

**Responses to the List of Issues and Questions for  
Consideration of the Fourth and Fifth Periodic Reports  
(JAPAN)**

## Question 2

On page 64 of the periodic report it is indicated that a social consensus on the definition of indirect discrimination has not been established yet and that the Ministry of Health, Labour and Welfare has been collecting information about measures, precedents and cases from other countries and will continue to review this matter. Please provide information on any efforts being made to amend existing legislation or to introduce new legislation in this respect.

## Answer

The Ministry of Health, Labour and Welfare has convened a Panel on Equal Employment Opportunity Policies comprised of experts since November 2002. Among the group's activities, it is now considering "indirect discrimination" and what constitutes discrimination in these cases, including conducting research abroad, with the aim of compilation of the report around spring 2004.

The members of the Panel on Equal Employment Opportunity Policies are as follows.

List of members of the Panel on Equal Employment Opportunity Policies (in order of Japanese alphabetical order, honorific titles have been omitted)

Mutsuko Asakura	Professor, Faculty of Law, Tokyo Metropolitan University
Masahiro Abe	Assistant Professor, Faculty of Economics, Dokkyo University
Akira Okuyama	Professor, Faculty of Law, Seijo University
Masako Kurosawa	Professor, Faculty of Economics, Meiji Gakuin University
Yuko Tashima	Lawyer
Yasunobu Tomita	Professor, Department of Economics, Osaka Prefecture University
Hiroya Nakakubo	Professor, Faculty of Law and Economics, Chiba University
Ryuichi Yamakawa	Professor (Law), Graduate School of Business Sciences, University of Tsukuba

### Question 3

Please clarify the relationship between the new “Council for Gender Equality” and the “Headquarters for the Promotion of Gender Equality,” both of which share the Gender Equality Bureau as a secretariat. On pages 15 and 16 of the fifth periodic report, reference is made to comments and decisions of the Council for Gender Equality and the Headquarters for the Promotion of Gender Equality, respectively. Please explain the stature of these comments/decisions and how their impact can be monitored.

### Answer

The Council for Gender Equality (hereafter “Council”) is in charge of the following tasks: to study and deliberate basic policies, measures and important issues regarding the promotion of the formation of a gender-equal society. The Council also monitors the implementation of government measures regarding the promotion of the formation of a gender-equal society, as well as conducting research into the effects of government measures on the formation of a gender-equal society, and when it deems necessary, it may submit its comments to the Prime Minister or other respective ministers concerned.

Meanwhile, the Headquarters for the Promotion of Gender Equality (hereafter “Headquarters”) was established in the Cabinet in July 1994 based on a Cabinet decision, as the Government’s policymaking entity, in order to enhance smooth and effective promotion of measures regarding promotion of the formation of a gender-equal society.

The Council is the forum for carrying out studies and deliberations regarding the basic policies concerned with the promotion of the formation of a gender-equal society and submits its opinions to the respective ministers concerned. The decisions made by the Council are respected in the advancement of measures by each ministry and agency.

The Headquarters is the forum for all ministries and agencies to uniformly decide the execution of measures. Each ministry and agency will advance measures in accordance with these decisions.

A specific example of efforts undertaken based upon decisions of the Headquarters includes the promotion of appointment of women to national advisory councils and committees of the Government. The Headquarters as required decides the numerical targets as its decision and advances measures. Furthermore, the Headquarters has

decided a policy to advance comprehensive and systematic measures regarding enlargement of the recruitment and promotion of female national public officers, including the formulation of plans at the office and ministries toward promotion of the recruitment and promotion of women.

As described above, the Council is mandated to monitor the implementation of government measures promoting the formation of a gender-equal society. It can also monitor the comments decided by the Council and measures related to Headquarters' decisions.

In FY2001, the Council monitored three measures: "Promotion of Women's Participation in National Advisory Councils and Committees," "Enlargement of the Recruitment and the Promotion of Female National Public Officers, etc.," and "Policies on Support Measures for Balancing Work and Child Raising (Cabinet Decision of 6 July 2001)."

#### Question 4

Page 17 of the fourth periodic report mentions that the “Plan for gender equality 2000” incorporated a proposal to study and research the possibility of introducing an ombudsperson in Japan who would resolve problems concerning gender inequality. Was such a study undertaken? If so, what were its recommendations concerning the establishment of an ombudsperson?

#### Answer

The Basic Law for a Gender-Equal Society enforced in 1999 prescribes as general duties of the Government to take two different necessary measures for handling complaints. One is for handling complaints in regard to policies implemented by the Government which are related to promotion of formation of a gender-equal society or which are recognized as influencing formation of a gender-equal society (hereafter “handling complaints regarding policies”). The other necessary measure is intended for relief of victims whose human rights have been infringed through factors impeding formation of a gender-equal society including gender-based discriminatory treatment (hereafter “relief of victims whose human rights have been infringed”).

Concerning the handling of complaints regarding policies and relief of victims whose human rights have been infringed, the Basic Plan for Gender Equality, which was approved by the Cabinet in December 2000, stipulates the enhancement of the functions through the active use of existing schemes, such as the administrative counseling system (including administrative counselors), Human Rights Organs (including the Human Rights Volunteers). It also stipulates understanding the current situation concerning complaints handling and other measures in other countries. Furthermore, based upon the above measures, the Government will conduct research and study as needed on a new system which will fulfill ombudsperson-like functions that respond to the actual circumstances in Japan.

Based on the Basic Plan, the Specialist Committee on Monitoring and Handling Complaints of the Council for Gender Equality carried out studies and review on systems concerned with the handling of complaints relating to policies and relief of victims whose human rights have been infringed. In response to this, in October 2002 the Council for Gender Equality decided the “Comment on Enhancing and Strengthening Systems Concerned with the Handling of Complaints Relating to Measures Concerning the Plan for Gender Equality and Relief of Victims Whose

Human Rights Have Been Infringed.”

Regarding the handling of complaints relating to policies, the relevant ministries receive cases of complaints as well as the administrative counseling system of the Ministry of Public Managements, Home Affairs, Posts and Telecommunications, which receives cases of complaints from the standpoint of a third party, and present settlement proposals. As for local governments, proactive and diverse measures are being formulated in light of actual regional conditions, including the establishment of institutions that carry out handling of complaints relating to policies by local governments, and that have a certain level of authority from a third-party standpoint.

Amidst these, the abovementioned Comment points out the enhancement of the complaint handling system by strengthening a network of related organizations that handle complaints relating to policies and provide various counseling services and information in order to make varied schemes for various related organizations in mind. In such a case, the Comment also assigns the Council for Gender Equality to play an active role.

Regarding relief of victims whose human rights have been infringed, in addition to judicial relief available through courts, there are various means of relief that involve administrative organs. In recent years, the strengthening of the regulations and the enhancement of relief measures regarding stalking, child abuse and spousal violence have been sought.

In addition, the Government submitted the “Human Rights Protection Bill” to the Diet that would establish the “Human Rights Commission” as an independent administrative commission under the National Government Organization Law and create a human rights remedy system operated mainly by the Commission in March 2002. Against this backdrop, in the relief of victims, the abovementioned Comment basically points out the maximization of the functions of an organization that possesses effective methods, in light of the content of support needed by the victims . In addition, since the issue is becoming more complex and cases requiring various solution methods for victim relief are increasing, it assigns each organization involved in victim relief to strengthen cooperation and coordination among them and to develop regional effective support measures.

For an overview of the “Comment on Enhancing and Strengthening Systems Concerned with the Handling of Complaints Relating to Measures Concerning the Plan for Gender Equality and Relief of Victims Whose Human Rights Have Been Infringed,” please refer to the Answer to Question 6.

#### Question 5

Page 18 of the fifth periodic report indicates, while all participants have formulated plans for gender equality in accordance with the Basic Plan for Gender Equality adopted by the Cabinet in December 2000, only 19.4 per cent of municipalities have formulated municipal plans for gender equality as of April 2001. What is being done or contemplated to encourage a greater number of municipalities to formulate their plans?

#### Answer

To contribute to the formulation of plans for gender equality by municipalities, the Cabinet Office drew up a manual titled, “Guide to Formulating a Municipal Plan for Gender Equality,” in 2001.

The manual was distributed to municipalities nationwide and necessary information was provided to municipalities that scheduled the formulation of a plan. This manual indicates the significance of formulation of plans for gender equality by municipalities, formulation procedures and points of consideration. In addition, by incorporating the voices of persons in charge of formulating the plans in municipalities, the manual allows those involved in plan formulation to share experiences with those in other municipalities, and thus also encourages them to become more proactively engaged in their work.

Furthermore, public relations activities aiming at municipalities are carried out to encourage them to formulate the plans, and a survey on the state of plan formulation in prefectures and municipalities is conducted and announced every year.



