

Update Report on the List of Issues and Questions from  
The Committee on the Elimination of Discrimination  
against Women in Relation to the Combined Seventh and Eighth  
Periodic Reports of Japan

December 17, 2015

Japan Federation of Bar Associations

## Introduction

1. As a non-governmental organization in active consultative status with the Economic and Social Council of the United Nation, the Japan Federation of Bar Associations (the “JFBA”) submitted the report pertaining to the Combined Seventh and Eighth Periodic Reports of Japan pursuant to the Convention on the Elimination of All Forms of Discrimination against Women (the “Convention”) with regard to proposed questions and their background information that should be included in the list of issues and questions to be prepared by the pre-sessional working group (the “JFBA Report”) in March 2015, and also participated in hearings from NGOs for consideration of Japan’s periodic reports by a pre-sessional working group of the sixty-third session of the Committee on the Elimination of Discrimination against Women (the “Committee”) on July 27, 2015.
2. This report intends to provide current information on the List of Issues concerning Japan’s periodic reports which was released by the working group mentioned above on July 30, 2015, and relevant matters, and to supplement the JFBA’s previous report which was already submitted. The JFBA hopes that constructive dialogues will be held for consideration of the Combined Seventh and Eighth Periodic Reports of Japan at the sixty-third session of the Committee in order to deepen the understanding of legal and de-facto discrimination against women in Japan by referring to this report as well as the previous one and to carry the Convention into full effect by eliminating these types of discrimination as soon as possible.
3. Below are information and answers by the JFBA in accordance with the list of issues and questions (the “List of Questions”) released by the aforementioned working group enclosed in the box at the beginning of each chapter.

## Institutional framework

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| <ol style="list-style-type: none"><li>1. Please indicate the measures taken by the State party to further strengthen the national machinery for the advancement of women, including by clearly defining the mandate and responsibilities of its various components, in particular between the Minister of State for Gender Equality and Social Affairs and the Gender Equality Bureau, and enhancing coordination among them, as well as through the provision of adequate financial and human resources. Please also indicate the measures taken to establish an independent national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), whose competencies include issues relating to the equality of women and men. Please further indicate whether the Convention and the Committee’s general recommendations are being integrated into capacity-building programmes for lawmakers, judges, prosecutors and lawyers, as well as the police and other law enforcement officials.</li></ol> |
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## Section 1 National machinery for the advancement of women

4. Components of the national machinery for the advancement of women include the Headquarters for the Promotion of Gender Equality, the Council for Gender Equality and the Liaison Conference for the Promotion of Gender Equality, but the division of their roles is far from being clearly defined.

5. A position of the Minister in charge of Women's Empowerment was newly established in September 2014, but its role is not distinguished from that of the Minister of State for Gender Equality, and furthermore the same person concurrently serves as the Minister in charge of Women's Empowerment and the Minister of State for Measures for Declining Birthrate and for Gender Equality.

#### Section 2 National human rights institution<sup>31</sup>

6. The Democratic Party of Japan, which was in power at that time, approved a bill to establish a national human rights institution (a "Human Rights Commission") at a cabinet meeting in November 2012, and submitted it to the Diet, but ended in being scrapped due to the dissolution of the House of Representatives. The Liberal Democratic Party, the current ruling party, publicly pledges its intention not to allow the establishment of a Human Rights Commission.
7. Six human rights organs such as the Committee have repeatedly recommended the establishment of a national human rights institution in accordance with the principles relating to the status of national institutions (the Paris Principles), but despite the request to establish the institution made by many citizens' groups, no measures have been taken for the establishment under the current administration which publicly announces that it has no plan to establish a human rights institution.

#### Section 3 Training designed for lawmakers and those in the judiciary field<sup>32</sup>

8. The Japanese government (the "Government") seems to have notified the House of Representatives and the House of Councillors of the previous concluding observations, but no training course has been provided for lawmakers with regard to conventions and general opinions.
9. Training programs released by courts and the Ministry of Justice do not include a course pertaining to conventions and general opinions for judges and prosecutors. In addition, it is not clear what kind of training programs are given to police officers and other law-enforcement officers.
10. Since programs about conventions are essential for law-enforcement officers to carry out their duties with appropriate understanding of details of conventions, the Government should promptly develop and implement a training curriculum in relation to conventions, and should also release details of such training periodically.
11. Furthermore, there have been no training programs which are specific to the Convention and general opinions for lawyers since the consideration of the previous periodic report.

2. Please provide information on the mechanisms and measures adopted to ensure the equal participation of women in the entire drafting and adoption process for the post-2015 development agenda. <sup>33</sup>
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12. The Government took action in this regard by hosting the Millennium Development Goals (MDGs) Follow-up Meeting in Tokyo on June 2 and 3.<sup>34</sup> Later, it held exchange of opinions with the Contact

<sup>31</sup> JFBA. JFBA Report. March 19, 2015. Para.20-27.

[http://www.nichibenren.or.jp/library/ja/kokusai/humanrights\\_library/treaty/data/woman\\_report\\_7-8\\_en.pdf](http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/woman_report_7-8_en.pdf)

<sup>32</sup> JFBA. JFBA Report. Para.36-40.

<sup>33</sup> JFBA. JFBA Report. Para.230.

<sup>34</sup> Ministry of Foreign Affairs. Press release: The Millennium Development Goals (MDGs) Follow-up Meeting. June 3,

Group for an informal policy dialogue participated by concerned government officials of other countries, major international organs, research institutes, social groups composed of citizens, and private sectors, and also provided side events at the UN General Assembly and other occasions. With importance attached to the issues of health and education and the emphasis placed on the perspective of “human security,” the Government examined gender equality and the empowerment of women as one of factors to be considered at these discussions. However, there is no report that its efforts to ensure equal participation of women have been made in those processes.

13. Additionally, the Committee called upon the Government to take special measures for promotion of equal participation of women in the diplomatic field in Paragraph 42 of the previous concluding observations,<sup>35</sup> but women’s participation in the decision-making levels such as representation in the diplomatic field still remains low (women constitute 3.3% of ambassadors extraordinary and plenipotentiary and consul generals).

#### Temporary special measures

3. Please indicate the results achieved by temporary special measures that have been implemented to date and indicate whether the State party envisages adopting additional such measures to accelerate the realization of women’s substantive equality with men.<sup>36</sup>

#### Section 1 Results achieved by temporary special measures that have been implemented to date

14. In fact, the current situation of representation of women achieved by the Government’s measures falls short of the expectations. This mainly attributes to lingering perceptions of fixed gender roles that “a husband works and a wife stays at home,” stereotyped viewpoints of competence and aptitude of men and women, and various social systems and customs. In particular, lengthy working time is an impediment to men’s taking the initiative in childrearing, housework, family care, and other household duties, thereby making it hard for women to have work-life balance. The Ministry of Internal Affairs and Communications’ survey found that women in managerial positions accounted for 11.3%. No specific achievement has been made even in comparison with 10.5% female executives in 2009 in the same survey.

#### Section 2 Additional temporary special measures

15. The Act on Comprehensive and Intensive Promotion of Development of the Social Environment for Women’s Active Participation (the “Women’s Active Participation Act”) was enacted on August 28, 2015. The draft of the Fourth Basic Plan for Gender Equality, which is currently being formulated, describes that:

The Government promotes measures taken by the central and local governments, companies and other entities for enhancement of women’s active participation such as steps

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2011. [http://www.mofa.go.jp/announce/announce/2011/6/0603\\_01.html](http://www.mofa.go.jp/announce/announce/2011/6/0603_01.html)

<sup>35</sup> Committee. Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/6). August 7, 2009. Para.42.

<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW.C.JPN.CO.6.pdf>

<sup>36</sup> JFBA. JFBA Report. Para.117-127.

taken in accordance with the Women's Active Participation Act which include: understanding and analysis of the actual status of women's participation; establishment of targets for recruitment and appointment of women, elimination of gender difference in length of service and reduction in long working hours, and other matters; measures aimed for achievement of such targets; and disclosure of information on women's active participation (visualizing).

However, positive actions have not been legislated or obligated yet. Problems are also identified, including the failure to incorporate the elimination of the gender-based wage gap in the targets, and no existence of a design of schemes such as engagement of labor and management in working together on establishment of targets, analysis of results and other matters. The effectiveness is therefore doubtful.

#### Stereotypes and harmful practices

4. Please indicate whether the State party envisages adopting a comprehensive strategy to combat stereotyping in order to promote a non-patriarchal image of women, including that of disadvantaged groups of women, such as older women, women with disabilities, migrant women and women belonging to ethnic and religious minorities. Please indicate the measures taken to combat stereotypical attitudes about the roles and responsibilities of women and men in the media and to eliminate the sexualized depiction of women in advertising. Please also provide information on the incidence of gender discriminatory statements and sexist remarks made by public officers since the issuance of the previous concluding observations (CEDAW/C/JPN/CO/6) and on the measures taken to address that situation. Please also indicate the measures taken to prevent and punish verbal violence against women. Please further indicate the measures envisaged to criminalize hate speech targeting minority groups, including speeches that incite sexual assault against them.<sup>37</sup>

#### Section 1 Comprehensive strategy to combat stereotyping

16. The Government does not envisage adoption of a comprehensive strategy to combat gender-stereotyped perceptions of roles and responsibilities. The biggest obstacle to the promotion of women's active participation is gender-discriminatory practice which is strongly rooted in corporate culture in Japan, and a weak, underdeveloped antidiscrimination legal regime which should redress such practice.
17. Furthermore, the major problem is that laws were revised, or are further scheduled to be so, which results in running counter to the gender-equality policy that needs more emphasis. Specifically, the Worker Dispatching Act was amended at the 189<sup>th</sup> ordinary session of the Diet in 2015, and this amendment may pose a threat to stable employment by encouraging replacement of regular workers with dispatched workers. Despite the fact that women constitute a majority of dispatched workers, the revised act does not lead to stability of employment and lives of dispatched workers. Also, a bill for revising the Labor Standards Act relating to working hours is scheduled to be submitted with a view to elimination and deregulation of working-hour control, but this will bring about difficulty in continuing to work as a

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<sup>37</sup> JFBA. JFBA Report. Para.238-245.

regular employee to female workers, most of whom assume responsibility for the housework and childcare on account of the practice of gender-biased roles and responsibilities. Furthermore, another bill for the amendment to the National Strategic Special Zones is to be submitted for the utilization of low-waged foreign household workers as a basis of support for housework and childrearing. This will contribute to exclusion of disadvantaged groups of women, such as migrant women and women belonging to ethnic and religious minorities, from the regular employment market or even to exploitation of cheap labor. Such revisions thus go against the encouragement of women's proactive participation.

Section 2 Measures taken to combat stereotypical attitudes in the media and to eliminate the sexualized depiction of women in advertising

18. The preliminary draft of the basic outline for the formulation of the Fourth Basic Plan for Gender Equality mentions in relation to the promotion of awareness-raising and understanding through education, the media and other methods that:

The Government intends to implement public relations and awareness-raising activities for purposes of promoting understanding of importance of gender equality and elimination of stereotyped perceptions of gender roles and responsibilities, and in particular, changing attitudes of husbands and fathers, male employers, men in management and other positions of private corporations, and young women and men. Also, it encourages the media with strong appeal, inter alia, newspapers, television, the Internet, and games to use expression which reflects the perspective of gender equality through industry and other groups.

The Government, however, fails to consider vigorous introduction of measures and other schemes which exceeds such encouragement, and there is no case where a specific measure was taken individually, either.

Section 3 Gender discriminatory statements made by public officers

19. When asked about his reaction to marriage of renowned actors, the Chief Cabinet Secretary said that "I am hoping that the couple's marriage will encourage mothers to want to give birth to children and contribute to the country in that way, so please bear many children" on a television program aired by a commercial broadcasting company on September 29, 2015.
20. Asked by a reporter at a news conference later in the day whether that remark was based on the premise that women were obliged to bear children, the top government spokesman explained that was not his intention, and mentioned that:

Getting married and having children is a matter of personal freedom while it is a government's job to establish a society where people feel comfortable about having and raising children. The government's policy is to create a society where women can shine.

21. When a reporter further asked if some people thought his comments were reminiscent of Japan's wartime policy of encouraging women to bear more children to contribute to the country, he said that was completely wrong, defending his remark by mentioning that:

Since I was asked about my reaction to their marriage, I made the comment, hoping that news will cheer up everyone, and that everybody will be happy about the news because they are immensely popular in Japan, and are a big couple.

This remark was made after the pre-session was held. Please refer to Paragraph 134 of the JFBA Report with regard to discriminatory remarks by public officers up to March 2015.<sup>38</sup>

#### Section 4 Measures taken to prevent and punish verbal violence against women

22. No specific measures have been taken in this regard.

#### Section 5 Measures envisaged to criminalize hate speech

23. As of 2015, no general or special laws or ordinances have been established to regulate hate speech itself in Japan. A tort liability under the Civil Code may arise in some cases on the basis of Article 709, Article 1 (the principle of good faith and mutual trust) and Article 90 (public policy) of the Civil Code as standards for judgement with consideration given to the intent of Article 14 of the Constitution, but Japan as well as the United States are internationally known for lenient laws and regulations pertaining to hate speech.<sup>39</sup>
24. A bill for an act on promotion of measures for elimination of discrimination by reason of race, etc., which was drafted by lawmakers, was submitted to the Diet in May 2015. This bill is seen as a basic law in response to the International Convention on the Elimination of All Forms of Racial Discrimination, and incorporates hate speech as one of the acts resulting from racial discrimination and other types of discrimination which are prohibited in the bill for the act, but hate speech is not covered in the scope of criminal punishments.

#### Violence against women<sup>40</sup>

5. Please indicate whether the State party intends to amend the Criminal Code to:

- a) integrate a broader definition of sexual crimes;
- b) increase the penalty for rape; and
- c) explicitly criminalize incest and marital rape.

Please provide updated information on the steps taken to repeal the specific requirement that the victim file a complaint in order to prosecute crimes of sexual violence.

#### Section 1 Overview of amendment to the Criminal Code

25. The Ministry of Justice instituted an advisory committee for review of this issue in October 2014, and released the status of the deliberation in August 2015. Later, in October 2015, the Legislative Council, a council which was established in the Ministry of Justice, commenced examination and discussion of: stricter penalties for rape convictions (an increase in the minimum sentence from the current three years to five years); the establishment of categories of sex crimes committed by those who have actual custody

<sup>38</sup> JFBA. JFBA Report. Para.134.

<sup>39</sup> JFBA. JFBA Report. Para.215-217.

<sup>40</sup> JFBA. JFBA Report. Para.149-167.

of children; the ex officio prosecution of sex crimes; and the expansion of the requirements which constitute the crime of rape (the application to both male and female victims, and the inclusion of anal and oral sex in addition to the current requirement of vaginal sex) in response to consultation with the Legislative Council by the Minister of Justice. Yet, the process of amendment to the Penal Code in Japan requires deliberation on revision by the Legislative Council mentioned above, followed by approval of such revision at the Diet. It is thus yet to be determined whether, when, and how the Penal Code is to be revised. Furthermore, the consultation by the Minister of Justice excluded the issues which have been recommended by several human rights treaty bodies of the United Nations, including the increase in the age of sexual consent, the explicit criminalization of marital rape, and the relaxation of the requirements of assault and intimidation.

26. Although the aforementioned panel discussed the issues pointed out by the Committee, it has not reached agreement on revision relating to any of the issues.

Section 2 Integration of a broader definition of sexual crimes, in particular the crime of rape which is subject to punishment under the Criminal Code

27. Article 177 of the current Penal Code stipulates that:

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.

28. This means that a person who, (1) “through assault or intimidation,” (2) “commits sexual intercourse” (3) “with a female” is severely punished for the crime of rape (in a case that a victim is 12 years old or under, (1) is not required), so only a small fraction of sexual infringement cases are punishable as the crime of rape. In addition, the courts adopt the interpretation of assault and intimidation in (1) of the requirement that force of such assault or intimidation should be strong enough to make a victim’s resistance extremely difficult. Therefore, unless it is judged that the force of assault is strong enough to that extent, such sexual violence committed against a victim’s will is not subject to punishment. The Legislative Council does not cover the extent of assault and intimidation in the scope of the review.
29. The Legislative Council of the Ministry of Justice is currently reviewing the expansion of the requirements which constitute the crime of rape in terms of (2) and (3) mentioned above (the application to both male and female victims, and the inclusion of anal and oral sex in addition to the current requirement of vaginal sex).

Section 3 Increase of the penalty for rape

30. With regard to imprisonment with work for a definite term of not less than three years for the crime of rape, the Legislative Council is currently examining and discussing the necessity to increase the minimum sentence of the penalty with consideration given to punishment for other crimes of property or ones involving bodily harm, and the increase in the minimum sentence to five years in light of what its

interests protected by law should be like (the sexual freedom and the personal right to sexuality of a victim).

