

**Responses to the List of Issues and Questions with regard to
the consideration of the Sixth Periodic Reports
(Japan)**

Question 1

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

(Answer)

The Sixth Report has been prepared under the responsibility of the Government as a whole. Specifically, the relevant ministries and agencies have discussed and compiled the contents in the form of this Government report. The Government also reported to the Diet when the report was submitted to the Secretary-General of the United Nations.

Question 2

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

(Answer)

In July 2005, the Specialist Committee on Monitoring and Gender Impact Assessment and Evaluation of the Council for Gender Equality recommended that the following opinions be taken into consideration when preparing the next periodic report to the Committee on the Elimination of Discrimination against Women and when making further efforts.

- (1) Throughout the report, the outcomes of the measures taken in response to the recommendations made by the Committee on the Elimination of Discrimination Against Women should be included to the greatest extent possible.
- (2) Regarding indirect discrimination, it is expected that the results of the studies conducted in the field of employment will be presented at an early date. Efforts should also be made to collect actual cases of indirect discrimination on a continuous basis and to promote the regulations that concern the Convention on the Elimination of All Forms of Discrimination against Women and the Basic Law for a Gender-Equal Society.
- (3) Regarding the respect for women's human rights in the media, an exchange of opinions should take place in which organizations involved in games, internet sites, etc. should participate.
- (4) Regarding the issues of minorities and trafficking in persons, the relevant data obtained by each ministry should be compiled and incorporated into the report.
- (5) Continued efforts should be made to deepen public awareness and understanding of the proposed revisions, which set the same marriageable age for both men and women, reduce the set period during which women are prohibited from remarrying after divorce, and introduce a system for allowing married couples to use separate surnames.

(6) Continued deliberation on the possibility of ratifying the Optional Protocol to the Convention should take place at an early date.

In order to implement the recommendations listed above, the following measures have been taken.

(1) The results that were achieved as a part of the special measures taken by the Government (see paragraphs 118 and 122 of the Report) are contained in the Sixth Report.

(2) See paragraphs 101, 282 through 284, and 286 through 290 of the Report and the answer to question 3.

(3) See paragraph 78 of the Report.

(4) See paragraphs 98 through 100 and 178 through 184 of the Report, Nos. 13 through 15, 21 and 22 of the Annex Statistics and the answer to question 24.

(5) See paragraph 393 of the Report and the answer to question 28.

6) See paragraph 103 of the Report and the answer to question 30.

Question 3

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

(Answer)

The Law on Securing of Equal Opportunity and Treatment between Men and Women in Employment (hereinafter referred to as the Equal Employment Opportunity Law) was revised in 2006 and introduced a new provision prohibiting indirect discrimination. Indirect discrimination is defined as measures that are:

- 1) on the basis of conditions other than sex;
- 2) practically discriminatory to a substantial extent against members of one sex compared to members of the other; and
- 3) without any legitimate reason.

Also, the following three measures were accepted as appropriate by the tripartite Labour Policy Council consisting of intellectuals and representatives of the employers and the trade unions and were stipulated in the Ordinance of the Ministry of Health, Labour and Welfare:

- 1) Measures which concern the recruitment and employment of workers and which apply a criterion concerning the worker's height, weight or physical strength;
- 2) Measures which concern the recruitment and employment of a 'main career track employee' under the employment management differentiated by career tracking and which apply a criterion concerning the worker's availability for reassignment that results in the relocation of the worker's residence; and
- 3) Measures which concern the promotion of workers and which apply a criterion concerning the worker's experience of having been reassigned to a workplace other than the workplace where the worker had formerly worked.

The Government will review these measures that this Ordinance stipulated as indirect discrimination as necessary.

Question 4

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

(Answer)

The Government understands that the Convention is quoted or referred to in the domestic judicial trial cases listed in Attached Table.

Regarding judges, the Government understands that the Legal Training and Research Institute, which is in charge of training judges, invites graduate school professors who specialize in international human rights, staff of organizations that are involved in protecting human rights (including international organizations), etc. as guest lecturers to give lectures on various themes. These lectures are held as part of the training program for judges, and they are meant to raise the judges' awareness of the Convention and violence against women. Specific examples are as given in the Appendix.

Regarding attorneys, the Government understands that the following activities (not an exhaustive list) have been carried out.

1 Activities of the Committee on Equality of Men and Women of the Japan Federation of Bar Associations (JFBA)

The JFBA's Committee on Equality of Men and Women, which celebrated its 30th anniversary in 2006, conducts research and studies on the status and rights of women and makes suggestions about how existing legislation should be revised.

Its major activities since June 2006 are as follows:

- 1) Released an opinion on the bill to revise the Equal Employment Opportunity Act and issued a leaflet;
- 2) Released an opinion on the bill to revise the Law Concerning the Improvement of Employment Management of Part-time Workers and made a request to members of the Diet;
- 3) Conducted a survey on the state of gender equality in Bar Associations and the JFBA (survey on the number of female board members and other constructive actions);
- 4) Requested that a rule be established to exempt members from paying the JFBA fees during the period before and after childbirth;
- 5) Issued a pamphlet 'Is that true? "though only a woman" "spoil your manhood" - We will correct misunderstandings concerning gender';

- 6) Prepared a training textbook and sent lecturers to promote the efforts to establish and expand a system to provide consultations and accept cases involving domestic violence (DV); and
- 7) Held symposiums to promote gender equality in Bar Associations.

Activities specifically related to the Convention are as follows:

- 1) Activities of the PT concerning the Convention on the Elimination of All Forms of Discrimination against Women that was established by the Committee: the PT provided information (prepared a report) to the working group of the UN Committee on the Elimination of Discrimination Against Women as assistance in preparing the list of issues for the 6th Report by the Government of Japan, and it sent a member to that working group.
- 2) The 'Application of the Convention on the Elimination of All Forms of Discrimination against Women in Practice' was brought up as the theme of a training session that was held for all attorneys in December 2008. The lecturer at the session was an attorney who is currently a member of the Committee on the Elimination of Discrimination against Women.

2 Activities of the JFBA Center for Gender Equality Promotion

In April 2007, the JFBA created the Basic Framework for Gender-Equality in the JFBA (hereinafter referred to as the Basic Framework). Section 9 of the Basic Framework, titled 'Measures for Realization and Respect of Internationally-Established Principles' states, 'In order to make our gender-equality promotion measures work for the realization of or compliance with the internationally-established principles of the International Covenants on Human Rights, Convention on the Elimination of All Forms of Discrimination against Women, etc., the JFBA will take the necessary actions, including the exchange of information with international organizations.'

In June of the same year, the Center for Gender Equality Promotion was established to promote the Basic Framework. The Center held a 'National Caravan for the Publicity of Basic Framework for Gender-Equality' at twelve locations throughout Japan in an effort to inform its members about the Basic Framework. The Center collected opinions from the JFBA members in various parts of the country on gender disparities for attorneys, the balance between work and family life, etc. It also developed the JFBA Basic Plan for Gender Equality Promotion in March 2008 and prepared a pamphlet for the promotion of the Basic Framework 'Good balance Good life - in societies in which women are active, men are also active', which it distributed to its members.

3 International Human Rights Seminar held by the Committee on International Human

Rights of the JFBA

Since its establishment in 1996, the Committee on International Human Rights has engaged in research and studies on international human rights and has provided information about international activities to the relevant committees at the JFBA. Starting from the same year, the Committee began to periodically organize International Human Rights Seminars on themes such as 'International Human Rights Law and the Role of Legal Profession' and 'Women's Rights in Administration of Justice'. In these Seminars, lectures are given by scholars and members of the Committee who are well versed in these themes and also allow time for opinions to be exchanged.

4 Provision of information on the Convention to members

The JFBA maintains an International Human Rights Library on its website (http://www.nichibenren.or.jp/ja/kokusai/humanrights_library/index.html) and provides various information to members. The Library contains information on the Convention on the Elimination of All Forms of Discrimination against Women along with International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, along with the full text of the Convention, Second to Sixth Periodic Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women by the Government of Japan and the JFBA's reports on the government's reports, and the final comments by the Committee on the Elimination of Discrimination Against Women for the first to fifth government reports.

The Committee on Equality of Men and Women and the Center for Gender Equality Promotion mentioned above both publish 'News' twice a year and send it to all of their members. The 'News' includes articles about the efforts each Bar Association has made to promote gender equality, public relations and reports on symposiums, and reports on the participation at the pre-session of Committee on the Elimination of Discrimination Against Women. In these 'News', it provides information to members that is easy to understand.

Regarding public prosecutors, lectures are held as a part of the various training programs, which public prosecutors have to take depending on their respective years of experience. These lectures are held on themes such as 'International Treaties regarding Human Rights' and 'Consideration and Care for Women and Children in Prosecution Practice'. Through these lectures, public prosecutors learn about the contents of the Convention on the Elimination of All Forms of Discrimination against Women. In addition, in their daily activities individual prosecutors are given guidance by their superiors through the course of investigations and court proceedings.

Attached Table

[Question 4] Judicial Precedents which Quoted or Referred to the Convention on Elimination of All Forms of Discrimination against Women

| Date of Judgment, etc. | Summary of Judgment | Portion Related to the Convention |
|--|--|--|
| Tokyo High Court Judgment, March 24, 2005 | A case in which the court ruled that notating whether a child was born in or out of wedlock in the relationship column of the Family Registry does not infringe on the right to privacy and cannot be deemed illegal. | The requirement to distinguish children born out of wedlock from children born in wedlock cannot be regarded as an unreasonable discrimination that is in violation of the Constitution. Also, distinguishing the children born out of wedlock from the children born in wedlock cannot be regarded as a violation of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, etc., as argued by the appellant. |
| Tokyo District Court Judgment, February 24, 2005 | A case in which the court dismissed a claim against the Tokyo Metropolitan Governor by women living in Tokyo or neighboring prefectures seeking damages for the infringement on their fame and other rights caused by the governor's discriminatory statement against women | (The plaintiffs' claim stated that they have the right to seek happiness with dignity and live in equality regardless of their sex, the right to free choice regarding reproduction, etc. on the basis of the Convention on the Elimination of All Forms of Discrimination against Women and that the Governor's remark infringed on these rights) The rights claimed by the plaintiffs cannot be immediately regarded as rights that should be protected by tort law or other legal interests. However, the plaintiffs' claim is deemed to include a claim that their interest in being respected as individuals, being allowed to live individual lives, being able to participate in various social activities based on their own free will regardless of their sex, having their right to make their own decision on whether or not to give birth to a child respected and other interests were violated. Considering that these interests are personal interests common to the plaintiffs, they may be regarded as interests that should be protected by tort law. |
| Tokyo High Court Decision, March 29, 1991 | 1 The proviso of Article 900, subparagraph 4 of the Civil Code, which establishes the share in inheritance of a child born out of wedlock, is not in violation of Article 13 and Article 14 paragraph 1 of the Constitution. 2 A case in which the court ruled that the provision of the proviso of Article 900, subparagraph 4 of the Civil Code is not in violation of the Constitution and that there are no other grounds to deem the said provision invalid. | The appellant argued that the provision of the Civil Code, which establishes the statutory share in inheritance of a child born out of wedlock as half the share of that of the child born in wedlock, is in violation of Article 16, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women. However, the question as to how the portion of share in inheritance should be established is a matter of legislative policy of the given country. |
| Tokyo District Court Judgment, March 29, 2006 | The portion of Article 3, paragraph 1 of the Nationality Act, which stipulates legitimacy as a requirement for the acquisition of nationality, is in violation of Article 14, paragraph 1 of the Constitution. | The former clause of Article 9, paragraph 1 and paragraph 2 of the same article of the Convention on the Elimination of All Forms of Discrimination against Women requires that women be granted equal rights as men with respect to the nationality of their children, and it is deemed that a child shall be granted the nationality of the parents if either the |

| | | |
|--|---|--|
| | | <p>mother or the father is a citizen of the country when applying the principle of jus sanguinis. However, these provisions do not require that children born out of wedlock be treated the same way as children born in wedlock. Nor does it require that a child born out of wedlock whose father is a Japanese citizen and mother is a foreign national be treated the same as a child whose mother is a Japanese citizen and father is a foreign national in regards to the acquisition of nationality.</p> |
| <p>Nagoya District Court Judgment, December 22, 2004</p> | <p>1 A case in which the court determined that the defendant company's system for recruiting and treating high-school graduate employees is a system in which recruitment and treatment is differentiated solely on gender differences. Under the system, men are mainly engaged in more difficult tasks, and the places to which they are assignment are generally not limited. Women, on the other hand, are mainly engaged in less difficult tasks, and the places to which they are assigned are limited.</p> <p>2 A case in which the court determined that from 1962 to 1967, during which time the plaintiffs were employed by the company as female employees, the above-mentioned gender-differentiated recruitment and treatment system was not regarded as an unreasonable discrimination that violated public policy.</p> <p>3 A case in which the court determined that after the Act on Securing, etc. of Equal Opportunity and Treatment between Men and Women in Employment was enacted on April 1, 1999, the above-mentioned gender-differentiated recruitment and treatment system is regarded as an unreasonable discrimination that violates public policy and infringes on personal rights. In this case, the courts upheld the plaintiffs' claim for damages in tort.</p> | <p>The plaintiffs argued, based on the Convention on the Elimination of All Forms of Discrimination against Women, etc., that from 1962 to 1967, during which time they joined the company, gender equality had already been established as an international public policy and therefore the discrimination against women caused by the defendant is against the international public policy and therefore illegal. However, the said Convention, etc. is not deemed automatically enforceable without the enactment of a domestic law, and the above-mentioned gender-differentiated recruitment and treatment system cannot be immediately regarded as a violation of the said Convention, etc. after duly considering the history and contents of the system.</p> |
| <p>Osaka District Court Judgment, March 28, 2005</p> | <p>1 A case in which the court determined that the defendant company's practice of recruiting and treating high-school graduate employees is a gender-differentiated recruitment and treatment system (hereinafter referred to as "Gender-Differentiated Treatment") in which men are engaged in essential tasks at the headquarters and other offices throughout the country based on the assumption that men will be employed for life, whereas women are engaged in supplementary tasks at the headquarters or other offices where they were employed based on the assumption that women will resign in a short time.</p> <p>2 A case in which the court determined that before the Act on Securing, etc. of</p> | <p>The plaintiffs argued that even for women who were employed before the Convention on the Elimination of All Forms of Discrimination against Women came into effect, discriminatory treatment in regards to assignments and promotion resulted from discriminatory employment, which continued after the enactment of the said Convention and violates the said Convention. Therefore, they argued, the discriminatory treatment constitutes a tort in violation of public policy. However, in the light of the wording of the said Convention, it cannot be deemed to be automatically enforceable on the domestic level without the enactment of a domestic law. Also, Gender-Differentiated Treatment cannot be immediately regarded as a violation of the said Convention.</p> |

| | | |
|--|--|--|
| | <p>Equal Opportunity and Treatment between Men and Women in Employment was enacted on April 1, 1999, even though the Gender-Differentiated Treatment was not consistent with the principle of substantial equality between men and women as intended by Article 14 of the Constitution, it did not immediately constitute a violation of public policy.</p> <p>3 A case in which the court determined that the disparity between male and female high-school graduate clerical employees at the defendant company could not be explained only by Gender-Differentiated Treatment and could not be regarded to have any reasonable relation with the Gender-Differentiated Treatment constitutes unreasonable discriminatory treatment solely based on gender differences, which violates public policy as stipulated in Article 90 of the Civil Code and is therefore illegal. In the case, the courts upheld the plaintiffs' claim for damages in tort.</p> | |
| <p>Kyoto District Court Judgment, July 9, 2008</p> | <p>A case in which the court ruled that setting wages of a temporary employee at a lower level than those of regular employees is not in violation of Article 13 and Article 14 of the Constitution, Article 3 and Article 4 of the Labour Standard Act, public policy, etc.</p> | <p>Article 11, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women stipulates that "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of the equality of men and women, all persons have the same rights".</p> <p>However, the said Convention does not go beyond setting forth the rules which international society should follow from the perspective of gender discrimination, and it does not specifically provide common criteria regarding the principle of equal pay for equal value work. Therefore, the Convention cannot be deemed to automatically enforceable and cover the principle of equal pay for equal value work.</p> |