## Question 6

It is stated on page 19 of the fifth periodic report that the Specialist Committee on Monitoring and Handling Complaints has been conducting studies regarding the handling of complaints relating to the Government's policies and the relief of victims whose human rights have been infringed under the Basic Law for a Gender-Equal Society. What have been the results of its studies and deliberations?

## Answer

Since April 2001, the Specialist Committee on Monitoring and Handling Complaints has been conducting studies and reviews to enhance and strengthen the systems regarding the handling of complaints on the measures concerning a gender-equal society and the relief of victims whose human rights have been infringed. In October 2002 a report was compiled on items considered important for the persons involved in promoting measures. After receiving the report, the Council for Gender Equality decided the "Comment on Enhancing and Strengthening Systems Concerned with the Handling of Complaints Relating to Measures Concerning the Plan for Gender Equality and Relief of Victims Whose Human Rights Have Been Infringed." From now on, the Government shall pursue enhancement of related measures in line with this Comment.

The points of this Comment are:

1. Promotion measures for efforts concerning handling complaints regarding the measures concerning a gender-equal society

(1) Building a framework of a system for handling complaints and strengthening cooperation among related organizations

① Securing a wide range of functions of counseling that are readily accessible

• Clarify issues from the standpoint of gender equality at the municipality level, and secure contact point(s) that will sort them out properly.

② Handling by local governments

• Concerning handling complaints regarding the related measures, clarify the organization(s) that will fulfill the core roles as well as their authority through ordinances, etc. and build an effective mechanism.

③ Securing mechanisms of mutually close coordination and cooperation between the complaint handling organizations of national and local governments.

• Contact points receiving cases of complaints that are either out of their jurisdiction or involve multiple administrative organs will pass these cases on to contact points that can

appropriately handle them.

④ Roles of the Council for Gender Equality

- Build a system for the purpose of grasping information such as complaint contents on a regular basis.
- Study and deliberate on important items while utilizing information on complaint contents, and when deemed necessary, submit its comments to the Prime Minister and other relevant ministers.
- Develop a mechanism at the Specialist Committee on Monitoring and Handling Complaints for paying close attention to whether complaint contents are being appropriately reflected in measures for improvement, through the complaint handling system.

(2) Upgrading measures related to the knowledge and skills of those in charge of handling complaints and invigorating their activities

① Creating and publicizing the “Guidebook for Handling Complaints”

- The Government shall create and publicize a guidebook including examples of what constitutes complaints regarding the related measures, viewpoints for resolving complaints, and methodology.

2. Promotion measures for efforts concerning relief of victims whose human rights have been infringed

(1) Strengthening cooperation among organizations involved in relief of victims and building effective regional support mechanisms

① Strengthening cooperation among related organizations

- Share information, including the latest issues concerning gender equality, the state of human rights infringement and methods of resolution for cases that are difficult to handle, at the prefectural level, through the establishment of liaison councils comprised of organizations of national and local authorities involved in relief of victims, private sector organizations, etc.

② Comprehensive case management

- At counseling organizations competent in casework techniques, conduct comprehensive case management relevant to all aspects of life from the standpoint of self-support by victims, follow up to see that necessary support is appropriately secured, and coordinate with other relevant organizations as needed.

③ Securing readily accessible forums for comprehensive counseling, providing detailed support

- Secure fora for comprehensive counseling that can carry out information provision

without fail wherein victims can obtain easy access to the appropriate organizations. Develop functions that keep the municipal phase in mind. In doing so, aim to actively utilize women's centers.

- Provide detailed services, including accompanying services when victims access appropriate organizations, and services from an advocative point of view that aid the use of various systems. Consider specific measures for each locality, while keeping in mind the strengthening of cooperation between private sector organizations (including volunteers) and administrative organs.

(2) Upgrading the knowledge and skills of those involved in relief of victims, and invigorating their activities

- Foster awareness of gender equality and human rights, and provide opportunities for training concerning improvement of support skills and techniques.

- Give sufficient consideration for training opportunities for part-time personnel at organizations of local authorities involved in relief of victims. From a mid to long-term standpoint, pay attention to actual circumstances in localities in order to secure employment systems and levels of treatment that will cultivate experts.

- Develop training materials that will enable case studies. Modify curriculum content and carry out training adjusted to the level of trainees.

#### Question 7

In March 2002, the Government reportedly submitted the Human Rights Protection Bill to the Diet to introduce a wide-ranging reform of the current human rights protection system (see page 20 of the fifth periodic report). This bill reportedly provides for the establishment of a Human Rights Commission, which would provide proper and prompt redress for, and effective prevention of, damages caused by human rights violations. Please provide information as to the current status of the Bill and further information on its provisions, in particular regarding violations of women's human rights.

#### Answer

The Human Rights Protection Bill that the Government submitted to the Diet in March 2002 has not been passed during 2002 and continues to be deliberated in the Diet at present.

The bill: 1) explicitly prohibits human rights violation such as discrimination or ill treatment including unjust discriminatory treatment on the grounds of sex difference or sexual harassment, 2) establishes effective relief measures and the right to conduct an investigation accompanied by a certain type of sanctions against the human rights violations including discrimination and ill treatment, and 3) establishes organizational system centered on the Human Rights Commission as an independent administrative commission as the actor responsible for such relief measures. Through such measures, it provides effective relief against the violation of women's human rights.

Furthermore, in cases of the appointment of the chairperson (1 person) and commission members (4 members) of the Human Rights Commission, the Bill provides that there should be no less than two commission members of either sex and thus due considerations are also given to the gender balance among members of the Human Rights Commission.

Question 8

Please provide specific information with respect to article 177 of the Penal Code on rape, including whether rape in marriage can be or has been prosecuted under the provision. Please also provide detailed information on the number of judicial proceedings instituted in connection with rape in marriage and domestic violence, including the number of convictions and the sentences given. Detailed information is further requested about violence within the family, in particular whether such violence has been perpetrated against women, children or older persons and, if possible, information about the relationship between victims and perpetrators. Is incest penalized?

Answer

Even if it is between married spouses, a husband having sexual intercourse with his wife through violence or intimidation constitutes a crime of rape. There have been actual cases of punishment for rape against married spouse.

There is no data on rape between married spouses. The table below shows trends in the number of cleared cases for murder, inflicting injuries and assaults by spouses (including common-law marriage partners).

There is no data for domestic violence perpetrated against women, children or older persons.

There is no regulation that penalizes incest per se. However, incest can constitute crimes such as rape, indecent assault and violations of the Child Welfare Law.

Table: Trends in the Number of Cleared Cases for Murder, Inflicting Injury and Assaults by Spouses

		(Number of cases)				
Category of offense \	Year	1998	1999	2000	2001	2002
	Murder	189	170	197	191	197
	By husband	129	105	134	116	120
	Inflicting injury	295	403	888	1097	1250
	By husband	273	375	838	1065	1197
	Assault	35	36	127	156	219
	By husband	33	36	124	152	211
	Total	519	609	1212	1444	1666
	By husband	435	516	1096	1333	1528

NOTE: The terms “spouse” and “husband” include common-law marriage partners.

## Question 9

Reference is made on page 24 of the fifth periodic report to a report entitled “Toward the Smooth Enforcement of the Law for the Prevention of Spousal Violence and the Protection of Victims” by the Specialist Committee on Violence Against Women. Please provide information as to any recommendations contained in the report and whether these have been implemented.

## Answer

The report entitled “Toward the Smooth Enforcement of the Law for the Prevention of Spousal Violence and the Protection of Victims” is a compilation of the “comments” decided by the Council for Gender Equality, based on the results of studies conducted by the Specialist Committee on Violence Against Women on the efforts of the related ministries and agencies, and a series of discussions on the cases where further efforts need to be made. The “comments” are as follows:

### 1. Overview

- Measures, with the prerequisite of support for victims, should be promoted.
- Explanation of the promotion of measures should be given to the heads of local government at every opportunity including the National Governors’ Association.
- Due attention should be paid to the fact that foreigners are also covered by this law.

### 2. The Spousal Violence Counselling and Support Center

The national government should take the following measures:

- requesting and assisting prefectural governments to strengthen a counselling system and establish related facilities,
- promoting measures for the establishment of a security system of related facilities,
- sorting notices from the national government and distributing them to the section in charge at the prefectural offices,
- enhancing collaboration at the national level,
- requesting the appointment of core centers of several prefectural centers,
- demonstrating model cases for collaboration between related administrative organs and organizations, and
- promoting measures to resolve the disparities among prefectural level centers.

### 3. Notification and provision of information by medical personnel

- Physicians and other medical personnel should be informed of objectives, of the law

through organizations such as the Japan Medical Association.