#### Section 4 Explicit criminalization of incest

31. The Penal Code does not include any provisions specific to incest, so only cases to which the crime of rape stipulated in Article 177 of the Penal Code apply can be punishable. Although sex crimes committed by a close relative without the above assault or intimidation are highly likely to result in sexual violence which violates bodily integrity because of the relationship of dependency and subordination between a perpetrator and a victim, the existing Penal Code does not cover those cases for penalties. The Legislative Council is currently reviewing the revision in this regard to punish a case where a person exploits “the influence of having actual custody” on a par with the crime of rape and other crimes.
32. In addition, as described later, since the crime of rape is prosecutable upon a complaint, a victim or a statutory agent is required to initiate legal action to prosecute, but under the circumstances where a minor’s legal competency to file a complaint is hardly acknowledged and the possibility of bringing such case to the court is hardly expected from a realistic point of view, a person with parental authority who is a statutory agent is hardly likely to lodge a complaint of incest, either. Many incest cases are then left neglected by the investigative agency without even being acknowledged. The Legislative Council is thus currently examining the ex officio prosecution of sex crimes.

#### Section 5 Explicit criminalization of marital rape

33. The Penal Code does not explicitly criminalize marital rape, and, in addition to the Government’s negative attitude toward the clear criminalization by the revision of the Penal Code, many participants of the panel at the Ministry of Justice hesitated the revision. It is also believed in the practical and academic fields that the courts do not use the interpretation that the crime of rape is not applicable to a case of a married couple. Yet, in reality, punishment has been only imposed on an extremely narrow range of cases, such as the one where a marital relationship collapsed, and, moreover, the Government does not release data concerning details of actual cases where punishment was imposed for marital rape. The survey by the Cabinet Office confirmed that 19.7% of sexual violence cases which victims experienced were committed by spouses and former spouses, and that 4.5% of women with a marital history have experienced sexual coercion by spouses. Despite the seriousness of the actual situation of sexual violence committed by spouses, almost all cases are left unpunished and neglected. Also, as mentioned in the chapter of health (Question 15 in the List of Questions), the induced abortion is extremely difficult for a case of pregnancy from sexual violence by a husband, because the Maternal Protection Act stipulates that the induced abortion requires the consent of the spouse if she is married to that spouse.
34. The examination by the Legislative Council does not cover the explicit criminalization of marital rape.

#### Section 6 Ex officio prosecution of sex crimes

35. Article 180 of the Penal Code sets forth that sex crimes are not prosecutable without a complaint filed by a victim. While this intends to protect a victim's privacy, it is pointed out that in some cases a perpetrator's lawyer demands a dismissal of a complaint on the condition of compensation for damages prior to prosecution after the complaint is lodged, and also that a perpetrator's criminal responsibility is not properly pursued due to the provision which requires the filing of a complaint. The Legislative Council is currently examining the ex officio prosecution of sex crimes.

6. Please provide data on the number of protection orders delivered in the past five years and the measures taken to speed up their issuance. Please indicate whether the State party considers issuing emergency protection orders on the basis of a complaint from one party only under its Spousal Violence Prevention Act. Please also indicate the measures taken to ensure that women who are victims of domestic violence can stay in their home. Please indicate the measures taken to facilitate the reporting of domestic and sexual violence, in particular whether the State party intends to open a 24-hour free hotline dedicated specifically to counselling women who are victims of violence, including minority women and women with disabilities.<sup>41</sup>

Section 1 Current data on the number of protection orders

36. The table below shows the data on the number of protection orders. Despite a significant increase in cases of consultation with the Spousal Violence Counselling and Support Centers and cases reported to the police, there is almost no fluctuation in the number of protection orders issued by the court.<sup>42</sup>
37. In respect of support provided for victims of sexual violence, one-stop centers run by private organizations commenced the operation in 2010, and the Cabinet Office prepared a manual for opening and operation of one-stop support centers for victims of sexual crimes and violence in 2012. Currently, one-stop centers operated by private organizations, local governments and other entities are open for victims of sexual violence at 20-odd places in the country. Yet, the number of the centers is small with a regional disparity, and also there is insufficiency of cooperation with medical services which are necessary for victims and financial support for private organizations which operate the support centers.<sup>43</sup>

	2010	2011	2012	2013	2014
New cases received by courts	3096	2741	3145	2991	3121
Cases upheld by courts	2434	2137	2482	2312	2528

<sup>41</sup> JFBA. JFBA Report. Para.168-180.

<sup>42</sup> Reference was made to the Supreme Court for the number of protection orders, the Cabinet Office for the number of cases of consultation with the Spousal Violence Counselling and Support Centers, and documents prepared by the National Police Agency for the number of domestic violence cases reported to the police (calculation was made in reference to pages 69 and 71 of the White Paper on Gender Equality 2015).

<sup>43</sup> JFBA. Opinion concerning the establishment of one-stop support centers. April 18, 2013.

[http://www.nichibenren.or.jp/library/ja/opinion/report/data/2013/opinion\\_130418\\_2.pdf](http://www.nichibenren.or.jp/library/ja/opinion/report/data/2013/opinion_130418_2.pdf)

In this opinion, the JFBA calls on the Government for the establishment of: (1) a hospital-based type of a one-stop support center which locates within a general hospital, and should be placed at least one location in each prefecture (there are 47 prefectures in Japan); and (2) a one-stop center per population of 200,000 women, as well as a counseling-center-based type and a type of counseling-center-led cooperation along with (1). Also, the JFBA believes that the Government should take responsibility and provide a full-scale financial support for the establishment of one-stop support centers, and submitted this opinion to the Government.

Cases which included the issuance of protection orders in the cases upheld by courts	728	707	783	689	710
Cases of consultation received at the Spousal Violence Counselling	77334	82099	89490	99961	102963
DV cases reported to the police	33852	34329	43950	49533	59072

#### Section 2 Measures taken to speed up issuance of protection orders

38. No measures have been taken to speed up issuance of protection orders, and courts and other organs are hardly aware of the problem with the absence of promptness to issue such orders, either.
39. From the date of the enforcement of the Act on the Prevention of Spousal Violence and the Protection of Victims (the “Spousal Violence Prevention Act”) to July 2014, the average period for proceedings of cases involving issuance of a protection order is 12.7 days, almost two weeks. This is partly due to the necessity of hearings of the opposite party.

#### Section 3 Emergency protection orders

40. The Spousal Violence Prevention Act stipulates in paragraph 1 of Article 14 that:
 

A protection order may not be issued before a fixed date for oral arguments or a hearing that the opposite party may witness; provided, however, that this shall not apply to cases where there are circumstances where waiting for the date will interfere with the fulfillment of the intent of the petition for a protection order.
41. In principle, the issuance of a protection order requires the provision of an opportunity for the opposite party to make a counterargument, and also the courts firmly maintain this stance.
42. The proviso of the above paragraph 1 of Article 14 of the Spousal Violence Prevention Act allows a system to issue a protection order without hearings, but this arrangement is only utilized in extremely exceptional cases as seen in the data: 30 cases in 2008, 29 cases in 2009, 18 cases in 2010, 10 cases in 2011, and 23 cases in 2012.
43. Moreover, in the above cases where a protection order was issued without hearings, such issuance was exceptionally allowed only because a date of hearing of the opposite party could not be held, in spite of the obvious necessity of such issuance. Those cases are thus different from a mechanism to issue an emergency protection order on the basis of a claim (and presentation of evidence) from one party only. The Government has not examined the issuance of emergency protection order for a purpose of emergency protection of a victim, either.

#### Section 4 Measures taken to ensure that women who are victims of domestic violence (“DV”) can stay in their home

44. The system of the issuance of a protection order in the Spousal Violence Prevention Act does not assume protection of a victim who stays in the home, but preconditions that the victim evacuates from the home. The order to leave the domicile issued to a perpetrator, which is also based on the same assumption,

intends to oblige the spouse to leave the domicile for a two-month period of preparation for the victim to leave the domicile and move out. Yet, since some argue that this order violates a perpetrator's property right and freedom to choose the residence, the number of protection orders and the rate of cases upheld by courts are on the decrease.

#### Section 5 Facilitation of the reporting of domestic and sexual violence

##### (1) DV

45. There were 6,000 to 7,000 women annually (11,000 to 12,000 people, including accompanied families) who were provided temporary shelter at women's consulting offices for the last ten years, and the yearly number of protection orders remains around 3,000 cases. With regard to actual protection of victims, despite an increase in consultations, the number of protection is hardly on the rise, and does not thus correspond to such increase in cases of consultation, which results in protection of only a fraction of victims.

##### (2) Sexual violence

46. Due to facts such as a small number of support centers for victims, no more than 1,250 cases of the crime of rape were reported to the police in 2014. In light of the survey by the Cabinet Office in 2014 which found 6.5% of women experienced sexual intercourse forced by men, the number of reported cases is too small, which means that the Government does not recognize a large majority of rape cases.

##### (3) Rape by a husband

47. Because marital rape can be actually subject to punishment only if the marriage fails, many victims are discouraged to lodge a complaint even when they consult with the police and other organizations.

#### Section 6 Opening of a 24-hour free hotline

48. The services of 24-hour phone consultations are operated by general incorporated association with subsidies from the Government, and counseling hotlines are set up for women who suffer from DV, sexual and other violence in the service, but there are no specialized hotlines for minorities and those with disabilities (but ones for sexual minorities are available). There were a total of 11,425,336 calls received at general phone consultations in fiscal 2014, out of which 573,819 calls were made to the hotline specializing in women. In light of the fact that approximately 2.6% of the total calls could be connected to counseling, the counseling system fail to sufficiently meet demand for those in need of counseling. It is also reported that two thirds of those who took counsel on the phone had disabilities, which indicates a significant number of calls from women with disabilities were actually received.
49. At the same time, the Spousal Violence Counselling and Support Centers, which are national government organs, provide counseling services for those who do not fully communicate in Japanese and those with disabilities, whose calls amounted to 1,700 calls and 5,387 calls, respectively, in the survey of fiscal 2014. Yet, most of the counseling is only available during the daytime on weekdays.

#### Section 7 Understanding impact of DV, in particular impact on children

50. Almost no research is conducted on the reality of DV, particularly the one which includes a perspective of children. With regard to damages caused by DV, an actual link between child abuse and DV is not known yet, including cases where children are also subjected to physical and psychological violence and ones where although children are not subjected to violence, they can perceive violence when it is committed. Measures taken by the Government for DV eradication are not implemented from perspectives of damage inflicted on children, impact on them and other viewpoints.
51. Furthermore, no investigation is conducted in relation to impacts of difficulty to work due to psychological and physical damages caused by DV and any connection with suicide. It is necessary to take effective measures for awareness-raising and eradication from a perspective of elimination of DV through understanding the actual situation which includes research of impacts on children.

7. Please indicate the measures taken to ban the sale of video games or cartoons involving rape and sexual violence against girls and women and to raise awareness among the producers of such materials, in line with the Committee's general recommendation No. 19 on violence against women. Please also indicate the measures taken to address the mass production, distribution and use of pornographic videos in which women are targets of sexual violence, as well as the portrayal of sexualized commercial images of women.<sup>44</sup>

Section 1 Measures taken to ban the sale of video games or cartoons involving rape and sexual violence (the "games and cartoons")

52. The sale of the games and cartoons are prohibited, and are subject to punishment pursuant to the Act on Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children (the "Anti-Child Pornography Act"), the Child Welfare Act and other laws which prohibit acts of sexual exploitation of children under 18 years old (such as rape, forcible indecency, child prostitution, trafficking in children for the purpose of prostitution or production of child pornography, distribution of child pornography, production, possession and delivery of child pornography for the purpose of distribution; and possession regardless of intent to distribute).
53. However, there is no law to prohibit the sale of the games and cartoons which depict sexual violence of women of 18 years of age and older. Only ordinances concerning the protection and healthy development of youth established by local governments barely ban the sales of publications, movies, video games and other materials (harmful publications and materials) designated by prefectural governors and municipal mayors to those under the age of 18.
54. Below are thus answers to the above questions asked by the Committee.
  - (1) There is no measure to ban the sales of the games and cartoons from a perspective of sexual violence.
  - (2) No particular measures are taken to raise awareness among the producers of the games and cartoons.
  - (3) No particular measures are taken to address the mass production, distribution and use of the games and cartoons.

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<sup>44</sup> JFBA. JFBA Report. Para.149-167.

(4) No particular measures are taken to address the portrayal of sexualized commercial images of women.

#### Section 2 Revision of the act concerning child pornography

55. The amendment to the law concerning child pornography was made to punish part of the act of possession regardless of intent to distribute.
56. Possession of child pornography regardless of intent to distribute was not within the scope of punishment, and was not even a breach of law before. In June 2014, however, the Anti-Child Pornography Act was amended to add the definition of child pornography which states “children’s sexual body parts (genitals or areas around them, the buttocks and breasts) are exposed in particular or highlighted,” and the penalty of up to a year in prison or one million yen in fines for possession of “child pornography which includes digital images” “for the purpose of satisfying one’s sexual curiosity.” Since a one-year moratorium was set after the enforcement of the revised law in order to encourage voluntary disposal, no punishment had been applied, but cases detected by the police have been reported since September 2015.

#### Section 3 Issues found in the revision of the Anti-Child Pornography Act

57. In the previous concluding observations, the Committee noted with concern that obscene video games and cartoons, featuring sexual violence against women and girls, fall outside the legal definition of child pornography in the Anti-Child Pornography Act.<sup>45</sup> It also strongly urged the Government to ban the sale of video games, cartoons and other materials involving sexual violence against women which normalize and promote sexual violence against women and girls, and recommended that the Government include this issue in its revision of the Anti-Child Pornography Act.<sup>46</sup>
58. However, from a perspective of the freedom of expression, the interests protected by the act are restricted to existent children. It is still difficult to reach agreement on the regulation of depiction of sexual violence against nonexistent persons. The amendment concerning this regard was deferred, and instead, the act was barely revised to add the provision that Internet business operators should endeavor to take measures which contribute to prevent crimes and other conducts relating to child pornography using the internet.<sup>47</sup>

#### Section 4 Actual situation of distribution of images, videos and other media of pornography

59. According to the National Police Agency, in recent years, there are many crimes that involve the display of indecent images in public with the use of a computer network and the sales of DVDs and other media which contain information of indecent images in the record.

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<sup>45</sup> Committee. Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/6). August 7, 2009. Para.35.

<sup>46</sup> Committee. Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/6). August 7, 2009. Para.36.

<sup>47</sup> Article 16-3 of the Act on Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children.

60. In September 2015, the Tokyo District Court dismissed a claim by a production company to demand the payment of a penalty for breach of contract from a woman who refused to star in porn films, and said “in the nature of performing in porn films, shooting a porn film must not be conducted against their will.” The woman who terminated her employment contract was not legally obliged to appear in porn films.<sup>48</sup>
61. Behind the mass distribution of porn films, coercion was virtually employed with use of a contract in the process of production, but because of their unfamiliarity with legal knowledge and not being able to consult with others out of shame, quite a few women are forced to perform and have sexual intercourse against their wills in fear of a penalty for a contract breach and revelation of appearing in porn films to people around them. The ruling was thus noteworthy. At the same time, once films in which women appeared even against their wills are distributed, it is practically impossible to collect and delete them. This contributes to aggravation of the problem, and is a serious matter, as well as rampant sexual exploitation.

8. Please provide updated information on the measures taken to provide high-quality support services to women, including disadvantaged groups of women such as minority, indigenous and migrant women, in order for them to bring complaints and to seek protection and redress. Please also indicate the measures taken to disseminate and ensure the implementation of the legal provisions providing protection to foreign women who are victims of spousal violence without revoking their status of residence.

Section 1 Measures taken to provide high-quality support services to women<sup>49</sup>

62. The Government implements no specific support system for generally disadvantaged groups of women, including indigenous Ainu, Buraku and Zainichi Korean and Okinawa women, and indigenous and migrant women. Some counselling offices only provide counselling services for migrant women in foreign languages.
63. Consistently taking an indifferent attitude toward the protection of minority women’s rights, the Government does not take their protection into account continuously even when formulating and implementing domestic policies concerning women and relevant measures. Description of minority women is included in the Sixth Periodic Report (2008) and the Combined Seventh and Eighth Periodic Reports (2014) submitted to the Committee, and multiple forms of discrimination is also described in the Third Basic Plan for Gender Equality (2010), but their explanation is extremely inadequate. This is also true of the draft of the Fourth Basic Plan for Gender Equality (2015) which is currently being formulated. The Government mentions that “minority women are covered by the policy of women,” but at the same time, adheres to the policy that it “addresses the issue of minority women within a general framework

<sup>48</sup> Ruling of the Tokyo District Court dated September 9, 2015.

In this case, the producer decided the woman’s performance in a porn film in spite of the fact that the decision was made against her will, and she actually appeared in that film. Later, when the woman refused to perform in the second film, the production company tried to make her engage in the film by telling her that a huge amount of a penalty would be charged for a breach of the contract. Because of her refusal, the production company initiated a lawsuit, demanding her payment of the penalty.

