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## **Universal Periodic Review**

### **Information for the second review of Japan**

### **Major Concerns on Women's Human Rights**

**By**

**Asia-Japan Women's Resource Center (AJWRC)**  
with Special Consultative Status with ECOSOC

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## ABOUT SUBMITTING ORGANIZATION

The Asia-Japan Women's Resource Center (AJWRC) is a non-profit, non-governmental organization with a special consultative status with ECOSOC granted in 2000. Aiming at eliminating all forms of violence and discrimination against women and promoting social justice in Japan and in Asia, AJWRC works in four program areas: peace, security and gender; elimination of violence against women; economic social rights of women; and feminist movement building, by way of training, publications, information dissemination, and advocacy activities.

### A. FOLLOW-UP TO RECOMMENDATIONS ACCEPTED BY THE STATE

#### A-1. Elimination of Legal Discrimination against Women

The Civil Code still includes several discriminative provisions against women, including different minimums of marriage age for women and men, the waiting period before remarriage required only of women, and the requirement of same surnames for married couples which in effect forces most women to abandon their original family names. Legal discrimination against children born out of wedlock also keeps impacting women's reproductive autonomy. Although the Government pledged to submit a bill to revise the Civil Code in 2010, it failed to do so due to strong opposition within and outside the Government. The opposition was particularly against allowing couples to choose different surnames, claiming that it could lead to "breakdown of family." Failing to refute such groundless arguments, the Government has not since tried to resubmit the bill. Under this situation, 5 men and women have brought a lawsuit against the Government in February 2011 claiming that the requirement of married couples having the same surname is unconstitutional.

Suggested recommendation: The State should take urgent actions to eliminate the legal discriminations against women by making more vigorous efforts to refute the opposition and to educate the general public on the state's obligation to ensure equal rights for women.

#### A-2. Minority Women

Minority women and migrant women continue to face discrimination and marginalization in terms of employment, education, participation in decision-making, access to social security, and access to justice. While the Japanese Government has stipulated that it would address concerns of minority women in the Third Gender Equality Basic Plan, it has not conducted any research on the situation of minority women or produced gender-disaggregated data of different minority communities, nor has it held consultation with minority women and their supporters. Furthermore, under the new immigration control system legislated in 2009, foreign-born spouses of Japanese nationals who "have failed to perform as spouse of Japanese nationals for 6 months or longer without legitimate reasons" may lose their residence permits, which may increase risks for victims of domestic violence. Another concern is the recent rise of racist attacks on Koreans, Chinese and other ethnic minorities, as the tension between Japan and neighboring countries increases. Harassment and threats often targeted at school children increases the anxiety and burden of women who take care of families and community. However the Government does not take a strong stance to counter racially motivated attacks and to protect targeted communities. As such, in the absence of anti-racism law, this effectively creates an social environment that promotes further discrimination and attacks.

### A-3. Violence against women

Problems with the laws: While sexual crimes are defined under several clauses in the Penal Code, there is no holistic definition of sexual violence as sexual acts occurring without consent or against victim's free will. Rape is too narrowly defined as forceful intercourse against women, excluding rape against male victims, forceful oral sex or rape with materials. Further, marital rape and incest is not clearly defined as constituting crimes of rape. While reconsideration of the rape law is included in the Third Gender Equality Basic Plan, the Government has not announced any concrete steps toward the review nor conducted consultation with rape victims, supporters and experts. Prevention of Spousal Violence Law does not yet cover violence occurring among non-cohabiting unmarried couples and same-sex couples.

Problems with law enforcement: There are several reported cases of stalking victims where family members were killed that the police did not take seriously, despite physical assaults punishable under the law being reported. There is a need to conduct a comprehensive review by a third party on implementation of the anti-domestic violence law and the anti-stalking law to ensure rigorous and immediate enforcement of the laws.