- Simple and easy-to-understand explanations regarding notification should be made to physicians and other medical personnel.
- It is also important to advise physicians and other medical personnel to hand a small piece of paper with contact information for counselling institutions to the victims (patients).

#### 4. Protection orders

- The government administration should closely collaborate with the judicial system.

#### 5. Training of official personnel

- Persons concerned should be broadly targeted for this training.
- Training should be conducted particularly for persons in positions responsible for work at relevant institutions.
- Training tailored to individual work should be conducted.
- Training of instructors at prefectural level should be conducted.
- A model plan should be developed so that no regional gaps in training emerge.
- It is effective to appoint members of private organizations as instructors.
- Preparation of materials on basic common items is recommended.

#### 6. Promotion of education and enlightenment

- Government public relations should be widely used.
- “Campaign for Eliminating Violence Against Women.”
- Awareness raising activities intended for victims should be distinguished from those intended for the general public.
- Due consideration should be given to public relations for foreigners.

#### 7. The way to promote study and research

- Information should be collected about significant study and research conducted by local governments and private organizations.
- In conducting study and research, related ministries and agencies should cooperate and coordinate with one another.
- Continuous research into the actual state of spousal violence victimization should be conducted.
- In conducting study and research, due attention should be paid to ensure that victims will not be exposed to the risk of secondary victimization.

- Research into the actual state of vicarious traumatization or burnout of people who support them should be conducted.
- Research into the influence of spousal violence on the next generation should be conducted.
- Research into pioneering measures in foreign countries and the actual state of abusive spouses in Japan should be conducted.
- Contemplation of effective methods to grasp the actual state of the abusive spouses other than prison inmates should be made.
- Study and research of ways to rehabilitate abusive spouses and case studies from the broad perspective should be conducted.

#### 8. The modality of support to the private bodies

- Information on the related laws, systems and government administrative measures should be widely disseminated.
- An environment should be created so that greater financial support for the private bodies can be provided than before.

The major efforts that have been made concerning the above “comments” are as follows:

##### a) Measures related to the “Spousal Violence Counselling and Support Center”

Since April 2002, the Woman’s Consulting Office and other appropriate facilities in prefectures have fulfilled the role of the Spousal Violence Counselling and Support Center. At present, 102 facilities nationwide fulfill the role of the Spousal Violence Counselling and Support Center. Counselling was provided in 32,973 cases between April 2002 and February 2003, an average of 3000 cases per month.

In order to enhance the functions of the Woman’s Consulting Office which fulfills the role of the Spousal Violence Counselling and Support Center, the Ministry of Health, Labour and Welfare is implementing the establishment of a system of commissioning temporary protection, strengthening of a counselling system at non-regular hours, enhancing the network of related organizations, allocation of staff members in charge of psychotherapy to provide psychological care for victims and improvement of standards area for support of temporary shelters and women protection facilities.



b) Measures related to notification and provision of information by physicians and other medical personnel

The Cabinet Office and the Ministry of Health, Labour and Welfare request raising awareness and cooperation of prefectures and medical associations and call for a thorough implementation of cooperation.

c) Measures related to protection orders

The Cabinet Office, National Police Agency and Ministry of Health, Labour and Welfare are making and disseminating formats to submit to the courts in order to contribute to the prompt issuance of protection orders.

Concerning the records of counselling provided by the police and the Spousal Violence Counselling and Support Center in regard to spousal violence and others, requests of submission by the courts are responded to promptly.

Moreover, when courts issue a protection order, the police, responding to the notification, take a prompt response to protect the plaintiff.

d) Measures related to training of official personnel

The Cabinet Office is holding conferences for personnel in charge of the Spousal Violence Counselling and Support Center nationwide twice a year in order to provide the necessary information and introduce successful examples. Furthermore, a three-day training program for counselors and a two-day training program for administrative staff of the women's centers on a nationwide basis have been conducted.

At the National Police Agency, special lectures have been held on a nationwide level targeting persons in charge of measures against stalkers and spousal violence since FY2001 (as for spousal violence since FY 2002), is holding counselling courses such as role play methods, etc. offered by psychologists and making efforts to cultivate specialists in this area.

The Ministry of Justice is carrying out lectures and case studies for public prosecutors in order to appropriately protect victims of crimes, including victims of spousal abuse.

People with experience in providing protection to victims are appointed as instructors. Furthermore, as for training for public prosecutors (their assistant officers) and employees at probation offices, university professors who specialize in the area of victim protection and practitioners from organizations involved in victim protection are being invited and provided training on the topic of the “Law for the Prevention of Spousal Violence and the Protection of Victims.” With this training, the Ministry of Justice has made efforts to promote understanding of domestic issues among those involved in this area. In addition, lectures on the “Law for the Prevention of Spousal Violence and the Protection of Victims” and on the domestic violence issue have been incorporated into the training curriculum of personnel in charge of human rights protection at the Legal Affairs Bureaus and District Legal Affairs Bureaus and the Human Rights Volunteers, and the Ministry of Justice is working to enhance the training of official personnel.

The Ministry of Health, Labour and Welfare has conducted lectures for ministry employees, divisions in charge at prefectural level and employees in the field by psychiatrists, lawyers, persons from private shelter organizations on a wide range of topics including the understanding of special characteristics of the victims of domestic violence and the prevention of secondary victimization. Furthermore, while providing administrative explanations on training for related organizations, the Ministry has allocated a training budget so that a training program that reflects the real situation in the field at the prefectural level can be set up.

#### e) Measures related to the promotion of education and enlightenment

The Cabinet Office is taking advantage of the “Campaign for Eliminating Violence Against Women” which is held from November 12 to November 25 every year. In addition to working to raise the awareness of society regarding spousal violence, it holds a symposium on November 25, the United Nations International Day for the Elimination of Violence Against Women. Furthermore, the Office makes efforts to promote education and enlightenment besides making use of mass media such as newspapers and radio, including the production and dissemination of videos and brochures explaining the law.

Prefectural police forces are also involved in education and enlightenment on notification to the police and crime prevention preparedness by producing leaflets and

posters for raising awareness on spousal violence as well as by distributing and posting them for people who come for counselling.

f) Measures related to the way to promote studies and research

The Cabinet Office has undertaken “Survey on Domestic Violence” and “Study and Research on the Rehabilitation of Abusive Spouses” in FY2002.

At the Research and Training Institute of the Ministry of Justice, in conducting the research on domestic violence assailants, information is collected regarding treatment of assailants from US prosecutors’ offices, probation departments and the DV Batterer’s Program. Furthermore, the Office conducts research of actual perpetrators in Japan with the cooperation of the Criminal Affairs Bureau and Correction Bureau of the Ministry of Justice and other related organizations.

The Ministry of Health, Labour and Welfare has been conducting research, referred to as “Research on Protection of Victims” from the viewpoint of the victim’s mental health, which is financed by grants for health sciences, according to a three-year plan from 2001.

g) Measures related to support for the private bodies

The Cabinet Office is collecting information on organizations dealing with victims of violence from husbands or partners, and information on laws and measures useful for dealing with them. Furthermore, it is providing such information to the people concerned including those of private organizations via an Internet homepage.

#### Question 10

Please provide further information as to the enforcement of penal provisions in individual cases of sexual harassment. In addition, please clarify the obligations of employers with respect to sexual harassment under the Equal Employment Opportunity Law.

#### Answer

A number of different types of sexual harassment at the workplace can be assumed. Among them, there are acts that violate criminal laws that carry penalties. With these types of acts, based on the will of the victim, the investigating authorities take appropriate actions including arrests. However, no specific statistics have been compiled on the number of arrests limited to sexual harassment at the workplace.

Furthermore, Article 21 of the Equal Employment Opportunity Law stipulates that employers shall give necessary consideration to employment management in order to prevent sexual harassment at the workplace. The matters that should be duly considered are specifically defined by guidelines decided on by the Minister of Health, Labour and Welfare. To prevent sexual harassment, stipulation of the Law and the guidelines require the employer to give considerations to establishing a clear policy on sexual harassment, making the said policy known to employees and providing related education, responding to consultations and complaints, and prompt and appropriate response to sexual harassment cases when they occur. Moreover, it also requires employers to protect the privacy of women workers and to pay due consideration so that women workers are not subject to disadvantageous treatment because they have sought consultations or made complaints.

## Question 11

On page 37 of the fifth periodic report it is stated that the stereotyped perception of gender roles has been developed and standardized over a long period of time and has been a major obstacle to a society with gender equality. In this connection, the Specialist Committee on Surveying Effects has reportedly been introducing studies and deliberations about various systems affecting women's choice of lifestyle, including measures taken by the Government. Please provide information with respect to the findings of this Committee.

