 14 paragraph 1 (7) b) or the statement itself (Article 21 paragraph 2 (1)) require only the inclusion of "measures for protecting the environment", and no proposals regarding alternative measures. Moreover, the procedures regarding the "scoping document", which defines the scope of the impact assessment, do not even require the inclusion of "measures for protecting the environment" (Article 5) or other provisions that may provide a basis for consideration of alternative measures. Therefore, regarding public works projects that may cause environmental destruction, such as those mentioned in the previous section on the protection of natural environment, there are no opportunities for the public to be informed and to discuss sufficient alternatives.

226. Construction of radioactive waste disposal facilities, and projects related to capture and storage of carbon dioxide are not within the scope of the current Act, but the risks of environmental destruction from these projects are high.

227. In order to ensure the credibility and effectiveness of post-project surveys, thorough disclosure of information, accountability, as well as revision and complaint procedures are necessary, in addition to the establishment of procedures such as those for protection of due process for public involvement or supervision by independent organs. Also, there is a need to improve procedures to enable implementation of corrective measures such as suspension orders or restoration orders even after the start of the project, if the results of the post-project survey show an error in the environmental impact assessment, including errors in the implementation of measures for protecting the environment.

228. Further, under the current procedures for legal action in environmental administrative cases, despite the broadening of the legal standing in the text of the law after the amendment of Article 9 of the Administrative Case Litigation Act, there have been many cases in which judicial control could not be exercised because the plaintiff's claims were dismissed for lack of standing. An example can be found in the judgment of the Tokyo District Court on May 29, 2008 (the so-called "Mitsui Sports Ground Environment Case").

L.2 Proposed Questions for List of Issues

a	Are there any plans to legally require the preparation and publishing of alternative proposals in the environmental impact assessment procedures? What are the reasons for (not) requiring

such measures?

b Are there any plans to include construction of waste disposal facilities or projects related to capture and storage of carbon dioxide within the scope of the environmental impact assessment procedures? What are the reasons for (not) doing so?

c What plans exist to improve provisions to increase thoroughness of information disclosure and accountability, to protect the due process for public participation including communication on revisions and complaints, and to enable supervision by independent organs in the post-project survey procedures in the environmental impact assessment process? How does the Government plan to create a system to enable implementation of corrective measures even after the start of the project if the results of the post-project survey show an error in the environment impact assessment?

d Are there any plans to amend the draft bill to allow group action by environmental organizations? If so, please explain the outline of the bill.

M. Urban Environment

M.1 Background

229. Currently Japanese cities and roads give priority to cars, and are not necessarily appropriate for use by pedestrians, especially children, the elderly and persons with disabilities. There number of traffic accidents is high.

230. Unlike Europe, Government support for public transport is lacking in Japan, and as a result, particularly in regions other than the three major urban areas, the rate of automobile use among all means of transportation has increased from 40.5% (1987) to 56.4% (2005) on weekdays, 52.4% (1987) to 72.6% (2005) on weekends and holidays. Automobile use is becoming excessive. Further, as a result, elderly people who live outside large urban areas and who have difficulties driving often face problems in their daily lives, such as being unable to go shopping.

M.2 Proposed Questions for List of Issues

a How does the Government plan to reform urban planning and set criteria for regulations, taking into consideration people such as children, the elderly and persons with disabilities?

b Are there any plans to set concrete quantitative targets regarding the proportional use of public transport in transportation in general, in order to develop public transportation?

Articles 13 & 14 - Right to Education

Article 13

1. *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
2. *The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
   - *(a) Primary education shall be compulsory and available free to all;*
   - *(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
   - *(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
   - *(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
   - *(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*
3. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*

No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a

detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

A. Education for Children with Disabilities

A.1 Background

231. There existed a common understanding in Japan that "parents of a child with disabilities do not need to bother to provide compulsory education to their child" and thus school admission was "legally postponed". Educational opportunities for children with disabilities did not exist. After compulsory entry to specialized schools for children with disabilities was put into place, the educational system was changed to ensure educational opportunities for such children. However, as a result of this system, children are continuously deprived of opportunities to receive education at their local schools with other children of the same age.

232. Internationally, the fundamental principle of education for children with disabilities is shifting from "integration" to "inclusion". The United Nations Convention on the Rights of the Persons with Disabilities is also based on this principle.

233. The Government of Japan has revised the names of "Schools for Visually-impaired Children", "Schools for Hearing-Impaired Children" and "Schools for Children with Disabilities", combining them into a single name, "Schools for Special Needs Education". However, the specialized school system still remains as a measure to meet the demands of special education, and it does not incorporate the concept of "inclusion" of local children.

234. Furthermore, the right of choice should be provided to parents, as some parents of children with disabilities prefer to educate their children at Schools for Special Needs Education, while others prefer to educate their children at their local schools among other local children.

A.2 Questions to be listed in the List of Issues

a	What policies are planned to set prerequisite conditions for ensuring opportunities for children with disabilities to receive education with local children?
b	What policies are being considered to ensure that parents of children with disabilities have the right to choose between educating their child at a School for Special Needs Education or at their local school together with other local children? Further, what policies are being considered to set prerequisite conditions for this?