Appendix

Examples of Training Program Implemented in FY 2008

| Target | Contents |
|---|---|
| Presiding Judges of District Courts and Family Courts | a. Lecture by a graduate school professor on ‘International Human Rights Law and Courts’ (The Convention was also brought up.) b. Lectures by the Director of Civil Affairs Bureau ,the Supreme Court of Japan ,etc. and an exchange of opinions (The issue of DV was also brought up.) |
| Judges newly appointed in FY 2008 | a. Lecture by the Director of the Tokyo Office of the United Nations Population Fund on ‘Human Rights Viewed from the Perspective of International Organization’ (The issue of DV was also brought up.) b. Lectures by the Director of Civil Affairs Bureau, the Supreme Court of Japan, etc. and an exchange of opinions on ‘Current State and Issues of Case Handling in Each Field of Trial’ (The issue of DV was also brought up.) |
| The chiefs of branch of District Courts and Family Courts | Lectures by the Director-General of the Human Rights Bureau, Ministry of Justice, etc. on ‘Protection of Human Rights’ (The Convention and the issue of DV were also brought up.) |
| Assistant Judges newly appointed in September 2008 | Lecture by a university professor on ‘International Human Rights Law and Courts’ (The Convention was also brought up.) |
| Assistant Judges newly appointed in January 2009 | Lecture by a graduate school professor on ‘International Human Rights Law and Courts’ (The Convention was also brought up.) |
| Summary Court Judges newly appointed in FY 2008 | Lectures by the Director-General of the Human Rights Bureau, Ministry of Justice on ‘Protection of Human Rights’ (The Convention and the issue of DV were also brought up.) |

Question 5

Please describe the current status and progress achieved in the implementation of the second basic plan for gender equality (see para. 29). The response should include information on the impact of each policy set out for each of the 12 fields identified in the plan towards practical realization of gender equality.

(Answer)

The Second Basic Plan for Gender Equality that was approved by the Cabinet on December 27, 2005, laid out twelve important fields and also set the long-term policy direction until 2020. It also included concrete measures that are to be implemented by the end of FY2010. Since the Basic Plan was formulated, a review of the legal system and the planning and implementation of new measures have been promoted in each field with the aim of realizing a gender-equal society.

In order to promote the expansion of women's participation in policy decision-making processes, a new target for the ratio of women appointed to national advisory councils was set in 2006. In addition, based on the recognition that more strategic measures are necessary to expand the participation of women, the Headquarters for the Promotion of Gender Equality adopted the Program for Accelerating Women's Social Participation in April 2008.

In the field of employment, the Equal Employment Opportunity Act was revised in 2006 to prohibit discrimination against both men and women and to prohibit dismissal or other discriminatory treatment due to reasons such as pregnancy and childbirth. In 2007, the Law Concerning the Improvement of Employment Management of Part-time Workers was revised to ensure the balanced treatment of part-time workers and regular employees according to their actual working styles and to encourage the conversion of part-time workers to regular employees. This Law was revised with the aim of creating a work environment in which part-time workers can effectively make use of their capabilities. In 2005, the Plan of Support for Women's Renewed Challenge was adopted. Under this Plan, which was revised in 2006, comprehensive support is provided to women who resume their careers or start new businesses.

In 2007, the Charter for Work-Life Balance, the Action Policy for Promoting Work-Life Balance, and 'Japan's Strategy to Support Children and Family' were adopted with the aim of promoting efforts by the government and the private sector to provide support to both men and women so that they can balance work and family/community life and to support the development of the next generation.

Regarding the elimination of all forms of violence against women, the Act on the Prevention of Spousal Violence and the Protection of Victims was revised in 2007, and enhanced measures were implemented to prevent spousal violence and to protect victims while also providing support to assist victims in becoming self-reliant.

As part of measures for the prevention and eradication of trafficking in persons and for the protection of trafficked persons, the Inter-Ministerial Liaison Committee regarding measures to combat trafficking in persons was established in 2004 and the Action Plan of Measures to Combat Trafficking in Persons was created. In 2005, the Law Concerning Partial Amendment to the Penal Code was enacted as legislation to ensure that people involved in trafficking in persons are severely punished. It establishes that trafficking in persons is a crime, it also establishes measures for dealing with cross-border trafficking in persons.

The measures set forth in the Basic Plan have been steadily promoted by each ministry through the enrichment of the legal system and the implementation of the policy measures described above. In March 2008, three years after the adoption of the Plan, the Council for Gender Equality summarized and published their report on the implementation status of the measures, related statistical data, and future challenges in order to assist in the comprehension of the status of efforts regarding the current implementation of the Plan and the implementation schedule, etc. Based on this report, the above-mentioned Program for Accelerating Women's Social Participation was adopted and efforts for the substantial realization of gender equality are now being promoted.

The implementation status of the measures in the twelve important fields of the Plan and the major results indicated in the relevant statistics are as follows:

1. Expand women's participation in policy decision-making processes

○Expand women's participation in policy decision-making processes in the national and local governments, etc.

▪Promote the recruitment and promotion of female public officers

[Ratio of women recruited who passed the Level I recruitment examination for national public officers: 21.5% in FY2005→24.2% in FY2008]

[Ratio of female national public officers in director-level and higher positions: 1.6% in 2005 →1.9% in 2007]

[Ratio of female officers in prefectural governments that hold a director-level and higher position: 4.9% in 2004 → 5.4% in 2008]

▪Set new targets for expanding the participation of women in national advisory councils (2006): to ensure that by 2020 the number of either male or female members does not fall below 40% of

the total for the government as a whole and to achieve the minimum ratio of female members (33.3%) by the end of FY 2010.

[Ratio of female members in national advisory councils: 30.9% in 2005 → 32.4% in 2008]

○Support the measures taken by private corporations, educational and research institutes, and other organizations and groups

▪Request the heads of private corporations, labour unions, employer's associations, etc. to expand the participation of women in policy decision-making processes (2006-)

[Ratio of women in managerial positions at private corporations (with 100 or more employees): department manager level 2.8%, section chief level 5.1%, and subsection chief level 10.4% in 2005 → department manager level 4.1%, section chief level 6.5%, and subsection chief level 12.5% in 2007]

▪Take measures to create a favorable working environment for female doctors, including the provision of training to assist female doctors in returning to work, the expansion of the female doctor bank and an increase in the number of nursery facilities in hospitals.

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

○Review social systems and practices from a gender equal perspective

▪From the viewpoint of enhancing the security of employee pensions and ensuring neutrality in the choice of working styles, an amendment to the Employees Pension Insurance Law was submitted to the Diet. The amendment includes the expansion of social insurance to cover part-time workers (2007)

○Promotion of public information, awareness-raising activities and the expansion of consultation services

▪Promote public information and awareness-raising activities in an effort to deepen the general public's understanding through such means as designating a Gender Equality Week and Equal Employment Opportunity Month as well as holding of the Liaison Conference for the Promotion of Gender Equality.

[Ratio of people who know the term 'Gender-Equal Society': 52.5% in 2004 → 79.6% in 2007]

[Ratio of people who oppose the notion that 'the husband should work outside the home, while the wife should take on domestic duties': 48.9% in 2004 → 52.1% in 2007]

3. Secure equal opportunities and treatment between women and men in the field of employment

○Promote measures to ensure that both women and men receive equal opportunities and treatment in the field of employment

▪Revised the Equal Employment Opportunity Act to prohibit discrimination against both men and women and to prohibit dismissal or other discriminatory treatment due to reasons such as pregnancy and childbirth (2006).

[Disparity in average scheduled cash earnings per hour (male full-time workers= 100): female full-time workers: 65.9 in 2005→ 66.9 in 2007, female part-time workers: 46.3 in 2005→ 46.8 in 2006]

▪Established a system of rewarding companies that promote gender equality and a work-life balance to encourage companies to take ‘positive actions’ (affirmative actions) (2007).

[Ratio of corporations taking ‘positive actions’ (affirmative actions): 29.5% in 2003 → 20.7% in 2006]

○Support for promoting the realization of the full potential of female workers

▪Revised the Plan of Support for Women’s Renewed Challenge to reinforce measures for enriching support for child rearing and to support the learning and development of individual abilities necessary to pursue new challenges (2006).

▪Established Mothers’ Hello Works, Mothers’ Salons, and Mothers’ Corners across the country to provide detailed employment support for mothers who are raising children (2006-).

[Results achieved by Mothers’ Hello Works for FY2007: number of newly registered persons who are seeking employment: 87,123; number of persons who obtained employment: 23,374]

○Create an employment environment that meets diversified employment needs

▪Revised the Law Concerning the Improvement of Employment Management of Part-time Workers to ensure the balanced treatment of part-time workers and regular employees according to their actual working styles and to encourage the conversion of part-time workers to regular employees. This Law was revised with the aim of creating a work environment in which part-time workers can more effectively make use of their abilities (2007).

[Gender ratio of non-regular employees: 51.6% (female) 16.3% (male) in 2004 → 52.7% (female) 17.8%(male) in 2006]

4. Establish gender equality for realizing dynamic rural areas

○Changes in the awareness and behavior in all places

▪Promote the participation of women in rural communities through the dissemination of information and awareness-raising activities such as awards, symposiums and other educational programs.

○Expand the participation of women in policy decision-making processes

▪Set targets for the participation of women, such as the ratio of female board members in agricultural cooperatives and the number of female members on the agricultural committee, and provide support for training for women to enhance their skills and to take leadership positions.

[Women's participation in agriculture, forestry, and fisheries: agricultural committee members 1.8% in 2000 → 4.2% in 2006; agricultural instructors 4.4% in 2000 → 11.8% in 2006; agricultural cooperative board members 0.6% in FY2000 → 2.1% in FY2006; fisheries cooperative board members 0.2% in FY2000 → 0.4% in FY2006; forestry cooperative board members: 0.3% in FY2006]

○Improvement of women's economic status and the improvement of working conditions and work environment

▪Promote an improvement in the economic status of women and establish favorable working conditions, such as enhancing the executive management skills of women through training, etc. aimed at encouraging the participation of women in agricultural management and encouraging an increase in the number of certified female farmers as well as facilitating the conclusion of the Family Business Agreements.

[Number of households that have concluded the Family Business Agreements (ratio of households engaged primarily in agriculture): 32,120 households (7.5%) in 2005 → 37,721 households (9.7%) in 2007]

5. Support the efforts of men and women to harmonize work with their family and community life

○Support for the balancing of work and family life and a review of working styles

▪Under the Next Generation Nurturing Support Measures Promotion Law (2004), promote efforts by corporations to provide support for raising the next generation.

[Number of corporations designated under the Next Generation Nurturing Support Measures Promotion Law:

As of the end of December 2008: large corporations (301 or more employees) 577, small and medium sized corporations (up to 300 employees) 57]

▪Adopted the Charter for Work-Life Balance and the Action Policy for Promoting Work-Life Balance, and compiled the priority strategies in the 'Japan's Strategy to Support Children and Family' (2007)

[Monthly working hours (full-time workers at corporations with 5 or more employees): 169.3

hours in FY2005 → 170.5 hours in FY2007]

[Ratio of corporations that have implemented family-friendly measures such as shorter working hours for employees with preschool children: 10.5% in FY2004 → 19.2% in FY 2007]

- Revised the Employment Insurance Law to provisionally raise the benefit rate for child care leave benefits from 40% to 50% of the wage before taking child care leave (for employees who begin child care leave by March 31, 2010) (2007)

- Support flexible working styles during child-rearing through measures such as promoting shorter working hours and the use of child care leave, securing substitute workers for employees who take child care leave, providing assistance for employees returning to work, etc.

[Rate of child care leave utilization: men 0.56%, women 70.6% in FY2004 → men 1.56%, women 89.7% in FY2007]

○ Reinforcement of child care support measures that can meet diversified lifestyles

- Conduct the initiative 'Zero-waiting List for Day Care Centres / completely eliminate the number of children who must wait before being admitted to a day care centre'; concentrate efforts on increasing the capacity of those day care centers that are primarily located in municipalities with 50 or more children who are waiting to be admitted to a day care center and also provide various nursery care services, including extended nursery care, holiday nursery care and night-time nursery care.

[Day care center capacity: 2.03 million in FY2004 → 2.12 million in April 2008]

[Number of day care centers that provide extended nursery care: 12,783 in FY2004 → 15,076 in FY2007]

- Established the system of the Centre for Early Childhood Education and Care (2006), which functions to provide integrated education and nursery care to preschool children as well as child care support for all households with children in the area.

- Increase the number of local child care support facilities and establish a community based child care support system

[Number of communities that have implemented the Child Care Support Center programs: 2,783 in FY2004 → 3,478 in FY2007]

- Implement measures to support single-mothers in becoming self-reliant, including supporting projects for livelihood, promotion of the vocational independence of single-mothers, and programs for the centers for supporting the employment and independence of single-mothers, etc.

[Number of operators of centers for supporting the employment and independence of single mothers, etc.: 94 in FY2006 → 99 in FY2007]

6. Develop conditions that allow the elderly to live with peace of mind

○Support for participation of the elderly in society

▪Under the revised Law concerning Stabilization of Employment of Older Persons (2006), promote measures to secure the stable employment of the elderly, including raising the age of the mandatory retirement system, introducing a system for continued employment and abolishing the mandatory retirement system.

[Ratio of corporations that have introduced measures to secure employment for the elderly: 84.0% in FY2006 → 96.2% in FY2008]

[Ratio of persons in their 60s out of the total number employed

Aged 60-64: men 65.4% in 2004 →72.5% in 2008, women 38.4% in 2004→42.5% in 2008

Aged 65-69: men 43.8% in 2004→47.8% in 2008, women 23.8% in 2004→25.5% in 2008]

○Establishment of a nursing care system that allows the elderly to live with peace of mind

▪Promote measures to prevent elderly persons from needing nursing care by revising the Long-term Care Insurance System (2006), and promote the creation of an environment that supports the utilization of family care leave.