### Answer

The Specialist Committee on Surveying Effects under the Council for Gender Equality is surveying and considering the effects that Government measures exert on the formation of a gender-equal society. Among these efforts are studies and deliberations on the tax, social security and employment systems, which have a great effect on women's lifestyle choices. These were compiled into a report in December 2002. The contents of the report are as follows:

#### 1. Background

**Rapid economic growth** Advancement of urbanization, increasing number of people who are employed, smaller families

**Segregation of roles** Men: concentrated as employed labor outside home  
Workplace-centered lifestyle  
Women: Full-time homemakers. Play auxiliary roles in the workplace  
→ **Formation of various governmental schemes and social customs**

**From mid-1970s** Expanding incompatibility of governmental schemes and social customs with lifestyles

- Ratio of wives with no paid jobs in employees' households among married women decreased
- Debate over reexamining ideas such as "company first," "company-oriented society"

#### **Changes in the home and community**

- Men tend to lack the flexibility/time to consider home and community
- Housewives bear excessive burden of managing home. Community is

debilitated. Housewives are isolated.

→ The need to secure gender neutrality as much as possible in choices of lifestyle by reexamining systems and customs

## 2. Merits of securing gender neutrality, etc.

### Merits of securing gender neutrality

Enables the response to diversifying needs of households (including participation in the workplace, home and community)

In the situation of increased labor movement opportunities, the risk of income fluctuation is dispersed by the participation in labor force by many family members

Chances to increase overall income

Tapping the abilities of women workers is an important business management strategy

Overall economy develops through increased labor supply

Increased possibilities for the sustainability of social security, etc.

Does securing gender neutrality further weaken family ties and promote the trend of declining birth rates?

-Rather, conventional systems and practices create excessive burdens on families and promote the trend of marrying later in life and declining birthrates.

-International comparisons reveal that the higher the women's labor force participation rate, the higher the birthrate (Japan is low in both). A comparison by prefecture also reveals that the higher the women's labor force participation rate, the higher the birthrate.

-Some research rank Japan 15<sup>th</sup> among developed countries in the area of child support. Looking individually, Japan is not lacking in the number of nurseries, but still has the serious problem of children on waiting lists to get into them in urban areas. Furthermore, regarding childcare allowances, excluding the United States, Japan is comparatively inferior in terms of on age of eligibility, income restrictions and allowance amounts among the developed countries.

Does securing gender neutrality negate the "full-time homemaker?"

-The choice to become such homemakers rests with each person. The selection is not denied. Rather, it corrects the bias in making choices that the governmental schemes and social customs bring about.

-In addition, there is an opinion that "full-time homemakers" are unfairly targeted regardless of their "poorness." However, the fact is that the income of husbands in single-income households is 10-20% higher than that of husbands in double-income

households.

The need for countermeasures for birthrate decline and child raising assistance measures in line with the securing of gender neutrality

- The view from the people as expressed above came in response to the interim report.
- This view may demonstrate the general view that the Japanese society is not conducive to having and raising children, which should be changed. While undertaking reforms, numerous considerations need to be made.

### 3. Current state of the taxation, social security and employment systems as seen in each stage of women's lives

-The Committee scrutinized current conditions of employment, systems, and taxation and social security systems in each stage of life following the typical pattern of employment, marriage, childrearing, reemployment, retirement and death of spouse. Of course, there are also other patterns. It identified which systems and practices were problematic from the standpoint of gender neutrality.

Especially serious issues include: Gender-based wage disparity, Difficulties of reemployment after childrearing is finished, The multitude of non-regular employment of middle-aged women, and Earnings adjustments that seek to restrict wages, annual income and working hours to certain levels.

Reference: Lifetime Disposable Income due to Differences in Type of Wives' Employment (Unit: million yen. Includes pensions.)

		Continuous employment for the same employer	Part-time work after leaving job	No work after leaving job
Women's income	Lifetime Disposable income	211.09	82.17	47.19
Whole household's income	Lifetime Disposable income	468.83	341.28	309.63
	(Reduced taxes through earnings adjustments)	-	1.12	3.69

4. Taxation, social security and employment systems that are gender-neutral in lifestyle choices

#### Basic position

Governmental schemes/social customs and gender equality:

Make the effect of governmental schemes and social customs on choices as neutral as possible.

Reexamine the schemes and customs, as necessary, including by altering governmental schemes and social customs on an individual basis.

Toward taxation and social security systems that are neutral regarding choices concerning work:

→ Toward systems based on approaches that are more geared to the individual level should be pursued.

Toward employment systems that are neutral regarding choices concerning work:

Secure gender neutrality in work. Eliminate gender disparity in treatment, etc. Reexamine the classifications of permanent and non-permanent staff. In addition, change wage and benefit systems that do not reflect actual circumstances through shifting basis from the household level to the individual level.

Toward securing gender neutrality and realizing a society that is conducive to having and raising children:

Various considerations are necessary for shifting toward a society that is conducive to having and raising children.

#### Taxation system

-Imposed on the individual basis but excessive consideration on the household.

-Reduce and abolish the spousal deduction and special exemption for spouse with appropriate compensation for the increased tax burden.

#### Public pension

1) The burden is on the individual, but there is excessive consideration given to the household

2) The definition of the shift to the individual unit, direction of policy

Regarding resolving work adjustment problems as the shift to the individual unit

→ expanding applicability of employees' pensions, reexamination of "the Type Three Insured Person's System" (spouses of insured employees do not need to pay a premium), etc.

Regarding the resolution of various issues stemming from survivor's pensions as the



shift to the individual.

→ introduction of “income splitting scheme” and other various reforms

### 3) Example of income splitting scheme and its merits

Example:

- The current the Type Two and Three Insured Person are applicable, under which benefits are paid in proportion to income. By choice system.
- Income is split after totaling the amounts earned by the husband and wife and insurance premium is calculated. This is recorded on each person’s insurance premium payment record. The Type Three Insured Person’s income is considered as zero.
- The split ratio is not limited to 1/2. It is left to an agreement between the husband and wife.

Merits, etc.

- If income splitting is selected by a couple, it can be regarded that the Type Three Insured Person pays the premium. Thus, the problem surrounding the Type Three Insured Person is partially resolved.
- If income splitting is selected by a couple, each person is recorded as having paid the premium after calculation of totaling and splitting. Therefore, various problems arising from survivor’s pension (e.g. a person’s own contribution does not lead to his/her pension payment because the amount of survivor’s pension is higher than his/her own pension payment. The latter is not permitted if one chooses the former) are resolved.

Relationship to pension splitting at time of divorce:

It seems to be the same as pension splitting at the time of divorce but as a matter of fact it is quite different. However, if income splitting is chosen, pension splitting at the time of divorce becomes unnecessary. Furthermore, deliberations on introducing a pension-splitting scheme at the time of divorce should be carried out in parallel as a transitional measure.

### Health insurance • elderly care insurance

- A reexamination that is consistent with the public pension plan is necessary.
- In addition, although unrelated to gender neutrality concerning work, one challenge in health insurance is the issuance of “health insurance certificate per one person.” This is

already institutionally possible. The introduction of these certificates also improves convenience and efficiency. Development of the environment for its expansion is desired.

#### Future direction of the employment system

-Japanese employment practices such as long-term employment practices and the seniority-based wage system, implicitly assume the single-income household, and are not neutral. There are signs of change. (The number of applicable employees is falling when one looks at the situation from a macroeconomic point of view. Some aspects of wages indicates a shift from seniority-based remuneration to performance and ability-based remuneration. Employment mobility and mid-career hiring are expanding.)

-Debate on work sharing is intensifying. Attention is given to systems of The Netherlands and Sweden.

-It is important to reexamine employment systems and treatment including male full timers. Efforts toward the realization of treatment that is in line with performance should be made. In doing so, it will be necessary to develop an environment enabling the reconsideration of the relationship to the society at large, including individual lifestyles, ways of working and other elements.

-From now on, the Committee will put more emphasis on employment systems in its deliberations.

## Question 12

Please provide information as to the situation of foreign women, including undocumented migrants and trafficked women, who have been engaged in, or forced into, prostitution in Japan. Do they enjoy access to healthcare, temporary shelters or other social services, including while deportation proceeding are taken place? Are the women prosecuted as well as the procurers and brokers?

## Answer

1. In cases where victims are brought to Japan against their will, it is not that they are immediately prosecuted for the offence of illegal entry under the Immigration Control and Refugee Recognition Act by the fact that they have entered Japan.

## 2. Regarding the deportation procedures for victims of trafficking

(1) In Japan, in cases where the person falls under the category of the deportation items including illegal entry, deportation procedures stipulated in the Immigration Control and Refugee Recognition Act will be taken regardless of whether or not they are the victims of trafficking. As for the victims of trafficking, while the victims' situations are fully listened to and when information about brokers and others are obtained during the procedures, these cases are reported to investigative authorities including the police .