B. Right to Education for Children without Japanese Nationality, and Children with Roots Outside Japan

B.1 Background

235. The right to compulsory education is extended to children without Japanese nationality. However, it is often not met in reality, as school admission notices are not sent if children or their families have not completed alien registration for reasons such as non-acquisition of legal residential status.

236. To ensure class participation of children without sufficient Japanese language ability, extra Japanese language classes are required in addition to official classes. Provisions of such measures are entrusted to local Governments, and there is no national policy.

237. Some children without Japanese nationality and children with roots outside Japan wish to study the language and culture of their root country or region while attending Japanese schools. Such learning opportunities are not provided under the current educational system.

238. On the other hand, ethnic schools such as Korean schools are subject to discriminatory treatments compared to Japanese schools, as they are not considered to be included in the schools defined under Article 1 of the Basic Education Law. In recent years, graduates of Korean schools have finally become permitted to receive the qualification necessary to take entrance exams to Japanese universities, including national university entrance exams, but ethnic schools are yet to be given Government subsidies or tax incentives relating to donations, which all Japanese schools enjoy.

239. Concerns over this issue have been repeatedly expressed in the Concluding Observations of the Human Rights Committee,[68] the Committee on the Elimination of Racial Discrimination[69] and the Committee on the Rights of the Child.[70]

B.2 Proposed Questions for List of Issues

a	Regarding children and students without Japanese nationality, please provide the number of children and students who have reached school age in Japan and the number who are actually registered in compulsory education.
b	How does the Government collect information on the existence of children who are not registered as aliens due to a lack of legal residential status for themselves or their families? Please explain what measures are being taken to ensure that such children also enjoy the right to education.
c	What measures are being implemented to ensure class participation of students who do not have sufficient Japanese ability? Please explain separately the measures taken for children with Japanese nationality and those for children without Japanese nationality.
d	What measures are being taken to ensure opportunities for students without Japanese nationality or students with roots outside Japan to study the language or culture of their root country or region?
e	Please provide information about the discriminatory treatment of ethnic schools for North and

South Koreans (equivalent to high school) compared to Japanese schools regarding qualification for university entrance exams, provision of Government subsidies and tax incentives related to donations.

Special Report – Great East Japan Earthquake and Japan's Nuclear Energy Policy

A. Background of the Special Report

A.1 Concluding Observations of the Committee (2001)

240. The Concluding Observations of the Committee on Economic, Social and Cultural Rights (24 September, 2001) raised "C. Principal subjects of concern" on the safety regulation of Japan's nuclear energy facilities as follows:
"22. The Committee is concerned about reported incidents in nuclear power stations and the lack of transparency and disclosure of necessary information regarding the safety of such installations, and also the lack of advance nationwide and community preparation for the prevention and handling of nuclear accidents."

241. Further to the above, the Committee made the following recommendations and requests to the Government of Japan in "E. Suggestions and recommendations":
"49. The Committee recommends increased transparency and disclosure to the population concerned of all necessary information, on issues relating to the safety of nuclear power installations, and further urges the State Party to step up its preparation of plans for the prevention of, and early reaction to, nuclear accidents."

A.2 Third Periodic Report by the Government of Japan

242. The Government of Japan responded to the Concluding Observations of the Committee in its "Third Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (December 2009)" as follows:[71]

(Transparency of information, safety)
"To obtain the understanding of citizens and residents of areas in which nuclear power installations are located, the Government recognizes that it is important to give them full explanations and to hear their opinions concerning the safety of nuclear power.
The Government has used various opportunities and the media to make appropriate disclosures of information concerning the safety of nuclear power.
The Nuclear and Industrial Safety Agency of the Ministry of Economy, Trade and Industry has assigned local public-relations officers for nuclear power safety to key areas of nuclear power installations. They explain the safety regulations governing nuclear power to local public entities, assemblies, and residents in the areas of nuclear power installations, and work to strengthen the systems of information disclosure by actively producing and distributing pamphlets. The Government will continue to do its utmost to enhance the understanding among the public of nuclear power safety regulations, and intends to instruct the operators of

nuclear power installations to ensure that they should disclose information and give clear explanations to outsiders about safety."

(Preparation of plans)

"The Basic Disaster Management Plan, which is based on the Disaster Countermeasures Basic Act, Japan's fundamental law concerning disasters, contains a section on dealing with accidents at nuclear power installations, which prescribes, as a basis for tackling nuclear-power-related accidents, the actions that need to be taken to prevent the occurrence and escalation of accidents and to recover from them.

Based on the Basic Disaster Management Plan, relevant ministries and agencies have formulated Disaster Management Operating Plans, while prefectures and municipalities have produced Local Disaster Management Plans. These plans place the affairs under the jurisdiction of relevant ministries and agencies and specify the actions to be taken within the prefectures and municipalities concerned.

