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UPR Submission on the Human Rights Situation in Japan

Human Rights Council

14th Session of the Universal Periodic Review – 2012

Introduction

1. The New Japan Women's Association (NJWA) was founded in 1962, and it has 160,000 members and 230,000 weekly organ paper readers throughout Japan. As a non-governmental organization in special consultative status with the United Nations Economic and Social Council, NJWA has participated in the sessions of the UN Commission on the Status of Women and of the Committee on the Elimination of Discrimination against Women (CEDAW Committee) including by submitting written statements and reports.

Summary

2. For the First Universal Periodic Review for Japan in 2008, NJWA submitted information on the country's human rights situation from the perspectives of gender equality and women's rights. Four years later, Japan remains the lowest-ranked among the industrialized nations in terms of the progress in the promotion of gender equality. Under the Global Gender Gap Index provided by the World Economic Forum, Japan ranked 91st among the 128 countries in 2007 and 98th among the 135 in 2011¹. In December 2010, the Government of Japan adopted the Third Basic plan for Gender Equality², which gives weight to "practicability" and "active observance of international criteria and standards," and identifies 15 priority fields with numerical targets. The question now is the implementation of this plan.

3. In the aftermath of the massive earthquake that struck north-east Japan on March 11, 2011 causing unprecedented damage and the ongoing disastrous situation at the Tokyo Electric Power Co. Fukushima Daiichi Nuclear Power Plant, the most urgent task for Japan is to rebuild people's livelihood and communities, which requires the country to break away with the neoliberal "structural reform" policies and carry out reforms based on the Constitution and gender perspectives. But policies and programs set out so far are directed to push ahead with the current course. It poses concern that this will further aggravate the human rights situation in Japan.

4. For the Second UPR of Japan, NJWA provides information with recommendations on the following points: 1) 3 of the 16 recommendations Japan accepted to follow up³ which are the ratification of the Optional Protocol to the Convention on the Elimination of All Forms Discrimination against Women (CEDAW), repeal of all legal provisions that discriminate against women, and measures on violence against women; 2) situation regarding the Great East Japan Earthquake and the accident at the nuclear power plant; 3) women's right to work; 4) women's political participation and the election system;

¹ Global Gender Gap Report 2007 and 2011, World Economic Forum
<http://www.weforum.org/issues/global-gender-gap>

² Third Basic Plan for Gender Equality 2010, Gender Equality Bureau
http://www.gender.go.jp/english_contents/category/pub/whitepaper/pdf/3rd_bpg.pdf

³ 16th HRC in March 2011
http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/JP/A_HRC_8_44_Add1_Japan_E.pdf

and 5) the unsolved issue of Japan's Military "comfort women."

Ratification of the Optional Protocol to CEDAW and repeal of legal provisions that discriminate against women

5. Of the recommendations from the First UPR compiled in the Paragraph 60 of the Working Group Report (A/HRC/8/44)⁴, the Government accepted to follow up the recommendations to ratify the Optional Protocol to CEDAW (Subparagraph 1) and to repeal discriminatory legal provisions against women (Subparagraph 7), but no actions has been done. The Government's mid-term progress report to the HRC⁵ merely says that it would "give serious consideration" and "continue to consider." The two issues have repeatedly been contained in the recommendations by the CEDAW Committee. In its Concluding Observations in 2009⁶, the CEDAW Committee identified the recommendation to amend the discriminatory provisions in the Civil Code (the different minimum age for marriage for men and women, waiting period required only for women to remarry after divorce, single surname for a married couple, and discrimination against children born out of marriage regarding inheritance) for follow-up based on the recognition that the lack of its implementation constituted a major obstacle to the implantation of CEDAW, requesting Japan to provide additional information on the steps taken on before the next periodic review. With no concrete action taken for the amendment, the Government presented its report in August 2011⁷, and the CEDAW Committee again requested to provide additional information by November 2012⁸. As of April 2012, there is no prospect for the amendment.

6. Japan is the only country that married couples are legally bound to have common surnames. NJWA conducted an urgent questionnaire between December 17, 2009 and January 20, 2010. 115 (114 females and 1 male) from 31 prefectures responded describing how their human rights were infringed because of the single-surname system. In most cases, women have to go through cumbersome procedures of changing their family names on their bank books, seals, and driver's licenses, as well as the name of owner on a house title. Those going by their maiden names or opting for marriage without registration are often required to identify themselves. De facto couples cannot receive spousal deductions, adopt children, or receive fertility treatment. They even cannot guarantee loans or stand security for their partners when they are hospitalized. NJWA and many other women's groups and networks continue to urge the Government and Diet members to take actions for amending the law. It is true that there are many politicians and lawmakers insisting that the Civil Code amendment will destroy the family system, but as the CEDAW Committee's Concluding Observations say, the Government should display its strong political will to act based on its "obligation to align national laws in line with the provisions of the Convention."