(2) In cases where the detention period becomes relatively long due to reasons such as the conditions for deportation are not arranged for persons to whom deportation orders have been issued, the provisional release system is applied in comprehensive consideration of their circumstances and health conditions.

Furthermore, the Government makes efforts to provide treatments for victims of trafficking detained under the deportation procedures that take into consideration their mental stability such as providing the necessary medical care and counseling by specialists both at the expense of the Government.

Regarding outstanding wages, the Government is cooperating to collect them in ways such as contacting their employers and seeking their payments. Furthermore, as it is possible to file a civil suit for the failure to pay wages, deportation is being proceeded in consideration of the right of trials, including the possibilities of filing suits by a procurator.

### 3. Medical treatment

Basically, it is possible for anyone to receive a medical examination in any Japan's hospitals, clinics and other medical institutions.

Furthermore, doctors must examine patients if they are asked to under the Medical Practitioners Law by which doctors must abide and there are no distinctions made based on nationality or the offence against the Immigration Control and Refugee Recognition Act.

Thus, it can be said that the provision system for medical treatment is equally available to foreigners as well as Japanese nationals.

### 4. Woman's consultation offices

There are no conditions based on nationality that must be met in order to receive temporary protection at woman's consultation offices, so foreign nationals can utilize it as well.

Furthermore, even if they are illegal entrants, the Government takes the position that woman's consultation offices may receive these illegal entrants if there is a danger that they may be harmed if left unattended to, and if it is recognized that there is a pressing need for them to be protected and if there are no other appropriate assistance facilities.

In those cases, woman's consultation offices are advised to contact the Immigration Bureau.

### 5. For your reference, the following is an instance of our response to a victim of trafficking.

On 31 July 2002, a man from country B arrived at Narita Airport from country A with a woman from country C, whom he called his girlfriend. He wanted to connect to a flight to country C and applied to an Immigration Inspector for shore passes. In doing so, the Inspector received a memo written in Japanese from the woman from country C that said, "I was forcibly brought from country C in order to do unpleasant work in Japan. We are not in transit. Please do what you can to stop our entry into Japan. Please keep this a secret from the person with me." Both were denied entry and were isolated from the perspective of protecting the woman. The man from country B was given no details on the whereabouts of the woman. The man and woman flew back separately on two

different flights intentionally and the woman was sent back to country C, as she had wished.

### Question 13

Please provide information on whether there have been prosecutions in Japan of Japanese nationals who have exploited women and/or girls outside the country.

### Answer

Regarding the crime of committing child prostitution under Article 4 and distributing and producing child pornography under Article 7 of the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children (LPACP), the Japanese nationals who committed the crimes outside the country are prosecuted according to the LPACP. They have been punished with imprisonment and the Japanese investigative authorities strictly handle crimes of Japanese nationals in foreign countries including Thailand and Cambodia.

Apart from these cases, there are no data regarding prosecutions of Japanese nationals for exploitations of women outside Japan.

#### Question 14

What is the composition/membership of the Positive Action Promotion Council established in 2001 (see page 35 of the fifth periodic report)?

#### Answer

The Positive Action Promotion Council consists of members who are business leaders, members of employers' associations, academics and administrators. The list of members is as follows:

#### Employers (14)

Hiroyoshi Akashi, President, Nishi-Nippon Railroad Co., Ltd.

Aiko Okawara, Chairman, JC Foodsnet Co., Ltd.

Masahiko Ohkuni, Chairman, Oji Paper Co., Ltd.

Kouji Ohboshi, Corporate Advisor, NTT DoCoMo, Inc.

Isao Okui, Chairman and Representative Director, Sekisui House Ltd.

Kakutaro Kitashiro, Chairman, IBM Japan, Ltd.

Takashi Sakuragi, Managing Director, The Tokyo Chamber of Commerce and Industry

Nobuo Tateisi, Chairman and Representative Director, Omron Corporation

Noriko Nakamura, President, The Poppins Corporation

Hiroshi Hamada, Chairman and CEO, Ricoh Co., Ltd.

Yoshiharu Fukuhara, Honorary Chairman, Shiseido Co., Ltd.

Sakue Mizukoshi, Managing Director, Ito-Yokado Co., Ltd.

Hironori Yano, Senior Managing Director, Nippon Keidanren

Katsuya Yamazaki, Board of Directors, National Federation of Small Business Associations

#### Academics (5)

Yuji Genda, Associate Professor, Institute of Social Science, University of Tokyo

Mariko Kohno, Chairperson, Career Network Co., Ltd.

Yoshio Higuchi, Professor, Faculty of Business and Commerce, Keio University

Motohiro Morishima, Professor, Graduate School of Commerce and Management, Hitotsubashi University

Takuro Morinaga, Chief Researcher, UFJ Institute

#### Administrators (1)

Kimie Iwata, Director-General, Equal Employment, Children and Families Bureau,

Ministry of Health, Labour and Welfare



#### Question 15

Aside from setting targets to increase women's numbers on the faculties of Japanese universities, are universities contemplating the use of further special temporary measures in accordance with article 4.1 of the Convention to address the low percentage (9.5 percent in 2001) of female faculty members reported on page 36 of the fifth periodic report?

#### Answer

The number of female faculty members at national universities was 9.9 percent in 2002, which is higher than the 9.5 percent of the previous year and shows a tendency of yearly increase.

A "Working Group concerning Gender Equality" has been established by the Japan Association of National Universities and compiled a report in May 2000. In this report, the target of increasing the ratio of female faculty members at national universities to 20% by 2010 was set and follow-ups have continued.

In response to these moves of the Association of National Universities efforts to increase the number of female faculty members are advancing under the leadership of the University Presidents.

For example, Nagoya University has published the "Recommendation to Promote Gender Equality at Nagoya University" in March 2002, which among others contains advancement of raising awareness and training to establish a gender-equal society and the adoption of positive action to increase the number of female faculty members.

Tohoku University has adopted the "Tohoku University Declaration to Promote Gender Equality" in September 2002, which includes decisions on the correction of gender disparities in the composition of faculty members and promotion of gender-equal participation in the process of policymaking.

Also Kanazawa University has established the Kanazawa University Committee to Promote Gender Equality in October 2001 and is discussing issues such as advancing a change in mentality, the establishment of environment and system, an increase in the percentage of female students' postgraduate advancement and active recruitment of female educational personnel.

Furthermore, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) has established the “Conference to Support Diversification of Careers for Women” and is studying the modality of support measures for female researchers at universities and other research institutions from the viewpoint of creating an environment where women can sufficiently exercise their individuality and abilities. The first report is scheduled for compilation in March 2003. In addition to that, also the Committee on Human Resources of the Council for Science and Technology will hold deliberations on a specific policy to advance the activities of female researchers from the perspective of developing and securing human resources for research. Compilation of a report is scheduled for early FY 2003, and through these activities, efforts at each university will be facilitated.

#### Question 16

Has there been a measurable impact of low interest rates for women entrepreneurs offered by the Ministry of Economy, Trade and Industry? Has an assessment been made of the Center for the Advancement of Working Women's assistance projects for women who wish to start their own businesses (see page 36 of the fifth periodic report)? If so, what were the findings?

#### Answer

In April 1999, the Ministry of Economy, Trade and Industry (METI) has established a "Low Interest Loan System to Support Women and Elderly Entrepreneurs" to support women and elderly persons with entrepreneurial ambitions. The implementing institutions for this system are the National Life Finance Corporation and the Japan Finance Corporation for Small Business.

From April 1999 to December 2002, the National Life Finance Corporation has provided financing in 11,477 cases, with a total of 70.2 billion yen. Of these, 8,647 cases, or an amount equal to 49.8 billion yen, was utilized by women entrepreneurs. As for the Japan Finance Corporation for Small Business, there were 62 cases amounting to 3.5 billion yen. (As the Japan Finance Corporation for Small Business does not have a breakdown for women and elderly entrepreneurs separately, the percentage of support provided to women entrepreneurs is unclear.)

METI acknowledges that there is a continuing strong need for low interest financing provided by government financial institutions from women entrepreneurs in Japan and METI intends to maintain the aforementioned system.

Furthermore, the Ministry of Health, Labour and Welfare has established the Center for the Advancement of Working Women (CAWW) in January 2000. This is an institution to comprehensively develop programs to positively support women to work. Between April 2001 and March 2002, 10 introductory lectures on starting a business and seven seminars on setting up a shop and research on industry and other topics have been held, in which a total of approximately 700 persons have participated. More than 20% of the women among the participants have started their own businesses, and the Ministry recognizes that this is a considerable achievement.