▪Continue efforts to nurture and train healthcare workers, and promote measures to ensure the quality of the care service provided.

▪With the enactment of the Elderly Abuse Prevention Law (2006), promote measures to prevent the abuse of the elderly and to provide support to care takers

○Income security for elderly people

▪The system for dividing the Employees Pension in the event of a divorce has been realized (2007).

○Support for persons with disabilities to live independently

▪With the enactment of the Services and Supports for Persons with Disabilities Act (2006) that is aimed at supporting persons with disabilities to live independently within the community, a mandate for prefectures and municipalities to develop a Plan for Welfare of Persons with Disabilities (2006) has been established.

▪Under the revised Employment Promotion Law for Persons with Disabilities (2008), expand and reinforce measures for the employment of persons with disabilities by promoting the employment of persons with disabilities by small and medium sized corporations and by expanding the employment obligations to include the employment of short-time workers

[Ratio of companies that have achieved the statutory quota for the employment of persons with disabilities: 42.1% in 2005 → 44.9% in 2008]

•The Government of Japan signed the Convention on the Rights of Person with Disabilities, which is a comprehensive and general international convention aimed at protecting and promoting the rights and dignity of persons with disabilities (2007).

7. Eliminate all forms of violence against women

○Promote the prevention of spousal violence, etc. and the protection, etc. of victims

•Revised the Act on the Prevention of Spousal Violence and the Protection of Victims to expand the system for issuing protection orders and required municipalities to endeavor to establish facilities that function as Spousal Violence Counseling and Support Centers as well as to formulate basic plans (2007).

•While raising awareness of the revised Act on the Prevention of Spousal Violence and the Protection of Victims, developed a new Basic Policy under the said Act (2008)

[Number of protection orders issued under the Spousal Violence Prevention Act: 1,468 in 2003→ 2,186 in 2007]

[Number of consultations involving spousal violence that were received by the Spousal Violence Counseling and Support Centers: 43,225 in 2003 → 62,078 in 2007]

[Number of spousal violence cases that were known to the police: 12,568 in 2003 → 20,992 in 2007]

•Offer counseling service at the Human Rights Counseling Offices and through the specially designated ‘Women’s Rights Hotline’, provide advice or other necessary assistance to victims and implement measures such as a warning to the perpetrators and awareness-raising activities.

[Number of counselings concerning violence and abuse through the Women’s Rights Hotline: 2,285 in 2005 → 2,447 in 2007]

○Promote measures against sex crimes

•Implement measures against sex crimes such as assigning Instructors on Sexual-Crimes Investigation Methods to the police headquarters of each prefecture and expanding the protections etc. given to victims including accompanying and interviewing them, after duly considering the feelings of the victims.

○Promote measures against prostitution

•Promote further measures such as the protection of women and children from prostitution, the expansion of appropriate steps to be taken depending on the characteristics of each subject of prostitution and provide support for such women to become self-reliant.

[Number of persons cleared※ for crimes related to prostitution: 1,452 in 2004 → 1,740 in 2006]

※ clear : to identify the offender and treat him/her as a suspect then send him/her to a prosecutor

○Promote measures against trafficking in persons

▪Provide support to private shelters to protect the victims and make efforts to grasp the actual state of trafficking in persons at home and abroad.

[Number of victims involved in trafficking in persons who have been provided protection (including granting special permission for status of residence) or who have received support in returning to their home countries from the Immigration Bureau : 115 in 2005 → 40 in 2007]

○Promote measures to prevent sexual harassment

▪Give administrative guidance to corporations, etc. that have not taken any measures against sexual harassment.

[Number of consultations concerning sexual harassment at the workplace that were received by the Equal Employment Department of the Prefectural Labour Offices: 7,894 in 2005 → 15,799 in 2007]

▪Offer counseling service at the Human Rights Counseling Offices and through the specially designated ‘Women’s Rights Hotline’, provide advice or other necessary assistance to the victims and implement measures such as a warning to the perpetrators and awareness-raising activities.

[Number of counselings concerning sexual harassment through the Women’s Rights Hotline: 705 in 2005 → 545 in 2007]

○Promote measures against stalking

▪Properly apply the Law on Proscribing Stalking Behavior and Assisting Victims, give prompt warnings and exercise appropriate control while at the same time making efforts to alleviate the victims’ fear and ensure their safety.

8. Support lifelong health for women

○Maintain and promote women’s health throughout their lives

▪Improve a general consultation system for women’s health issues that covers all stages in their life and a consultation system specializing in infertility, etc.

▪Consider expanding health support for women at the Study Group on Women’s Health Promotion that is composed of private experts.

○Gender-specific medical services

- Conduct research for the purpose of establishing the scientific basis for supporting women's health that also takes into account gender difference.

- Health support during pregnancy and childbirth

- Support safe childbirth through the expansion of subsidies from the municipalities for pregnancy checkups, the provision of financial support to maternity hospitals and the establishment of a prenatal medical care system (an integrated medical care system for prenatal mothers, fetuses and newborn infants that provides both obstetrical and pediatric care).

[Ratio of people who were satisfied with their pregnancy and childbirth: 84.4% in 2000 → 91.4% in FY2005]

[Ratio of pregnant women who notified the municipalities in which they live about their pregnancy within the first 11 weeks of the pregnancy: 62.6% in 1996 → 68.6% in 2005]

- Provide counseling services on infertility and financial support for fertility treatment

[Ratio of patients who received counseling by a specialist before undergoing fertility treatment: 24.9% in FY2001 → 40.5% (infertility counselors), 35.3% (infertility coordinators) in FY2004]]

- Promotion of measures to combat problems that threaten the health of women

- Create textbooks for raising awareness about HIV/AIDS, sexually transmitted diseases, and the harmful effects of drug abuse, and distribute the textbooks to junior and senior high school students.

[Number of newly infected HIV carriers and AIDS patients reported: 1,199 (female 90, male 1,109) in 2005 → 1,500 (female 116, male 1,384) in 2007]

9. Promote gender equality in the media

- Support efforts in the media to promote expressions that respect women's rights

- Promote measures to combat certain media, such as harmful books and the Internet websites that display sex and violence, etc.

- Promote measures to facilitate the spread of content filtering services (services that filter content harmful to young people) for personal computers and cell phones, including the free distribution of filtering software and making requests to service providers

[Number of free filtering software downloaded on personal computers: 27,259 in 2006]

[Number of users who use filtering services for cell phones and PHS: approximately 4.95 million as of the end of December 2008]

[Number of clearances for cyber crimes (violations of the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children): 456 in

2005 → 714 in 2006]

[10. Enrich education and learning that promotes gender equality and facilitates the diversity of choice]

- Education and learning to promote gender equality
 - Conducted special research and studies on what kind of support must be given to education and learning in order to realize a gender-equal society (2007-2008)

- Enrich education and learning opportunities as a means of facilitating the diversity of choice
 - Respond to the diversified needs of women for learning and promote lifelong learning
 - Enrich learning support opportunities that encourage women who have stopped working to raise children, etc. to take new challenges (2007-)

[11. Contribute to the 'Equality, Development and Peace' of the global community]

- Adoption and dissemination of international norms and standards
 - Revised the Equal Employment Opportunity Act which prohibits discrimination against both men and women and prohibits, etc. dismissal or other discriminatory treatment due to reasons such as pregnancy and childbirth (2006)

- Contributions to the 'Equality, Development and Peace' of the global community
 - Clearly incorporates a gender perspective in the basic policy of the Initiative on Gender and Development (GAD) as well as in basic policies of the development initiatives for the fields such as disaster prevention, health, water and sanitation. Also, takes gender perspective into consideration when developing ODA plans for individual countries.
 - When implementing ODA projects, ensure equality by requiring an equal number of male and female participants and by providing opportunities for both men and women to share their comments.
 - Hosted the first East Asia Gender Equality Ministerial Meeting (2006), attended the second meeting in India (2007) and carried out international exchange activities related to gender equality.

[12. Promote gender equality in fields requiring new initiatives (science and technology; disaster prevention and recovery; regional revitalization, town planning and tourism; environment)]

- Science and technology
 - Conduct a survey on the efforts to achieve the numerical targets for the employment of female researchers that were set out in the Second Basic Plan for Gender Equality (25% in the field of

natural science as a whole).

- In the Third Science and Technology Basic Plan, suggested to promote the activities of female researchers by expanding measures to assist researchers in balancing their research with childbirth and child rearing as well as encouraging the employment of female researchers (2006).

- In order to support efforts by research institutes to encourage, etc. female researchers, conduct Supporting activities for female researchers (2006-), promote activities that support female researchers' return to work after maternity leave (2006-), carry out the Project to support the career choice in sciences for junior/senior high school girls (2006-) and hold a campaign to raise awareness (2005-)

[Ratio of female researchers (by institute): Total 11.9%, universities and colleges 21.1%, public organizations 12.1%, business enterprises and non-profit institutions 6.5% in 2005 → total 13.0%, universities and colleges 22.7%, public organizations 13.7%, business enterprises and non-profit institutions 7.6% in 2008]

[Ratio of women among newly enrolled university students (by department): engineering 10.6%, science 25.9%, agriculture 39.2%, health 58.2% in FY2005 → engineering 11.1%, science 26.6%, agriculture 41.1%, health 59.5% in FY2008]

○Disaster prevention and recovery

- Request prefectural governments to specify matters that must be given due consideration from the perspective of both men and women when modifying the regional disaster prevention plan.

[Number of prefectures and government-designated cities whose regional disaster prevention plan contains 'matters requiring consideration to the difference in perspective between men and women', etc.: prefectures 35 and government-designated cities 7 in 2007]

○Regional revitalization, town planning, and tourism

- Send advisors etc. to local communities and support regional revitalization that promotes the involvement of women in active roles.

[Ratio of female heads of community associations: 3.9% in 2008]

○Environment

- Provide opportunities to participate in activities in the field of environmental conservation regardless of gender and promote the participation of women in the environmental field.

[Ratio of female members in advisory councils at the Ministry of the Environment: 33.3% in 2005 → 34.9% in 2008]

Question 6

The report indicates that the Government is reviewing the human rights protection bill which would establish a human rights commission (see para. 44). In the light of Japan's pledge at the Human Rights Council at the end of the universal periodic review (see A/HRC/8/44/Add.1, para. 1 (a)), please indicate the progress made towards establishing a national human rights institution in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights.

(Answer)

The Government submitted the Human Rights Protection Bill to the Diet in March 2002. The bill would have established a new independent administrative commission and a human rights remedy system that is administered by the commission. However, the Bill was abandoned when the House of Representatives was dissolved in October 2003.

The Bill was drafted based on the reports submitted by the Council for Human Rights Promotion in May and December 2001. The Council was established under the Act for the Promotion of Measures for Human Rights Protection that was enacted in December 1996.

Based on the above-mentioned reports, the Government intends to submit a bill to the Diet that establishes an independent domestic human rights mechanism. Given that there are various arguments concerning the scope of human rights infringements to which remedies are applied and the authorities of the Human Rights Commission, the Ministry of Justice is now reviewing the bill.

Question 7

Bearing in mind the Committee's general recommendation No. 19 regarding violence against women, please describe steps taken to develop a comprehensive strategy to combat all forms of violence against women, including prosecution of perpetrators, provision of protection and assistance to victims, such as shelters and restraining orders to protect victims, and introduction of capacity-building and awareness-raising programmes for various groups (such as the police, lawyers, health and social workers and the judiciary) and the general public.

(Answer)

The Government recognizes that violence against women – including spousal violence, sex crimes, prostitution, trafficking in persons, sexual harassment, and stalking – is a flagrant violation of women's human rights and represents a serious problem that must be overcome as part of the process of achieving a gender-equal society.

On the other hand, violence against women tends to be concealed or may not be taken seriously as a private matter due to lack of understanding in the general society.

Based on the situation described above, the Government formulated the Second Basic Plan for Gender Equality (approved by the Cabinet on December 27, 2005) which aims at eliminating violence against women and establishing a basic framework for making the general public fully aware of the problem. Under the Plan, each ministry and agency will comprehensively promote a wide range of measures in accordance with the types of violence committed. This includes the promotion of measures to protect and support victims and the promotion of measures to prevent violence against women.

Regarding the prevention of spousal violence, the Act on the Prevention of Spousal Violence and the Protection of Victims (hereinafter referred to as the Spousal Violence Prevention Act) was enacted in 2001 and has been revised twice to date. This indicates that measures for the protection of victims have been promoted.

The Act was revised in 2007. The revision expanded the system for issuing protection orders. It also created a system for issuing stay-away orders that prohibit the perpetrator from approaching the victim's relatives, etc. and orders prohibiting phone calls or other behavior to the victim. In addition, efforts made by municipalities have been enhanced under the Act, which now requires municipalities to endeavor to establish Spousal Violence Counseling and Support Centers and formulate a basic plan.

The Government established the Basic Policy on Measures for the Prevention of Spousal Violence and Protection of Victims (established in 2004 and fully revised in 2007), which provides guidelines to local governments for the formulation of the basic plan. The local

governments in all the prefectures have formulated the basic plan.

Regarding measures to combat trafficking in persons, the Inter-Ministerial Liaison Committee concerning the development of measures to combat trafficking in persons was established in April 2004 in order to promote close cooperation among relevant Ministries and Agencies in developing measures necessary to eradicate trafficking in persons, to protect the victims of trafficking as well as to implement these measures promptly and in concert with the global community.

In December of the same year, the Action Plan of Measures to Combat Trafficking in Persons was formulated, and measures are now being implemented in accordance with the Action Plan.

The state of the prosecution of offenders, the provision of protection and support to victims such as shelters and the issuance of prohibition orders, etc. and the introduction of capacity-building and awareness-raising programs for various groups and the general public are shown in the Annex.

Annex

[Prosecution of offenders]

Number of prosecutions and others are as shown below.

(Unit: person)

| | | 2006 | 2007 |
|---|---------------------|-------|-------|
| Violations of the Spousal Violence Prevention Act | Persons prosecuted | 41 | 71 |
| Rape | Ordinary acceptance | 1,695 | 1,744 |
| | (Breakdown) | | |
| | Indictment | 953 | 885 |
| | Non-indictment | 603 | 738 |
| Forcible indecency | Ordinary acceptance | 3,230 | 3,187 |
| | (Breakdown) | | |
| | Indictment | 1,161 | 1,569 |
| | Non-indictment | 1,120 | 1,158 |

If the police find any violating behavior or actions against women, such as stalking or spousal violence, etc., regarding actions that violate criminal laws and ordinances, they will take the appropriate measures, which include arresting the offender, based on the victim's request. In other cases, the police will take measures appropriate for each case, which include offering crime prevention advice to the victim as well as instructions and warnings to the offender.