Gendered sexual prejudice held by judges and law enforcement officers causes serious problem of secondary suffering for rape victims and acquittal of perpetrators. Despite the fact that many rape victims are stunned with shock and fear, rape victims are often required to provide evidence to the court. Particularly when evidence of forceful attack is not available, rape victims are often required to prove that they resisted the assault, or that the sexual assault was not a consensual sexual act. It is also very difficult for rape victims to get justice in the court when the victim was under the control of the perpetrator, such as when they were dating, or when the victim was working in the entertainment industry. As a result of the deep prejudice that is embedded in the court system, many victims are prevented from reporting and getting justice in the court. Training of law enforcement officers is also not sufficient to eliminate the prejudice, and a comprehensive review of the legal system is much needed.

#### Recovery Support for Victims:

The Japanese Government's follow-up report does not address public support for civil groups that provide counseling and other recovery support for victims of gender-based violence. Although some local governments provide financial support for private-run shelters for domestic violence victims, with the lack of national support system for civil groups, the level of support varies between prefectures, and many prefectures do not provide any support for private shelters. In the absence of a nationwide system to ensure rape victim access to 24-hours comprehensive support, there is only one public-run rape crisis center and a couple of crisis centers run by civil organizations. While these private initiatives are supported by private hospitals, it is difficult to keep providing service without sufficient public funding. The lack of long-term support systems for victims of domestic and sexual violence is another serious problem. Although many victims suffer from lingering mental and physical disorders and financial difficulties, the Government does not consult victims and their supporters for better support system.

Suggested Recommendation: The Government should take concrete steps to revise the rape law that currently excludes the rape of men and young boys and other forms of sexual assaults. Gender-based prejudices against victims in the enforcement of the rape law must also be actively addressed. In doing so, the Government should ensure full civil society participation,

in consultations with victims, supporters and experts, and take into consideration internationally established guidelines and good practice. It should also expand emergency and long-term support system for victims of gender-based violence, including expanded public funding for civil groups that provide crucial relief and recovery service for victims.

26. Full participation of civil society and integration of gender perspective in the follow-up process

Right after the previous review of Japan in May 2008, AJWRC and other 71 civil organizations in Japan sent a letter requesting the Government to ensure full participation of civil society in the follow-up of the recommendations. However, the State did not hold any consultation with the civil society until February 2012, after the Government had already prepared the State follow-up report for the second review. Furthermore, the “consultation” was held more for the Government to explain its stance, rather than hold any meaningful discussion with civil society. Of course there was no consultation with women’s groups to make the follow-up process gender-responsive. Although the Gender Equality Bureau of the Cabinet office was involved in the preparation process of the state report, its participation was partial and not responsible for systemic integration of gender perspectives in the overall follow-up process.

## B. OTHER CRITICAL CONCERNS REGARDING WOMEN’S RIGHTS SINCE THE PREVIOUS REVIEW

### B-1. Gendered Impacts of the Disaster

In the aftermath of the Great East Japan Earthquake that struck the Northern part of Japan on March 11, 2011, affected women have experienced disproportionate impacts. The gender gap is particularly notable in impacts on employment. Part-time and other casual workers, the majority of whom are women, were most affected by the economic impacts of the disaster. There is also a large gender gap in the employment recovery rate in the affected areas. According to the Government statistics, as of November 2011, the number of female recipients of unemployment benefits in the affected areas was 1.4 times higher than that of men. Before the disaster, the number of women and men working were almost same. This emerging gender gap in unemployment rate can be attributed to the fact that the job opportunities created through the government job creation scheme as well as through reconstruction works mostly concentrated in the fields of construction and civil engineering where majority of workers are men. On the other hand, there is a delay in resumption of the fishery processing industry in the tsunami-affected coastal areas where women workers made up the majority. The lack of nursery schools also makes it difficult for women to find jobs.

In many evacuation shelters set up in the affected areas, women’s participation in managing committee was very limited, and even when they participated, women were often assigned to do “women’s jobs” such as preparing meals or cleaning, putting a heavy burden on the shoulders of affected women. With the lack of women in management of shelters, women’s needs and concerns were difficult to be heard. In some shelters there was no dedicated space for women to change clothes or secure female bathrooms. The situation was especially difficult for women with small children or children with disabilities that some of them opted to leave shelters and went back to damaged houses.