Furthermore, from a questionnaire among seminar participants at the said institution, we

have understood that 1) women aspiring to start a business need support for knowledge and skill acquisition and to supplement their lack of networking assets and 2) even those who have successfully established a business need continuous support as their businesses grow and expand. We will make efforts to implement programs even more efficiently in the future.

Question 17

It is stated on page 58 of the fifth periodic report that research has been carried out to promote an educational system that values individuality and eliminates stereotypes for gender roles both at home and in local communities. What have been the results of the research.

Answer

As research is still going on at present and will be completed in March 2003, it is planned to compile the results after research has ended.

#### Question 18

The fifth periodic report suggests on page 61 that in the current employment situation, female students face disadvantages in the hiring process and that there have been cases of dismissals due to pregnancy and childbirth as well as different treatment of women with respect to retirement and dismissals. What measures is the Government taking to address these matters?

#### Answer

Although the Equal Employment Opportunity Law prohibits discrimination against women at all the areas of employment management, from recruitment, hiring to retirement and dismissal, unequal treatment in the recruitment process, such as in job interviews and selection, still remains.

The Ministry of Health, Labour and Welfare has taken the following measures to address this issue: 1) it has distributed a “Rulebook for Gender Equality in Recruitment and Personnel Selection” to encourage persons in charge of employment to thoroughly follow the gender-equal rules in recruitment and personnel selection in accordance with the Equal Employment Opportunity Law, 2) while presenting cases that would be problematic under the Equal Employment Opportunity Law in an employment guidebook for female college students, various brochures informing them that counseling and guidance are available at the Equal Employment Departments of Prefectural Labour Bureaus and actually respond to consultations with female students, 3) taking advantage of such opportunities as the meetings of business owners and others, while informing people of the purpose of the recruitment and employment sections of the Equal Employment Opportunity Law’s guidelines, listen to the complaints and give necessary advice and guidance in cases where complaints based on the equal opportunity law are filed regarding job offers for female jobseekers accepted at Public Employment Security Offices, Student Employment Centers and high schools, and 4) review the recruitment and employment situation at companies, and undertake administrative guidance against companies in which there are problematic practices in light of the Equal Employment Opportunity Law.

Furthermore, responding to the situation where the increase in cases of coerced retirement and dismissal due to pregnancy and childbirth and other reasons, the Ministry of Health, Labour and Welfare informs people of the fact that dismissal due to pregnancy and childbirth constitutes a violation of the Equal Employment Opportunity

Law and provides corrective administrative guidance in cases where the law has been violated.

Moreover, regarding individual disputes on equal treatment between women workers and employers, the Ministry of Health, Labour and Welfare will provide prompt settlements to such problems through advice, guidance and recommendations from the Director of Prefectural Labour Bureaus and positive application of mediation by the Equal Opportunity Mediation Conference.

#### Question 19

It is stated on page 11 of the fifth periodic report that “Part-time workers play a large part in Japan’s economy, however, compared to regular workers there are problems with employment stability and benefits.” Please elaborate on this statement and include information on what measures the Government is taking to improve the employment stability and benefits of women part-time workers. What results have emerged from the study group that was reportedly established (see page 64 for the fifth periodic report) to review the modalities of part-time labour policies?

#### Answer

Since March 2001, the study group on part-time workers has proceeded with its examination of the direction of part-time work measures and has compiled its report in July 2002.

Furthermore, since September 2002, taking this report into consideration, the Labour Policy Council has been reviewing the future direction of part-time labour policy centering on fair treatment between full-time workers and part-time workers. In March 2003, the Council compiled a report in which the Council specifically indicated its way of thinking that takes into consideration maintaining balance between full-time workers and part-time workers and that it was necessary to make efforts to permeate and establish this way of thinking in society.

In the future, the Government will make efforts toward the necessary measures in light of the Council’s report.

The major points of the report are as follows.

#### <Major points of the report>

In order to realize fair treatment between full-time workers and part-time workers, it is necessary to improve social rules in phases. For the time being, the Government will revise the guideline based on the Law Concerning the Improvement of Employment Management, etc., of Part-time Workers and indicate the Council’s way of thinking.

(Contents indicated in the guideline)



(1) Promoting measures taken both by employers and employees to realize fair treatment such as:

Offering explanations, when asked, regarding the differences in treatment between full-time and part-time workers and the reason for these differences,

Taking appropriate measures for listening to opinions, in making improvements in employment management, and

Resolving grievances voluntarily through means such as using the grievance procedure within the offices.

(2) Implementing measures concerning treatment according to the contents of works, motivation to work, ability, experience, performance, etc.

(3) Developing conditions for the conversion of status to full-time workers

(4) Treatment of part-time workers who undertake the same type of work as full-time workers

Regarding part-time workers whose human resources development mechanism and its operation are the same as those of full-time workers, balance will be ensured by applying an identical method for both full-time and part-time workers when making a decision on treatment.

- Applying an identical method means, for example, applying the same wage scale or the same standard of payment, assessment or evaluation.

Regarding part-time workers whose human resources development mechanism and its operation are different from those of full-time workers, balance will be considered by taking measures to treat them according to their motivation to work, ability, experience, performance, etc.

## Question 20

Please provide clarification as to the meaning of the term “dispatch worker” referred to on page 65 of the fifth periodic report. How does their employment situation differ from that of part-time workers? Please describe in detail the current situation in the labour market as to career advancement opportunities for women as compared to men in all categories of work.

## Answer

1. A “dispatch worker” system is one whereby an employer dispatches his or her own worker under the working contract and on the directive of the third party, to the party (this excludes the case whereby an employer agrees with the third party to dispatch his or her worker to be employed directly by the party).

The dispatch worker, when he or she is dispatched, engages in works for the third party on the directive of the third party other than his or her employer. This pattern of work differs from part-time workers in working for the third party under the directive of the third party and in working not necessarily shorter hours than regular workers by ordinary working hours per week.

Women comprise approximately 70% of the number of both dispatch workers and part-time workers. With regard to their wages, if full-time women workers’ salaries are put at 100, then female dispatch workers salaries would be 94 and female part-time workers at 66.4.

Concerning the age of workers, dispatch workers comprise mainly young people, with approximately 40% of both those in their 20s and 30s working in such positions, whereas the average age for part-time workers is 42.5 years, and middle-age to elderly workers are more predominant. The percentages for women workers who are married stands at 42.9% for dispatch workers and 72.6% for part-time workers.

Concerning the fields of employment, while 41.6% of all dispatch workers (including men) who are dispatched in the 26 fields of work which are not the object of limited duration of one year to dispatch (Note) are engaged in the area of clerical equipment operation, 27.4% of part-time workers are engaged in sales work and 27.2% of part-time workers are engaged in the service industry.

(Note) With the amendments in 1999 to the Law for Securing the Proper Operation of Worker Dispatch Undertaking and Improved Working Conditions for Dispatched Workers in principle, the fields of work previously limited to 26 areas, including software development, which require expert knowledge has been liberalized in principle. Although a time limit for dispatch of one year has been set with regard to fields of work that have newly become eligible for dispatch, the abovementioned 26 areas of work are exempt from this time limit.

2. The Law on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (the Equal Employment Opportunity Law) stipulates that employers may not treat women different from men in relation to assignment, promotion or training on the grounds that the worker is a woman. Specific details of discriminatory behavior are demonstrated in the guideline. The Ministry of Health, Labour and Welfare, based on the Equal Employment Opportunity Law, provides support through administrative guidance and assistance in the resolution of individual disputes.

However, due to the short length of years of continuous employment, the number of women occupying management-level positions is still low: women currently hold 7.7% of section head positions, 2.6% of director positions, and only 1.6% of managerial positions.

Underlying this situation is the fact that women, who bear most of the family responsibility for childcare and family care, feel a great burden in continuing to work, taking a balance between working life with family life . Thus, the Ministry of Health, Labour and Welfare is making efforts to improve a working environment that makes it easier for workers to continue to work and balance work with family life, through the promotion of measures to support compatibility between work and family life, such as smooth implementation of the Child Care and Family Care Leave Law.

In addition, in order to realize practical gender equality and to enable women to maximize the capabilities they possess, it is essential not only that gender equality be ensured in terms of systems, but that companies take positive action to eliminate existing gaps between men and women arising from employment management practice based on traditional practices and fixed ideas of the division of roles of men and women.

Thus, the Ministry of Health, Labour and Welfare, for the purpose of promoting efforts for positive action in companies, is implementing seminars, convening conferences awarding outstanding corporations in this area and is providing various information such as best practices, guidelines for the introduction of positive action and worksheet forms to identify problems.