[Provision of protection and support to victims, including the provision of shelter and the issuance of prohibition orders, etc.]

Under the Spousal Violence Prevention Act, if the victim is deemed highly likely to suffer serious harm on his/her life or body inflicted by the spouse, the court shall issue a protection order upon receiving a petition from the victim. The various protection orders and their contents are shown below (the underlined items were revised in 2007).

- (1) Order prohibiting approach to the victim
- (2) Order prohibiting approach to the victim's children
- (3) Order prohibiting approach to the victim's relatives, etc.
- (4) Order prohibiting phone calls or other behavior
- (5) Order to vacate

The number of protections orders that have been issued is shown below.

| | Petitions | Protection Orders Issued |
|------|-----------|--------------------------|
| 2001 | 171 | 123 |
| 2002 | 1,426 | 1,128 |
| 2003 | 1,825 | 1,468 |

| | | |
|------|-------|-------|
| 2004 | 2,179 | 1,717 |
| 2005 | 2,695 | 2,141 |
| 2006 | 2,759 | 2,208 |
| 2007 | 2,779 | 2,186 |
| 2008 | 3,147 | 2,525 |

Based on the Spousal Violence Prevention Act, Spousal Violence Counseling and Support Centers have been established in several prefectures and municipalities (180 centers as of April 2008) to provide consultation services and information to victims of spousal violence.

The Spousal Violence Prevention Act stipulates that temporary protection for victims of spousal violence and their accompanying family members shall be provided directly by the Women's Consulting Offices that are located in each of the 47 prefectures or shall be entrusted to parties that meet the criteria specified by the Minister of Health, Labour and Welfare. The number of facilities that meet the above mentioned criteria to provide temporary protection increased from 96 in FY2002, when the Spousal Violence Prevention Act was first enacted and the temporary protection entrustment system was created, to 261 in FY2008. Efforts are being made to further increase the number of places that offer protection to victims.

Efforts are being made to incorporate increased subsidies to cover the costs of temporary protection entrustment as well as the subsidies to cover the entrustment fees for babies accompanying the victims into the government budget for FY2009.

In addition, pursuant to Article 8-2 of the Spousal Violence Prevention Act, the Chiefs of the Prefectural Police Headquarters, etc. are offering assistance to prevent the victims from suffering harm from spousal violence.

| | Number of Cases |
|------|-----------------|
| 2004 | 254 |
| 2005 | 3,519 |
| 2006 | 4,260 |
| 2007 | 5,208 |

The Cabinet Office carried out a program called the Model Project to Support Self-Reliance of Victims of Spousal Violence. In this program, support is provided to victims and their children to relocate and live in the community. The program has already been implemented on a trial basis. The results have been compiled in order to disseminate the support provided in the program to other regions.

The measures taken by the Ministry of Health, Labour and Welfare to expand support for victims of spousal violence are listed below.

| | |
|--|--|
| FY2002- | Assign staff in charge of psychotherapy to temporary protection facilities at the Women's Consulting Offices and Women's Protection Facilities |
| FY2004- | Assign advisors to handle children who accompany victims under temporary protection at the Women's Consulting Offices |
| FY2006- | Assign attorneys, etc to provide legal support and coordination services at the Women's Consulting Offices concerning divorce, status of residence, etc. |
| FY2007- | Provide services to assist victims under temporary protection at the Women's Consulting Offices and Women's Protection Facilities in securing guarantors for finding employment and renting an apartment, etc. |
| FY2009- (Government budget bill) | Expand the types of facilities to which advisors are assigned to handle children who accompany the victims of violence to include Women's Protection Facilities |

With a certificate issued by Women's Consulting Offices, etc. it became easy to take the procedures to be removed from the spouse's health insurance since 2004, to change the Basic Pension Number since FY2006, and to change the recipient of child-care allowance since FY2008. In this way, the Government has taken measures to prevent the spouse from chasing down or harassing the victim of spousal violence and to assist the victim in separating from the spouse.

Regarding stalking, pursuant to Article 7 of the Law on Proscribing Stalking Behavior and Assisting Victims, the Chiefs of the Prefectural Police Headquarters, etc. are offering aid to prevent the victims from suffering harm from stalking behavior.

| | Number of Cases |
|------|-----------------|
| 2004 | 1,356 |
| 2005 | 1,569 |
| 2006 | 1,631 |
| 2007 | 2,141 |

Regarding sexual harassment, the Equal Employment Opportunity Law, as revised in 2006, obligates employers to implement necessary measures to prevent sexual harassment, whereas the obligation under the former Law was merely to give necessary consideration. It also

stipulates that the name of any corporations that ignore the administrative recommendation shall be made public. The government requires employers who have not taken the necessary measures prescribed in the Law to make sure to take those measures through the use of such administrative guidance.

In addition, in accordance with the purpose of the Act on the Prevention of Spousal Violence and the Protection of Victims and in order to promote humanitarian protection, when an application for extending the period of stay or changing the status of residence is filed by a foreign woman living apart from her husband or divorced on the grounds of spousal violence, the Immigration Bureau of the Ministry of Justice generally permits the change to another status of residence after giving due consideration to the circumstances of each case. Even if the victim is subject to deportation, a special permission for status of residence is often granted after taking into consideration the circumstances of each individual applicant and from the viewpoint of allowing a stable legal status.

Regarding the further promotion of protection offered to the victims of spousal violence, a directive was issued in July 2008 to the Regional Immigration Bureaus that covered how to handle foreigners who consult the Regional Immigration Bureau claiming to be suffering from DV or who are found to be possible victims of domestic violence by officials at the Regional Immigration Bureau. The directive also requires that such cases be reported promptly to the Immigration Bureau of the Ministry of Justice.

After fully comprehending the actual state of the victims, the Immigration Bureau of the Ministry of Justice makes an appropriate determination on granting an extension of the period of stay to a persons whose residence status is 'Spouse or Child of Japanese National' but is currently living apart from her spouse or has divorced on the grounds of spousal violence. The Immigration Bureau also intends to make a determination on granting a 'Long Term Resident' status of residence or providing special permission for status of residence when the applicant is raising a child who is a Japanese national. In this way, the Immigration Bureau intends to enhance the support provided to the victims of spousal violence.

From July to December 31, 2008, 26 foreign nationals were identified as the victims of DV by the Immigration Bureau in the process of applying for extensions in the period of stay or deportation procedures.

[Introduction of capacity-building and awareness-raising programs for various groups and the general public]

The Headquarters for the Promotion of Gender Equality conducts a Campaign for Eliminating Violence against Women for the two weeks from November 12 to 25 (International Day for the

Elimination of Violence against Women). During this period, programs are conducted that relate to violence against women, such as activities to increase society's awareness of violence against women. These programs are conducted in cooperation and collaboration with local governments, women's groups and other related organizations.

The Cabinet Office is actively conducting public information programs and awareness-raising activities aimed at eliminating violence against women, while also endeavoring to enhance measures for the prevention of spousal violence and the protection and support to gain self-reliance provided to the victims. These actions and activities are in line with the Spousal Violence Prevention Act and the basic policy established under the Act.

The details are shown in Appendix 1.

The Ministry of Health, Labour and Welfare uses budgetary action as part of its measures to enhance the skills of the staff at the Women's Consulting Offices, counselors, and the staff at the Women's Protection Facilities, including professional training for staff in charge of counseling who support victims of spousal violence and the prefectural area network projects, etc., which includes case study meetings.

The government budget for FY2009 includes measures for training interpreters specialized in supporting victims under temporary protection at Women's Consulting Offices.

Regarding judges, the Government understands that the Legal Training and Research Institute, which is in charge of training judges, invites graduate school professors who specialize in international human rights, staff of organizations that are involved in the protection of human rights (including international organizations), etc. to give lectures on various themes. These lectures are held as part of the training program in order to raise the judges' awareness of the Convention and violence against women. Specific examples are as shown in the Appendix to Answer 4.

Regarding attorneys, the Bar Associations and the Japan Federation of Bar Associations (JFBA) provide training programs on themes concerning DV, etc. Examples are given in Appendix 2 and the Attached Table (limited only to those programs that are known to the JFBA).

In calling for the protection of women's rights, the Human Rights Organs of the Ministry of Justice conduct various promotion activities in different parts of the country, not only during the Human Rights Week but also throughout the year under the slogan of 'Protection of Women's Rights.'

At the same time, the Organs endeavor to help victims by offering counseling service at the

Human Rights Counseling Offices and through the specially designated 'Women's Rights Hotline'. In particular, the nationwide 'Women's Rights Hotline Week' is designated during 'the Campaign for Eliminating Violence against Women' to provide counseling regarding women's rights.

- (1) Held the ‘Seminar on Support for Victims of Spousal Violence’ for counselors and managerial staff at the Spousal Violence Counseling and Support Centers located throughout Japan with the aim of improving the quality of consultation activities; conducted the ‘Spousal Violence Victims’ Advisors Dispatch Project’ during which experts with specialized knowledge and experience were dispatched to the Centers to give advice and guidance to enhance the consultation services provided at the Centers.
- (2) Started the ‘DV Consultation Navigation’ which is an automated voice answering system that provides information to victims of spousal violence who do not know where to call for consultations. The information includes the telephone numbers of local places where victims can call for consultations, such as the Spousal Violence Counseling and Support Center.
- (3) Hosted a national meeting that was attended by persons in charge of supporting DV victims at all administrative and private organizations concerned. The meeting was held to share information about advanced cases and other information.
- (4) Considering the preparation of a textbook on the prevention and awareness of violence against women for the young people in order to prevent them from becoming future offenders or victims.

[Formal grounds for training]

① Attorney Act and Articles of Associations of the JFBA

Article 2 of the Attorney Act

A practicing attorney shall strive to remain highly cultured, to build his/her upstanding character and shall be well acquainted with the relevant laws, ordinances and legal practices.

Article 12 of the Articles of Association of the Japan Federation of Bar Associations

A practicing attorney shall strive to be versed in the legal sciences and other necessary learning, build his/her character and maintain a strong sense of responsibility and integrity.

② The JFBA Rules and Regulations

Article 3 of the Regulations Concerning Ethic Trainings (The JFBA Regulations No.42)

Members shall participate in ethics training as stipulated by separate regulations.

Article 2 of the Rules Concerning Ethic Training (Rules No. 64)

1 During the fiscal year (omitted) in which they register as a practicing attorney, members (omitted) shall participate in ethics training that is conducted in the same fiscal year (omitted).

3 In addition to the provisions stated in paragraph 1, members whose length of registration reaches the periods specified below (omitted) shall participate in ethics training conducted in the fiscal year that contains the basis date: (omitted)

- 1 Five full years after registering as a practicing attorney;
- 2 Ten full years after registering as a practicing attorney; and
- 3 Every ten years thereafter.

[Practical grounds for training]

External aspects: to ensure professionalism (expertise, public-interest, and ethics) in order to steadfastly maintain the self-government of attorneys

Internal aspects: to enrich member services as a trade association

[Attached Table]

| Category | Sponsored by | Date of Training | | Training Theme | Lecturer/Form | Target | |
|--|--|--|------------------------|---|---|--|---|
| Newly Registered Attorneys (Semi-mandat) | Bar Associations/Federations of Bar Associations | 2007 2008 | September/ December | (Training for newly registered attorneys) Gender consideration is one of the themes. Some Bar Associations give guidance on sexual harassment. | | Newly registered attorneys (approx. 2000 persons/year) | |
| Continuous Training (Optional) | | 2007 | | April 26 | Training session on handling DV cases, practical training on how to handle DV cases, etc. | Lectures by members | 43 members of Dai-ni Tokyo Bar Association |
| | | | | September 6 | DV training | ①Lectures by members ②Case studies | 61 members of Sapporo Bar Association |
| | | | | November 24 | Autumn intensive program 'Regarding DV' | Lectures by members | 263 members of Tokyo Bar Association |
| | | | | December 6 | The real state of victims of DV and sexual harassment from psychological and psychiatric perspectives and what is required of attorneys | Lectures by psychiatrists | 17 members of Shimane Bar Association |
| | | | 2008 | November 13 | Current state of DV and legal consultations | Lectures by members | 60 members of the Dai-ni Tokyo Bar Association |
| | | JFBA | 2007 | December 14 | Laws relevant to domestic violence—Spousal Violence Prevention Act and others | Lectures by members | 1829 members of All Bar Associations in Japan (Including those only receiving training materials) |
| Ethics Training (Mandatory) | Bar Associations | 2007 2008 | Any time | (Ethics training) Gender consideration is one of the themes. Some Bar Associations give guidance on sexual harassment. | | Members required to participate (approx. 2000 persons/year) | |
| Caravan (Opinion Exchange Meeting) | Co-sponsored by the JFBA and Bar Associations | October 2007-March 2008 11 times in total | | (National Caravan for the Publicity of the Basic Framework for Gender-Equality) | ①Lectures by members ②Exchange of Opinions | 20-100 members of the responsible Bar Associations and Federations | |

| | | | | | |
|--|--|------|----------|---|---|
| | Co-sponsored by the JFBA and three Bar Associations in Tokyo | 2008 | March 28 | ①Panel discussion held by a lower house member, a consultant and the President of the JFBA ②Exchange of Opinions | Approx. 150 members of three Bar Associations in Tokyo |
|--|--|------|----------|---|---|

Question 8

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

(Answer)

The concern over ‘the lack of effective measures to prevent and prosecute violence perpetrated against women and girls by military personnel, including foreign military personnel stationed on military bases’ as stated by the Committee Against Torture in its last conclusion and recommendation is obviously based on a misunderstanding.

In Japan, cases involving violence against women and girls perpetrated by SDF Regular Personnel are prosecuted under the same criteria as the ones for similar cases perpetrated by ordinary citizens. The Public Prosecutors Office has handled in the past and currently handles such matters properly and in accordance with the relevant laws and evidence. The Ministry of Defense assigns personnel who are exclusively engaged in the maintenance of internal order and who serve as judicial police officers as defined by the Code of Criminal Procedures for crimes committed by SDF Regular Personnel etc. and for crimes committed onboard the vessels or in the facilities used by SDF, etc.

Also, in cases involving violence against women, etc. other than the members of the United States armed forces, civilian components and their dependents that is committed by foreign military personnel who are stationed in military bases in Japan, Japan has the primary right to exercise jurisdiction based on the Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America, regarding Facilities and Areas and the Status of United States Armed Forces in Japan (Japan-U.S. Status-of-Forces Agreement). The suspects in these cases are prosecuted in the same manner as in similar cases perpetrated by ordinary citizens.

It is vital that SDF Regular Personnel should maintain high ethical standards in order for SDF to live up to the people’s expectations and trust as well as to properly perform their missions. To this end, the Ministry of Defense endeavors to properly educate its personnel in a manner that suits the SDF. As part of these endeavors, the Ministry of Defense provides education on human rights, including consideration for women, etc. Specifically, education on the Constitution of

Japan, including respect for fundamental human rights, is incorporated in the curriculum of the National Defense Academy, the National Defense Medical College, and the Officer Candidate Schools of each service, etc. Education on respecting fundamental human rights is incorporated in the curriculum at various SDF schools, etc., and education is provided to SDF officers on International Humanitarian Law and human rights.