Pursuant to the Act on Special Measures for Nuclear Disasters, operators of nuclear power installations have formulated a Disaster Management Operating Plan for each installation, which prescribes the action to be taken to prevent nuclear-power-related accidents, respond to emergencies, and deal with the aftermath of nuclear-power-related accidents."

243. However, the Fukushima Daiichi Nuclear Power Plant incident caused by the Great East Japan Earthquake in March 2011 demonstrated that the measures taken by the Government of Japan were utterly insufficient in all aspects, from nuclear energy safety regulations, prevention of accidents, and information disclosure to special measures concerning nuclear emergency. The concerns of the Committee became reality.

A.3 Great East Japan Earthquake and Fukushima Daiichi Nuclear Power Plant Incident

244. On March 11, 2011 at 14:46 (Japan time), a magnitude 9.0 earthquake occurred off the coast of Sanriku in the Tohoku region (now referred to as the Great East Japan Earthquake). After the earthquake, seven waves of tsunami hit the Tohoku region, flooding an area of approximately 561km^2.

As of November 2011, the total number of deaths and missing persons caused by the earthquake and tsunami is approximately 19,500.

245. On the Pacific Coast of the Tohoku region, there are a total of 15 nuclear power reactors including Fukushima Daiichi Nuclear Power Plant (6 reactors) operated by Tokyo Electronic Power Company.

At Rokkasho Village in Aomori Prefecture, there is a reprocessing plant, a uranium enrichment factory, a high level radioactive waste storage facility and a low level radioactive waste storage facility.

At the Fukushima Daiichi Nuclear Power Units 1-4, off-site power sources were lost due to the earthquake and the emergency diesel-generator was lost due to the tsunami. These losses

led to a lack of all power sources and to failure in the cooling system of the nuclear power reactors and storage pools for spent nuclear fuel. Radioactive substances were released into the environment.

(a) At the first reactor, on March 11, the water level of the nuclear power reactor declined. Nuclear fuel was exposed to air and went into meltdown. Next, most of the nuclear fuel melted and fell to the bottom of the pressure vessel. It is thought that molten fuel created holes on the bottom of the pressure vessel, and then leaked through those holes into the reactor container. On March 12, an attempt was made to vent gas and steam to lower the pressure inside reactor container, but a hydrogen gas explosion occurred at the reactor building and the reactor facility was destroyed.

(b) Pressure inside the reactor container also rose at the second reactor. On March 13, an attempt to vent gas and steam was initiated, but on March 14, the water level of the nuclear power reactor declined and nuclear fuel was exposed, which led to meltdown. It is thought that an explosion occurred near the suppression chamber on March 15. Most of the nuclear fuel melted and fell to the bottom of the pressure vessel. The bottom part of the pressure vessel was damaged by molten fuel, and it is thought that a some of the molten fuel fell further to the bottom of reactor container.

(c) Melting of nuclear fuel also began at the third reactor on March 13 after the water level of nuclear power reactor fell and the nuclear fuel was exposed. Over March 13 and 14, several attempts to vent air and gas were made, but on March 14, most of the nuclear fuel fell to the bottom of pressure vessel. A hydrogen gas explosion occurred at the reactor building and reactor facilities were damaged. It is thought that the bottom part of the pressure vessel was damaged, and some of the molten fuel fell further to the bottom part of the reactor container.

(d) The fourth reactor was undergoing a routine inspection and not in use at the time of the tsunami, but the water temperature of the storage pool for spent nuclear fuel escalated. At 6 a.m. on March 15, a hydrogen gas explosion occurred at the reactor building, and the reactor facility was damaged.

(e) Water was poured into the Fukushima Daiichi Nuclear Power Units 1-3, but both pressure vessels and reactor containers were damaged, and at present large quantities of radiation-contaminated water continue to leak and are being stored on site. The Fukushima Daiichi Nuclear Power Units 1-4 are still being cooled using the circulation and injection system of cooling water.

246. According to the June 2011 press release of the Nuclear and Industrial Safety Agency, the total amount of radioactive materials released into the air by the Fukushima Daiichi Nuclear Power Plant incident is estimated at 770,000 terabecquerels.

According to the October 2011 press release of the Japan Atomic Energy Agency, the estimated total amount of radiation released by the Fukushima Daiichi Nuclear Power Plant incident into the sea, including radiation that fell from the air, was 15 quadrillion becquerels.

The Fukushima Daiichi Nuclear Power Plant incident is considered as “Level 7 (major accident)”, the most serious level, on the International Nuclear Events Scale (INES).

247. The Government of Japan established an evacuation zone within 20 km of Fukushima Daiichi Nuclear Power Plant and prohibited entry into the area. The Government also designated areas outside the 20 km zone where exposure to radiation is estimated to be more than 20 millisieverts per year as planned evacuation zones, and instructed residents to evacuate.
The total area of evacuation and planned evacuation areas is approximately 1,100 km2. Approximately 85,000 residents have been displaced from their homes under the evacuation order by the Government. Even in areas where the Government has not instructed evacuation, many residents have voluntarily evacuated to avoid exposure to radiation.