<sup>49</sup> JFBA. JFBA Report. Para.28-30.

without setting a specific one,” and fails to conduct investigation on the actual situation of minority women.

Section 2 Disseminating and ensuring the implementation of the legal provisions providing protection to foreign women who are DV victims without revoking their status of residence<sup>50</sup>

(1) Revocation of a status of residence

64. In a case where a foreign national woman who resides in Japan with the status of residence of "Spouse or Child of Japanese National" has “failed to continue to engage in the activities of a person with a status under a spouse of a Japanese national for six months or more while residing in Japan” without justifiable grounds for not engaging in the activities (Article 22-4, paragraph 1, item 7 of the Immigration Control and Refugee Recognition Act) or “has not made a notification of the new residence to the Minister of Justice within 90 days from leaving the place of residence” without justifiable grounds for not making the notification (Article 22-4, paragraph 1, item 9 of the Immigration Control and Refugee Recognition Act), the Immigration Bureau may revoke her residential status. The Immigration Bureau lists the case where “[t]hose who need to seek temporary shelter or protection from spouse violence (so-called domestic violence (DV))” as one of the specific examples of foreign nationals whose status of residence is not revoked, and provides the explanation in English, Chinese, Korean, Portuguese, Spanish, Tagalog, and Thai.<sup>51</sup>
65. Yet, there are concerns that unlike physical forms of domestic violence with possible evidence of medical certificates, photos and others, psychological, economic, sexual and other forms of non-physical violence may not be accurately recognized. In addition to similar forms of DV to the ones against Japanese women, DV against foreign women in particular takes various forms of violence, such as deprivation of a passport, disallowance of possession of money, demand of assimilation to Japanese ways of living such as food and customs, prohibition to associate with people of her own country, ban to use of a native language, forbiddance of remittances and phone calls to a family in a home country, ban to return to a home country, and no provision of money to return home. It is most likely that these types of violence are not considered.
66. According to the Government, there were 50 cases of the revocation of a residential status in violation of Article 22-4, paragraph 1, item 7 of the Immigration Control and Refugee Recognition Act for two years from 2013 to 2014, out of which 30 cases were women. There were two cases for three years from 2012 to 2014 where the status of residence was not revoked because of the existence of “justifiable grounds” (both were Chinese national women). It is reported that since they resided separately from their husbands due to spousal violence, they did not engage in the activities of a person with a status under a spouse of a Japanese national.
67. However, the questionnaire survey conducted by the Catholic Commission of Japan for Migrants, Refugees and People on the Move from November 2014 to January 2015 found two cases below.

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<sup>50</sup> JFBA. JFBA Report. Para.84-101.

<sup>51</sup> Ministry of Justice. Specific examples of foreign nationals whose status of residence is not revoked, including when there are any justifiable grounds for not engaging in the activities of a person with the status of spouse. [http://www.immi-moj.go.jp/newimmiact\\_1/info/pdf/120703/haigusya\\_en.pdf](http://www.immi-moj.go.jp/newimmiact_1/info/pdf/120703/haigusya_en.pdf)

Because my Japanese husband left home and went missing, I terminated a lease contract of the apartment where I lived with my husband. When I was staying at my sister's house, immigration officers visited me, and said that despite my status of residence of "Spouse or Child of Japanese National," living apart from my husband was a problem. My residential status was cancelled, and became "temporary visitor."

My Japanese husband committed violence against me and then abandoned us, so I temporarily returned to the Philippines with my children for over six months, and then came back to Japan again. I requested the renewal of my residential status, but it was revoked because of living separately from my husband and other reasons, and was changed to a status of residence of "Designated Activities" with a permit to stay for a month to prepare for returning to the Philippines.

68. The statement issued by the Catholic organization stated that:

In those two cases, despite the disappearance of the husband, the existence of spousal violence from the husband, the abandonment, and other reasons, their residential statuses were revoked due to living separately from their husbands. It is considerably doubtful whether to properly implement the exclusion clause in the provisions which stipulates "except for cases in which the foreign national has a justifiable reason."

It is incumbent on the Government to clarify the operational guidelines for the implementation of the immigration act, including exclusion of a case where culpability is found in a Japanese husband's side from the revocation of a status of residence in addition to DV cases, guarantee of such residence during the process of dissolution of marriage which includes conciliation and litigation, and provision of the "Long-Term Resident" and other statuses of long-term residence with consideration of a record of length of stay in Japan and other factors.<sup>52</sup>

(2) Disseminating and ensuring the implementation of the legal provisions providing protection

69. The Gender Equality Bureau of the Cabinet Office provides information on support for victims of spousal violence on its website in eight languages: English, Spanish, Thai, Tagalog, Korean, Chinese, Portuguese, and Russian as well as Japanese.<sup>53</sup> Yet, in the first place, the availability of the information on the website is hardly disseminated, and has not been updated since 2008. Additionally, a list of phone numbers of Spousal Violence Counselling and Support Centers is only available in English.
70. The Ministry of Justice established Human Rights Counseling Offices for Foreigners in ten locations in the country,<sup>54</sup> but time and date of receiving calls and availability of languages for interpreting services are limited, and the centers are not staffed with a counsellor who has knowledge of DV.
71. Some victims of foreign women do not specifically know how to get to a support center. Even if they at last reach there, no multilingual staff or full-time interpreters are available at many of the Spousal

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<sup>52</sup> JFBA. Statement on the Commencement of the Resident Card and the System of the Basic Resident Registration for Foreign Nationals. July 9, 2012. <http://www.nichibenren.or.jp/en/document/statements/year/2012/120709.html>

<sup>53</sup> Gender Equality Bureau, Cabinet Office. To Victims of Spousal Violence. <http://www.gender.go.jp/e-vaw/foreignpdf/01english.pdf>

<sup>54</sup> Ministry of Justice. Human Rights Counseling for Foreigners. <http://www.moj.go.jp/JINKEN/jinken21.html>

Violence Counselling and Support Centers. The Ministry of Health, Labour and Welfare (the “MHLW”) subsidizes a training program of specialized interpreters for foreign victims of DV carried out by a prefecture, but such programs are rarely conducted. Moreover, many difficulties stand in the way to support, such as: staff’s lack of knowledge of the Immigration Control and Refugee Recognition Act as well as their unfamiliarity with the background of marriage migration; foreign women’s problems with understanding explanation of social and legal systems in Japan without knowing well about them; and a small number of multilingual legal and medical practitioners.

72. In cases where women fail to renew their residential status of “Spouse or Child of Japanese National” due to the lack of cooperation of Japanese husbands, thereby inevitably overstaying their visas, they are never allowed to receive public assistance, no matter how impoverished they are.

9. The Committee has been informed of recent public statements that there was no evidence that proved the forcible removal of “comfort women”. Please comment on this information. Please also indicate whether the State party intends to take compensatory measures on behalf of “comfort women” in countries other than those covered by the Asian Women’s Fund, including in China and Timor-Leste, and prosecute the perpetrators. Please indicate whether the State party intends to reintegrate into school textbooks references to the issue of “comfort women”, and raise awareness among the population of the issue.<sup>55</sup>

Section 1 Cabinet decision that there was no evidence that proved the forcible removal of “comfort women” of the Japanese army

73. In March 2007, the Government made a cabinet decision of the response to the question which stated:
- The Government did research on relevant documents and conducted interviews of those concerned in connection with the issue of comfort women from December 1991 to August 1993, and the result of the overall investigation is described as per the statement by the Chief Cabinet Secretary on August 4. In addition, among the materials it discovered by the date of release of the investigation result, it did not come across any that directly show that the military or authorities so-called forcibly led away the women.
74. However, in 2013, the Government admitted the existence of records of the temporary court-martial at Batavia which indicated the coercive recruitment by the Japanese soldiers. The court-martial report concerning the case of making Dutch women “comfort women” of the Japanese military in Indonesia (trials of Class B and C war criminals) (1948) states:
- Despite the fact that they knew or could have found the war crimes, such as the one where junior soldiers and civilians took the women mentioned above to the above comfort stations for the purpose of prostitution, made such women stay there, and forced them into prostitution through coercion and other methods from the end of February 1944 to April 1944, they condoned those act of crimes.

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<sup>55</sup> JFBA. JFBA Report. Para.201-213.

75. Additionally, there were ten cases (from Korea, the Netherlands, *Zainichi* Koreans, the Philippines, China, and other countries) which were brought to the court in Japan, all of which submitted victims' testimonies as evidence, and out of which in eight cases, the fact of the wrongful act and damages were found on the basis of documentary evidence and testimonies of victims. In some of the cases, facts such as the recruitment through coercion in the Korean Peninsula were also admitted.<sup>56</sup> Moreover, it was acknowledged in the case of Chinese women that the Japanese army that advanced into an inland area abducted and took away local Chinese.<sup>57</sup> With regard to Filipino women, it was testified that in many cases, after raping ordinary women in an area occupied by the army, a troop stationed in the Philippines abducted and removed the women, confined them at the station, and consecutively raped them for a certain period of time.

Section 2 Compensatory measures on behalf of "comfort women" in countries other than those covered by the Asian Women's Fund (9.a)

76. The Asian Women's Fund was dissolved on March 31, 2007, without covering China, Timor-Leste and other countries in its compensation program. The compensation of the fund has not been consequently delivered to victims in those countries.
77. The Government refuses any compensation measures for individual victims of the "comfort women" for the Japanese military on the ground that "the issue was legally settled" through the San Francisco Peace Treaty (1951), and bilateral agreements such as the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea (1965) and the Japan-China Joint Communiqué (1972).
78. Also, the Supreme Court of Japan judged on April 27, 2007, with regard to the case of Chinese "comfort women" that "the waiver of claims does not mean the right to claim is extinguished to a substantive extent, but only means that the power to appeal judicially is lost on the basis of such right to claim." In light of this ruling, it is not prohibited by law, and is possible that the Government voluntarily takes compensatory measures for individual victims recognized as "comfort women" of the Japanese army, and should do so from a perspective of human rights.
79. Furthermore, some believe that the Government is still legally liable for providing redress, since the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea cannot solve the issue of an individual's right to claim for compensation arising out of the unlawful acts against humanity such as the "comfort women" for the Japanese army.<sup>58</sup>

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<sup>56</sup> The ruling of the Tokyo High Court in the trial by a group of bereaved families of South Korea admitted the testimony of the plaintiff, No Cheong-ja (the ruling of the Tokyo High Court dated July 22, 2003):

In spring when I was 17 years old (age by the traditional system), about ten Japanese soldiers caught me by the hand and leg, and with the use of a truck and a train, took me to the comfort station for a troop of Ootesan.

<sup>57</sup> The ruling of the Tokyo High Court in the first lawsuit by Chinese "comfort women" acknowledged in the ruling of the Tokyo High Court dated December 15, 2004:

The case existed where those in the Japanese army coercively abducted and took away Chinese women, including girls, who lived in an area adjacent to the military station for rape, and repeatedly raped the women in captivity every day, virtually making them comfort women.

<sup>58</sup> The view of the joint committee of the Korean government and private citizens dated August 26, 2005, which is cited in reasons for the judgement of the Constitutional Court of Korea dated August 30, 2011. Reference to the judgement of

80. It is viable by law to take measures to compensate for “comfort women” for the Japanese military in the countries which were not covered by the Asian Women’s Fund such as China and Timor-Leste, and such compensatory measures should be thus implemented.

#### Section 3 Prosecution of the perpetrators (9.b)

81. It appears that the Government does not consider the prosecution of the perpetrators, believing the issue was already settled by law.

#### Section 4 School textbooks references to the issue of “comfort women”, and raising awareness among the population of the issue

82. The revision of the Textbook Examination Standards in January 2014 added a new standard that “in a case where there are uniform viewpoints of the Government ... determined through a cabinet decision and other methods, description in a textbook should be based on such viewpoint.”<sup>59</sup> One of the “uniform viewpoints of the Government” in relation to the “comfort women” issue is found in “the memorandum on questions by Kiyomi Tsujimoto, a member of the House of Representatives, concerning Prime Minister Abe’s recognition of the “comfort women” issue” dated March 16, 2007, which was also mentioned in Section 1 of this chapter. According to the memorandum, the Government responded that “there are no records directly showing so-called forceful recruitment by either the army or government authorities” by the time of the release of the Kono Statement. In the examination of school textbooks conducted in 2014, the Government rejected a textbook which referred to the issue of the “comfort women” for the Japanese military on the ground that such reference did not conform to the official viewpoint mentioned above (later, the textbook company submitted the textbook again by making a correction in accordance to what the Government pointed out, and passed the textbook examination). As described in Section 1 above, the Government admits the existence of the document which indicated the coercive recruitment by the Japanese soldiers (the records of the temporary court-martial at Batavia). Some rulings of the “comfort women” cases held in Japan also recognized the forceful removal of the women. The textbook examination, however, only focuses on the consistency with the above Government’s viewpoint without taking these facts into consideration.
83. Moreover, no progress has been made in the awareness-raising, since the Government still maintains the aforementioned opinion despite the existence of the evidence which indicated the coercive recruitment and the findings since the release of the Kono Statement.

#### Trafficking and exploitation of prostitution

10. Please provide information on the number of complaints received on trafficking and exploitation of prostitution, as well as the investigations, prosecutions, convictions and penalties imposed on the perpetrators of such crimes. Please indicate the measures taken and envisaged to establish specific
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the Supreme Court of Korea dated May 24, 2012.

<sup>59</sup> JFBA. Opinion Paper Concerning the Revision of Textbook Examination Standards, the Guidelines for the Screening of Textbook Examination Standards, and the Adoption of Textbooks. December 19, 2014. <http://www.nichibenren.or.jp/en/document/opinionpapers/20141219.html>

shelters for women who are victims of trafficking throughout the country, ensure that all victims of trafficking have access to adequate services and ensure that victims are rehabilitated and reintegrated as appropriate. Please also indicate the measures taken to ensure that internship and foreign trainee programmes are not used for the purposes of forced labour and sexual exploitation.

## Section 1 Information on trafficking and exploitation of prostitution

### (1) Trafficking in persons

84. The survey released by the Government found that there were 25 victims protected by the state in 2014 (an increase by eight from the previous year), out of which seven victims were under 18 years of age. By nationality, the protected victims consisted of 12 Japanese that constituted the largest number of all (an increase by two from the previous year), followed by 10 Filipinos (an increase by nine from the previous year), a Thai (a decrease by five from the previous year), a Chinese (an increase by one from the previous year), and a Rwandan (an increase by one from the previous year). The children under 18 years of age were all Japanese.
85. With regard to arrests for trafficking in persons by the police in 2014, there were 32 cases of arrests (an increase by seven from the previous year) and 33 people who were arrested (a decrease by four from the previous year). By nationality of suspect, there were 30 Japanese (the same number as that of the previous year), two Thais (a decrease by four from the previous year), and a Filipino (an increase by one from the previous year). Out of the 33 arrested suspects in 2014, 27 were prosecuted, two were not prosecuted due to problems with evidence and other factors, and four were referred to a family court. Out of the 27 people who were prosecuted, 18 were convicted, cases involving eight people were pending, and one case was dismissed (as of the end of March 2015).
86. As mentioned above, very few victims were protected by the state. In particular, the data of the victims by nationality shows that few victims of foreign nationalities were protected in comparison with Japanese victims, and the nationalities of the victims were also dominated by particular countries. In addition, details of the Government's protection were inadequate, and it seems that many victims of foreign nationalities in particular were subject to deportation to their home countries under the name of "support for repatriation" without receiving adequate measures of physical and psychological recovery.
87. The most common ruling results in a fine of approximately 500,000 yen (a minimum of 100,000 yen, and a maximum of one million yen), and even in case of imprisonment, a maximum jail term is up to four years or the execution of such sentences is mostly suspended. The sanction which should function as prevention of the crime does not correspond to the severity of trafficking in persons.

### (2) Exploitation of prostitution

88. There were 817 cases of the arrest in violation of the Anti-Prostitution Act in fiscal 2014 (1,030 cases in the previous fiscal year), and 535 people were arrested (639 people in the previous fiscal year). Also, by nationality, the arrested foreigners in Japan consisted of 46 Chinese, three Koreans, a Thai, and a Colombian. Public solicitation and other related acts constitute a majority of the forms of the conducts in those cases of the arrest (256 cases and 248 people who were arrested). However, the imposition of punishment for public solicitation consequently treats victims of exploitation of prostitution as those who may be subject to penalties. This is believed to contribute to the latency of many cases of

exploitation of prostitution by making the victims hesitate to report their cases to the police or other authorities as a victim, as well as preventing them from accessing to adequate protection as a victim.

## Section 2 Protection and support for female victims of trafficking in persons

### (1) Specific shelters for women who are victims of trafficking

89. Currently, victims of trafficking can receive protection and support at women's consulting offices or private shelters which the women's consulting offices consign for the temporary protection, but these shelters are also used for women who need protection and support for reasons of DV and others. However, the Government believes the current shelters function sufficiently, and does not have any plan or envisage examination to establish a shelter specializing in female victims of trafficking.