Regarding incidents and accidents, etc. caused by foreign military personnel stationed in Japan, the Government always makes requests at different levels that education for service members and discipline be strictly enforced. The U.S. Forces in Japan has implemented measures such as restriction of off base movements during nighttime curfew, temporary off limits to specified areas and shops, and training/education programs.

In Okinawa, where approximately 74% of the facilities and areas used by the U.S. Forces in Japan are located, the 'Cooperative Working Team for Prevention of Incidents and Accidents by U.S. Military Personnel and Constituents' has been organized by the parties concerned, including the Government, the U.S. Forces in Japan and the local governments in Okinawa for the purpose of cooperating in the prevention of incidents and accidents. The Team has been discussing concrete measures in close cooperation with local representatives and the U.S. side.

Question 9

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

(Answer)

During the term from 2001 to 2005, a total of 219 cases were prosecuted (indicted) for crimes that involved trafficking in persons, and the defendants were found guilty in all of the cases. Among them, defendants were imposed unsuspended sentence of imprisonment with work in 34 cases, and the most severe sentence was 6-year prison sentence.

During the term from the time when the crime of buying or selling of human beings became effective to the end of December 2008, 39 cases were prosecuted (indicted), and the defendants were found guilty in 31 cases (other cases are still on trial). Among them, defendants were imposed unsuspended sentence of imprisonment with work in 20 cases, and the most severe sentence was 11-year prison sentence.

While it is stated in the question that the Statistical Annex 21 of the Report provided statistical data on the number of prosecution of trafficking in persons from 2001 to 2005, the Statistical Annex 21 is the statistical data on the number of the cases where the investigative authorities identify the offenders and treat them as suspects, such suspects and the victims. This Annex data does not show the number of prosecution of trafficking in persons.

The police cleared 78 persons (including 24 brokers) in 72 cases that involved trafficking in persons in 2006 and 41 persons (including 11 brokers) in 40 cases in 2007. Among them, 23 persons in 10 cases in 2006 and 9 persons in 8 cases in 2007 were cleared for the crime of buying or selling human beings. Regarding the victims of trafficking (by nationality, etc.), 58 persons from 5 countries and 43 persons from 5 countries were identified in 2006 and 2007, respectively. The details are shown in the Annex.

| | 2006 | 2007 |
|---------------------------|------|------|
| Number of Cases Cleared | 72 | 40 |
| Number of Persons Cleared | 78 | 41 |
| Brokers | 24 | 11 |
| Total Number of Victims | 58 | 43 |
| Indonesia | 14 | 11 |
| The Philippines | 30 | 22 |
| Thailand | 3 | 4 |
| Taiwan | 10 | |
| Romania | | |
| Columbia | | |
| South Korea | 1 | 5 |
| Australia | | |
| Estonia | | |
| Russia | | |
| Laos | | |
| China | | |
| Cambodia | | |
| Japan | | 1 |

Question 10

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

(Answer)

The Immigration Bureau of the Ministry of Justice revised the Immigration Control and Refugee Recognition Act (hereinafter referred to as the Immigration Control Act) in 2005. The revised Act stipulates that the victims of trafficking in persons shall be excluded from application of the reasons for denial of landing and deportation (prostitution and activities other than those permitted under the previously granted status of residence) and that a person who violates the Immigration Control Act as a result of being placed under the control of another person due to trafficking in persons may be granted special permission for landing and special permission for status of residence. In this way the Bureau is acting to promptly protect the victims of trafficking in persons. Among the victims of trafficking in persons to whom the Bureau has provided protection under the revised Act, all of those persons who violated the Immigration Control Act were granted special permission for residence, and not one of those persons was forcibly repatriated. (Note) From 2005 to 2007, special permission for status of residence was granted to a total of 87 persons. All other victims were legal residents.

If a victim wishes to continue to reside in Japan, the period of stay may be extended or the status of residence may be changed. The granting of these permissions is considered from the viewpoint of protecting the victims while comprehensively taking into consideration the circumstances of each individual victim.

After amending the ministerial ordinance that stipulates the criteria for granting landing permission to applicants applying for the status of Entertainer in 2005 and 2006, the Immigration Bureau of the Ministry of Justice promoted a stricter application of the advance passenger information system and the landing examination procedures as compared to previous years. As a result, the number of persons who entered Japan as an Entertainer declined sharply from approximately 135,000 in 2004 to approximately 39,000 in 2007 (a 71% decrease from 2004). Strict landing examinations and other measures were also applied to persons applying for landing permission as a 'Temporary Visitor' and a 'Spouse or Child of Japanese National'.

Through these actions, the measures against trafficking in persons are being strongly promoted.

As a result of the amendments to the ministerial ordinance that stipulates the criteria for granting landing permission to applicants applying for the status of Entertainer that came into effect in 2005 and 2006, the number of Entertainer visas issued has been decreasing. In particular, the number of Entertainer visas issued to Philippine nationals has decreased sharply from approximately 85,000 in 2004 to 3,300 in 2008. With this, the number of the victims entering into Japan through the abuse of the Entertainer visa is also declining.

In addition, overseas establishments carefully examine the applications not only for Entertainer visa but also for Temporary Visitor visa, etc. made by young women from the regions of origin of trafficking victims, in particular, in order to prevent the abuse of such visas.

The Immigration Bureau of the Ministry of Justice conducts risk assessments for victims who wish to return to their native countries through the International Organization for Migration (IOM), an organization that provides return assistance. If it is determined that an objective and specific risks exist for a victim after returning home, the Bureau explains the situation to the victim and takes measures appropriate to the victim's individual circumstances from a humanitarian perspective, including continued temporary protection. Close cooperation with the IOM has also been established in the investigations regarding the recognition of victims.

In order to provide early protection to women who become victims of trafficking in persons, the police began the Anonymous Reporting Model Project in October 2007. This is a system in which private organizations entrusted by the National Police Agency receive anonymous tips about crimes that involve trafficking in persons and provide the information to the police to assist in police investigations, etc. In the first year of the project, 459 tips were received, including 62 tips on trafficking in persons. The police use these reports in their criminal investigations of trafficking in persons, etc. Also, since 2005, the police have made leaflets in nine languages that appeal the victims to seek police protection. The leaflets have been made in cooperation with the embassies of the countries concerned and the relevant institutions and organizations and have been distributed in places where victims are likely to notice.

The police and the Immigration Bureau of the Ministry of Justice give due consideration to the feelings of the victims when providing protection by questioning the victims through staff who are fluent in the native language of the victim or using female staff to conduct the questioning. At the same time, the Bureau endeavors to promptly inform the embassies of the countries concerned and the Women's Consulting Office.

Regarding the protection of victims involved in trafficking in persons, the Action Plan of Measures to Combat Trafficking in Persons that was formulated by the government in 2004 stipulates that Women's Consulting Offices (one in each of the 47 prefectures) and the Child Guidance Centers (197 centers across the country) shall be utilized. As of the end of November 2008, 254 victims had received protection at the Women's Consulting Offices and Child Guidance Centers.

Moreover, the Ministry of Health, Labour and Welfare made it possible from the FY2005 for Women's Consulting Offices to entrust temporary protection to private organizations, etc. in cases where a private organization can be expected to provide better protection because the staff can speak the victim's native language or for other reasons.

In addition to including in the budget the cost to hire interpreters at the temporary protection facilities of Women's Consulting Offices in order to deal with foreigners and assigning staff in charge of psychotherapy to the temporary protection facilities of Women's Consulting Offices, the Ministry of Health, Labour and Welfare also includes money in the budget for medical costs that starting from FY2006 can be expended exclusively for victims involved in trafficking in persons who are staying at the temporary protection facilities of Women's Consulting Offices. Furthermore, the Ministry assigns attorneys, etc. to the Women's Consulting Offices to provide legal support and coordination services concerning regarding the victim's status of residence, etc.

The Government budget for FY 2009 includes measures to train interpreters who are specialized in providing support to victims under temporary protection at the Women's Consulting Offices.

The Government began contributing to the project 'Voluntary Return and Reintegration Assistance to Trafficked Victims in Japan' of the International Organization for Migration (IOM) in FY2005 as part of the Action Plan and has contributed a total of 128,248,002 yen as of FY2008. As of the end of December 2008, the IOM provided return assistance to 144 victims who wished to return to their home countries and also provided support to facilitate their reintegration into society (provision of shelter, medical expenses, financial support, etc.) after their repatriation. Moreover, for the purpose of supporting the follow-up process (Bali Process) of the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, the Government contributed a total of US\$ 59,500 through the IOM from 2003 to 2008 to support the operation and maintenance costs of the Bali Process

website. Also, in support of the anti-human trafficking projects that have been implemented by the United Nations Office on Drugs and Crime (UNODC), approximately US\$ 103,000 has been diverted from the portion of Japan's contribution to the Criminal Prevention and Criminal Justice Fund (CPCJF) from FY2006 to FY2008. In addition, the Government contributed approximately US\$ 12.77 million through the Trust Fund for Human Security that has been established in the United Nations to 10 projects relating to measures against trafficking in persons which are carried out by international organizations such as the International Labour Organization (ILO), the UN Development Programme (UNDP), IOM, etc. in 13 countries including Southeast Asian countries.

Question 11

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

(Answer)

The police are making efforts to clear the crimes that violate the Anti-Prostitution Act, the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children, etc. and to prevent the prostitution and sexual exploitation of women and girls.

In order to provide early protection to women and girls who become victims of trafficking in persons and other crimes that cause harm to the welfare of youth, the police began the Anonymous Reporting Model Project in October 2007. This is a system in which private organizations entrusted by the National Police Agency receive anonymous tips about crimes from the public and provide the information to the police to assist in police investigations, etc. In the first year of the project, 459 tips were received, including 62 tips on trafficking in persons, 206 reports on crimes that cause harm to the welfare of youth, and 191 tips on reference information. These tips are used in the criminal investigation of trafficking in persons and other crimes that cause harm to the welfare of youth as well as to contribute to the prevention of sexual exploitation of women and girls.

The Women's Consulting Offices that are located in each of the 47 prefectures provide extensive consultation services under the Anti-Prostitution Law that are directed at protecting and rehabilitating women who might engage in prostitution in light of their sexual habits and environment. They also conduct investigations on such women and their family environment and, if necessary, make medical, psychological and functional judgments that are used as the basis for providing guidance and support, including referrals to the Public Employment Security Office or medical institutes, etc.

The Women's Consulting Offices also provide such women with temporary protection as needed and, if it is deemed necessary at the women's protective institutions to provide guidance and support for employment and in daily life, make a decision regarding the protection of the victim at the women's protective institutions based on an application filed by the victim.

There are approximately 1000 women's counselors available nationwide who endeavor to find women who might become involved in prostitution in light of their sexual habits and environment and to provide consultations and guidance services when needed. In addition, the women's protective institutions have been established at 50 locations across Japan to provide support to women who have been referred from the Women's Consulting Offices. The support includes providing the women with assistance in repairing their physical and mental health, stabilizing the foundations of their livelihood, and supporting themselves to become independent.

Out of 17,971 women who visited the Women's Consulting Offices for a consultation in FY2007, 151 were involved in prostitution. Also, 66 out of 1,314 inmates in the women's protective institutions were involved in prostitution when they entered the institutions.

The Women's Consulting Offices, etc. provide extensive support not only to women with a history of prostitution as described above but also to women who have no experience of prostitution but might become involved in prostitution in light of their sexual habits and environment.

The Ministry of Health, Labour and Welfare has set the staffing standards for the Women's Consulting Offices and their temporary protection facilities that require doctors, nurses and psychological diagnosticians to be stationed at the offices and began assigning staff in charge of psychotherapy in FY2002.

The women's protective institutions hire psychiatrists and conduct vocational training and have implemented a project to provide support for living independent lives to women who leave the institutions. Since FY2008, efforts have been made to ensure that at least one visit per month is made as part of the independent life support project, a project that supports women who have left the institutions by visiting their home or workplace, etc.

Thus, the Ministry of Health, Labour and Welfare provides support to women who might become involved in prostitution while also taking measures to promote the protection, rehabilitation and social reintegration of women who have been engaged in prostitution in cooperation with the relevant organizations.

Question 12

In its previous concluding observations (see CRC/C/15/Add.231, para. 51), the Committee on the Rights of the Child expressed its concerns at the practice of enjo kosai, or compensated dating, and at the low minimum age of sexual consent, which might contribute to the practice and hamper the prosecution of sexual abuse of children. The sixth periodic report acknowledges (see para. 201) that “sexual acts committed in the name of patronage dating have drastically increased in number”. Please indicate what measures have been taken to address those concerns.

(Answer)

Regarding the eradication of ‘Enjo-Kosai’ (patronage dating), strict measures to combat child prostitution, etc. have been enforced through the aggressive application of the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography and the Protection of Children (hereinafter referred to as the Act Banning Child Prostitution and Child Pornography).

In Japan, under the Act Banning Child Prostitution and Child Pornography that was established in 1999, sexual intercourse or any conduct similar to sexual intercourse with children under 18 years of age in return for compensation is punishable. Moreover, in 2004, the Act was revised to raise the maximum term of imprisonment with work in statutory penalties for child prostitution, intermediation in child prostitution, etc. as defined in the Act up to 5 years. Thus, the Government is taking even stricter measures against child prostitution, which includes ‘Enjo-Kosai’.

The Child Welfare Law stipulates that a person who commits an act of de facto influence that causes a child under 18 years of age to commit an obscene act (including cases in which the person who causes a child to commit an obscene act becomes the other party of the obscene act) shall be sentenced to imprisonment with work for not more than 10 years and/or a fine of not more than 3,000,000 yen. It also stipulates that a person who knowingly delivers a child to a person who is likely to cause a child to commit an obscene act or an act of keeping a child under one's control with the intent of causing the child to commit an act that is mentally or physically harmful to the child shall be sentenced to imprisonment with work for not more than 3 years and/or a fine of not more than 1,000,000 yen.

The police are promoting the dissemination of public information, activities to raise awareness and the prohibition of dating sites which may lead to ‘Enjo-Kosai’ through the effective utilization of delinquency prevention classes, mini PR magazines, etc. As a result, the number of

cases involving child prostitution that have been referred to the public prosecutor has declined from 1,613 in 2006 to 1,347 in 2007. In 2008, the Regulation of Acts Inducing Children Using the Internet Dating Services and Other Measures was revised to strengthen the controls over dating site operators.

Along with these measures, the Ministry of Education, Culture, Sports, Science and Technology is promoting measures to prevent sexual delinquency, including education directed at developing correct knowledge of and a proper attitude towards sex, the preparation and distribution of guidance materials for teachers that are designed to promote classes about preventing delinquency and the dissemination of information through meetings with and notifications to teachers in charge of student guidance. Also, in order to protect children and students from harmful information on the Internet, the Ministry produces DVDs and leaflets directed at raising awareness about harmful information as well as promotes the use of the filtering services (services that filter content harmful to young people).