B. Livelihood of Victims

B.1 Background

248. After the massive seismic movement and tsunami of the Great East Japan Earthquake, many buildings were either destroyed or swept away. Many people lost their families, and livelihood environments such as homes, workplaces and schools. Further, the Fukushima Daiichi Nuclear Power Plant incident forced people to evacuate their hometowns.
Provision of food, water and other necessary items to those affected was not sufficient. Many issues require attention such as livelihood assistance and employment referral for those who have lost their jobs, and interruption of school classes. There is also the question of whether evacuees fleeing from radioactive contamination could return home. Issues that need to be addressed include protection of the health of women and the vulnerable during emergencies, and insufficient care of the elderly.

249. Those who were forced to evacuate as a consequence of the Great East Japan Earthquake and the Fukushima Daiichi Nuclear Power Plant incident fall under the category of “internally displaced persons” defined under the “Guiding Principles on Internal Displacement” as persons who have been obliged to leave their homes as a result of or in order to avoid the effects of natural or human-made disasters.
Principle 11 stipulates internally displaced persons’ rights to be protected against outrages upon personal dignity such as gender-based violence.
Principle 18 stipulates internally displaced persons’ rights to adequate standards of living. It requests the authorities in charge to assure adequate food, drinking water, basic shelter and housing, clothing, medical services and sanitation facilities. It also requests that special efforts to be made to ensure full participation of women in planning and distribution of these basic supplies.
Principles 3 and 19 stipulate the rights of children, women, persons with disabilities and the elderly to receive treatment and services that meet their special needs.

250. In the Committee's Concluding Observation 55 in response to the Second Periodic Report of the Government of Japan, the Committee touched upon the issue of the victims of the Great Hanshin-Awaji Earthquake and recommended that "the State Party, in line with its obligations under Article 11 of the Covenant, speedily take effective measures to assist poorer earthquake victims in meeting their financial obligations to public housing funds or banks, undertaken to reconstruct their destroyed houses, in order to help them avoid having to sell their properties to meet continuing mortgage payments".

B.2 Proposed Questions for List of Issues

(a) Please provide the number of deaths, missing persons, injured persons and damaged houses caused by the Great East Japan Earthquake for each prefecture.

(b) What are the Government's estimates of numbers of households and people that were evacuated from their homes due to the Great East Japan Earthquake, tsunami and nuclear plant incident?

(c) Where did the evacuees of (a) and (b) evacuate to? Please provide information on evacuation centers such as schools and community centers, houses of relatives and acquaintances, and other places. Please provide this information for each prefecture.

(d) To what extent were food and water distributed to those evacuated at schools and community centers? Please provide specific information.

(e) Were food and water provided to those victims who stayed inside their homes? How many people were provided with food and water, and to what extent?

(f) How many people are still living in evacuation centers and temporary housing as of now? How is livelihood support being provided to the evacuees? Please provide specific information such as food and cash amounts for each prefecture.

(g) Many evacuation centers are now closed. How is livelihood support being provided to those who have left evacuation centers? Please indicate the number of recipients and the content of the support services.

(h) How many people have lost their jobs because of the earthquake and the nuclear plant incident? Please provide information categorized by industrial sectors such as agriculture, fisheries and manufacturing. Please also provide information separately for self-employed and employed persons. How are livelihood support and employment referral services being provided to the unemployed? Please indicate the number of recipients and the content of the support services.

(i) What kind of measures are being taken on the repayment of loans to public housing funds and banks to assist victims of the earthquake and nuclear plant incident who are forced to rebuild their homes, or build new homes in places where they have migrated?

(j) Please provide the number of children, school pupils and college students who are no longer able to receive education at the schools where they studied before the earthquake and the nuclear plant incident. Of those children, how many are now able to receive education by

taking measures such as by changing their place of education?

(k) Will the evacuees be able to return to radiation contaminated communities in future and resume their daily lives? How would the legal limit of habitual radioactive contamination be decided? What kind of legal and other measures will be in place to stop new residences from being built in contaminated areas where the contamination level exceeds the legal limit of habitual radioactive contamination?

(l) For people seeking refuge, it is necessary to provide sanitary items, ensure women-only toilets, ensure privacy, prevent sexual violence, assist childbirth and support persons with illness and disabilities. Women and children in the disaster affected areas live under fear of sexual crimes, domestic violence and abuse. It is difficult for women to return to their workplaces, after even temporary evacuation, as women tend to be burdened by various care responsibilities?

- What measures to ensure the health of women during disasters are specified in policy?
- How is gender equality ensured during disasters?
- Please report on the number of sexual crimes against victims, consultations on domestic violence, temporary protection, consultations on child abuse, and the male-female ratio of children protected by the child consultation center.

(m) Please explain what measures are being taken to provide daily necessities and psychological care to elderly persons who are living alone after the Great East Japan Earthquake.