### (2) Ensuring that all victims of trafficking have access to adequate services

90. For a purpose of providing information for victims, the National Police Agency prepares multilingual leaflets with a list of phone numbers for contacts (approximately 280,000 copies in nine languages in 2014), and distributes them at airports and inspection areas of ports, restaurants, food stores and other places in Japan. Also, copies of the leaflets are available at overseas diplomatic establishments of where victims are from (40 locations and about 10,000 copies), and are provided for applicants interviewed for the issuance of visas.
91. Contact information for consultation and notification in Japan is (1) 0120-924-839 at the Anonymous Report Dial of the National Police Agency (from 9:30 to 18:15 from Monday to Friday), (2) 0570-013904 at the Immigration Bureau (in English, Korean, Chinese, Spanish and other languages), (3) 03-3368-8855 and 045-914-7008 at a nongovernmental organization of the center for consultations of trafficked women (in English, Thai and other languages every day from 10:00 to 17:00), and (4) 0120-279-338 at *Yoriso* Hotline (in English, Thai and other languages every day from 10:00 to 22:00).
92. Yet, it is uncertain how much access is ensured in these contacts. The Government has no plan to establish a 24-hour hotline in multiple languages such as Japanese whose phone number is easy to remember, notwithstanding such request which has been made for long by nongovernmental organizations.

### (3) Measures for ensuring that victims are rehabilitated and reintegrated

93. The Government implemented the schemes for the protection and support of victims, including: (1) measures concerning a status of residence (a renewal of a period of stay, a change of a status of residence, and a special permission to stay), (2) measures taken at women's consultation offices and other organizations (provision of food, clothing and housing, support with interpreting services, provision of medical and psychological care services, and other services), and (3) assistance in a victim's returning to a home country in collaboration with the International Organization for Migration (the IMO) (an arrangement with relevant agencies, preparation of an air ticket, an embarkation procedure at an airport, and other arrangements), and assistance in social reintegration after returning home (a pickup upon arrival, provision of a place to stay, provision of medical, legal and other services, reintegration into a victim's family, assistance in economic independence such as a startup of a small-scale business, vocational training, support for school enrollment, and other assistance). It is,

however, uncertain how much these measures help victims with their social rehabilitation and reintegration.

### Section 3 Internship and foreign trainee programs

94. No specific measures have been implemented so that the Industrial Training and Technical Internship Program are not used for the purposes of forced labor and sexual exploitation.
95. Those participated in the Industrial Training and Technical Internship Program were practically treated as workers for low wages and lengthy working hours for a long period of time. The Government could not deny this fact, so a new Industrial Training and Technical Internship Program was introduced after the partial revision of the Immigration Control and Refugee Recognition Act, and was put into force in July 2010. The new program includes: (1) with the introduction of the status of residence of “Technical Intern Training,” the application of the labor-related laws throughout a training period except for a period of lectures which are held in the beginning of the program (with the assumption that those lectures are given for two months); (2) the prohibition of such acts as collection of a bond or guarantee money by overseas organizations which dispatch interns to Japan and conclusion of an agreement and other arrangements which determine penalties for a breach of a labor contract; and (3) the strengthening of the mechanism of guidance, supervision, and support by a supervisory body, the transparency of expenses required for management, the extension of suspension to receive trainees if a supervising organization or other entities commit serious misconducts, and the expansion of the grounds for disqualification.
96. Furthermore, the Government submitted to the Diet the bill of the act on the proper implementation of the industrial training for foreign nationals and the protection of technical interns in March 2015. The bill includes: (1) the extension of the maximum industrial training period from the current three years to five years; (2) with the establishment of a system to approve supervisory bodies, the obligation of a provider of training to provide a training program in line with a technical training plan prepared for each trainee and other obligations; and (3) the prohibition of the acts, including the conduct of the violation of human rights such as a forced technical training by means of violence, intimidation, confinement or other unjust restraint on mental or physical freedom, the plan of penalties and other punishments concerning a breach of a technical training contract, and the forceful management of a bank deposit, and the imposition of penalties on such acts.
97. However, there are structural problems: the disparity between the name of the technical intern training program and its reality which is indicated in the fact that despite the aim of the technical intern training to transfer Japan’s technologies to overseas by technical intern trainees who acquire such technologies, the program is actually used as a solution to the shortage of low-wage, unskilled laborers; and trainees’ having no right to freely change their place of work because of this ostensible purpose of the program, thereby having difficulties in establishing an equal labor relation.
98. Furthermore, there are occasionally such cases as: where a trainee owes a huge debt to a dispatching agency in the trainee’s home country supposedly for a travel expense and a commission charge; where a trainee is obligated to pay a large amount of penalties if the trainee stops engaging in the training or

return to where the trainee is from even due to trouble at a place of training, including labor exploitation and sexual harassment; and where a relative or an acquaintance of the trainee is a guarantor. In the reality of these cases, a trainee has to tolerate labor and sexual exploitation for a long period of time.

99. Additionally, foreign trainees have extreme difficulty in accessing to appropriate consultation organizations such as labor unions, nongovernmental organizations and attorneys, and agencies of legal remedies, because a trainee does not necessarily have sufficient knowledge of the Japanese language and geographical locations, and living conditions and the mechanism of legal remedies in Japan, and in many cases, a trainee is under control of an accepting organization with regard to the trainee's life in general such as where to live, as well as a technical training.
100. In this regard, the MHLW distributes the Technical Intern Trainee Handbook for free to technical intern trainees written in Japanese and foreign languages (six languages: Chinese, Indonesian, Vietnamese, Filipino, Thai and English) which includes mental preparation for technical intern training, information on living and sanitation, labor-related laws and regulations, and basic information on health and safety, and also provides the same information on the website called "Technical Intern Trainees' Mate"<sup>60</sup> which can be accessed via the smartphone and other media. However, a list of contacts for consultation published in the handbook and the website is limited to government agencies and the Japan International Training Cooperation Organization (JITCO). The information is not thus provided sufficiently from a perspective of a technical intern trainee's protection of the rights.
101. Although the revised act and the bill stated above include the provisions concerning the strengthening of supervision, and the prevention of human rights violation and the protection, the structural problems with the Technical Intern Training Program described above are still left unsolved. No steps have been implemented with regard to collection of guarantee money, penalties and others by a dispatching organization. The reinforcement of supervision without solving the structural problems does not lead to establishment of a completely equal labor relation, thereby still failing to eliminate the difficulty of technical intern trainees who suffer from damages in seeking improvement and remedies for protection.
102. The measures on the basis of the continuation of the Technical Intern Training Program do not completely prevent the labor and sexual exploitation. The Government should immediately abolish the Technical Intern Training Program, and commence examination of a new mechanism to accept workers which overcomes the structural problems that cause violations of human rights of workers in connection with acceptance of unskilled foreign workers.
103. If the Technical Intern Training Program continues for the time being, it is necessary to take measures, including: (1) enabling a technical intern trainee to choose a place of training; (2) with a view to improvement of dispatching organization, conclusion of an arrangement between Japan and a dispatching country which includes the dispatching country's certification, investigation, guidance and supervision of a dispatching organization, and an obligation to suspend the dispatch of trainees from a dispatching organization which engages in any inappropriate conducts such as collection of guarantee money by the dispatching organization, and establishment of a condition that a dispatching country

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<sup>60</sup> Japan International Training Cooperation Organization. Technical Intern Trainees' Mate.  
<http://www.jitco.or.jp/webtomo/us/>

concludes this arrangement for Japan’s acceptance of trainees from such dispatching country; (3) prohibition of coercion of a trainee’s return to a dispatching country by means of violence, intimidation, confinement or other unjust restraint on mental or physical freedom; and (4) commissioning of some services such as consultations from technical intern trainees to the Japan Legal Support Center (JLSC), bar associations, nongovernmental organizations with records of activities of support for technical intern trainees, and other organizations.

Section 4 Necessity to extend a period of stay and guarantee qualification for employment

- 104. Only the arrest of perpetrators is insufficient to recover the rights of victims of trafficking in foreign nationals and sexual exploitation, including technical intern trainees. It is absolutely necessary to practically ensure a path to victims’ seeking responsibilities of perpetrators and those involved by taking action such as demand for compensation of damages or accrued salaries from perpetrators and perpetrating groups through the system of judicial remedies.
- 105. However, under the current system, foreign victims with restrictions of a residential status and a period of stay have extreme difficulty in utilizing judicial proceedings, which consequently leads to their silent tolerance of violations of the rights. It is imperative that the Government examines implementation of concrete steps to carry the exercise of the judicial rights of victims of foreign nationals into full effect, including an extension of a period of stay and provision of a residential status with qualification for employment, at least when a civil trial is pending.
- 106. Also, there are some court cases where a technical intern trainee takes legal action against an accepting organization or other bodies for compensation of damages caused by an accrued salary or sexual harassment, many of which resulted in settlement with a provision of the confidentiality obligation. Consequently, without disclosure of actual damages from labor and sexual exploitation of technical intern trainees, some accepting organizations which caused such damages still continue to receive trainees as before without being subject to any guidance, correction or sanctions from relevant government agencies. The Government is urged to consider steps such as an obligation of an organization or an agency which makes use of technical intern trainees or training programs for foreigners to report to relevant government agencies regardless of any reasons if such organization or agency becomes a party to a lawsuit in relation to the Technical Intern Training Program or the training programs.

11. Please indicate whether the State party envisages a) amending the Anti-Prostitution Act to decriminalize women engaged in prostitution and b) adopting legal and/or other measures aimed at discouraging the demand for prostitution. Please also indicate the measures taken to provide educational and economic alternatives to prostitution, and to introduce exit programmes and rehabilitation and reintegration measures for women wishing to leave prostitution.<sup>61</sup>

Section 1 Amendment to the Anti-Prostitution Act

<sup>61</sup> JFBA. JFBA Report. Para.150-167.

107. No plan has been made to amend the Anti-Prostitution Act to decriminalize women engaged in prostitution in Japan. It appears that the Government has an attitude of demonizing those who engage in the sex industry as social evils, an overwhelming majority of whom are women, without understanding backgrounds of women in the sex industry or the exploitation of those women.
108. Although the act of prostitution itself (which includes the act by men as well as women and the act of buying sex) is not subject to punishment under the Anti-Prostitution Act, the public solicitation is punishable under the law (Article 5 of the Anti-Prostitution Act). In fact, there were 237 cases of the arrest and 230 people who were arrested in violation of Article 5 of the law in 2012 (20% of them were foreign nationals), almost all of whom were women.<sup>62</sup> Also, many women engage in the sex industry owing to their poverty and the failure to fit in within home and society.
109. At least Article 5 of the Anti-Prostitution Act (solicitation, etc.) should be deleted.

#### Section 2 Discouragement of the demand for prostitution

110. As stated above, the Government lacks the awareness that demand creates its supply in the sex industry, and contributes to its expansion. It thus imposes certain rules on the sex industry from a perspective of proper business (e.g. regulations by the Act on Control and Improvement of Amusement Business); however, it does not basically take a stance on discouragement of the demand for prostitution.
- (1) The Act Banning Child Prostitution and Child Pornography regulates the purchase of sex from those under 18 years of age; however, almost no laws or regulations exist with regard to buying sex from those who are 18 years of age and older, and there is no trace of discussion by the Government to strengthen the regulations, either.
- (2) The Government calls for the prevention of criminal and illegal acts stipulated in the existing laws, which it believes plays a role of the measure for the discouragement of the demand for prostitution. There is no political intention to implement fundamental measures against those who purchase sexual intercourse.

#### Section 3 Introduction of exit programs and rehabilitation and reintegration measures

111. Under the Anti-Prostitution Act, women who engage in prostitution or likely to do so are subject to correctional guidance and rehabilitation. A women's guidance home (Article 17 of the Anti-Prostitution Act) which detains women aged 20 and older who are rendered correctional guidance in violation of Article 5 of the law (solicitation, etc.) is a national institution which aims at, "in a disciplined, pleasant environment, rehabilitation of women who can live independently in society through daily life and vocational guidance necessary to adapt themselves to life in society and medical care of mental or physical disabilities which may prevent their rehabilitation." The problem, however, lies in punishment of women who engaged in prostitution itself, and their detention in a women's guidance home in lieu of

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<sup>62</sup> The Anti-Prostitution Act prohibits the sexual intercourse with unspecified persons, and punishes the act of public solicitation. The sexual intercourse in the context of the law is interpreted as copulation between a male genitalia and a female genitalia for the implementation of the law, and the solicitation stated in Article 5 covers the street-prostitute type. Also, Annex of the statistics of the Japan's Sixth Periodic Report on the Implementation of the Convention finds that women accounted for over 99% of the persons engaged in prostitution among the deported foreign nationals working illegally. [http://www.mofa.go.jp/policy/human/women\\_st6.pdf](http://www.mofa.go.jp/policy/human/women_st6.pdf)

a prison is not congruent with the purpose of rehabilitation and reintegration, since the women's guidance home does not provide opportunities to learn skills and others which lead to employment of those women. Also, the correctional guidance is to "admit women who may engage in prostitution in light of character and an environment in accordance with a decision of protection made by a head of a Women's Consulting Office and provide daily life guidance, vocational guidance, aid and counseling and other assistance." Those Women's Protection Facilities devotedly provide assistance for women in most cases; however, their existence builds on the legal framework of rehabilitation and detention of women who "fall into" prostitution and hence the value of discrimination against women and a bias against those who work in the sex industry. Such measures are thus inadequate for rehabilitation and reintegration of those women.

112. Having lived in an oppressive working environment filled with discrimination against women and with a deplorable social security system or having been shut out from welfare policies, many women rather choose to work in the sex industry as a better choice in order to survive. There are no exit programs for women wishing to leave prostitution other than the measures mentioned above, which consequently leads to supply of women to the sex industry. The absence of efforts made by the Government also reinforces the structure where women have no other way but to return to the sex industry when they have difficulty living in society or lose a sense of belonging to society.

#### Participation in political and public life

12. The existence of the third basic plan for gender equality defining quotas aimed at increasing the participation of women in political and public life is indicated in the report (CEDAW/C/JPN/7-8, para. 4). Please provide information on the effective implementation of the plan and indicate whether it includes incentive, sanction and/or enforcement mechanisms to ensure compliance with the quotas. Please indicate whether the State party undertakes awareness-raising campaigns on the importance of women's participation in decision-making for society as a whole. Please provide information on efforts made to further increase the participation of women in political and public life, specifically through the adoption of temporary special measures, including quotas, to accelerate the achievement of substantive equality between women and men.

#### Section 1 Inclusion of incentive, sanction and/or enforcement mechanisms to ensure compliance with the quotas

113. The Government indicated in the preliminary draft of the Fourth Basic Plan for Gender Equality that:
- The Council for Gender Equality, which was established as one of the important policy councils at the Cabinet Office, examined and deliberated basic policies and significant matters concerning the promotion of the establishment of a gender-equal society, and also supervised the implementation of the Third Basic Plan for Gender Equality and measures taken in response to the concluding observations of the Committee. Some examples of concrete achievements are that: the council's examination and deliberation aimed at the expansion of women's participation in the political sphere was utilized for the purpose of the development of an atmosphere in society and other goals which are conducive to the introduction of positive

actions as seen in the encouragement of political parties; the Government's policies incorporated the council's opinions which were formed upon the research and discussion of important matters to work on from a perspective of the promotion of women's active participation with a view to the Government's inclusion of such opinions in budgets and other policies; and the request was made to local governments to enhance measures rooted in a community in light of the content of the council's examination and deliberation pertaining the promotion of women's active participation for a purpose of revitalization of a regional economy.

114. The Government is urging each political party to introduce quotas as stated above; however, the political parties are sluggish to take action. The effectiveness of this method is limited unless the Government enforces a system to restrict autonomous activities of political parties. It is incumbent on the Government to launch a study group of experts to commence examination of constitutionality regarding enforcement of legal quotas as part of incentive, sanction and/or enforcement mechanisms to ensure compliance with the quotas. Also, the shift is being globally made from quotas which institute a certain number or percentage of female representation to *parité* which demands equal representation of women and men, and the understanding is becoming widespread that the principle of democracy is having an equal ratio of male and female participation in decision making, and is not schemes such as positive actions. *Parité* should be also examined for its possible introduction in Japan in light of this trend. In addition, setting a numerical target of a percentage of female ministers will be effective.

Section 2 Whether the State party undertakes awareness-raising campaigns on the importance of women's participation in decision-making for society as a whole.

115. Despite significantly low rates of gender-equal participation, quotas and *parité* are hardly recognized or understood by the people. The understanding of quotas and *parité* needs to prevail in Japan through measures such as further reinforcement of awareness-raising activities and introduction of case examples in other countries. Awareness-raising campaigns should be further undertaken through continuation of surveys on women's participation in each political party and release of such results. It is also important to address the issue of improving a percentage of women's participation in decision making within each political party, and female representation in processes of deciding who are put on the ticket should be considered accordingly. In addition, it is necessary to encourage measures for these issues so that each political party makes their efforts visible and present their numerical targets.