As explained above, in Japan, punishable sexual acts with children range broadly from sexual intercourse and any conduct similar to sexual intercourse for compensation, the intermediation of such acts to acts of de facto influence that causes a child to commit an obscene act. The person who is the other party to such an act and a person who is involved in the act through intermediation or other conducts are punishable under the law regardless of whether or not the child agrees to commit the act. A 'child' as referred to here means any person who is under 18 years of age, and therefore, concern over the low minimum age of sexual consent has no grounds.

Under the Penal Code of Japan, the minimum age that a child can consent or agree to sexual intercourse, etc. is 13. This minimum age of 13 has been established only as a basis for distinguishing children who are generally regarded as mentally immature and without the capacity to consent or agree to sexual intercourse, etc. (i.e. sexual intercourse with a child under that age is regarded as the equivalent to having sexual intercourse against the will of the child). Thus it does not legitimate child prostitution or sexual abuse against a child 13 years of age or older.

Question 13

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

(Answer)

Regarding the creation of a gender-equal society, it is important to facilitate the participation of women in policy decision-making processes. The target of 'raising the percentage of women in leadership positions in all fields to at least 30% by 2020' is clearly stated in the Second Basic Plan for Gender Equality adopted in 2005 as one of priority issues, and the Government is promoting measures to achieve this goal.

The share of female national public officers in managerial positions, which was 1.9% as of FY2006, has been increasing every year, albeit slowly. In order to further promote measures to increase this share, the Headquarters for the Promotion of Gender Equality headed by the Prime Minister adopted the 'Program for Accelerating Women's Social Participation' in 2008 which mentions public officers as one of three priority fields in which the level of participation by women still remains low in spite of high expectation for women to play active roles. The Program sets the target of raising the proportion of female directors or higher in the Government to around 5% by the end of FY2010. Each Ministry is reviewing and strengthening its respective 'Plan for the Enlargement of the Recruitment and the Promotion of Female National Public Officers', etc. and is establishing the target ratio of female officers. Also, each Ministry is promoting measures such as encouraging the introduction of a flexible working system, reviewing working styles, supporting active career formation through work experience.

At the same time, it was agreed to set the target for the number of female national public officers recruited through the Level I recruitment examination (career officers in the fields of administration, legislation, economics) at around 30% as a rough ratio for the number of women in the total number of recruits for the Government as a whole until 2010 and to make efforts to raise the share of women who are recruited through other examinations to the extent possible. Since then, efforts have been made to this end. The share of women recruited through the Level I examination in the fields of administration, legislation and economics was 21.3% in FY2004 but is expected to be 30.1% for FY2009. Therefore, the above-mentioned target is expected to be achieved earlier than originally planned.

Through these efforts, the Government intends to further expand the participation of women as public officers.

Question 14

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

(Answer)

In order to facilitate the participation of women in policy decision-making processes, the target of 'raising the percentage of women in leadership positions in all fields to at least 30% by 2020' is clearly stated as one of the priority issues in the Second Basic Plan for Gender Equality that was adopted in 2005. The Government is encouraging the promotion of measures that can be taken in each field and is conducting follow-up studies on the participation of women in each field.

Furthermore, given that more strategic efforts are necessary to expand the participation of women, the Headquarters for the Promotion of Gender Equality adopted the 'Program for Accelerating Women's Social Participation' in April 2008. The Program sets forth three basic policies for the measures that are to be implemented: realization of the Work-Life-Balance; expansion of support to women's effort to build their capacity and fulfill their potential; and awareness-raising. It also identifies concrete measures that are to be taken by FY2010 in order to accelerate the participation of women in all fields.

Specifically, the Government is working on establishing a solid foundation for accelerating the participation of women in all fields through strategic approaches administered by the Minister of State for Gender Equality and Social Affairs, etc. to top-level leaders in each field. Moreover, high priority has been given to measures regarding public officers as it is one of the three fields in which the participation level of women remains low in spite of the high expectation for women to play more active roles (see Question 13 for details).

The proportion of female members on national advisory councils is 32.4% as of the end of September 2008. With respect to the national advisory councils, the Government has set a target for 2020 to achieve gender equality where, for the Government as a whole, the number of either male or female members does not fall below 40% of the total. It has also set a short-term target for FY2010 that 33.3% of the members should be female members. Local governments are also making efforts to increase the number of female members on advisory councils by setting numerical targets that generally mirror the models of the central Government. As a result, the number of female members on advisory councils and committees has steadily increased to 32.6% for prefectures and 30.7% for government-designated cities.

In the field of politics, the proportion of female members is 9.4% for the House of Representatives, 18.2% for the House of Councilors (as of February 2009), 8.2% for prefectural assemblies and 10.8% for municipal assemblies (as of December 2008). This is evidence that the participation of women in politics has been slowly but steadily increasing. In order to further expand the participation of women in politics, research is being conducted on the 'positive actions' regarding the participation of women in politics that are stipulated in the laws or internal party rules of advanced countries.

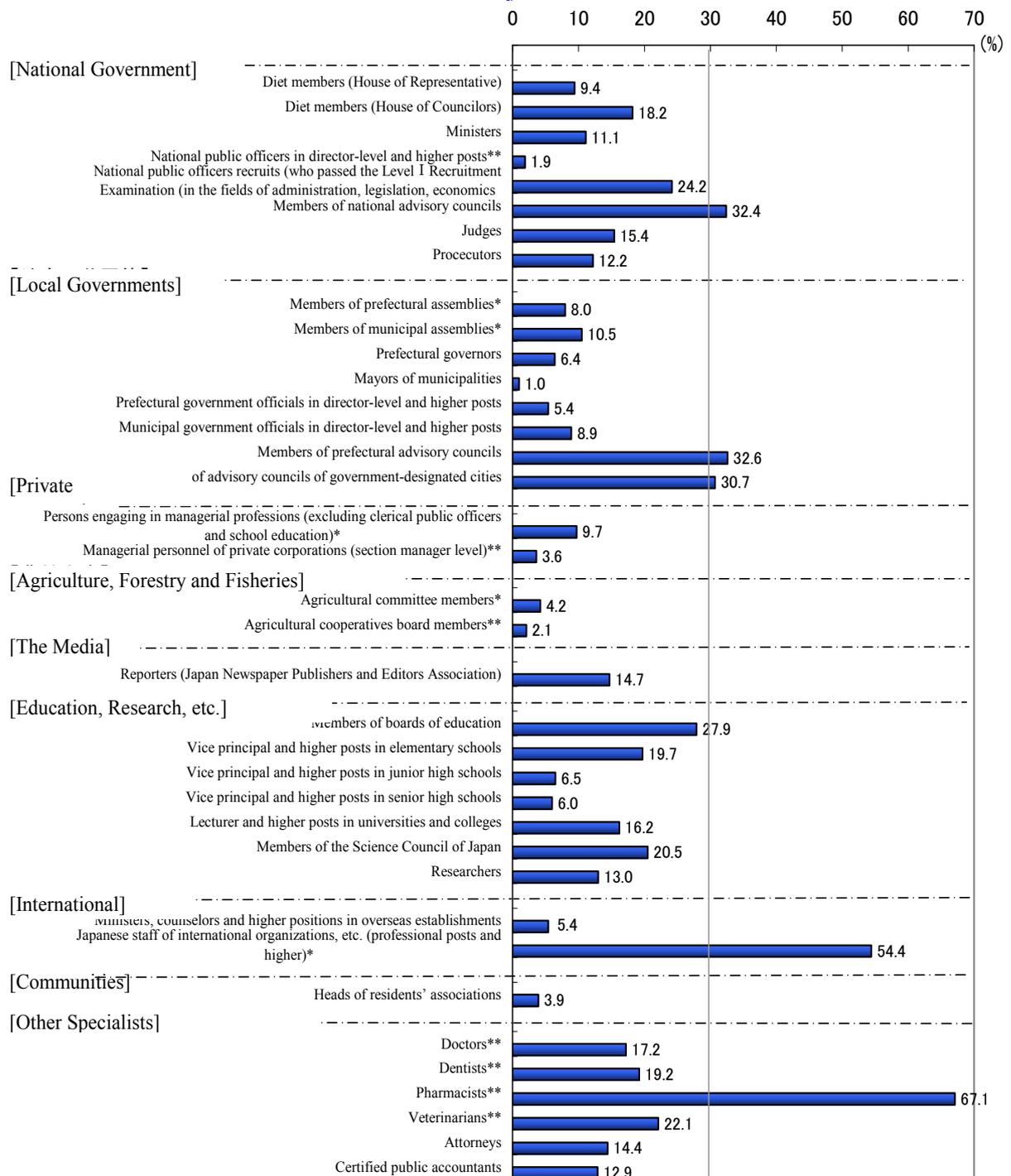
Efforts are also being made in the judicial field. The share of female judges is 15.4%, 12.2% for public prosecutors and 14.4% for attorneys. These shares have been steadily increasing.

Regarding support for the training programs provided to future female leaders, the National Women's Education Center provides training for the managerial staff of women's facilities and the heads of women's organizations. The Cabinet Office is also planning to develop and provide human resource development programs from FY2009.

The Government intends to continue to actively promote various measures aimed at expanding the participation of women.

Percentage of Women in 'Leadership Positions' in Each Field

'Expected to raise the percentage of women in leadership positions in all fields to at least 30% by 2020'



Note: Data from 'Indicators for Follow-Up of the Target of 30% by 2020'
Data is basically for 2008, and * indicates the data for 2007 and ** indicates the data for 2006.

Question 15

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

(Answer)

It is important to provide proper career guidance to elementary, junior high and senior high school students according to their abilities, aptitude and career choice. The Government is currently promoting the better understanding of career aptitudes as well as the use of career information, the cultivation of a view of profession and working and career education aimed at providing students opportunities to choose their career course on their own through programs such as work experiences and internships.

In 2005, the School Education Act was revised to introduce a system to award associate degrees to junior college graduates. Junior college is a college that provides courses of study lasting 2 or 3 years and whose purpose is to teach about and conduct research on specialized arts and sciences as well as to cultivate the abilities of its students that are required to work in the related fields or in actual life. The revision to the Act in 2005 stipulates that the degrees awarded to persons who have completed a university course shall also be awarded to graduates of junior colleges. In Japan, the advancement rate of women to universities (undergraduate), including junior colleges, was 54.1% in FY2008 (the rate for men it was 56.5%). These ratios show that the difference in the advancement rate between the genders has become extremely small. In recent years, the percentage of women who advance to universities (undergraduate) has been increasing (women 42.6% and men 55.2% in FY2008) as a result of changes in the economic situation of the country and the conversion of colleges to four-year institutions.

Given the low percentage of female students that major in science and engineering at the undergraduate and graduate levels, the Government is promoting the Project to support the career choice in sciences for junior/senior high school girls in order to raise their interest in the field of natural sciences and to promote the activities of women in the field of science and technology. The program provides students with opportunities to talk with female researchers and also sponsors events such as classroom laboratories and deliver classes.

Question 16

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

(Answer)

The Second Basic Plan for Gender Equality that was adopted in December 2005 contains the following new provision: Universities shall be required to make efforts to raise the ratio of female faculty members in accordance with the goal of 'raising the ratio of female faculty members in colleges and universities to 20% by 2010', which was set forth in a report issued by the Japan Association of National Universities. Based on this provision, the Government has distributed a document that requests universities to increase the number of female teachers appointments at the conference on the management of educational corporations held in January 2006, and in September 2006, it requested in writing that all national, public and private universities to promote the appointment of female teachers. As a result of these efforts, the proportion of female teachers at universities and junior colleges rose to 20.6% in FY2008.

Each university is taking constructive efforts that include the appointment of a vice-president in charge of gender equality, the establishment of a gender equality promotion headquarters, the establishment of numerical targets for the proportion and recruitment of female teachers. These efforts are thought to have contributed to the recent increase in the proportion of female teachers.

The share of female researchers, including university professors, is low, particularly in the fields of science and engineering. As a measure to promote the activities of female researchers, the Second Basic Plan for Gender Equality that was adopted in 2005 set a target stating that 25% of the researchers recruited in the field of natural sciences as a whole should be female (20% in science, 15% in engineering, 30% in agriculture, and 30% in health). Also, based on the Third Science and Technology Basic Plan that was adopted in 2006, measures are being implemented to establish an environment that allows female researchers to balance their research with childbirth and child rearing, to promote the further employment and promotion of female researchers and to support the women's career choices in sciences.

In order to further accelerate these measures, the Headquarters for the Promotion of Gender Equality, which is headed by the Prime Minister, adopted the 'Program for Accelerating

Women's Social Participation Acceleration' in 2008. It designates researchers as one of three priority fields in which the participation level of women remains low in spite of the high expectation for women to play a more active role. Under the Program, the Government is actively working on establishing an environment where female researchers can continue their research activities without experiencing undue difficulty, including the expansion and flexible operation of the research funds system to take into account childbirth and child rearing where it concerns female researchers and teachers at universities and junior colleges. The Government is also promoting the dissemination of information on advanced efforts as model cases so that they will be widely shared and practiced.

The concrete measures taken by the Ministry of Education, Culture, Sports, Science and Technology to support female researchers who are working at universities, etc. includes the provision on assistance to female researchers in returning to work after stopping their research to give birth or to raise a child or to otherwise continue their research. Another measure is the provision of assistance to universities in creating an environment that allows female researchers balance their research with childbirth and child rearing.

Thirty three institutions (30 universities and 3 independent administrative agencies) under the 'Supporting Activities for Female Researchers', a program which has been in place since FY2006, have been selected through FY2008 to receive assistance for the development of a system to establish a basic environment at the university or agency.

Question 17

In the constructive dialogue during which the fourth and fifth periodic reports of Japan were considered by the Committee, the issue of a sexist remark made by a Government official was raised by a Committee member (see CEDAW/C/SR.617, para. 59). Please indicate what steps have been taken to ensure that Government officials do not make disparaging sexist remarks that demean women and typify the unequal patriarchal system which discriminate against women.

(Answer)

The Government is currently promoting the dissemination of public information and awareness-raising activities in an effort to stimulate the creation of a gender-equal society. Several examples include creating a homepage about this issue, publishing and distributing PR magazines and videos, and sponsoring and cooperating in various public information and awareness-raising events such as the National Conference for the Formation of a Gender-equal Society.

In addition to providing training courses to men and women who are expected to be future community leaders and to local government officials, the Government is also promoting measures related to gender equality in local governments by holding meeting with local government officials to share policy information with them.

Question 18

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

(Answer)

Female employees are allowed to take 6 weeks of maternity leave (or 14 weeks in the case of multiple pregnancies) before childbirth and 8 weeks after childbirth. Under the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave, a male or female worker who is responsible for caring for a child that is less than one year of age (or less than one and a half years of age in certain situations, such as when the child is not enrolled in a day care center) is entitled to take child care leave.

Day workers are not eligible to take child care leave.