C. Measures on the Fukushima Daiichi Nuclear Power Plant Incident

C.1 Monitoring and information disclosure on the status of radioactive contamination [related to the Covenant Article 12-2(b)]

a Background

251. Radioactive contamination of air, soil, river and ocean from the Fukushima Daiichi Nuclear Power Plant incident spread over a wide area, and there are concerns for its long-term effects.

252. To decrease public exposure to radiation, the Government of Japan must accurately monitor the proliferation of radiation, conditions of contamination and future estimates and disclose all such information.

However, the monitoring system of the area around the nuclear power plant was not sufficient during the Fukushima Daiichi Nuclear Power Plant incident.Even now, radioactive contamination of the environment is not accurately understood. Ocean and rivers are being not comprehensively monitored.

253. During the Fukushima Daiichi Nuclear Power Plant incident, estimated levels of radioactive contamination calculated by the System for Prediction of Environment Emergency Dose Information Network System (SPEEDI) were not promptly released. Criticism has argued that

such delay increased public exposure to radiation.

254. To decrease public exposure to radiation, measurement and monitoring of the status of radioactive contamination of the environment over the long term must be conducted, and accurate information on radioactive contamination must be disclosed.

b Proposed Questions for List of Issues

(a) Please provide specific data on the radioactive contamination of air, soil (not the air dose, but actual contamination of soil), ocean and rivers by the Fukushima Daiichi Nuclear Power Plant. Please provide data for each region.

(b) Are there any 24/7 monitoring system in place to comprehensively and continuously monitor radioactive contamination of air, soil, ocean and rivers by the Fukushima Daiichi Nuclear Power Plant?
If so, what kind of plans (including area of monitoring) and means are being implemented?
If not, what kind of plans (including area of monitoring) and means does the Government intend to prepare?
Further, how are the results of monitoring being disclosed to the public?

(c) Are there any plans to increase monitoring points in the cities, towns and villages near each nuclear power plant facility in future?

(d) How does the Government plan to disclose information on estimated radioactive contamination during future nuclear emergencies, including the utilization of the System for Prediction of Environment Emergency Dose Information Network System (SPEEDI)?

(e) We believe that estimates by SPEEDI should be disclosed not only during emergencies, but also before emergencies occur. Please indicate the Government's position.

C.2 Health checks and health management of the public [related to the Covenant Article 9, Article 12-2(b)]

a Background

255. Radioactive contamination from the Fukushima Daiichi Nuclear Power Plant incident spread across a wide area, and it is highly likely that the effect will continue in the long term.
As regards exposure to radiation, epidemiologic health checks, health monitoring of the public (especially for children, who are most at risk of being affected by the radiation) and health management are necessary from the long-term perspective and considering delayed effects.
According to the June 2011 report of the Fact Finding Mission of the International Atomic Energy Agency (IAEA), follow-up programs on public exposure and health monitoring are suggested to be beneficial.[72]

b Proposed Questions for List of Issues

(a) After the Fukushima Daiichi Nuclear Power Plant incident, has the Government collected data on how many people were exposed to radiation, and their radiation dose?
If so, please provide specific data. Please also clarify how the data were collected and how radiation dose was measured.
How is exposure information for each individual provided to the individuals?
Is internal exposure dose measured?

(b) How does the Government intend to collect data on individual exposure dose of the radiation from the Fukushima Daiichi Nuclear Power Plant incident?

(c) How are children's exposure dose measured and health monitoring conducted on children (children under 18 years old)?

(d) The Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Health, Labor and Welfare released an administrative circular entitled "Studies and research conducted in the disaster affected areas", addressed to the relevant experimental research institutions and universities. Request was made to the concerned institutions to fully coordinate with local Government offices in the disaster affected areas to avoid duplication of research. This was a de facto request to refrain from conducting health research other than health checks conducted by the Fukushima Prefecture. This constricts independent academic, scientific and third party research, and such restriction is not favorable for ensuring unbiased research and also from an academic point of view. There would be an undeniable risk of the Government controlling information, and limitation on the types of available public health check.
Does the Government have any intention to retract the above administrative circular and allow health checks and epidemiologic research to be conducted by multiple institutions?

(e) What measures are being taken to accurately and promptly provide information to the public on long-term risks of exposure to radiation and methods of protection from radiation?

(f) Does the Government plan to manage the risks of public exposure to low levels of radiation and manage the health of its citizens over a long period of time?

(g) Does the Government plan to include blood tests and urine tests in addition to ultrasonography of thyroid gland to the health check?

(h) In cases where people wish to check their health for radiation exposure, or people receive treatment for suspected radiation-related illnesses, does the Government have any plans to take supportive measures such as absorbing the full cost of medical fees and distributing subsidies?

C.3 Health checks and health management of radiation-exposed workers [related to Covenant Article 7(b)]

a Background

256. Many workers were engaged in work which incurred radiation exposure, in order to stabilize

the incident at the Fukushima Daiichi Nuclear Power Plant.