Section 3 Information on efforts made to further increase the participation of women in political and public life

116. Since the fundamental principle is that men and women share responsibilities together, the problem rests in the concept of promoting women's participation in the political field which only focuses on women. It is indispensable to include analysis of the problem that men adhere to vested interests, not seeing that there are problems with women.

## Education

13. Please indicate whether the State party envisages adopting specific measures aimed at enhancing the education of women, including minority women, by:
- (a) Increasing the enrolment of women in traditionally male-dominated fields of study;
  - (b) Increasing the percentage of women in colleges and universities;
  - (c) Further increasing the number of women in managerial positions in schools and those teaching at universities;
  - (d) Integrating the promotion of gender equality into the Basic Act on Education.<sup>63</sup>

### Section 1 Ratios of men and women by field of study

117. The Government conducts a program called “Support for Female Students in Choosing Science Courses” to provide assistance in selecting science courses for female students of junior and high schools with a view to promoting interest in and understanding of the fields of science and engineering among female students, their parents and others, and provide information on role models of female researchers and other details on the web.
118. Yet, the ratios of male and female undergraduates by field of study at universities (the undergraduate level) finds that women make up 65.6% of students who major in humanities, while they constitute 26.4% for science and 12.9% for engineering, which indicates huge gender gaps still exist in the fields of study. Further concrete and effective measures are necessary.

### Section 2 Percentage of women in colleges and universities

119. The university advancement rates (the undergraduate level) are 55.9% for men and 47% for women in fiscal 2014.
120. Female students consisted of 43.8% of the undergraduate students, 30.2% of those in the master programs, and 33% of those in the doctoral programs in fiscal 2014. Although efforts have been made to encourage women to study science as mentioned in Section 1, no particular measures are taken to increase female ratios in higher education as a whole in spite of the need to further improve women’s representation. Female students constituted 27.6% at law schools as of May 1, 2014.

### Section 3 Numbers of women and men in managerial positions in schools and those teaching at universities

121. Women comprise 64.7 % of teachers in elementary school, 43% in junior high school and 29.7% in senior high school, which shows that the higher education, the lower the ratios of female teachers are.
122. Women in managerial positions represent 19.1% of principals, 27.15% of vice-principals and 21.5% of assistant principals in elementary school; however, the ratios of those positions are lower than 10% in junior and senior high schools, except the one for vice-principals in junior high school (10.1%).

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<sup>63</sup> JFBA. JFBA Report. Para.256-260.

123. Women constitute 51.7% of academic staff in junior colleges, and 22.5% in universities and graduate schools, and, *inter alia*, women are underrepresented in positions of professors, vice-presidents and presidents.
124. The women's representation in academic staff by field of study is similar to the underrepresentation of female students in the science and engineering fields of study. Yet, female professors account for no more than 22.3% even in the field of humanities where the percentage of female students is relatively high.
125. In spite of the women's underrepresentation in managerial positions and academic staff of universities as mentioned above, the only measure taken to increase the female ratios is to encourage prefectural boards of education, universities and other relevant bodies to actively appoint women as principals, assistant principals, professors and other positions. It is hard to say that effective measures are in place.

#### Section 4 Integrating the promotion of gender equality into the Basic Act on Education

126. The 2016 revision of the Basic Act on Education deleted Article 5 which stipulated: "Men and women shall esteem and cooperate with each other. Co-education, therefore, shall be recognized in education." No efforts have been made to integrate the promotion of gender equality into the Basic Act on Education.

#### Employment

14. Please indicate additional measures envisaged to:
- (a) Develop a comprehensive policy to promote equality of women and men in employment;
  - (b) Promote the participation of minority women in the labour market;
  - (c) Eliminate occupational segregation, both horizontal and vertical;
  - (d) Address the predominance of women in fixed-term, part-time and non-regular employment;
  - (e) Eliminate the illegal dismissal of women owing to pregnancy and childbirth;
  - (f) Ensure that women are not compelled to resign for being unable to balance work and family life;
  - (g) Promote the equal sharing of family responsibilities between women and men;
  - (h) Ensure equal pay for work of equal value, including by adopting legal provisions recognizing this principle;
  - (i) Adopt legal provisions sanctioning sexual harassment in the workplace;
  - (j) Study the monetary value of women's unpaid work;
  - (k) Reduce the gender gap in pension benefits;
  - (l) Ensure high-quality childcare.

#### Section 1 a) Development of a comprehensive policy to promote equality of women and men in employment

127. In 2003, the Government determined the goal that "it hopes the percentage of women in leadership positions in all fields of society will be increased to at least around 30% of the total by 2020" at the Headquarters for the Promotion of Gender Equality, and included this target in the Second Basic Plan for Gender Equality which was approved at a Cabinet meeting in December 2005. Recently, with

establishment of the Act on the Promotion of Women's Active Participation in their Occupational Lives in August 2015, from April 1, 2016 onward, national and local governments and companies with 301 employees or more must engage in: (1) understanding of an actual situation of women's active participation at its own organization and analysis of issues; (2) formulation, notification, dissemination and announcement of an action plan which incorporates numerical targets and measures which are appropriate for solving such issues; and (3) release of information on women's active participation at its own organization.

128. As described above, the Government and the Diet are establishing a wide range of legal regimes with aims at the prohibition of irrational discrimination by reason of gender and forms of employment and the maternal protection, including: Article 4 of the Labor Standards Act which sets forth the comprehensive, fundamental policies and the principle of equal wages for men and women which are aimed at the promotion of gender equality in employment; the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (the "Equal Employment Opportunity Act"); the Basic Act for Gender Equal Society; the Child Care and Family Care Leave Law; the Labor Contract Act which prohibits irrational discrimination against fixed-term contract workers; and the Act for Partial Revision of the Act on Improvement, etc. of Employment Management for Part-Time Workers (the "Part-time Employment Act"). Yet, detailed analysis of individual laws and their effectiveness suggests that some laws deviate from the fundamental policies and goals of "the promotion of gender equality in employment," and rather aggravate the current situation. In fact, the gender pay gap has hardly narrowed since 1985 when the Equal Employment Opportunity Act was enacted, ranking in the worst level among developed countries of the OECD. Moreover, the percentage of female non-regular workers is continuously on the rise, and 60% of female workers resign when they have the first child. It is evident that Japan's comprehensive policy fails to achieve a satisfactory effect on the elimination of the stereotyped perception of gender roles in society as a whole which includes the workplace and the family, the regulation of long working hours, the realization of the principle of equal remuneration in respect of work of equal value and the accomplishment of work-life balance. It is considered that this attribute to facts that: a case of violation can be subject to administrative guidance; however, it is uncertain whether the labor acts, many of which are categorized as the administrative law, can have actual effects on civil responsibility; labor-related laws are hardly comprehensible for both workers and employers who are within the scope of such laws due to a great deal of variety in labor-related acts such as the Worker Dispatching Act and the Part-time Employment Act, and complexity and incomprehensibility of many provisions of the laws; and although workers themselves are required to go through judicial proceedings in order to exercise their rights guaranteed by labor laws, a mechanism is not adequately in place to ensure effectiveness of laws in reducing the burden of time, mental and economic costs and the burden of proof, and to allow the exercise of rights guaranteed by law easy and practical. It is now essential to develop a system to ensure the effectiveness of laws to guarantee a practical and simple exercise of the rights of individual workers, including granting of the right to institute a lawsuit to labor unions and administrative agencies, clarification of civil responsibility in cases of violation of labor-related laws, introduction of systems of class action, organization action and

punitive sanctions in labor-related lawsuits, imposition of the burden of proving reasonableness of wage gaps on employers, and introduction of a loser-pay rule, where there is a disequilibrium of power.

#### Section 2 b) Promotion of the participation of minority women in the labor market

129. The Government has made no efforts for this matter even after the previous concluding observations pointed this out. There is only one Ainu woman out of 14 members of the Council for Ainu Policy Promotion. No report has been made with regard to the Okinawa women and sexual minority women. No system is instituted to prohibit discrimination based on sexual orientation and gender identity by law, leaving the discrimination neglected.
130. Also, foreign women are vulnerable to multiple forms of discrimination in terms of being a woman and a foreigner, and, in particular, if they do not understand the Japanese language sufficiently, they are likely to face illegal exploitation of labor and sexual harassment. Despite the existence of such discrimination against foreign women, the restrictions on a status of residence and a period of stay and also difficulty in accessing information virtually prevent many foreign women from exercising the rights through judicial proceedings which put a temporal, financial and psychological burden on them. Concrete measures should be therefore examined, including provision of a residential status with qualification for employment, and an extension of a period of stay at least for a term when they utilize civil trials and administrative agencies for solutions of labor-related disputes.

#### Section 3 c) Elimination of occupational segregation, both horizontal and vertical

131. In spite of the fact the Committee repeatedly pointed out this issue in the concluding observations upon its consideration of the sixth periodic report of Japan and the final opinion, the Government does not change its opinion that: “Such systems as the dual career ladder system are not problematic under the Equal Employment Opportunity Act, as long as they do not treat workers differently by gender.” It should prohibit all indirect discrimination which includes the Dual Career Ladder System, and abolish the exhaustive list of cases of indirect discrimination in order to establish a job evaluation method pursuant to international standards.

#### Section 4 d) Addressing the predominance of women in fixed-term, part-time and non-regular employment

##### (1) Fixed-term employment

132. The Labor Contract Act was revised in August 2012 (the “Revised Labor Contract Act”) to include the conversion of fixed-term labor contracts into open-ended labor contracts if the total contract term exceeds five years and statutory status of the doctrine of *yatoi-dome* that was established by the Supreme Courts (the prohibition of employers’ non-renewal of fixed-term labor contracts under some circumstances). Yet, it does not lead to a fundamental solution to the problem, because a certain vacant term is not included in the total contract term when a contract is renewed, and, in the first place, no laws exist to regulate the conclusion of a fixed-term labor contract itself, such as imposition of a limit to cases where it is found that there are reasonable grounds for conclusion of fixed-term labor contracts.

133. Also, Article 20 of the Revised Labor Contract Act prohibits unreasonable discrimination on account of a fixed-term contract, and is expected to exert its effectiveness accordingly. However, realistically, workers' claiming the exercise of their rights in the court pursuant to this provision while staying in office may rather exacerbate their relations with employers, and, moreover, a ruling of such lawsuit has effect only on individual workers who are the party to the suit even in a case where several other workers are also subjected to the same discriminatory treatment, consequently not leading to fundamental solutions. It is necessary to examine measures such as granting of the right to institute a lawsuit to labor unions and administrative agencies and introduction of a class action system in order to carry the principle of equal pay for work of equal value into effect.

(2) Part-time employment

134. Article 9 of the Part-time Employment Act provides that if part-time workers satisfy two requirements equivalent to those of ordinary workers throughout the entire period until the termination of the employment: (i) job description (description of the job and the level of responsibilities associated with said work); and (ii) the mechanism of utilization of human resources and an extent of the implementation (likelihood of changes in job description and assignment which includes a transfer), there should be "no discriminatory treatment" of such part-time workers from ordinary workers.

135. However, the criteria for the equivalency of job description are ambiguous; as a result of arbitrary implementation of the criteria, the scope of the applicability to part-time workers significantly narrows down. It does not consequently work as a remedy for practical purposes.

(3) Non-regular employment

136. Because women make up a majority of non-regular workers, discriminatory treatment of non-regular workers reflects gender-based wage gaps. The percentage of women in non-regular employment increased to 55.8%, and the average wage for official working hours of female part-time workers that exclude regular employees only stands at 50.7% of that of regular workers.

137. The Worker Dispatching Act was amended in September 2015 to ease the regulations concerning the employment of dispatched workers for their protection, including the abolishment of limits on a period of utilizing dispatched workers who are on an indefinite-term contract and the relaxation of limits on a period of utilizing dispatched workers who are on a fixed-term contract. Without ensuring equal treatment of dispatched workers to that of regular workers in the company which receives the dispatching service, concern arises over a replacement of regular employees with temps and an increase in non-regular workers.

Section 5 e) Elimination of the illegal dismissal of women owing to pregnancy and childbirth

138. Women who are pregnant or engage in childcare still have difficulty in continuing to work as seen in the social issue of maternity harassment and other problems, notwithstanding that the amendment to the Equal Employment Opportunity Act in 2006 incorporated the assistance in resolution of disputes and the strengthening of sanctions with regard to the prohibition of disadvantageous treatment by reason of pregnancy, childbirth and other factors, the violation of an employer's obligation to take measures for maternity health care and other relevant matters.

139. The Supreme Court rendered the landmark decision on October 23, 2014, that the measure taken by an employer to demote a female employee upon the assignment of said employee to less demanding work during her pregnancy was in violation of Article 9, paragraph 3 of the Equal Employment Opportunity Act, and that the employer should virtually bear the burden of proving that the case was an exception to the prohibition stated in the provision. In response to this ruling, the MHLW issued the notice to Labor Offices across the country that a case where an employee is demoted or is subject to other treatment close to the time of pregnancy and childbirth is judged as violation of the act in principle.

Section 6 f) Ensuring that women are not compelled to resign for being unable to balance work and family life

140. Although the previous concluding observations pointed this out, the Government reported the same as the previous one, and has not any taken specific measures.

Section 7 g) Promotion of the equal sharing of family responsibilities between women and men

141. Although the previous concluding observations pointed this out, the Government reported the same as the previous one, and has not taken any specific measures concerning such issues as regulations of long working hours and transfer to a remote area.

Section 8 h) Ensuring equal pay for work of equal value, including by adopting legal provisions recognizing this principle

142. The Government only reported the wage difference between male and female regular workers with regard to the gender-based wage disparity; however, the statistics referred to in the Government's report excluded female part-time workers. It did not thus illustrate the actual gender-based wage gap in Japan.

143. One of the major causes for the aggravation of the poverty problem in Japan is the destruction of the employment system and the increase in the population of the working poor due to such factors as the expansion of non-regular employment. Additionally, a majority of non-regular workers are employed on a fixed-term basis. Since women constitute a majority of such non-regular employees, discriminatory treatment of non-regular employees mirrors gender pay gaps.

144. The Labor Standard Law not only fail to include statutory status of the principle of equal remuneration in respect of work of equal value, but does not establish the principle even by interpretation.

Section 9 i) Adoption of legal provisions sanctioning sexual harassment in the workplace

145. Despite the provision of an employer's obligation to consider the issue of sexual harassment under the Equal Employment Opportunity Act and the MHLW's guideline for sexual harassment, there is no direct punitive measure. Although mediation by an administrative organization and other methods are available for disputes over sexual harassment, its effectiveness is in doubt due to low levels of problem solving and the absence of compulsory court appearance of the other party. A civil action taken by a victim against a perpetrator or an employer for compensation of damages often takes more than a year to reach a ruling. Even in a case an order is issued to compensate for damages, it usually amounts from several

hundred thousand yen to several millions yen which cannot even cover an attorney's fees or hardly function as an effective deterrence of sexual harassment even for corporations. In addition, risks of violation of privacy and secondary damage may arise in the course of litigation, including questioning over past dating experiences and faults of victims. Small amounts of compensation and risks of secondary damage result in hesitation of victims of sexual harassment to take judicial action.

#### Section 10 j) Study of the monetary value of women's unpaid work

146. The Government reported the same as in the sixth periodic report that it conducted research on women's roles and responsibilities at home and for the family as part of the Survey on Time Use and Leisure Activities, and noted with concern that women still play a central role at home. However, it did not report concrete survey results.<sup>64</sup>

#### Section 11 k) Reduction of the gender gap in pension benefits

147. With regard to the division of pensions for divorced women, women who divorced from 2008 onward can independently apply for division of pension benefits; however, split of pensions that accumulated before 2008 must be negotiated with a former spouse or require a trial at the family court. 90% of divorces in Japan are divorce by agreement which the court is not involved in, and the system of pension division has not been widely disseminated yet. A claim for distribution of pension benefits is also extinguished in two years from the day of divorce.

#### Section 12 l) Ensuring high-quality childcare

148. No concrete measures have been implemented with regard to the quality of childcare.

#### Health

15. The State party indicates in its report that abortion is a crime, under article 212 of the Penal Code, except to protect the life and health of the mother, as provided for by the Maternal Protection Act (para. 359). The Committee has also been informed that article 14 of the Act requires a woman who seeks abortion to obtain authorization from her male partner. Please provide details on the conditions in which abortion is authorized, in law and in practice, and indicate the measures envisaged to legalize abortion in cases of rape, incest and severe malformation of the foetus.<sup>65</sup>

#### Section 1 Conformity of the laws with the Convention

149. The provision of Article 212 of the Penal Code which only punishes women who undergo artificial abortions (the crimes of abortion) results in the imposition of punishment solely on women. It is therefore in violation of Article 2(g) of the Convention and the Platform for Action of the Fourth World Conference on Women.<sup>66</sup>

<sup>64</sup> Government. Sixth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women. Para.322.

<sup>65</sup> JFBA. JFBA Report. Para.305-310.