A person who has been employed for a fixed period of time can take child care leave if the following two requirements(*) are met at the time the person files an application for child care leave.

- *1) The person has been continuously employed by the same employer for at least one year;
and
- 2) The person is likely to remain employed at the same company after the day when his/her child reaches one year of age (the day before the child's birthday) (excluding persons whose contract with the employer will expire and not be renewed during the period of one year from the day on which his/her child reaches one year of age)

A person whose spouse is a full-time homemaker and can normally take care of the child is exempted from the ability to take child care leave through the conclusion of a labor-management agreement.

As stated in the Sixth Report, the percentage of male employees who took child care leave was 0.56% according to the survey conducted in 2004. In the latest survey that was conducted in 2007, the percentage rose to 1.56%.

In order to encourage male employees to take child care leave, the Government has set a target of 10% for the percentage of male employees who take child care leave as part of the Support Plan for Children and Child Raising that was adopted in December 2004.

The Government has been promoting the following measures aimed at achieving the above target.

1) Under the Next Generation Nurturing Support Measures Promotion Law that was enacted in April 2005 to encourage male employees to take child care leave, included the number of male employees who took child care leave as one of the criteria for a company to become certified as a company taking child care support measures.

2) Granted assistance to 200 companies that have taken exemplary measures in FY2007-2008 towards the creation of a work environment that approves of men who take part in child rearing and worked to spread these measures to the general public.

3) As a measure to raise awareness concerning the balance between work and child rearing for men, created and distributed a handbook in FY2008 aimed at men who are involved in raising their children. The handbook is meant to assist those men in creating and practicing a working-style that achieves a balance between work and family life.

Also, the Government is now considering whether or not to extend the allowable period of child care leave in the cases where both the father and mother take child care leave as well as other measures to further encourage male employees to take child care leave.

Question 19

The report explains the dispute settlement system put in place in cases of dispute between female workers and their employers, which aims at conciliation but does not provide information in cases of failure of such conciliation (see paras. 303305). Please indicate what legal avenues are available to the employees in case of violations of the revised Equal Employment Opportunity Law and what sanctions are foreseen for the employers found to be in breach of their obligations under this legislation. Please provide statistics about the number of cases brought by women and the outcome of such cases.

(Answer)

Based on consultations from employees, the Prefectural Labour Bureau of the Ministry of Health, Labour, and Welfare makes administrative guidance through the form of advice, guidance and recommendations to correct employers who are found to be in violation of the Equal Employment Opportunity Law.

Regarding individual disputes between employees and employers, the smooth and prompt settlement of such disputes is facilitated through assistance provided by the Director of the Prefectural Labour Bureau and conciliations held by the Disputes Adjustment Commission.

Employers who fail to make a report that has been required by the Prefectural Labour Bureau or who have made a false report are punished through civil fines. Also, employers who violated the Law and fail to comply with the recommendations of the Minister of Health, Labour and Welfare will be punished through social sanctions such as public announcement of the name of the company. These systems are designed to enhance the effectiveness of administrative guidance to require prompt correction of the violations of the Law.

In FY 2007, 29,110 complaints concerning the Equal Employment Opportunity Law were brought to the attention of the Equal Employment Department of Prefectural Labour Bureau.

There were 546 applications for Dispute Settlement Support filed in FY2007, and approximately 80% of the cases where the support was completed have been settled.

There were 62 applications for Dispute Conciliation filed in FY2007. Of the 56 cases for which reconciliation has begun, recommendations for the acceptance of the proposed conciliation plan were made in 31 cases. In 27 of those cases, or nearly 90%, both parties accepted the conciliation plan, and the dispute has been settled.

The Equal Employment Department of Prefectural Labour Bureaus provided 15,069 administrative guidance to employers who violated the Law in FY2007. Of those cases, 13,975,

or more than 90% of the total number of cases, were corrected by the end of the fiscal year.

Question 20

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

(Answer)

Examples of 'positive actions' taken by employers are as follows: 'proactive recruitment and appointment of women to works at which there are no or a only a few women working' as a part of the efforts to promote the recruitment of women and to expand the areas of responsibility of women; 'clarification and announcement of criteria for promotion and personnel evaluation' as a part of the efforts to appoint women to managerial positions; and 'sexual harassment prevention measures reflecting women's opinions' as a part of the efforts to improve the work environment and raise worker's awareness.

As part of the support given to employers under the Equal Employment Opportunity Law, the Government uses a system of rewarding companies that promote gender equality and a work-life balance as part of its efforts to encourage companies to take wide-ranging actions. Support is also given by providing role models and examples and by dispatching consultants to provide concrete know-how.

Provisions regarding the Government support provided to employers who take 'positive actions' were established in the 1997 revision of the Law. Since then, the Government has been promoting the expansion of 'positive actions' by raising awareness of the need of such actions and by providing a role model and examples.

As a result of these efforts, the number of women in the labor force by age group has increased over the past 10 years for every age group except for the youngest age group, in which an increasing number have been advancing to higher education.

Regarding the length of service, the percentage of women whose length of service exceeds 10 years increased from 29.8% in 1997 to 32.8% in 2007. The percentage of women whose length of service exceeds 20 years increased from 10.3% in 1997 to 11.0% in 2007. These results indicate that women are tending to work for longer periods of time.

The percentage of women in managerial positions also increased at all levels between 1997 and 2007, from 2.2% to 4.1% for women at the department manager level, from 3.7% to 6.5% for the section manager level and from 7.8% to 12.5% for the subsection leader level.

The gender wage disparity also improved in terms of the ratio of average wage for women compared to men. When the average wage for men is set at 100, the average wage for women increased from 63.1 in 1997 to 66.9 in 2007.

Question 21

According to the report, in 2005, the average wage of female workers (excluding part-time workers) was 65.9 per cent that of male workers. Apart from the guidelines on the improvement measures of wage and employment management for eliminating wage disparity between men and women, compiled in 2003 by the Ministry of Health, Labour and Welfare, and the application of which is voluntary, please elaborate on any other measures developed and undertaken to address the wage gap between men and women.

(Answer)

The wage disparity between men and women in Japan has been narrowing over the long term. When the average wage for men is set at 100, the average wages for women were 65.9 in 2006 and 66.9 in 2007.

Since the major factors causing this gender wage disparity are thought to be the differences in rank at work and the differences in the length of service, the Government considers that it is necessary to:

- 1) encourage the employment management in a way that allows women to realize their full potential through promotion of the implementation of 'positive actions'; and
- 2) create a work environment where female employees are able to continue working without experiencing any particular difficulty by providing support in creating a balance between work and family life.

To this end, the Government has compiled a guideline for both labor and management that focuses on eliminating the wage disparity between men and women. The Government is currently endeavoring to make the guideline widely known and to raise the general public's awareness of them, while also taking measures to encourage the broader implementation of 'positive actions' and to promote the creation of a balance between work and family life. Furthermore, the Government constantly publishes reports on the wage disparity to monitor the present state and follow-up on the changes of gender wage disparities so as to reinforce the awareness of the wage disparity between men and women as well as help promote efforts by labor and management to reduce the disparity.

In addition to such efforts, the Equal Employment Opportunity Law revised in 2007 contains:

- the expansion of the scope of gender discrimination prohibitions including the clarification and addition of the phases of employment in which discriminatory treatment is prohibited and the prohibition of indirect discrimination; and

- reinforcement of provisions prohibiting the dismissal due to reasons such as pregnancy, and the prohibition of other discriminatory treatment.

The Government believes that enforcing the Law will facilitate the creation of a working environment in which employees are not discriminated against in their assignments and promotions because of their sex and in which female employees are able to continue working without being forced to quit due to pregnancy or childbirth, and therefore, will contribute to the reduction of the gender wage disparities.

Question 22

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

(Answer)

(1) Regarding the provisions concerning indirect discrimination set out in the Equal Employment Opportunity Law, the Guidelines on Ways for Employers to Take Appropriate Measures with Regard to the Matters provided for in the Provisions Concerning the Prohibition, etc. of Discrimination against Workers on the Basis of Sex (Notice No.614 of the Ministry of Health, Labour and Welfare, 2006) define indirect discrimination as measures that are:

- 1) on the basis of conditions other than sex;
- 2) practically discriminatory to a substantial extent against members of one sex compared to members of the other; and
- 3) without any legitimate reason.

(2) Also, the Ordinance of the Ministry of Health, Labour and Welfare describes the following three measures as measures that are prohibited as indirect discrimination when they are taken without a reasonable reason.

- 1) Measures which concern the recruitment and employment of workers and which apply a criterion concerning the worker's height, weight or physical strength;
- 2) Measures which concern the recruitment and employment of a 'main career track employee' under the employment management differentiated by career tracking and which apply a criterion concerning the worker's availability for reassignment that results in the relocation of the worker's residence; and
- 3) Measures which concern the promotion of workers and which apply a criterion concerning the worker's experience of having been reassigned to a workplace other than the workplace where the worker had formerly worked.

(3) The Guidelines provide cases of the three measures stipulated in the Ordinance as follows, along with specific examples and illustration of the cases where there exists no legitimate reason.

- 1) All cases where the recruitment or hiring criteria include a requirement that the worker's height or weight must be above or below a certain level, or that the employee must have a

certain level of physical strength, such as a certain level of muscular strength or athletic ability;

2) All cases where the recruitment or hiring criteria for a worker for a 'main career track' in the case of the implementation of an employment management system classified by scheme include a requirement that the worker must accept a transfer that results in the relocation of the worker's residence; and

3) All cases where the criteria for the promotion of s to a certain position include a requirement that the worker must have been transferred to other office(s).

Question 23

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

(Answer)

Under the Equal Employment Opportunity Law, employers are required to take the following actions in the employment management in order to prevent sexual harassment in the workplace.

1) Clarification of a policy by the employer, making the policy known to the workers and raising awareness of the policy

- Clearly define Sexual Harassment in the Workplace, create a policy that does not permit Sexual Harassment in the Workplace and make all workers, including the managers and supervisors, fully aware of the policy.

- Prescribe a policy that those who make a sexual remark or other sexually harassing behavior pertaining to Sexual Harassment in the Workplace will be severely punished and the relevant disciplinary measures in rules of employment and other documents prescribing the service discipline, and make all workers, including the managers and supervisors, fully aware of the policy and disciplinary measures.

2) Establishment of a system required for taking an appropriate response to consultation by the workers

- Designate a contact point for such consultations (hereinafter referred to as 'Consultation Service') well in advance.

- Ensure that the person in charge of the Consultation Service can properly handle the consultations by the workers according to the contents of the consultations and the context of the situation. Further, ensure that the person in charge of the Consultation Service takes the appropriate steps not only for actual cases of Sexual Harassment in the Workplace but also for cases where Sexual Harassment in the Workplace could occur or in borderline cases where it is difficult to determine whether it is Sexual Harassment in the Workplace or not.

3) Prompt and appropriate response to the actual case of Sexual Harassment in the Workplace

- Ascertain all the facts of the case correctly and promptly.

- If the fact that Sexual Harassment in the Workplace has occurred is confirmed, take the appropriate response in regards to both the perpetrator and the victim (the employee who has been harassed).

Employers who fail to make a report required by the Prefectural Labour Bureau or who have made a false report are punished through civil fines. Also, employers who violated the Law and have not complied with the recommendations of the Minister of Health, Labour and Welfare will be punished through social sanctions such as public announcement of the name of the company. These systems enhance the effectiveness of administrative guidance to require prompt correction of the violations of the Law.

Regarding sexual harassment, the Equal Employment Opportunity Law, as revised in 2006, obligates employers to implement necessary measures to prevent sexual harassment, whereas the obligation under the former Law was merely to give necessary consideration. It also stipulates that the name of a company that has not followed the administrative recommendation shall be made public. In the event of individual disputes, Dispute Settlement Support scheme provided by the Director of the Prefectural Labour Bureau and can be used under the revised Law, including assistance and Dispute Conciliations held by the Disputes Adjustment Commission.

In FY2007, 15,799 complaints concerning sexual harassment were brought to the attention of the Equal Opportunity Employment Department of Prefectural Labour Bureau.

There were 300 applications for Dispute Settlement Support from the Director of the Prefectural Labour Bureau concerning sexual harassments filed in FY2007.

There were 53 applications for dispute conciliation by Disputes Adjustment Commission concerning sexual harassments filed in FY2007.

There were 9,854 of administrative guidance to employers concerning sexual harassment issued in FY2007 by the Equal Employment Department of Prefectural Labour Bureau.

Question 24

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

(Answer)

The situation of and approaches to so-called minority women, as mentioned in the Consideration of Japan's Fourth and Fifth Periodic Report in July 2003, is as follows. In Japan, the basic approach is not to establish any special policy framework for minorities that specifically limits place of origin or nationality, but to respond to each situation and issue as part of a general policy framework that incorporates protection of human rights, education, employment, healthcare and prevention of violence.

Currently, issues of violence against women, and issues arising from new trends in society and economy that cause difficulty for both men and women are given broad consideration in the Council for Gender Equality. This Council makes every possible effort, while collecting various information, to understand the situation women face and to deliberate policy issues. The aim of the Government of Japan is to improve the situation for women as a whole, in all its diversity, as it proceeds with measures that are designed to respond in a detailed manner to the plight of women who are the victims of violence, and women who are experiencing social and economic difficulty.

Since 1974 the Government of Japan has cooperated in the 'Promotion Policy for the Improvement of Ainu people's Life' advanced by the Government of Hokkaido Prefecture (known until 2001 as 'Hokkaido Utari Welfare Measures'), and to ensure that this policy is promoted smoothly, a joint meeting has been established in the relevant government ministries and agencies, which has made every effort to engage in close cooperation among the related administrative organs, to obtain sufficient budget for the measures to improve the living standards of the Ainu people in Hokkaido.

The measures being advanced by the Government of Hokkaido Prefecture aim to improve the living standards of the Ainu people and to redress the imbalance with other Hokkaido residents. For example, in order to eliminate the existing gap in educational opportunities between the Ainu people and other residents, the government offers entrance allowances and grants (loans for college students) to encourage Ainu students to attend high school and college.

In addition, following a resolution adopted by the Japanese Diet in June 2008 calling for the

Ainu people to be recognized as an indigenous people of Japan, the Government established an 'Expert Meeting on the Modalities for Ainu Policy'. The members of the Expert Meeting listen to the current situation of Ainu people from themselves, and seek to the modalities of future policy to support the Ainu people. Based on the recommendations that the Expert Meeting is expected to submit, Ainu policies will be further promoted and it is expected that efforts will be made to establish comprehensive measures.

The Government of Hokkaido Prefecture conducted six surveys on the living conditions of the Ainu people. About the sex disaggregated data, this is only available in terms of population figures (Refer to Annex Statistics Item 14 in the Sixth Report submitted by the Government of Japan).

As of the end of 2007 there were 2,152,973 registered foreigners living in Japan (Female: 1,150,936, Male: 1,002,037). Of these, persons of Korean descent (South and North Korea), accounted for 27.6% of the total (Female: 320,481, Male: 273,008).