257. On March 14, 2011, the Government increased the legal limit of radiation exposure (effective dose) of workers engaged in emergency work to stabilize the Fukushima Daiichi Nuclear Power Plant incident, from the previous level of 100 millisieverts per year to 250 millisieverts per year (On December 16 2011, the limit was reverted back to 100 millisieverts per year). However, in July 2011, the exposures of six workers were confirmed to be over the increased limit of 250 millisieverts of radiation.

258. Careless management of radiation exposure dose of workers engaged in the stabilization work has also been criticized. There are many workers whose exposure doses were not measured and for whom contact information were lost.

b Proposed Questions for List of Issues

(a) What measures are being taken to provide information to workers on long-term risks of exposure and methods of protection in an accurate and timely manner?
(b) Is the Government willing to manage the long-term health of radiation-exposed workers?
(c) In cases where radiation-exposed workers wish to check their health for radiation exposure or receive treatment for suspected radiation related illnesses, will the Government take any supportive measures such as absorbing the full cost of medical fees and distributing subsidies?
(d) How many radiation-exposed workers have not been checked for radiation dose and how many have missing contact information? Is the Government willing to follow up on these workers? What measures will be taken?

C.4 Discrimination and prejudice against evacuees [related to Covenant Article 2-2]

a Background

259. Children who were forced to evacuate because of the Fukushima Daiichi Nuclear Power Plant incident have been bullied at the places of evacuation, and evacuees were refused hotel accommodation. Cases in which evacuees were subject to groundless prejudice and discrimination have been broadcasted in the media.

b Proposed Questions for List of Issues

(a) What is the Government's understanding of the reality of discrimination and bullying against evacuees from the Fukushima Daiichi Nuclear Power Plant incident? Are there any specific measures being taken at places of education or in society to prevent such bullying against children?
(b) What measures are being taken by the Government to redress discrimination and prejudice against evacuees from the Fukushima Daiichi Nuclear Power Plant incident?

C.5 Decontamination [Covenant Article 11, Article 12, 2b)]

a Background

260. Large areas of land (soil), forest, river and ocean were contaminated by radioactive materials released from the Fukushima Daiichi Nuclear Plant.

261. The Act on Special Measures to Process Radioactive Pollutant has come into effect, and responsibilities of the Government and local Government offices have been clarified in treating and decontaminating radioactive pollutant from Fukushima Daiichi Nuclear Power Plant.

On the other hand, the effectiveness of decontamination and feasibility of the decontamination process are questionable. Proliferation of environmental contamination as a result of decontamination is also an issue of concern.

b Proposed Questions for List of Issues

(a) What is the target radiation level at which decontamination process is considered complete? If decontamination is completed, can the evacuated residents return? What is the Government's position on the effects of decontamination?

(b) Are there areas where decontamination is impossible or the effectiveness of decontamination will be limited? If so, please specify where such areas are.

(c) Are there any areas where the return of evacuated residents would still be impossible after decontamination? If so, please specify what areas.

(d) What is the Government's position on the choice between decontamination (return of the internally displaced) and ensuring new places of residence for the evacuees?

(e) How much land is estimated to be subject to decontamination? Please provide information by area types such as urban district, agricultural land, forest, etc.

(f) How much soil is estimated to be subject to decontamination? Please provide information by area types such as urban district, agricultural land, forest, etc.

(g) How much volume of forest materials such as trees and fallen leaves are estimated to be subject to decontamination?

(h) What specific means will be used to decontaminate urban districts? Is decontamination possible?

(i) What specific means and targets will be used to decontaminate educational facilities such as schools and nurseries or parks where children often play?

(j) What specific means will be used to decontaminate agricultural lands? Is decontamination possible?

(k) What specific means will be used to decontaminate forests? Is decontamination possible?

(l) What is the Government's position on decontamination measures for ocean and rivers?

(m) What is the Government's long-term target for countermeasures for incident-related radioactive contamination of the environment within the special areas for decontamination?

(n) What is the roadmap of decontamination within the special area for decontamination and areas for which decontamination plans are formulated?

(o) Further contamination risks remain after decontamination. What is the Government's position on long-term monitoring of the decontaminated areas?

(p) What is the Government's position on selection procedure and process of interim storage space, temporary storage facilities and final disposal sites for removed contaminated soil and contaminated waste?

(q) What is the Government's position on information disclosure, inclusion of residents' opinions and participation of residents in the processes of deciding local Governments' decontamination implementation plans, and selecting interim storage space, temporary storage facilities and final disposal sites for removed contaminated soil and contaminated waste?

(r) How would the effectiveness of decontamination be verified?

(s) How much are the estimated amounts of mud, agricultural products, debris and other wastes that were contaminated by radioactive materials from the incident? How does the Government intend to dispose of such wastes?

(t) How will public be kept informed on the fact that children and pregnant women, who are more prone to radiation, should not engage in activities such as cleaning pools and ditches or mowing grass, which may involve exposure risk?

(u) What anti-exposure measures are being taken for workers engaged in decontamination? If adult citizens need to be engaged in activities that may have risks of radiation exposure such as cleaning pools and ditches or mowing grass, are there any plans to provide protective masks to residents and workers for free? Will there be any training on specific protective measures?