<sup>66</sup> Platform for Action of the Fourth World Conference on Women. Para.106(k).  
<http://www.un.org/womenwatch/daw/beijing/platform/health.htm>

150. Article 14 of the Maternal Protection Act which requires a spouse's consent for all induced abortions impedes women's access to necessary healthcare services, and also gives a final say to a male spouse about continuation of a woman's pregnancy, which therefore violates the reproductive rights.
151. Also, Articles of 213 and 214 of the Penal Code impose the punishment on those who perform artificial abortions. These provisions stand in the way of access to healthcare services which are necessary for women.
152. Revision should be made as follows: (1) Articles 212 (Abortion), 213 (Abortion with Consent; Causing Death or Injury), and 214 (Abortion through Professional Conduct; Causing Death or Injury) of the Penal Code should be deleted; and (2) Article 14 (Induced Abortion with Doctor's Approval), paragraph 2 of the Maternal Protection Act needs to be amended to incorporate the provision that a husband's consent for abortion is not necessary at least if (a) it is extremely difficult to obtain the consent of a husband due to her exposure to DV or living separately from the husband or (b) there is disagreement between the couple.

#### Section 2 Conditions in which abortion is authorized in law

153. The provisions of the crimes of the abortion in the Penal Code criminalize all artificial abortions, and the Maternal Protection Act which was established thereafter stipulates the provision which decriminalizes the abortions under certain conditions. The provision of the Maternal Protection Act which sets for the decriminalization is below:

Article 14 (1) A doctor designated by a medical association that is a public interest incorporated association established for the area of a prefecture (hereinafter referred to as a "Designated Doctor") may perform an Induced Abortion on a person who falls under any of the following items after obtaining consent from the relevant person and the spouse:

- (i) a person for whom the continuation of pregnancy or delivery may significantly damage the person's physical health due to bodily or economic reasons; and
- (ii) a person who was raped in a violent or threatening manner or at a time when the person could neither resist nor refuse and becomes pregnant.

(2) As for the consent provided in the preceding paragraph, the consent of the spouse is not necessary if the spouse is not known or cannot express an intention, or if the spouse no longer exists after the pregnancy.

154. As stated above, in order that a woman is not punished under the crimes of abortion of the Penal Code, she should meet all the three conditions: (1) the risk of significant damage of her physical health due to bodily or economic reasons or pregnancy due to rape in a violent or threatening manner or at a time when she could neither resist nor refuse; (2) her own consent, and her spouse's consent if she has a spouse; and (3) a designated doctor who perform an abortion.

#### Section 3 Actual situation of abortion

155. As for the actual situation of abortion, the statistics of reported cases in the field of the public health administration in fiscal 2011 found there were (1) 201,928 cases of abortion by reason of maternal health, and (2) 178 cases of abortion due to rape in a violent or threatening manner.
156. The number of abortions due to rape by violence or threat as in (2) is significantly low; however, this is because sexual violence is very narrowly defined in Japan (see the response to Question 5 in the chapter of Violence against Women), and in actuality, marital rape is not subject to punishment. Also, since designated doctors focus attention on whether a woman reports a case to the police to judge the requirement pertaining violence and threat, the number of abortion cases due to rape by violence and threat looks considerably low.
157. At the same time, a designated doctor requests the consent of a parent or a custodian for a minor's induced abortion, notwithstanding there is no such requirement in the above provisions. This actually impedes many minors' access to induced abortions.
158. With regard to the requirement of the consent of a spouse, because of many DV victims' difficulty in obtaining the consent from their husbands and also designated doctors' fear of attack from or trouble with the male perpetrators of DV, many of the women are forced to give birth against their wish.

#### Section 4 Abortion in cases of rape, incest and severe malformation of the fetus

159. In Japan, the abortion is only permitted under the conditions of (1) a risk of damage to maternal health due to bodily or economic reasons and (2) pregnancy from rape by violence or threat.
160. Cases of abortion by reason of maternal health in (1) make up a majority of induced abortions. Severe malformation of the fetus is not stipulated as a condition in which an abortion is authorized; however, in fact, there are some cases that medical practitioners perform abortions, practically considering the continuation of pregnancy or delivery may significantly damage the mother's health. The abortion is also performed expedientially for the same reason in many cases of incest. Yet, in rare occasions, when a designated doctor concludes that a case does not meet the conditions under the Maternal Protection Act and reports it to the police, the case is consequently treated as the crimes of abortion pursuant to the Penal Code.
161. A case of pregnancy from rape formally falls under the category of an induced abortion due to pregnancy as a result of rape by violence or under threat in (2); however, coupled with the necessity to report a case to the police and the narrow definition of sexual violence, such provision is not adequately implemented. Furthermore, in some cases, because of difficulty in accessing to the service of artificial abortions in general, pregnancy exceeds an applicable period of authorized abortion (pregnancy of less than 22 weeks), and consequently fails to be terminated.

#### Section 5 Background information

162. In the formulation of the Fourth Basic Plan for Gender Equality which is a plan of the Government formulated every five years, it is most likely that description of induced abortions, which was written in the Third Basic Plan for Gender Equality and at the stage of examination of the fourth basic plan, will be all deleted.

163. Furthermore, some members of the ruling parties even state that an age limit should be set for abortions for a purpose of having a strict attitude toward minors' abortions.

16. Please provide data on:

- a) the availability and accessibility of comprehensive age-appropriate education on sexual and reproductive health and rights; and
- b) the rate of contraceptive use.

Please also provide information on measures taken to provide compensation to women with disabilities who have been subjected to forced sterilization. Please provide information, along with data, on the mental and psychological health of women.<sup>67</sup>

#### Section 1 Sex education

164. The Course of Study of the junior high school level by the Ministry of Education, Culture, Sports, Science and Technology (the "MEXT") states:

Fertilization and pregnancy are taught to students at their start of maturation which may lead to pregnancy and childbirth; however, the process leading to pregnancy is excluded. Also, in the course of physical maturation, students will develop new emotions such as feeling of sexual impulse and growing interest in the opposite sex. Therefore, it is necessary to teach respect for the opposite sex, proper understanding of information and choice of action.

The high school Course of Study by the MEXT describes:

Students should understand aspects of healthy marriage life, such as development of mind and body and the health condition from a standpoint of health. In this course of study, in addition to students' understanding of fertilization, pregnancy, childbirth and related health issues, it is necessary to teach the meaning of family planning, impacts of the artificial abortion on mind and body and other matters for their understanding. Students also should understand responsibility for their own and other people's health, favorable interpersonal relationships and support from family and other people, and utilization of health and medical services such as the use of health checkups for mothers and children in order to lead healthy marriage life.

165. As seen in the Courses of Study, although pregnancy is taught abstractly at junior high school, abstinence-based education is requested without provision of information on details of sexual intercourse and contraception. High school educates students about the significance of contraception and impacts of abortions on mind and body along with biological explanation on pregnancy, but does not provide detailed information. Consequently, it is still difficult for children to access to these services. This kind of education does not ensure the availability and accessibility of comprehensive age-appropriate education on sexual and reproductive health and rights.

166. With regard to sex education, questioning by members of the Diet and local assemblies prompted the intervention in the administration of the education sector and the start of a press campaign of reporting distorted facts by some media. This is illustrated in the incident concerning a handbook of sex education

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<sup>67</sup> JFBA. JFBA Report. Para.312-318.

for junior high school students entitled “Love & Body for Puberty” (written by an incorporated foundation under the jurisdiction of the MHLW) which had been distributed since 2001. A member of the Diet (a former Chairman of the National Public Safety Commission) stated in his question that “the handbook encourages students to have sex” at the Committee on Education of the House of Representatives, and then-Minister of the MEXT responded that “it seems to be excessive information for junior high school students.” This discussion subsequently forced the handbook into being out of print, and the inventory was collected. Furthermore, criticizing a sex education program conducted at the Tokyo Metropolitan Nanao School for disabled children (called leaning about mind and body) as extreme, members of the Tokyo Metropolitan Board of Education, three metropolitan assembly members and a newspaper publishing company meddled with the school in 2003. Since then, many schools voluntarily refrain from actively providing sex education.

### Section 2 Rate of contraceptive use

167. The State of World Population 2014 by the United Nations Population Fund finds that 56% of women used some sort of method of contraception, and 50% of women used modern methods of contraception, which indicates their very low rates of contraception usage.<sup>68</sup>

Also, according to research entitled Sharing Responsibility; Women, Society and Abortion Worldwide conducted by the Alan Guttmacher Institute, unplanned births (a total of unplanned births that women had not wished to have or wished to postpone later) account for 52%.<sup>69</sup>

### Section 3 Eugenic operation

168. The object of the old Eugenic Protection Act<sup>70</sup> was “to prevent birth of inferior descendants from the eugenic point of view,” i.e., to prevent birth of children with diseases or disabilities. Under this act, the eugenic operation could be exercised on those with “leprosy,” and “non-hereditary mental disease and feeble-mindedness,” as well as “hereditary diseases” without the consent of a person who was subjected to the operation. No fact-finding, apologies or compensation has been made in regard to the operations of sterilization which had been performed pursuant to the Eugenic Protection Act by 1996. According to the official statistics conducted up to 1996, there were approximately 16,500 cases of the operation of sterilization without the consent of a person who had undergone such procedure pursuant to the Eugenic Protection Act, out of which about 70% were women, and many unreported cases also existed. Moreover, it is confirmed that some people still undergo virtually compulsory or recommended sterilization in spite of the amendment to the act. Even its total number is hard to grasp.

169. The Prefectural Eugenic Protection Committee which was an administrative body determined that the eugenic operation was to be performed in accordance with an application by a physician that the eugenic operation was necessary for public interests in order to prevent hereditary transmission of the disease

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<sup>68</sup> United Nations Population Fund. State of World Population 2014. Page 106.

[http://www.unfpa.org/sites/default/files/pub-pdf/EN-SWOP14-Report\\_FINAL-web.pdf](http://www.unfpa.org/sites/default/files/pub-pdf/EN-SWOP14-Report_FINAL-web.pdf)

<sup>69</sup> Alan Guttmacher Institute. Sharing Responsibility; Women, Society and Abortion Worldwide.

<https://www.guttmacher.org/pubs/sharing.pdf>

<sup>70</sup> In 1996, the Eugenic Protection Act was revised and became the Maternal Protection Act. The section of the eugenic operation was deleted upon this revision.

(the provision existed to allow institution of a lawsuit retrospectively for rescission of the decision by the Prefectural Eugenic Protection Committee).

170. In addition, the Eugenic Protection Act provided the method of the eugenic operation was “the surgical operation which incapacitated a person to reproduce” and prohibited the other methods; however, in reality, illegal acts were tolerated, including the performance of the operation such as the X-ray irradiation and the uterus removal on women with disabilities which were not stipulated in the law.

#### Section 4 Information on the mental and psychological health of women

171. The Government has failed to collect data or implement measures from these standpoints.
172. In the medical field, some medical practitioners address an increase in cases of psychiatric disorders, such as insomnia and depression due to the burden of stress accompanied by women’s advancement into the workforce, the premenstrual syndrome and the mood disorder, and the occurrence of psychological symptoms caused by violence against women; however, the Government has not sufficiently address these issues in the policies.

17. The Committee has been informed that the State party plans to lift the designation as evacuation zones of contaminated areas with radiation exposure levels under 20 millisieverts per year. It has also been informed that:

- a) health examinations relating to the nuclear disaster in Fukushima are limited to thyroid examinations and are only for residents of Fukushima Prefecture; and
- b) free medical treatment is limited to children under 18 years of age.

Please indicate the impact of such measures on the health of women, including pregnant women.

#### Section 1 Health examinations relating to the Nuclear Accident in Fukushima

173. Fukushima Prefecture conducts an exhaustive research on health hazard to residents of Fukushima Prefecture due to the accident at the Fukushima Daiichi Nuclear Power Plant (the “Nuclear Accident”). Yet, the research on the health conditions is limited to the Pregnancy and Birth Survey, the Thyroid Ultrasound Examination, and the Comprehensive Health Check which utilizes the general medical checkup that was conducted prior to the Nuclear Accident, as well as the questionnaire survey. Furthermore, those surveys only cover residents of evacuation areas and other places and those who were considered to be required as a result of the Basic Survey. The Government merely provides indirect assistance, such as financial measures for the surveys conducted in Fukushima Prefecture and the provision of technical advice and information.

##### (1) Health Survey conducted by the Fukushima Prefectural Government

174. The Fukushima Prefectural Government commenced the Fukushima Health Management Survey (later renamed as the Fukushima Health Survey) of all residents of Fukushima Prefecture in June 2011, three months after the occurrence of the Nuclear Accident. The survey consists of the Basic Survey and detailed surveys. The Basic Survey is intended to estimate radiation doses by means of a questionnaire in which respondents send back an interview sheet upon completion, while the detailed surveys are to understand health conditions.

175. In the Basic Survey, there is no plan to promptly act or provide treatment for respondents. The response rates of the Basic Survey remain stagnant with 27.1% as of the end of March, 2015.<sup>71</sup>
176. With regard to the Comprehensive Health Check which is one of the detailed surveys and targets residents in the evacuation areas and other places, the examination is conducted in limited items such as the complete blood count<sup>72</sup> with the use of existing checkups and other examinations. Also, in the Mental Health and Lifestyle Survey, interview sheets are sent to those covered in this survey by post, and the Pregnancy and Birth Survey and the Thyroid Ultrasound Examination are conducted as well.
177. In the Pregnancy and Birth Survey, questionnaires were sent to women who received Maternal and Child Health Handbooks from municipal offices in Fukushima Prefecture from fiscal 2013 to July 31, 2015, and women who stayed at their parents' homes in Fukushima for labor and childbirth while receiving the handbooks outside of Fukushima Prefecture. It surveyed expectant and nursing mothers' mental health conditions, current living conditions (lives of evacuation and situations of family breakups), health conditions during the course of birth and pregnancy, confidence in childrearing and attitudes toward next pregnancy. If the survey finds a respondent needs help, she is given support from a midwife, a public health nurse and others on the phone. A mechanism is in place for counseling services concerning pregnancy, birth and other relevant matters for respondents of the survey which midwives, public health nurses and others provide by setting up phone numbers and e-mail accounts only for the use of the counseling services, and medical practitioners and other specialists take over if they require professional advice. According to a report of the survey results in fiscal 2013,<sup>73</sup> with the response rate of around 50% every year, there was little fluctuation in the percentages of miscarriage and abortion which occurred after receipt of Maternal and Child Health Handbooks in comparison with other years. The percentage of preterm deliveries which was 5.4% and the incidence of congenital abnormalities and anomalies in singleton pregnancies were similar to generally reported incidences. The percentage of mothers who were considered to have a tendency of depression (24.5%) declines over time; however, it is reported that the estimated incidence of postpartum depression is still higher than the overall data in the country which is about 10 to 13%.
178. The Thyroid Ultrasound Examination consists of the preliminary baseline screening (the preliminary examination in the first round), and complete thyroid examinations (the secondary examination in the second round). The preliminary baseline screening was conducted for residents of Fukushima Prefecture who were 18 years of age and younger at the time of the earthquake in order to obtain information on their conditions of the thyroid gland. It is reported that there were 112 suspicious or malignant cases of thyroid gland cancer out of approximately 300,000 cases that have undergone the thyroid examinations, and eight cases were diagnosed as suspicious or malignant thyroid cancer for the first time in the

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<sup>71</sup> Fukushima Prefectural Government. The 19th Prefectural Oversight Committee Meeting for Fukushima Health Management Survey. (May 18, 2015) Appendix 1 Response rates to the Basic Survey by district.  
<http://fmu-global.jp/?wpdmdl=177>

<sup>72</sup> This indicates red blood cell count, hematocrit, hemoglobin, blood platelet count, leukocyte count, and differential leukocyte count.

<sup>73</sup> Fukushima Prefectural Government. The 18th Prefectural Oversight Committee Meeting for Fukushima Health Management Survey (held on February 12, 2015). Pregnancy and Birth Survey for FY2013.  
<http://fmu-global.jp/?wpdmdl=173>

secondary screening program.<sup>74</sup> The incidence indicated in this result is dozens of times as high as the prevalence of thyroid cancer estimated from the statistics on cases of thyroid cancer; however, the oversight committee of the Fukushima Health Survey is divided on this assessment: excessive occurrence resulting from exposure to radiation or overdiagnosis. Yet, the survey result does not completely deny the possibility of the excessive occurrence of the cancer.