With regard to the education of foreign children, in the event that these children wish to attend a public compulsory education school, based on the International Covenant on Economic, Social and Cultural Rights, they are guaranteed the opportunity to be accepted free of charge at a school in the same way as Japanese children and to receive an education. According to the Basic School Survey undertaken in fiscal 2008, there were a total of 75,051 foreign children registered at public elementary, junior high and high schools, special-needs schools and secondary schools.

The Government of Japan has to date implemented measures to support foreign students attending or registered at public schools, constructing systems for instruction in Japanese language and other guidance.

If persons of Korean origin (South and North Korea) do not wish to receive an education at a Japanese school, many such students instead attend schools for Koreans. Most of these Korean schools are accredited as miscellaneous school by prefectural governors.

The total number of foreign university students, excepting exchange students, is 9,781 (Female: 4,538, Male: 5,243).

In addition, also in the field of social education, among the classes and courses catering to youth, adults and women, etc., a variety of learning activities are being implemented about human rights issues including cases concerning foreigners, in response to the situation of each region.

In terms of exposure to violence, the number of cases received at Spousal Violence Counseling and Support Centers from victims who had been subject to violence from their spouse but who were unable to speak Japanese properly stood at 1,398 cases in fiscal 2007.

Furthermore, in 2007 the Human Rights Organs of the Ministry of Justice dealt with 135 cases of human rights infringements pertaining to discrimination against foreigners, out of a total of 22,309 reported cases of human rights infringements.

With regard to the *Dowa* issue, over the course of 33 years from 1969, relevant measures were actively promoted centering on special measures based on the laws on special measures that were formulated on three occasions, which were run with the aim of urgently improving the low economic status of *Dowa* regions and raising the inadequate living environment. As a result, the poor quality living environment that in the past had caused recurring disparity with other regions was improved and given the considerable changes that had occurred in the *Dowa* regions, the special measures implemented by the central government were discontinued in 2002. Since then necessary measures have been implemented in a timely and appropriate manner in the regions that had previously been targets for special measures, in the same way as any other region.

The Government of Japan has taken measures including elimination of the sense of prejudice Japanese people may have towards minorities, as explained in Paragraphs 99 and 100 of the Sixth Report. In 2007, the Human Rights Organs of the Ministry of Justice dealt with 209 cases of infringements of human rights regarding the *Dowa* issue.

Question 25

The report does not provide any information on the situation of migrant women and refugee women. Please provide such information, in particular the economic and social situation of migrant and refugee women and the measures in place to support them and protect them from violence and exploitation.

(Answer)

The Refugee Assistance Headquarters provides all applicants, regardless of their gender, applying for refugee status and who are facing financial difficulties with assistance for living expenses, accommodations and medical expenses, etc. when it receives an application for assistance from such an applicant. Those persons who are recognized as Convention Refugees are entitled to the same protections as Japanese citizens, if necessary. The Government offers resettlement support programs such as Japanese language courses, guidance on life in Japan and vocational counseling services through the Refugee Assistance Headquarters for Convention Refugees and their families for the purpose of promoting the independent lives and settlement of those refugees in Japan. The Government also makes a nursery room available for refugee women with children who are participating in these programs. In addition, information on the medical care system in Japan for mothers and their children is provided to the refugees in their native languages to the extent possible.

In line with the Action Plan of Measures to Combat Trafficking in Persons formulated for the prevention and eradication of trafficking in persons, which is a serious infringement on human rights that involves the selling and buying of persons and often forcing them to engage in prostitution or harsh work, and the protection of trafficking victims, the Cabinet Office is making efforts to raise awareness. Such efforts include the creation of posters and pamphlets about the measures to combat trafficking in persons as well as distributions and posting of them at local governments, police, airports and ports with a view to redressing the current situation. Currently, the general public's recognition that trafficking in persons is a serious infringement on human rights is not sufficient.

In addition, the Government has created and distributed pamphlets etc. for foreign persons who have become victims of spousal violence and has put a copy of the pamphlets on its website.

The Women's Consulting Offices that are located in each of the 47 prefectures provide consultations and temporary protection to the victims of spousal violence and trafficking in persons regardless of their nationality. In FY2001, 208 foreign persons received temporary

protection, or 4.31% of all cases of temporary protection, and in FY2007 that number increased to 544, or 8.4% of the total.

In order to expand the support that is provided by the Women's Consulting Offices to foreign women, the Ministry of Health, Labour and Welfare began to include the cost to hire interpreters in its budget for FY2002 and, starting from FY2006, it has further expanded the support it provides by beginning to offer legal support and coordination services that are provided by attorneys, etc. concerning the status of residence, etc.

Moreover, it became possible for the Women's Consulting Offices to entrust the temporary protection of victims of spousal violence to private organizations, etc. in FY2002, and from FY2005, the Women's Consulting Offices became able to entrust the temporary protection of victims of trafficking in persons in the cases where more appropriate protection is required.

The government budget bill for FY2009 includes money for the training of interpreters specialized in supporting victims who are being temporarily protected by the Women's Consulting Offices.

Protection for foreign women is provided in close cooperation with the police, the Immigration Bureau, embassies, International Organization for Migration (IOM) and other relevant organizations, while also giving due consideration to each situation.

In the case of crimes in which women are usually the victim, the police take measures such as making arrests and other measures appropriate for each case, including offering crime prevention advice to the victim and instructing and warning to the offender. These measures are taken regardless of whether or not the victim is an immigrant/refugee.

The Immigration Bureau of the Ministry of Justice has taken measures to expand support for the victims of spousal violence as described in the answer to Question 7 as well as measures to combat trafficking in persons and measures to protect the victims of trafficking in persons as described in the answer to Question 10. Under other circumstances, too, the appropriate measures will be taken based on the Immigration Control and Refugee Recognition Act. Such measures include the prompt stabilization of the victim's legal status if she is a foreign woman, while also taking into consideration the individual circumstances of each case.

Question 26

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

(Answer)

The Specialist Committee on Monitoring and Gender Impact Assessment and Evaluation of the Council for Gender Equality under the Cabinet Office has studied and discussed what measures should be taken to support elderly men and women to live independent lives and to help them live a long and healthy life to the extent possible from a viewpoint of gender equality. These measures have been compiled in the Report on Monitoring and Gender Impact Assessment and Evaluation of Support to the Elderly for Living Independently that was released on June 13, 2008.

The Report analyzes the current situations elderly persons regularly face. The analysis is separated by gender and focuses on, among other things, the economic difficulties elderly women face due to the economic gender disparity resulting from the differences in work experience between men and women. Particular attention is given to single elderly women as they often tend to have difficulty in maintaining independent lives. The Report also makes suggestions about the overall direction of the measures that should be implemented.

[Establishment of system and environment for the realization of economic independence later in life]

The level of pension benefits for women tends to be lower than the pension benefits for men due to the shorter work career and a higher percentage of non-regular employment. As a result, many single elderly women live in harsh economic conditions, and over 30% of them belong to the low-income group defined as having an annual income of less than 1 million yen. Taking these circumstances into consideration, the Government is working towards the establishment of a system and environment that will help single elderly women achieve economic independence.

<Current Major Measures>

○Public pension system

The safe and independent lives of the elderly are secured by the National Pension system, which is generally compulsory, and the Employees Pension system, under which the amount of

pension benefits varies according to the income received during the years worked. In addition, measures such as exempting women from the obligation to make Pension contributions during child care leave, dividing the Employees Pension in the event of divorce, etc. are being taken to support the economic independence of women.

[Establishment of a framework to support the elderly to live independent lives]

The number of single elderly women continues to rise because of the nearly 10-year difference in life expectancy between men and women as well as the rising divorce rate. As of 2005, one out of 4 or 5 elderly women aged 75 or over lives alone.

As elderly persons who live alone are likely to face difficulties in their daily lives if they fall ill or suffer an injury, the Government is working towards the establishment of a framework to support the elderly, including those who live alone, to live independent lives.

Also, elderly women are likely to fall victim to consumer fraud, etc. Elderly women aged 65 or over account for approximately 55% of total number of female victims who have suffered some form of consumer damage. In light of this situation, various measures are being taken to prevent such damage, including an adult guardianship system and other measures to prevent consumer damage.

<Current Major Measures>

○ Adult guardianship system (Ministry of Justice)

It is a system that was created to protect and support persons whose decision making ability is impaired due to dementia, etc. As part of the system, a guardian, who is appointed by the person under guardianship in advance or by the family court, performs juristic acts, etc. on behalf of the person.

○ Daily life support project (Ministry of Health, Labour and Welfare)

Providing assistance to persons whose decision making ability is impaired in using local welfare services and thereby assisting those persons to live independent lives in the communities.

○ Silver Housing Project (Ministry of Land, Infrastructure and Transport/Ministry of Health, Labour and Welfare)

A housing project for the elderly that provides barrier-free public housing units along with daily life support services that are provided by Life Support Advisors.

[Health support measures that take gender differences into consideration]

As it is becoming clear that there are significant differences between men and women in regards to the incident rate and mortality rate for certain diseases, the Government will further

promote studies on gender-specific medical care (medical care provided based on gender specific differences) and the distribution of information. At the same time, the Government is already implementing health promotion measures such as checkups for osteoporosis, a condition that primarily affects women.

<Current Major Measures>

- Prevention of osteoporosis (Ministry of Health, Labour and Welfare)

Checkups for osteoporosis are conducted for women aged 40 or over in an effort to prevent the condition or to detect and begin treatment at an early stage.

Question 27

The report indicates the ratio of abortions in the teenage population was 10.5 to 1,000 females in 2004 (see para. 355). What steps are being taken to promote a comprehensive sex education plan, including education on reproductive health, so that adolescent girls have access to age-appropriate reproductive health and family planning information and to affordable contraceptive methods? Does the Government plan to decriminalize abortion?

(Answer)

Schools provide guidance on sex-related health issues such as AIDS, sexually transmitted diseases and abortion with the aim of ensuring that their students develop a proper understanding of these risks and to enable the students to act appropriately.

The Government offers guidance to schools to assist them in recognizing that it is important to 1) provide guidance in accordance with the course of study and ensure that the contents are appropriate for developmental stages of pupils, 2) obtain the parents' and community's understanding before providing guidance, and 3) provide guidance based not on the decisions of an individual teacher but rather on the common understanding of the whole school.

In addition, various measures, including workshops for teachers, have been implemented to promote appropriate and effective lessons that teach about sex.

The Penal Code of Japan defines abortion as a crime, recognizing the life and physical safety of a fetus as the primary interests and the life and physical safety of a pregnant woman as the interests protected by law. Under the Maternal Protection Law (Law No. 156 of 1948), abortion is allowed only when it is performed by a doctor who has been designated under the provision of the first paragraph of Article 14 of the Maternal Protection Law from the perspective of protecting the life and health of the mother.

Question 28

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

(Answer)

In February 1996, the Legislative Council of the Ministry of Justice, an advisory council to the Minister of Justice, submitted an 'Outline of a Bill to Revise a Part of the Civil Code'. The points of revision suggested in this Outline included setting the minimum age for marriage at 18 for both men and women, reducing the set period during which women are prohibited from remarrying after divorce to 100 days, and introducing a system that allows married couples to use separate surnames.

As concrete steps, the Second Basic Plan for Gender Equality that was approved by the Cabinet in December 2005 specifically states that the Government will continue its efforts to deepen public discussion of the proposed system that allows married couples to use separate surnames, in conjunction with the proposed revisions to the marriage and divorce system, including setting the minimum age for marriage at 18 for both men and women and reducing the set period during which women are prohibited from remarrying after divorce.

The Government conducted a public opinion survey in December 2006 on the family-related legislative system that included questions about the minimum age for marriage for women and the system of allowing married couples to use separate surnames, and it has since been studying the marriage and divorce system. In addition, the Government has published the contents of the above-mentioned Outline and the outline of the system of allowing married couples to use separate surnames on its homepage and is making continued efforts to deepen public discussion about these issues.

(For information)

<Results of the public opinion survey conducted in December 2006>

- Regarding the minimum age for marriage for women
 - It is good to stipulate that women can get married when they reach 16 years of age: 23.3%
 - It is better to stipulate that women cannot get married until they reach 18 years of age, like men: 41.8%
 - No opinion: 32.1%
 - Others: 2.2%
 - Do not know: 0.6%
- Regarding the system of allowing married couples to use separate surnames
 - There is no need to revise the current law: 35.0%
 - It is alright to amend the law to allow married couples to use their respective original family names: 36.6%
 - It is alright to amend the law to allow the use of their original family names in certain situations: 25.1%
 - Do not know: 3.3%

Question 29

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

(Answer)

Under the Civil Code, one party to a divorce may claim a distribution of property from the other party. If the parties do not, or cannot, settle on agreement with regard to the distribution of property, either party may make a claim to the family court for a disposition in lieu of agreement. When making any disposition that concerns the distribution of property, the court shall 'determine whether to make a distribution, and the amount and method of that distribution, taking into account the amount of property obtained through the cooperation of both parties and all other circumstances.'

In a divorce, the system of distribution of property is interpreted with a focus on liquidating and dividing the property that was shared by the couple during the period of marriage and ensuring that the livelihood of one party can be maintained after the divorce. From this perspective, the court duly determines whether to make a distribution, and the amount and method of that distribution, while taking into consideration the individual circumstances of each case. Intangible property, such as retirement allowances and insurance benefits, may be subject to distribution, and the income earning capacity or human resources may be taken into account as part of the 'all other circumstances'

Regarding pensions, the pension system was revised in 2004 to introduce the following two systems that permit the Employees Pension, etc. to be divided between the two parties separately from the distribution of property under the Civil Code.

The so-called Pension Division System upon Agreement is a system of totaling the amount of Employees Pension, etc. premiums paid by the couple during the period of marriage and dividing it between both parties. The spouse's share, which may receive up to half of the total amount, shall be decided based upon an agreement between the two parties or based upon a court ruling.

In regards to the system for dividing the Employees Pension in cases involving a dependent spouse (insured under the third category), it applies, for example, to a divorce between a

working husband and a full-time housewife, and under this system, it allows her to request equally half the amount of the premiums paid by her husband during the period she is insured under the third category after April 2008.

Question 30

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

(Answer)

With respect to the individual communications procedure provided in such instruments as the Optional Protocol to the Convention on the Elimination of Discrimination against Women, the First Optional Protocol to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government has been carefully considering whether or not to introduce the procedure while observing how they are being operated. In December 1999, a study group was organized by the Ministry of Foreign Affairs in which the relevant departments of the Ministry of Foreign Affairs and the Ministry of Justice, etc. participated. The group conducted studies on this issue including examination of individual cases. The study group was reorganized in December 2005 into the Inter-Ministerial Study Group on Individual Communications Procedure with the wider participation from the relevant ministries and agencies, and has been continuing its studies. The Study Group discusses cases involving communications under the Optional Protocol to the Convention on the Elimination of Discrimination against Women as well.