As a scheme for companies to undertake positive action at their own initiative in order to further promote positive action, in FY2001, the Positive Action Promotion Council was convened in cooperation with employers' associations, and in April 2002 the Proposal for the Positive Actions was compiled. In FY2002, the Positive Action Promotion Council was convened at the prefectural level and in this way efforts are being made to promote positive action across the country as a whole.

## Question 21

Statistics provided in the fifth periodic report indicate that a gender imbalance exists among judges, prosecutors and police. What measures, including special temporary measures in accordance with article 4.1 of the Convention, are being contemplated to correct this unbalance.

## Answer

### 1. Judges

Concerning the appointment of judges, appropriate people have been appointed while referring to the abilities, experience and knowledge, and character, there is no gender discrimination including the treatment after appointment. The Supreme Court of Japan wishes for many women to be appointed as judges and has welcomed the recent increase in the number of women judges.

The recruitment of judges is first and foremost based on the person's character and there are no measures that focus solely on gender. However, the introduction of child care leave (from 1992, the range of children to whom measures applied was expanded in FY2002) and other measures have been promoted to form a working environment that aims at making it easier for this to be compatible with their family life, regardless of gender.

### 2. Prosecutors

In terms of recruitment of prosecutors, the Ministry of Justice has been working to ensure competent and qualified prosecutor appointees, regardless of gender. The Ministry of Justice has absolutely no position of maintaining a negative attitude toward hiring women prosecutors.

In addition, in the Plan to Enlarge the Recruitment and Promotion of Female Employees in the Ministry of Justice (decided on 29 November 2001 by the Headquarters for the Promotion of Gender Equality of the Ministry of Justice), the Ministry set the goal of expanding the employment of women prosecutors, "In the recruiting process, the Ministry makes efforts to actively recruit women prosecutors." In the future, the Ministry will actively recruit women who are appropriate for being prosecutors after comprehensively judging ability, qualifications, experience and knowledge.

### 3. Police

The total number of women police officers working at prefectural police forces around Japan has steadily risen, as the following table shows. In comparison to the figure 10 years ago, the ratio of the number of women police officers to the total police officers has almost doubled.

The Japanese police have been promoting active recruitment of women police officers and the expansion of their job categories. In addition to continuing to steadily promote these measures, the Japanese police intend to improve the working environment where women can work flexibly and comfortably and advance their promotion to senior officials.

Table: The Number of Women Police Officers Working at Prefectural Police Forces

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
No. of people	4,484	4,919	5,406	5,801	6,546	7,124	7,754	8,058	8,298	8,520	8,807	9,390
Percentage	2.0%	2.2%	2.4%	2.6%	2.9%	3.1%	3.4%	3.5%	3.6%	3.7%	3.8%	4.0%

## Question 22

It is stated on page 68 of the periodic report that the Ministry of Health, Labour and Welfare established a study group to analyze the causes of the wage gap between men and women and to assess the effects of corporate wages and benefits system and others on the wage gap. What have been the results of the study and has the group made concrete recommendations to close the reported gap?

## Answer

According to the analysis of the study group, the greatest cause of the wage gap between men and women in Japan is the difference in job rankings (manager, director, section head and other managerial positions) and the difference of the years of continuous employment. Besides this, family allowances and other allowances also contribute to the wage gap.

Also, in many cases where there are wage gaps, it has been pointed out that the wage gaps arise not from the wage system itself but from the operation of the wage system, including personnel evaluations, and the work allocation and the modality of placement, or other employment management factors apart from wage systems themselves.

For this reason, the study group's report recommends that the following measures be carried out.

### 1. On the administrative part

Assisting both labour and management in the creation and dissemination of guidelines for improving the wage and employment management which encourages them to voluntarily eliminate the wage gap between men and women.

Reviewing methods to promote positive action in response to mid-term issues.

Conducting sufficient discussion on what cases constitute indirect indiscrimination.

### 2. On the labour and management relations part

Developing and operating fair and transparent wage systems, personnel evaluation system as well as reviewing livelihood allowance.

Desirably, efforts toward positive actions, including improvement of work allocation and placement as well as the promotion of a family-friendly workplace.

The Government:

will promote measures ensuring equal employment opportunities between men and women, and

has proactively promoted measures to support the compatibility of working and family life. From now on based upon the report of the study group, the Government will make an effort to eliminate the wage gap between men and women by compiling and distributing the guidelines in relation to measures to improve wage and employment management which encourages both labour and management to voluntarily eliminate the wage gap between men and women sometime in April, and by diffusing it.



### Question 23

On page 34 of the fifth periodic report, it is indicated that the percentage of women who are members of advisory bodies of local governments is lower than at the national level. Has the Government contemplated introducing temporary special measures in accordance with article 4.1 of the Convention to increase women's participation in these bodies?

### Answer

Prefectures and government-designated cities are making efforts to promote the appointment of women to their advisory councils and committees by setting target ratios and dates for achievement.

In addition, the Government, based on the Basic Plan for Gender Equality (decided by the Cabinet in 2000), is carrying out the following efforts to support measures related to women's participation as members of advisory councils and committees.

1. Conducting research on numerical targets relating to women's participation in the advisory councils and committees set by prefectures and municipalities, as well as on various measures by which to achieve these targets and the current situation of the ratio of women. The Government compiles and provides the results of these studies and the information on women human resources.
2. In order to promote measures at the municipal level, request the cooperation of the Prefectures in supporting and advising the municipalities.

#### Question 24

It is reported (page 49 of the fifth periodic report) that the percentage of seats in parliament held by women and the percentage of female administrators and managers are lower than those of other developed countries that are ranked highly by the Gender Empowerment Measurement (GEM). Please provide details about measures that are being implemented or contemplated to improve the ranking of Japan in this respect.

#### Answer

To promote the participation of women in the decision-making process in the areas of politics, justice, economy, society and culture, in August 2001, the Prime Minister (President of the Headquarters for Promotion of Gender Equality) requested cooperation from those in the judiciary, law-making bodies and local governments based on the objectives of the Headquarters' decision.

In the public sector, considering the situation where numbers and percentage of female national public officers in managerial positions are still low, in accordance with the guidelines (Guidelines concerning enlargement of the recruitment and the promotion of female national public officers) formulated by the National Personnel Authority in 2001, the entire Government will promote comprehensive and systematic measures and the Headquarters for Promotion of Gender Equality decided the "Enlargement of Recruitment and the Promotion of National Public Officers" and confirmed that each Ministry and Agency will join together and carry out measures based on the contents of guidelines. In addition, based on the guidelines, each Ministry and Agency will: 1. set targets towards the promotion of recruitment and promotion of women, 2. formulate a plan incorporating the contents of 1., and 3. evaluate and review the progress of the plan.

In the private sector, the percentage of women in managerial positions (according to the Basic Survey on Women Workers' Employment Management conducted in FY2000) is assistant manager or equivalent, 7.7%, section manager or equivalent, 2.6%, general manager or equivalent, 1.6%. Thus, the promotion to section manager and general manager is very low.

In order to correct this situation, it is essential to promote positive action. However, according to the Survey, the ratio of corporations that "are already taking Positive Action" is 26.3% and the ratio of corporations that "are planning to take Positive Action

in the future” is 13.0%. Thus, although it is recognized that there is gradually an increased understanding regarding the Positive Action by employers, the situation is not yet sufficient.

To this end, in FY2001, the Ministry of Health, Labour and Welfare in coordination with employers' associations, convened the Positive Action Promotion Council to compile the proposal to promote Positive Action. In addition to providing data or successful examples that could be used as benchmarks (values that can be used to measure each corporation's situation), the Council has been holding seminars, etc. and award superior corporations.

Furthermore, at the Council for Gender Equality, as “Measures to Support Women's Challenges,” a review of support measures for the upward challenge of aiming for the participation of women in the policy and decision making process as well as for women who challenge themselves in various areas is being advanced. Based on the final report that is scheduled to be compiled in April 2003, measures that support women who challenge themselves will be steadily implemented.

## Question 25

What concrete steps are being taken to increase the number of women Ambassadors and the number of women working in the Ministry of Foreign Affairs and as staff in overseas establishments in the light of the percentage quoted on page 53 of the fifth periodic report?

### Answer

In recent years, the Ministry of Foreign Affairs has recruited many women. The proportion of women among annual recruitment has tripled over the past 20 years. In particular, over the past 10 years, women have accounted for over 40% of new employment. As a result, the proportion of women among all staff has reached about 20%.

Moreover, the following examples illustrate how an environment is being developed to make it easier for women to successfully make childrearing compatible with a career.

#### (1) Protection of women employee before and after childbirth

For women employees during pregnancy, National Personnel Authority regulations recognize reduction of work, exemption of full-time work responsibilities for the purpose of alleviation of commute and medical checkup, and employment restrictions before and after childbirth. After they have returned to their positions, paid leave for childrearing known as “childrearing time” (up to one hour per day) is recognized for up to one year after the child is born. In addition, for up to three years after the child is born, a partial leave may be taken of up to two hours per day. (However, the maximum time allowed by both provisions combined is two hours per day.)