179. It is definitely crucial to continue conducting the health examinations with due caution.

(2) Problems found in the Fukushima Health Survey

a. Limited coverage of the survey

180. In consideration of the dissemination of radioactive materials from the Nuclear Accident, areas contaminated by radiation are not limited to within Fukushima Prefecture. However, solely providing indirect assistance such as budgetary measures, the Government never conducts health examinations on residents of other prefectures. Moreover, as mentioned above, the detailed surveys conducted by Fukushima Prefecture are limited to residents of designated areas. The Thyroid Ultrasound Examination even has an age limit, excluding disaster-affected people aged 19 years and older, despite the fact that women's incidence of thyroid cancer is higher than that of men.<sup>75</sup> The perspective of gender is absent in those health examinations.

b. Limited survey items

181. Children and women are suffering from health damages which are not covered by the Fukushima Health Survey.

182. A school health statistical survey for fiscal 2013 showed the continued prevalence of obesity in children residing in Fukushima Prefecture. The obesity rates in the age groups of children who were 6, 8, 10, 13, and 17 years old in Fukushima Prefecture were at the top among the children who were 5 years old to 17 years old in the country. The MEXT considers that this was due to the lack of exercise and stress from life under evacuation. A decrease is observed in the number of kindergartens, schools and other institutions which cut down on outdoor activities of pupils and students out of anxiety over radiation exposure. Yet, since a significant number of families restrict outside play of pupils and students, children continue to suffer from health damages resulting from the lack of outdoor activities which indoor play and exercise cannot make up for. Another survey reports the tendency of obesity in mothers and children living in the disaster-affected areas due to stress. It is not difficult to imagine that if children are discouraged from outdoor activities, many of the mothers who have children are inevitably restrained from outdoor activities, thereby falling into obesity resulting from the lack of exercise and stress. The survey on stress conducted by the Center for Psychological Studies of Disaster at Fukushima University found that mothers and children evacuated from no-entry zones due to the Nuclear Accident are under

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<sup>74</sup> Fukushima Prefectural Government. The 19th Prefectural Oversight Committee Meeting for Fukushima Health Management Survey (held on May 18, 2015). Interim Report of Thyroid Ultrasound Examination (Preliminary Baseline Screening). <http://fmu-global.jp/?wpdmdl=178>

<sup>75</sup> Center for Cancer Control and Information Services of the National Cancer Center. Reference was made to 3) the prevalence rates of cancer by cancer site in chapter 3 of the prevalence of cancers of the latest statistics on cancers. The nationwide estimates of prevalence of cancers by site show that the estimated numbers of thyroid cancer are 3,490 for men and 10,250 for women.

significantly higher levels of stress than those outside such areas in Fukushima Prefecture.<sup>76</sup> A joint research group of Yuji Tsutsui who is a professor of Fukushima University and other researchers released the outcome of the research that levels of anxiety and stress of mothers and children in the southern part of Miyagi Prefecture are equivalent to those of mothers and children in Fukushima City, indicating that the problem of stress due to the Nuclear Accident goes beyond the border of Fukushima Prefecture.

183. It is incumbent on the Government to continue to conduct regular medical examinations (such as blood and urine tests) without any charge for those who resided and currently reside in all areas of Fukushima Prefecture and in areas with additional radiation exposure levels under 1 millisieverts per year from a standpoint of victims, particularly children and women who live with health concerns, life stress, economic and other problems and widely share results of the examinations so that specialists and other professionals can analyze such data.

Section 2 Impact on women's health with regard to plans to lift the designation as evacuation zones of contaminated areas with radiation exposure levels under 20 millisieverts per year

184. Even those who continue to live in radiation-contaminated areas from the time of the Nuclear Accident and those who chose to evacuate are uncertain about how exposure to radiation will have impacts on them, which makes them very concerned about health risks. This concern is not only limited to disaster victims, because the actual condition of radiation exposure from the Nuclear Accident has not been elucidated yet. No scientific knowledge has confirmed impacts of low-dose radiation exposure, and no agreement is necessarily reached in connection with risks associated with such exposure, either. Japan adopted the standard of "the public dose limit" which should not exceed 1 millisievert per year in accordance with the recommendation by the International Commission on Radiological Protection ("ICRP") when promoting nuclear power generation. ICRP states that the annual dose limit of 1 millisievert is the "representative" value of the standard which can encourage the return of residents to affected regions. The Government has been working since the spring of 2015 to lift the designation of evacuation zones on the basis of the radiation exposure level of 20 millisieverts per year which is strikingly high, and is accelerating the policy of the return of evacuees to affected regions with a view to termination of assistance in housing and compensation and other measures for people that include evacuees from outside of no-entry zones. In some areas where evacuation orders are lifted, high levels of radiation are emitted from agricultural lands and forests. Also, since it is extremely difficult to decontaminate vast areas of forests, decontamination of residential areas does not necessarily lower radiation levels if the residential areas are located in vicinity of the forests. Still discharging radioactive materials through the removal of melted fuel, the leak of contaminated water and other processes on a daily basis, the Fukushima Daiichi Nuclear Power Plant is still far from the restoration. Consequently, there are elevated risks of health damage from the plan to lift evacuation orders and concerns over such risks among disaster-affected women who are encouraged to return to areas where the evacuation orders

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<sup>76</sup> Mainichi Shimbun. Moms, children from Fukushima no-go zones feel more stress. **October 2**, 2015. <http://mainichi.jp/english/articles/20151002/p2a/00m/0na/006000c>

are removed, *inter alia*, women who plan to have children and also who currently engage in childrearing. Resident of Minamisoma City, Fukushima Prefecture, instituted a lawsuit against the Government in connection with the removal of the orders and recommendations of evacuation. Also, 7000 residents of Tochigi Prefecture, which is located south to Fukushima Prefecture and is excluded from the coverage of compensation by Tokyo Electric Power Company, took class action against Tokyo Electric Power Company through an alternative dispute resolution system, demanding an apology and the establishment of a fund for decontamination work and health checks, as well as compensation for extra living expenses and damages caused by the Nuclear Accident.

Section 3 Question 17 a) and b)

(1) Information on a) that health examinations relating to the nuclear disaster in Fukushima are limited to thyroid examinations and are only for residents of Fukushima Prefecture

185. The explanation of this is found in Section 1 Health examinations relating to the Nuclear Accident in Fukushima.

(2) b) Reductions and waivers of medical expenses

186. Free medical treatment is available for children who are 18 years of age and under in Fukushima Prefecture; however, the Government implements measures of medical care only for children and pregnant women, and exclude medical care “for injuries or diseases not attributable to exposure due to radiation pertaining to the TEPCO Nuclear Accident” in accordance with Article of 13 of the Act on Promotion of Support Measures for the Lives of Disaster Victims to Protect and Support Children and Other Residents Suffering Damage due to Tokyo Electric Power Company's Nuclear Accident which was established in 2012. Furthermore, it is not clear by law whether the redress includes lives under evacuation, stress, posttraumatic stress disorder (PTSD) associated with the Nuclear Accident. The return of residents to areas where the Government currently plans to lift the evacuation orders may cause concerns over women’s health and a risk of being deprived of appropriate medical treatment. The reason for this is that women cannot become financially independent owing to the persistent absence of the infrastructure of employment in areas where the evacuation orders are lifted, therefore hesitating to see a doctor without reductions or exemptions of medical expenses.

187. Also, there has been a shortage of medical facilities and doctors prior to the Nuclear Accident in areas where the evacuation advisories are removed. In particular, the number of medical institutions with obstetric capabilities is insufficient. Women thus suffer from lingering anxiety over whether they can have a safe delivery and whether their children can be provided with adequate medical care in areas where residents are allowed to return. It is essential to improve medical institutions which can provide free and adequate medical treatment with an aim to eliminate the anxiety of disaster-affected women over health and medical care in areas where evacuation orders are lifted.

National disasters

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

188. After the consideration of the periodic reports of Japan, the Great East Japan Earthquake occurred on March 11, 2011, followed by the Nuclear Accident. The legal framework of measures for national disaster management is a Basic Plan for Gender Equality pursuant to the Basic Act for Gender Equal Society which was enacted in 1999 and schemes set out in the Basic Plan for Emergency Preparedness in accordance with the Basic Act on Disaster Control Measures which is a fundamental law pertaining to disasters.

Section 1 Measures for gender equality in the disaster management of the Third Basic Plan for Gender Equality and its actual situation

(1) Measures

189. The Third Basic Plan for Gender Equality (the “Third Basic Plan”), which was formulated in December 2010, has been in place at the time of the earthquake and the Nuclear Accident and up until today. The Third Basic Plan included the necessity to establish a mechanism of disaster management which incorporates a perspective of gender equality. Also, it established a new section of measures for “Promoting gender equality in the area of regional development, disaster prevention, environment, and others” in relation to gender equality in the disaster management. For purposes such as the promoting incorporation of the gender equality perspective, details of the measures include: the expansion of women’s participation in processes of deciding principles of the policy in the area of disaster mitigation in order to ensure the perspective of gender equality is reflected in local plans of disaster management and other relevant measures; the inclusion of women’s views in formulation, implementation, and provision of information of on-site disaster management measures; the provision of support for incorporation of the perspective of gender equality in disaster management manuals and other steps formulated by local governments; the review of stereotyped perceptions of gender roles and responsibilities; the promotion of women’s participation in processes of developing principles; and cultivation of women’s leadership. In addition, attention is paid to recruitment and appointment of women in positions, such as fire defense personnel, firefighters, police officers, and self-defense officials, so that women are sufficiently staffed at sites of disaster management, and efforts are also made to improve women’s vocational competence by means of training at normal times and others accordingly.

(2) Actual situation

190. Women’s actual participation in processes of deciding policies and principles of disaster mitigation at the time of the earthquake in 2011 is shown in statistics concerning achievement rates of targets stated in the Third Basic Plan: women constituted 4.3% of chairpersons of residents’ associations; there were no female members at six prefectural councils of disaster management; and there were 19,577 female firefighters throughout the country with the target figure of 100,000 women (as of September 2012). Additionally, female members made up 3.6% of the prefectural councils of disaster management at the time of the earthquake. The Government implemented proactive measures at a relatively early stage of disaster management of the earthquake, including disaster response in accordance with needs of women

and children at evacuation shelters and other places, the establishment of counseling services for female victims and the convening of symposiums on issues such as reconstruction. However, with little permeation of these activities by the Government into disaster sites, considerable fragility was found in the mechanism of disaster management which should be established from a perspective of gender equality that was mentioned as a basic principle in the section of promotion of gender equality in the area of disaster prevention of the Third Basic Plan and in the Basic Plan for Emergency Preparedness.

191. According to the Cabinet Office's "Survey on the Disaster Response from a Gender Equality Perspective" conducted on disaster-affected regions and local governments, private organizations and other bodies which provided support for affected regions, it was reported that due to the lack of female involvement in taking responsibility for the operation of evacuation sites: (1) little attention was paid to requests and opinions of women most times; (2) many women tended to hesitate to request those items required by women when they were in short supply. Furthermore, stereotypical perceptions of traditional gender roles were pervaded at evacuation sites where women mostly prepared meals. Moreover, the Survey on Tsunami Evacuation jointly conducted by the Cabinet Office, the Fire and Disaster Management Agency, and the Japan Meteorological Agency found that a relatively large number of women responded that privacy was not ensured in the question about difficulties in living at evacuation shelters immediately after the disaster. Women were more likely to find it inconvenient to live at evacuation shelters than men. There were also some cases of DV and sexual violence. It is not exaggeration to say that women who evacuated had to face difficult situations where the gender perspective was absent.
192. Also, because compensation of damages caused by the Nuclear Accident were provided for those who were affected on a household basis, men who were an overwhelming majority of heads of households received all the compensation which was supposed to be paid to wives and children. As a result, such means of distribution of the compensation makes it easy for the husband to control and spend the money even provided for the wife and the children, and mostly puts the wife in a position to follow her husband's opinion on management and use of even the compensation she was supposed to receive, which may result in making women socially, economically weak, as well as powerless within the family.
193. In regions affected by the Nuclear Accident, because of the delay and concealment of information on radiation, expectant mothers and parents who had children, in particular, many mothers who had a main responsibility for childrearing were in distress over whether to evacuate from damages caused by radiation due to the continued spread of radioactive materials from the nuclear power station, with anxiety over health risks since the occurrence of the Nuclear Accident. In many cases where children are evacuated, mothers go and evacuate with children while fathers stay within Fukushima Prefecture to engage in paid work, which consequently leads to revival and reinforcement of the social structure of traditional gender roles where men work, and women engage in household duties and childrearing.
194. Children suffered from baseless rumors at places of evacuation such as "those who are exposed to radiation will infect others," and some cases became a topic of conversation, such as where engagement for marriage was broken off due to the opinion: "Don't get married to a woman from Fukushima." Children and women were forced to experience unsubstantiated discrimination because of radioactive

contamination resulting from the Nuclear Accident. Please refer to the chapter of the response to Question 17 for health hazard.

(3) Fourth Basic Plan for Gender Equality which is scheduled to be formulated in 2016 (the “Fourth Basic Plan”)

195. In July 2015, the Government released the preliminary draft of the basic outline for the formulation of the Fourth Basic Plan compiled by an expert panel for planning and formulation of the plan which was established under the Council for Gender Equality. Public comments are scheduled to be collected for this draft, and the Fourth Basic Plan is subsequently to be completed by March 2016. The preliminary draft states concrete measures in accordance with experiences and lessons gained through the Great East Japan Earthquake and the Sendai Framework for Disaster Risk Reduction 2015-2030<sup>77</sup> which was adopted at the Third UN World Conference on Disaster Risk Reduction: the establishment of a mechanism of disaster management which incorporates a gender perspective through the expansion of equal participation of men and women in processes of determining policies and principles of disaster risk mitigation and at sites of disaster management. The draft also mentions in connection with rehabilitation and reconstruction of disaster-affected regions the establishment of a mechanism of reconstruction which incorporates a gender perspective through the promotion of women’s participation in places and organizations of rehabilitation and reconstruction for equal participation of men and women.
196. With its thought given to the hardship endured by women in regions affected by the earthquake and the Nuclear Accident because of the absence of equal participation of women and men and the gender perspective, humbly accepting the fact that it hardly realized equal participation of men and women in the process of developing the policies of disaster risk mitigation and reconstruction under the Third Basic Plan, the Government should overcome problems which it admitted in the “Evaluation and Problems” section of the Third Basic Plan, and formulate and incorporate numerical targets of concrete measures in the Fourth Basic Plan in order to truly fulfill gender equality in places where decisions are made with regard to support for victims, rehabilitation and reconstruction in disaster-affected regions.

## Section 2 Gender equality in the Basic Plan for Emergency Preparedness pursuant to the Basic Act on Disaster Control Measures

197. Gender equality in a basic plan for disaster risk control was mentioned for the first time upon the revision of Chapter 3 of the Basic Plan for Emergency Preparedness in 2005. Yet, such reference was made only to mention about the necessity of participation by many residents, including women, for purposes such as thorough prevalence of periodic disaster drills and the concept of disaster risk management. Later, after some addition and revision were made in the plan, the Central Disaster Prevention Council held in 2008 stated that:

In order to manage disaster risks with consideration of perspectives of both men and women, it is necessary to establish a mechanism of disaster risk management which incorporates the

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<sup>77</sup> UN World Conference on Disaster Risk Reduction. Sendai Framework for Disaster Risk Reduction 2015-2030. [http://www.preventionweb.net/files/43291\\_sendaiframeworkfordrren.pdf](http://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf)

perspective of equal participation of men and women through the expansion of women's participation in processes of determining policies and principles of disaster risk reduction and on-site disaster management.

The council clearly mentioned the perspective of gender equality through the reference to the promotion of women's participation in the policy-making process which serves as a basis of disaster risk prevention, emergency measures and recovery from a disaster.

198. However, the reality of the expansion of women's participation in disaster risk management and reconstruction processes of the central and local governments is very far from reaching the targets in the Third Basic Plan: an increase in the percentage of women participating in processes of determining policies and principles to 30 percent by 2020.
199. The statistics on women's participation shows that at the Central Disaster Prevention Council which was instituted pursuant to the Basic Act on Disaster Control Measures to formulate a Basic Plan for Emergency Preparedness of the country and encourage its implementation, there were three women out of 24 members at the 26<sup>th</sup> council held a year before the earthquake occurred, two women out of 25 members at the 27<sup>th</sup> council held on April 27, 2011, immediately after the earthquake, and five women out of 27 members at the 35<sup>th</sup> council held in 2015, which indicates the persistence of women's underrepresentation at the council.
200. The Reconstruction Design Council in Response to the Great East Japan Earthquake was established in April 2011 with the purpose of deliberating on a plan of recovery from the disaster to formulate guidelines for reconstructing the regions affected by the earthquake, based on the request by the Prime Minister, and was subsequently abolished with the establishment of the Reconstruction Agency in February 2012. There was one woman out of 16 members at this council.
201. The Reconstruction Promotion Committee which was established in accordance with the Act for Establishment of the Reconstruction Agency has three women out of 15 members.
202. Furthermore, the percentage of female members at prefectural disaster prevention councils which was 3.6% at the time of the earthquake increased to 12.1% in 2012 due to the addition of persons with relevant knowledge and experience and other experts, as well as ex officio members in order to incorporate various opinions from different organizations and people pursuant to the revised Basic Act on Disaster Control Measures in June 2012; however, women's underrepresentation is still prevalent at these councils.
203. Despite the availability of positions where women could have been appointed at important decision-making organs and other bodies which were established in the face of the Great East Japan Earthquake and the Nuclear Accident for support for people and regions stricken by the disaster, reconstruction planning, disaster risk management and other relevant issues, the Government failed to appoint women or promote women's representation in order to achieve the target of a rise in women's percentages at those councils to 30% stated in the Third Basic Plan. It has to be inevitably concluded that the Government has no intention or attitude to truly attain women's participation in policy-making processes of the central and local governments in connection with disaster risk reduction and reconstruction from the disaster or incorporate gender perspectives in those policies.