C.6 Compensation for damage

a Background

262. Compensation for damage caused by the Fukushima Daiichi Nuclear Power Plant incident is stipulated in the Act on Compensation for Nuclear Damage. An interim guideline on the scope of compensation has been released by the Dispute Reconciliation Committee for Nuclear Damage Compensation. Compensation for damage not stated in the guideline should also be adequately paid.

b Proposed Questions for List of Issues

(a) Is the Government planning any measures to compensate for damage not stated in the interim guideline of the Dispute Reconciliation Committee for Nuclear Damage Compensation? If so,

what are the measures?

(b) Communities have been forced to migrate as a result of the Fukushima Daiichi Nuclear Power Plant incident and it is likely that they may not return for a long time. Is the Government prepared to include community reconstruction expenses in the compensation?

(c) What measures are being considered to rebuild communities?

(d) What measures are being considered to include the opinions of residents and ensure participation of residents in the community reconstruction process?

C.7 Prevention of further contamination of the environment [Covenant Article 12-2(b)]

a Background

263. Radioactive materials released from the Fukushima Daiichi Nuclear Power Plant incident continue to leak into the ocean, and there are risks of groundwater contamination.

b Proposed Questions for List of Issues

(a) What measures are being considered to prevent further contamination of ocean and groundwater?

(b) Are there any plans to establish an underground shield wall at the Fukushima Daiichi Nuclear Power Plant? If so, when will it be built?

(c) Are there any plans to monitor groundwater contamination? If so, how will this be done?

C.8 Revision of nuclear emergency preventative measures

a Background

264. Lessons learned from the Fukushima Daiichi Nuclear Power Plant incident are described in the report submitted by the Government of Japan to IAEA.[73] Taking such lessons into account, revisions of nuclear emergency prevention plans are underway by the Government and local Governments of areas that host nuclear power plants.

b Proposed Questions for List of Issues

(a) How will the Government assess the adequacy of revisions of nuclear disaster prevention plans that are underway by local Governments of areas that host nuclear power plants?

(b) How will the Government provide material and economic assistance towards the local Governments' evacuation measures?

(c) How will the revisions of nuclear disaster prevention plans of local Governments of areas near nuclear power stations and those of nuclear energy operators be considered in permitting and operating (including resumption of operation) existing nuclear power reactors?

C.9 Revision of safety regulations

a Background

265. The incident at the Fukushima Daiichi Nuclear Power Plant made it evident that previous safety inspection and safety regulations at nuclear power facilities were insufficient. There is a pressing need to make drastic reforms to the safety inspection guidelines and regulations, as well as the regulatory authority.

The June 2011 report of the IAEA Fact Finding Mission concluded that there were insufficient defense-in-depth provisions for tsunami hazards and severe accident management provisions were not adequate to cope with multiple plant failures.[74] It also concluded that regulatory requirements and guidelines should be updated to reflect the experience and data obtained during the Fukushima Daiichi Nuclear Power Plant incident.[75]

b Proposed Questions for List of Issues

(a) Not only do emergency safety measures against tsunami and provision of emergency power sources need to be revised, but the safety inspection guidelines of nuclear power facilities also need to be made more stringent. How does the Government intend to revise these?

(b) Current guidelines only consider single plant failure. How will this be revised?

(c) How will countermeasures for severe accidents at nuclear power facilities be revised?

(d) How will countermeasures for severe accidents involving multiple plant failures be revised?

(e) How will the Government reassess existing nuclear power facilities, based on new experiences and data as well as safety assessment guidelines?

Using the lessons learned from the Fukushima Daiichi Nuclear Power Plant incident, guidelines on earthquake-proof safety measures, multiple failures, severe accident measures and the use of old devices should be revised. Measures will be enhanced and retrofitted (to comply with safety regulations provided in the new guideline), which should be legally obligatory in the near future.

Operation of existing nuclear power facilities should not be permitted unless compliance with the new guidelines is met.

(f) How will the regulatory authorities be restructured? Please provide information on how to completely separate responsibilities of promotion and regulation.

(g) How will committee members of regulatory authorities be selected?

(h) How will information disclosure and participation of citizens be ensured in formulating safety regulation standards?

(i) How will information disclosure and participation of citizens be ensured in the process of safety regulation and safety inspection? Are there any plans to create a law to ensure the participation of citizens in the planning process?

(j) How will the participation of citizens be ensured in the decision-making process on the operation, and resumption of operation, of nuclear power plant facilities? Are there any plans

to stipulate the participation of residents in legislation?

(k) Why did the Government not incorporate the target of "30% by 2020" aimed at by the Third Basic plan for Gender Equality in the selection of female committee members for Dispute Reconciliation Committee for Nuclear Damage Compensation of the Reconstruction Design Council in Response to the Great East Japan Earthquake and Investigation Committee on the Accident at the Fukushima Daiichi Nuclear Power Plant of Tokyo Electricity Power Company?