#### (2) Restrictions on late night and overtime work by employees raising children

Through the January 2002 revision of the National Personnel Authority regulations, the maximum number of overtime hours will be shortened when requested by an employee raising children. As a result, the Ministry established that women employees raising pre-elementary school children cannot be made to work more than 24 overtime hours a month or 150 overtime hours a year in cases where they make such a request.

#### (3) Three-year childcare leave

Through the April 2001 revision of the Child Care Leave Law, the childcare leave maximum, which was previously one year, was increased to three years.

In April 2002, Makiko Tanaka became the first woman to become Minister of Foreign Affairs of Japan, and in February 2002, another woman, Yoriko Kawaguchi, succeeded her.

There have been 11 women Ambassadors throughout the years, starting with the first in 1980. As of March 2003, three of them are active. They are the Ambassador to Italy, the Ambassador to Ghana and the Ambassador, Permanent Representative of Japan to the Conference on Disarmament. They account for 2.5% of all of Japan's Ambassadors.

Question 26

Page 75 of the fifth periodic report indicates that in 2000, the services supporting the health of women throughout their lives were implemented in 27 prefectures and designated cities. Have these services been further extended throughout the country in the past two years?

Answer

Throughout their entire lives, women face health issues different from men not only during pregnancy and childbirth periods, but also during adolescent and menopause. Because their mental and physical states are subject to change, it is important to adopt the concept of reproductive health/rights and to continue supporting the health of women throughout their lives.

For this purpose, the Ministry of Health, Labour and Welfare from the standpoint of supporting the health of women throughout their lives, financially supports the local governments which carry out the Health Support Project for Women Throughout Their Lives. While this program was implemented in only 27 prefectures and designated cities in 2001 and 2002, more active implementation is being encouraged through numerous opportunities, including provision of information on the state of development and examples of implementation in each local government.

Reference: State of Prefectures and Designated Cities Which Implement Women's Health Consultation Programs

FY2000	FY2001	FY2002
27	27	27

Furthermore, in order to provide medical treatment that can comprehensively respond to the physical and psychological characteristics unique to women, in recent years national hospitals, prefectural hospitals, private clinics, etc., have been continuously instituting women-only outpatient services. The Ministry of Health, Labour and Welfare and is already operating women-only outpatient services at national hospitals in two locations, and plans to open another within the current fiscal year. Women-only outpatient services (general) are also in operation at two Rosai (Workers' Compensation) Hospital locations.

#### Question 27

According to page 76 of the fifth periodic report, unwanted teenage pregnancy has risen and, to reverse this trend, the Government set out a basic guideline to be used by local governments that were given the task of preparing handbooks on adolescent sexual behavior and health. Have all the local governments prepared such handbooks? What system has the Government introduced to monitor effectiveness of these handbooks?

#### Answer

Regarding one of the measures to spread information related to adolescent health care issues, including sex, to adolescent boys and girls, “Committee for Making Women’s Health Handbook” (provisional name), or the private study group of the Director General of the Children and Families Bureau of the former Ministry of Health and Welfare, compiled a report in August 2000 with regard to specific contents and points of attention when the local governments and other organizations make handbooks to provide information on adolescent sex and health.

The Government notified, based on the report, each local government and other organizations that particular consideration should be given as to offering information to adolescents.

However, the decisions to publish the handbooks are made by each local government and the Government is not in a position to be always aware of the situation of its publication.

#### Question 28

What measures have been taken by the Government, in the light of increasing numbers of persons infected with HIV/AIDS to reach women and girls who are considered to be at high risk of contracting HIV/AIDS? Please describe prevention and treatment programs that are specifically targeted at vulnerable women and girls.

#### Answer

The percentage of women who comprise the cumulative number of AIDS patients in Japan is 14.2% (this figure excludes those who have contracted AIDS through the transfusion of blood clotting factors). The percentage of women who comprise the cumulative number of HIV carriers is 31.8%. (As of the end of December 2001)

The Japanese government has implemented measures to prevent HIV/AIDS infection and its spread, regardless of gender.

Responding to the trend of increasing HIV/AIDS infection, the “Principles in Prevention of Specified Infectious Disease in Relation to Acquired Immunodeficiency Syndrome” (AIDS Prevention Principles) that was formulated in October 1999 identified targeted groups who are epidemiologically concerned about having the risk of infection and are thus in need of special care, such as adolescents, foreigners in Japan, homosexuals as well as employees and customers of the sex industry. The Government intends to implement additionally effective and detailed measures in the highest consideration of their human rights and social backgrounds.

To this end, in FY2002, the Government implemented preventive measures such as raising awareness of the fact that the use of condoms is effective in preventing sexually transmitted diseases such as AIDS through Government public relations.

The Japanese government will continue to promote in a planned manner comprehensive AIDS measures that address the prevention of HIV infection and the provision of high-quality and appropriate medical care, while considering the human rights and social backgrounds of AIDS patients and HIV carriers based on the AIDS Prevention Principles.

Furthermore, in view of the importance of education in deepening correct understanding of HIV/AIDS and eradicating prejudices and discrimination against people suffering



from or infected with HIV/AIDS, the Government has been enhancing HIV/AIDS education by taking the following measures: (i) preparing and distributing textbooks on AIDS to elementary, junior and senior high schools; (ii) preparing and distributing teaching materials for teachers; (iii) conducting training of teaching staff; and (iv) conducting practical research in areas designated as AIDS education promotion areas, inaugurating a project to establish and HIV/AIDS education information network to disseminate and utilize HIV/AIDS information nationwide.

As for social education, HIV/AIDS and other related matters have been taken up in community-based learning activities.

#### Question 29

Please supply updated information on progress made regarding the “Outline of a Bill to Revise a Part of the Civil Code” prepared by the Legislative Council and submitted to the Minister of Justice in February 1996 (see page 85 of the fifth periodic report), which covers the minimum age for marriage, the period required for women to remarry after divorce and surnames of married couples.

#### Answer

The “Outline of a Bill to Revise a Part of the Civil Code,” was submitted to the Minister of Justice by the Legislative Council in February 1996. Public opinion on these proposed revisions is greatly divided, so the trend of public opinion is currently under close watch.

Regarding surnames of married couples, based on the results of the “public opinion poll on the introduction of a system to allow married couples to assume separate surnames” conducted by the Cabinet Office in May 2001, continuous efforts are being made towards the introduction of the system. However, there has been strong opinion against it.

### Question 30

Please provide information as to whether the Government has adopted measures specifically for women within the “New Long Term Program for Government Measures for Disabled Persons” (see page 31 of the fifth periodic report) to address the vulnerable situation of women with disabilities.

### Answer

Japan is advancing in a planned manner various policies for persons with disabilities while taking into consideration responding to their needs regardless of gender, in accordance with the Basic Plan for Disabled Persons based on the Disabled Persons Fundamental Law, toward developing services for persons with disabilities and eliminating the physical, systemic, cultural and information-related barriers, as well as barriers to awareness faced by persons with disabilities in carrying on their social lives.

### Question 31

Please provide updated information on any progress in the consideration given by the Government of Japan to the question of ratification of the Optional Protocol to the Convention.

### Answer

The Japanese government, regarding specific cases of communication under various human rights conventions that stipulate individual communication systems, including the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, believes that it is important to conduct research on the response of the Human Rights Committee and that of the related countries and persons involved.

Until now, since there has not been any communications based on the Optional Protocol to the Convention, focused review has been carried out on specific communications that are handled by the Committee through an individual communication system stipulated by the Optional Protocol to the ICCPR.

Reference: Issues that have been recently Dealt with in the Review

1. Article 2's (duties of States Parties), Article 3's (right to gender equality) and Article 26's (equality before the law and right to receive equal protection) rights to be free from prejudice
2. Individual communication system under the European Convention on Human Rights.
3. Communications relating to Article 12, (freedom of movement and the freedom to change residence)
4. Communications relating to Article 13 (communications by foreigners)
5. Follow-up relating to communications by each country
6. Article 27, rights of ethnic, religious, and linguistic minorities
7. Communications relating to Article 17 (interference or protection against attack), Article 23 (protect for one's family), and Article 24 (children's rights)

Question 32

Please indicate any progress made toward acceptance of the amendment to article 20, paragraph 1 of the Convention, on the Committee's meeting time.

Answer

With regard to acceptance of the amendment to Article 20, paragraph 1 of the convention, the Government has submitted the bill to accept Article 20, paragraph 1 of the Convention to the National Diet on February 21.