## Disadvantaged groups of women

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

Section 1 Comprehensive measures to ensure a gender-sensitive approach to address the needs of refugee and asylum-seeking women and girls

204. A total of 11 people were recognized as refugees through submission of applications in Japan in 2014 (there were six people recognized at the initial screening, five people recognized at the objection procedures, and 121 people in total that include those who were granted asylum with humanitarian consideration), which indicates an extremely small number of recognized refugees compared with other countries.
205. In October 2013, a special committee on the refugee recognition system (the "Special Committee") was established under the Sixth Immigration Policy Discussion Panel, a private advisory panel of Minister of Justice, and examines (1) measures of proper and prompt assessment of cases amid a surge in applications for refugee recognition, (2) principles of permission to grant statuses of residence from humanitarian perspectives, and (3) principles of support for applicants of refugee recognition. The Special Committee proposed with regard to the clear definition of the protection that the protection in relation to applications based on so-called "new forms of persecution" should be carried out through accurate interpretation of the Refugee Convention in accordance with the ordinary meaning to be given to the terms of the convention in their context and in light of its object and purpose pursuant to the relevant provisions of the Interpretation of Treaties of the Vienna Convention on the Law of Treaties. It pointed out as an example of the foregoing proposal the necessity to examine the eligibility of cases which are found to face fear of gender-based persecution. It also indicated that: with regard to the necessary examination of cases which may face gender-related persecution, the Government should consider the grant of asylum to cases of persecution under the Refugee Convention in accordance with the interpretation of "membership of a particular social group," such as those who may face female genital mutilation (FGM) which is traditionally conducted in some part of Africa; and cases where there is fear of being persecuted for reasons of sexual orientation and other factors should be affirmatively examined for the eligibility for refugees of those who apply on account of "new forms of persecution."
206. Currently, there is no information on the Government's examination of comprehensive measures.

Section 2 Alternatives to detention of asylum seekers and consideration in particular for asylum-seeking women who have specific needs

207. Japan's Immigration Bureau employs the principle of detention of all cases that those who have grounds for deportation without statuses of residence are all detained. There are exceptions to this principle of detention; however, this system is very arbitrary. Instead of their detention, nongovernmental organizations entrusted by the Immigration Bureau of the Ministry of Justice attempt to provide services such as ensuring housing and various supports for those who have difficulty in securing housing among people who claim their eligibility for refugees at the Narita International Airport. Yet, this attempt has a limited effect with only ten-odd cases who receive such services per year. In spite of such deplorable circumstances, no specific measures are taken for women.

### Section 3 Measures taken to address the overcrowding in some detention facilities, including women's prisons

208. Women's penal institutions accommodate 4,452 inmates as of the end of 2006, which indicates a considerable overcrowding with approximately 132.6% of the maximum capacity. The capacity is currently being extended by such means as new establishment of sections for female inmates within men's detention facilities which have large accommodation capacities. However, the overcrowding has not been eliminated yet, with 4,421 inmates and 97.7% of capacity. In particular, an excess of the capacity still continues at prisons only for women among prisons which house female inmates.<sup>78</sup>

209. Women's penal institutions have features specific to women, such as the aging population of inmates, mental disorders as typified by the eating disorder and a large number of prison admissions for drug offenses.

210. Because of significantly severe burdens on prison officials to respond to a diversity of inmates, the turnover rate is high. The turnover rates for prison officers who resign within three years after the recruitment are 15.5% for men and 34.4% for women which is considerably high. As a result, there are few experienced officers, leading to inadequate treatment of prisoners. No specific measures are implemented for women at immigration detention centers.

20. Please provide updated information on access by older women, migrant women, minority women, including indigenous women, women with disabilities and rural women to all rights covered under the Convention. Please provide, in particular, information regarding sexual violence against women with disabilities and on measures taken to provide shelters for women with disabilities and older women who are victims of abuse. Please provide information on measures taken to address the feminization of poverty, including the higher rate of women in poverty among older women and women-headed households. Please also provide information on measures taken, including through the establishment of a policy framework and the adoption of temporary special measures, to eliminate discrimination against minority women and to appoint minority women representatives to decision-making bodies.<sup>79</sup>

### Section 1 Information on access to all rights covered under the Convention

<sup>78</sup> Ministry of Justice. White Paper on Crime 2014. Chapter 4, Section 1 Imprisonment in Penal Institutions. (November 2014). [http://hakusyo1.moj.go.jp/en/63/nfm/n\\_63\\_2\\_2\\_4\\_1\\_1.html](http://hakusyo1.moj.go.jp/en/63/nfm/n_63_2_2_4_1_1.html)

<sup>79</sup> JFBA. JFBA Report. Para.102-116.

211. The Government hardly collects data or information on these multiple forms of discrimination or releases such information; therefore, no measures have been taken to reflect the current situation. There is insufficient information on sexual violence against women with disabilities, and the Government has yet to understand the problem of abuse of people with disabilities (both at home and at facilities), either, which impedes the Government in taking any measures for the abuse.
212. Specific measures for rural women have not been confirmed.<sup>80</sup>

#### Section 2 Shelters for women with disabilities and elderly women who are victims of DV

213. Although the Spousal Violence Prevention Act states “respect their human rights regardless of their nationality or disability, etc.,” most public counseling services are available only on the phone, which makes it difficult for those with hearing or language disability to access to the services. Also, many public shelters are established without the assumption of the utilization by people in wheelchairs and those with disabilities who require care. Women with disabilities still have to face high hurdles to access to the public shelters.
214. There is no public shelter for elderly women who are DV victims, and shelters are not basically available in particular for many of those who require long-term care.
215. Women constitute over 70% of victims of elder abuse at facilities as well as at home. The numbers of notification, counseling, and confirmed abuse cases considerably vary according to whether an abuse prevention network exists in a municipality. The number of confirmed abuse cases significantly differs in municipality, because it is believed that the establishment of an abuse prevention network functions effectively, such municipality is likely to receive many notification and counseling cases which otherwise result in the dark figure of unreported cases.

#### Section 3 Measures taken to address the feminization of poverty, including the higher rate of women in poverty among older women and women-headed households

##### (1) Measures to address poverty among older women

216. The poverty rate of single-person households of elderly women is extremely high with approximately 50%. On average, women receive about 50% of the amount of pension benefits that men receive, and a mechanism to guarantee a minimum amount of the basic pension has yet to be introduced. Under such circumstances, it is difficult to eliminate poverty in particular among elderly women. The law was revised to promote part-time workers’ subscription to employees’ pension insurances in 2012; however, no more than about 6%, roughly 250,000 people out of four million part-time workers in total, subscribe

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<sup>80</sup>The family management agreement is concluded on the basis of an extensive discussion among the family concerning management policies and sharing of responsibilities, a working environment where every family member feels comfortable working and other relevant issues with an aim of making an agricultural management attractive so that each household who engages in family farming can participate in the management with willingness and motivations. The Government encourages the conclusion of family management agreements. The promotion of conclusion of family management agreements and relevant issues was incorporated in the section of the development and employment of human resources and others of the Basic Plan for Food, Agriculture and Rural Areas which was approved at a Cabinet meeting in March 2010. The Basic Plan for Gender Equality which was decided by the Cabinet in December 2010 also stated “promoting further increases in the number of ‘family management agreements’ that are entered into to, as well as their effective utilization” in “Priority field 6 Promotion of gender equality aimed at bringing about vibrant agricultural, forestry, and fisheries communities.” However, such conclusion amounted to no more than 54,190 cases in fiscal 2013.

to employees' pension schemes. In light of the fact that women make up approximately 70% of part-time workers, it is expected to have a limited effect on the rise in the amount of pension benefits women receive. Furthermore, the Government implemented the policy of the reduction in the budget for social security which included the cutback in pension amount by 2.5% without exceptions, the abolishment of the provision of the supplemental benefit of public assistance for those who were 70 years of age and older, the imposition of stricter eligibility requirements for public assistance, thereby exacerbating poverty among elderly women. Moreover, because of the reforms of the medical care system for the elderly aged 75 and over and the long-term care insurance system which resulted in being worse, low-income elderly women have to bear a heavy burden. This works as an impediment to their access to medical and nursing care services. By and large, the policy of poverty elimination does not function at all. In terms of older women, because women constitute a majority of the aged population on account of women's longer life expectancy than men's, more elderly women are affected by the reduction of the budget for social security.

#### (2) Poverty reduction for women-headed households

217. The policy of support for fatherless families has shifted to support for encouragement of employment and self-reliance for the last twenty years with limits imposed on financial assistance such as child rearing allowances which are provided for single-parent households. Despite the fact that approximately 81% of mothers of fatherless families are in the labour force, the relative poverty rate is significantly high with about 50%.
218. The Act on Promotion of Child Poverty Countermeasures was enacted in 2013, and the Government's policy outline which set forth detailed measures was determined in 2014. The Government's measures in the outline stand on four key pillars: "support for education," "livelihood support," "support for guardians' employment" and "financial support." However, the policy hardly includes measures for poverty elimination or any budget for those measures, and, in particular, financial support which those who actually suffer from child poverty need most is the most disregarded. In the process of formulating the outline mentioned above, the discussion was held with regard to the expansion of the universal child allowance and other types of child rearing allowances, the exemption of school lunch and trip expenses, the waiver of copayments at medical institutions and the reduction in social insurance premiums and taxes; however, their incorporation in the outline was all deferred.

#### Section 4 Measures taken to eliminate discrimination against minority women and to appoint minority women representatives to decision-making bodies

219. The Government has: no intention to carry out research on the actual situation of minority women; almost no description of information, issues and measures concerning the reality of minority women in documents of the gender equality policy; no inclusion of measures for minority women even in the policy of human rights; and no measures for Ainu, Buraku, Zainichi Korean and Okinawa women. The Government merely states that "without specific measures for minority women, the issue will be addressed within a general framework." It is assumed that it does not understand the problem of multiple forms of discrimination.

220. The Government has not proactively appointed minority women representatives to decision-making bodies. Members of various types of conferences and committees promoted by the Comprehensive Ainu Policy Office of the Cabinet Secretariat are mostly composed of men and women who are not Ainu, while very few Ainu women participate in them. In respect of the policy of Okinawa, denying that the Okinawa people are indigenous people, the Government makes decisions as to issues such as the plan of US military bases in Okinawa which directly affects lives of people in Okinawa without their participation in those discussions, and disregards opinions of residents in Okinawa. Even when there is an opportunity for residents to be involved in discussions, very few women take part in them. As is the case with residents of foreign nationalities, unless they do not obtain Japanese nationality, those who are originally from Japan's former colonies and their descendants are not allowed to vote even in referendums of most municipalities, despite having settled in Japan for long periods and through third and fourth generations and paying taxes.

#### Marriage and family relations

21. It is indicated in the report that a bill revising the Civil Code unifies the marriageable age between men and women, introduces a system allowing a husband and wife to adopt separate surnames and shortens the period of prohibition of remarriage required for women (para. 384). Please indicate the steps taken to expedite the adoption of the bill and to eliminate the period of prohibition of remarriage for women. Please also indicate whether the State party envisages adopting legal provisions requiring the payment of child maintenance by the father. Please also indicate the steps taken to ensure that children born out of wedlock are not discriminated against through the family registry system.

#### Section 1 Marriageable age

221. It was reported that the Headquarters for Promoting Women's Active Participation of the Liberal Democratic Party of Japan finalized the proposal to raise the marriageable age of women from the current 16 years old to 18 years old on a par with men's in June 9, 2015. Notwithstanding that the above proposal is the same as the suggestion of the marriageable age (Article 731 of the Civil Code) stated in the outline of the draft for the amendment to the Civil Code which the Legislative Council concluded, the headquarters excludes from its proposal the issue of the same surname of husband and wife (Article 750 of the Civil Code) and the period of prohibition of remarriage of women alone (Article 733 of the Civil Code) whose amendment is also recommended by the Committee.
222. In the same month, an opposition party submitted to the House of Councilors a bill to amend the Civil Code which included the revision of the marriageable age of women to 18 years of age and older which is equivalent to men's.

#### Section 2 System allowing a husband and wife to adopt separate surnames

223. In February 2015, the lawsuit claiming the unconstitutionality of the provision requiring a couple to use the same surname when they register their marriage (Article 750 of the Civil Code) and its violation of the Convention was referred to the Supreme Court's Grand Bench. On December 16, the Supreme Court upheld the constitutionality of Article 750 of the Civil Code on the grounds that there is no formal

inequality between men and women in the same-surname system itself, that the system is not found to be irrational in accordance with the request of Article 24 of the Constitution and other reasons. It did not determine whether the provision violates the Convention.

224. The revision to introduce a system allowing a husband and wife to adopt separate surnames of their own accord is also incorporated in the bill for the amendment to the Civil Code submitted by the opposition party in June 2015 which is mentioned in Section 1 of this chapter.

### Section 3 Period of prohibition of remarriage for women

225. In February 2015, the lawsuit claiming the unconstitutionality of the provision pertaining the period of prohibition of remarriage for women (Article 733 of the Civil Code) and its nonconformity with the Convention was referred to the Supreme Court's Grand Bench. Despite the decision in 2008 that Article 733 of the Civil Code which prohibits only women to remarry for six months was in violation of Article 14, paragraph 1 and Article 24, paragraph 2 of the Constitution, the Supreme Court determined on December 16, 2015, that "the part which stipulates the ban on women's remarriage within 100 days of their divorce does not violate Article 14, paragraph 1 and Article 24, paragraph 2 of the Constitution, either." It did not determine whether the provision violates the Convention.

226. The revision to shorten the period of prohibition of remarriage required for women to 100 days is also incorporated in the bill for the amendment to the Civil Code submitted by the opposition party in June 2015 which is mentioned in Section 1 of this chapter.

227. Notwithstanding the Committee's recommendation to abolish the period of prohibition of remarriage only required for women, it has not be widely known yet in Japan that such prohibition is categorized as discrimination against women. The realistic option to be examined is whether to shorten the period of prohibition of women's remarriage for the current six months to one hundred days in the bill for the amendment to the Civil Code in 1996.

### Section 4 Ensuring the payment of child maintenance by the father

228. In cases of mutually agreed upon divorces that account for approximately 90% of all divorces, no more than about 30% of fatherless families make parenting arrangements when they divorce, and over 80% of children do not receive child support.

229. It is necessary to introduce a forcible system to investigate an income, a place of employment and an asset of a person who is obliged to pay child support, an effective mechanism to collect child support payments and a system in which the Government makes child support payments on behalf; however, none of those systems has been introduced in Japan yet.

230. In response to the amendment to the Civil Code in fiscal 2011, a new form of the registration document for divorce was introduced to have check boxes for a status of a parenting arrangement regarding visitation and child support. According to a report on the survey of parenting arrangements of visitation and child support in cases of the mutually agreed upon divorce of couples with minors by the Ministry of Justice in fiscal 2014, out of 124,420 cases of couples with minor children who notified their divorces by agreement (232,156 divorce notifications in total), 102,384 cases checked the box of sharing the

responsibility for child support payments. While 76,840 cases concluded arrangements of sharing the responsibility for child support payments, 25,544 cases did not make such arrangements. Therefore, 61.8% of the couples with minor children answered they made arrangements concerning child support (60.6% in the previous fiscal year).

#### Section 5 Children born out of wedlock

231. Most of the discrimination against children born out of wedlock still prevails within laws and in society. The revision has yet to be made with regard to the notification of birth in Article 49 of the Family Register Act which requires parents reporting a birth to indicate whether or not the child was born in wedlock. In addition, as is the case with children who are born in wedlock, children who are born out of wedlock are registered in chronological order of birth, as in “eldest son (eldest daughter)” and “second son (second daughter)” when such birth is notified after November 2004. With regard to children born out of wedlock who are already listed in the family register prior to November 2004, if a request is filed to alter the entry of “male” or “female” to the current categories of relationships such as “eldest son (eldest daughter)” and “second son (second daughter)” in the section of a type of a child’s relationship with the parents in the family registry record, the alteration is made as per the request; however, only about 1% of those concerned have requested the alteration.

#### Optional Protocol to the Convention

22. Please provide information on any progress made with regard to the ratification of the Optional Protocol to the Convention and indicate a time frame for its possible ratification.
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232. The Government reached close to the ratification of the Optional Protocol to the Convention some years ago; however, since December 2012 when the change of government took place, no further progress has been made for the ratification.
233. Currently, the Government does not even incorporate the issue of ratification of individual complaints mechanisms of other treaties as well as the Convention and other relevant matters in its political agenda.