Although no sharp increase of incidence of violence against women was reported in the aftermath of the disaster, civil groups that provide counseling for affected women have reported cases of sexual assaults and domestic violence. Further, a year after the disaster, there is a sign of gradual increase of incidences of domestic violence in the affected areas, including cases that can be identified as disaster-related, according to some statistics. However it is difficult to know actual impacts of the disaster on gender-based violence, since the Government has not conducted research on the issue.

Women's participation in decision-making for reconstruction process has been very limited. Only one woman out of 15 members was appointed in the First Reconstruction Council set up by the national Government. The Council was later reorganized and the number of women was increased to 4 out of 15 members. The number of woman in local reconstruction committees in the affected prefectures is also very small: 1 woman out of 12 members in Miyagi; 1 woman out of 11 members in Fukushima; and no woman out of 17 members in Iwate. Women's participation in disaster risk reduction councils is also quite low. The national disaster prevention council has only two women out of 26 members, and the percentage of female members on local Disaster Prevention Councils is only 3.4 % in prefectural levels and 2.7 % at the municipal levels (Association of Prefectural Governors 2008). As of April 2011, one third of all prefectures did not have any women in their disaster prevention councils.

Another problem is gender-discrimination in provision of the relief fund and compensation money for affected households. The relief fund is designated to be paid to "a head of affected household" most of whom are men. There are reported cases where victims of domestic violence who had left abusive partners could not access the fund. Also the amount of disaster condolence money paid to the kin of persons who were disabled or who died due to disaster is reduced half, if the person was not a major breadwinner of the household. Taking that women earn only 60% of average income of men, it effectively discriminates against women.

Suggested Recommendation: The Government should prepare gender-disaggregated data and closely monitor impacts of the earthquake and the nuclear disaster on men and women, including employment and gender-based violence. The Government should make every effort to ensure equal participation of women in disaster prevention and reconstruction decision-making, ensuring full participation of civil society including women's rights organizations. The relief fund and compensation for affected people should be provided to individuals rather than households to ensure equal access by men and women.

## B-2. Growing Gender Poverty Gap

57% of the people in poverty are women and the poverty gender gap is increasing. The average annual income of women in 2010 was only 53% of men. According to a data from the National Tax Bureau in 2010, those who earn less than 3 million yen (approx. US\$35,800) was 66.2% among women while 23.4% among men. 42.7% of women earn less than 2 million yen (approx. US\$23,000), which is considered as below the poverty line.

A recent study found that incidence of poverty is disproportionately high among single female households. The relative poverty rate among single female households for the working age group (ages 20 to 64) is 32% and 52% for those aged above 65. It is mainly attributed to the gender-discriminative labor market and social security systems. Women's full participation in labor force is hindered by the lack of efficient public childcare and other social services. Furthermore, the current tax and pension systems that privilege male-breadwinner households

encourage women to work and earn less and thus economically depend on husbands. Under this situation, the majority of women work as unstable low-paid casual workers.

The relative poverty rate among single mothers with children aged below 19 years is 57%. The government has promoted single mothers' participation in the labor force, while cutting public assistance to these households. However, 83% of single mothers have already participated in labor force and yet are unable to earn enough income to support children and themselves because of the deteriorating labor condition and the lack of sufficient social services. The high incidence of poverty among women leads to high risks of economic dependence on male partners resulting in vulnerability to domestic abuse, sexual harassment at workplace, health problems, commercial sexual exploitation, and incidence of poverty among children. However the social welfare programs are based on the assumption of male-as-breadwinner, without giving enough attention to the hardship experienced by women in poverty and its causes.

Suggested Recommendation: The Government should conduct research on gendered social and health impacts of poverty and its causes. It should integrate gender perspective in preparation of poverty alleviation plan with full participation of civil society.