What measures are being taken to make the Cabinet members and Ministries aware of the goal to achieve 30% by 2020 to increase participation of women in institutions that make important proposals on disaster prevention, safety regulation, prevention of recurrence of disaster, and safety and security of the population? What similar goals are requested of local Governments after the March 11 earthquake?

C.10 Shift in nuclear energy policy

a Background

266. The Fukushima Daiichi Nuclear Power Plant incident demonstrated that safety of nuclear power plants cannot be ensured against natural phenomenon, especially against the earthquakes and tsunami that frequently occur in Japan. It also became clear that there would be serious and widespread radioactive contamination of natural environment and living conditions when an accident occurs at nuclear power plant facility.

There will be more serious consequences if reprocessing and plutonium for thermal use are further promoted.

b Proposed Questions for List of Issues

(a) How will the current energy and nuclear energy policy be revised?

(b) Are there any plans to abandon policies on reprocessing and thermal use of plutonium?

(c) Are there any plans to approve construction of new nuclear power plants?

(d) Are there any plans to abolish existing nuclear power plants?

(e) Are there any plans to immediately abolish nuclear power reactors that are antiquated through long-term operation and nuclear power reactors built in earthquake danger zones? Please indicate the roadmap to such abolishment.

(f) Please explain plans to introduce and promote renewable energy.

C.11 Export of nuclear power plants

a Background

267. The Government of Japan has proposed policies to export nuclear power plants overseas. It

has concluded a bilateral agreement on nuclear energy with Russia, Jordan, Korea and Viet Nam. Bilateral agreements between India, South Africa and Turkey are under negotiation.

However, stabilization of Fukushima Daiichi Nuclear Power Plant incident is yet to be accomplished and decontamination measures are still incomplete. The scale of contamination is immense. Prevention of nuclear emergencies, safety regulations, disaster prevention measures and measures taken after the accident were insufficient.

Export of nuclear power plants could highly violate the rights of people in the partner countries to health, hygiene and environment, as are stipulated in the International Covenant on Economic, Social and Cultural Rights.

b Proposed Questions for List of Issues

(a) Are there any plans to abandon policies on the export of nuclear power plants?

(b) Upon export of nuclear power plants, could social rights as provided under the Covenant be ensured in the partner countries?

(c) Upon export of nuclear power plants, are conditions of prevention of nuclear emergencies, safety regulation, disaster prevention measures, protection from exposure to radiation and measures after the accident being considered? Could the same security standards in Japan be applied at the overseas construction sites and maintained as a minimum standard?

(d) Upon export of nuclear power plants, are radioactive waste disposal plans and prospects of their implementation in the partner countries being taken into consideration?

(END)

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Article 176
A person who, through assault or intimidation, forcibly commits an indecent act upon a male or female of not less than thirteen years of age shall be punished by imprisonment with work for not less than 6 months but not more than 10 years. The same shall apply to a person who commits an indecent act upon a male or female under thirteen years of age.
Article 177
A person who, through assault or intimidation, forcibly commits sexual intercourse with a female of not less than thirteen years of age commits the crime of rape and shall be punished by imprisonment with work for a definite term of not less than 3 years. The same shall apply to a person who commits sexual intercourse with a female under thirteen years of age.
Article 178
(1) A person who commits an indecent act upon a male or female by taking advantage of loss of consciousness or inability to resist, or by causing a loss of consciousness or inability to resist, shall be punished in the same manner as prescribed for in Article 176.
(2) A person who commits sexual intercourse with a female by taking advantage of a loss of

consciousness or inability to resist, or by causing a loss of consciousness or inability to resist, shall be punished in the same matter as prescribed in the preceding Article.

Article 178-2

When two or more persons jointly commit the crimes prescribed under Article 177 or paragraph (2) of Article 178, they shall be punished by imprisonment with work for a definite term of not less than 4 years.

Article 179

An attempt of the crimes prescribed for in Articles 176 through the preceding Article shall be punished.

Article 180

(1) The crimes prescribed for in Articles 176 through Article 178 and attempts of the above-mentioned crimes shall be prosecuted only upon complaint.

(2) The provision of the preceding paragraph shall not apply when the crimes prescribed under Article 176, paragraph (1) of Article 178 or attempts of the above-mentioned crimes are committed jointly by two or more persons who are at the scene of crime.

Article 181

(1) A person who commits a crime prescribed under Article 176, paragraph (1) of Article 178 or an attempt of the above-mentioned crimes and thereby causes the death or injury of another shall be punished by imprisonment with work for life or for a definite term of not less than 3 years.

(2) A person who commits a crime prescribed under Article 177, paragraph (2) of Article 178 or an attempt of the above-mentioned crimes and thereby causes the death or injury of another shall be punished by imprisonment with work for life or for a definite term of not less than 5 years.

(3) A person who commits a crime prescribed for in Article 178-2 or an attempt of the above-mentioned crimes and thereby causes the death or injury of another shall be punished by imprisonment with work for life or for a definite term of not less than 6 years.

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