⁴ Eighth Session, Human Rights Council

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/139/96/PDF/G0813996.pdf?OpenElement>

⁵ 16th Session, Human Rights Council http://www.mofa.go.jp/mofaj/gaiko/jinken_r/pdfs/upr_fu_1103_en.pdf

⁶ CEDAW/C/JPN/CO/6, 44th Session, CEDAW Committee, July 2009

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/461/10/PDF/N0946110.pdf?OpenElement>

⁷ CEDAW/C/JPN/CO/6/Add.1, 50th Session, CEDAW Committee, September 2011

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/451/62/PDF/G1145162.pdf?OpenElement>

⁸ Letter dated November 4, 2011, <http://www2.ohchr.org/english/bodies/cedaw/docs/Japan4Nov2011.pdf>

7. Recommendations - the Government should:

- 1) Take concrete steps for the earliest possible ratification of the Optional Protocol to CEDAW;
- 2) Amend the Civil Code immediately, and implement all the recommendations from the CEDAW Committee so as to achieve de facto equality between men and women.

Violence against Women due to the military presence of the United States

8. With about 50,000 U.S. troops stationed in the country, there have been many cases of rape, murder and mayhem committed by U.S. military personnel. Due to the agreement made between the governments of Japan and the United States outside the provisions of the Security Treaty that Japan would not intend to exercise the primary right of jurisdiction over members of the U.S. military and their dependents other than in cases considered to be of material importance to Japan, victims have to bear injustice, when their human rights are violated.

9. Recommendation – the Government should:

- 1) Exercise jurisdiction over the crimes committed by the U.S. military personnel and firmly stand on the position to punish the perpetrators. Strive for the moment for the revision of the extremely unequal Japan-U.S. Status of Forces Agreement, and start considering whether or not the country should continue hosting the military bases.

Post-disaster situation

10. There is no real prospect yet for the reconstruction and restoration to the normal state from the devastating damage caused by the Great East Japan Earthquake and the nuclear crisis. According to the National Police Agency, 15,856 have been killed and 3,070 are missing as of April 11, 2012, but actually more than 200,000 people have been affected. Over 340,000 survivors live in temporary housing, including 158,000 from Fukushima Prefecture who have fled from the radiation contamination. 62,000 Fukushima people left the prefecture evacuating in other prefectures and many of them are mothers with children.

11. The affected areas in the north had already been in the difficult situation before the disaster facing the accelerated aging with declining population of local communities under the successive governments' policy to abandon the primary industry. They had endured the adverse impact of the merger of municipalities into wider-area local administrative units with reduced number of municipal workers, as well as the integration and reduction of medical institutions by "structural reform". The municipalities in Fukushima accepted to host the nuclear power plant hoping that it would boost local economy. With the Government being so slow in taking support measures for the victims, who have long been forced to live in the evacuation centers, NJWA received voices of local women complaining that they were worn out cooking for the people living in the centers, or that women temporary staff at

daycare facilities or school kitchens had been dismissed. Gender-roles perception and growing non-regular employment have made the already difficult situation of women in the disaster areas even harder. It is imperative to secure jobs and assist family-owned businesses and farms. On March 2, the Ministry of Health, Labor and Welfare revealed that of 3,510 people in the disaster-hit areas whose unemployment benefit period had expired, more than 70 percent are still looking for jobs.

12. The Reconstruction Design Council established by the Government has only one woman (6.7%) among its 15 members, the Council's study group has 2 women (10.5%) among its 19 members, and the Committee on the Investigation of Accidents at the Fukushima Nuclear Power Station has 2 women (20%) among its 10 members. As of October 2011, over 40 percent of municipalities have no female member in the disaster prevention councils, and more than 50 percent have no female member in the disaster-related sections or posts. Stimulated by the effort of women's groups to reach out to the victims, particularly the socially vulnerable, and to get their voices heard so that their situation be improved, the Government, at the 56th Commission on the Status of Women in March 2012, proposed a resolution entitled, "Gender Equality and the Empowerment of Women in Natural Disasters,"⁹ which was adopted by the consensus of member states.

13. Recommendations – the Government should:

- 1) Assist the reconstruction of the affected communities in the way that can truly meet the needs of local people; draw as many lessons as possible from the damage caused by the massive earthquake, tsunami and nuclear crisis to change its policy to one that places priority to defending lives and livelihoods, with special attention given to measures to protect children from the radiation damage such as disclosing of information and providing free lifelong health survey and healthcare to children of Fukushima including those who have moved to other prefectures;
- 2) Ensure that the resolution "Gender Equality and the Empowerment of Women in Natural Disasters" as well as the victim assistance and reconstruction measures proposed by the Cabinet Office and the Health Ministry from gender perspectives are fully implemented.

Women's Right to Work

14. Non-regular workers now make up 20.1 percent of Japan's male workforce and 54.6% of female workforce,¹⁰ aggravating income inequalities and poverty. The wage gap between men and women remains high; for regular workers women earn 69.3 percent of what men get paid.¹¹ With part-time workers included, women only make 51.0 percent of the salaries their male peers receive.¹² The pay gap hinders women from achieving economic independence and causes anxiety about livelihood in their old age. The average monthly annuity provided by the national pension program is 40,000

⁹ 56th UN Commission on the Status of Women (February 27-March 9, 2012)
http://www.un.org/womenwatch/daw/csw/csw56/resolutions_advance_versions/Natural-disasters-CSW56-res-advance.pdf

¹⁰ Ministry of International Affairs and Communications, 2011 Labor Force Survey

¹¹ Ministry of Health, Labor and Wealth, White Paper on Real Situation of Working Women, May 2011

¹² Ministry of Health, Labor and Wealth, 2010 Monthly Labor Study

Japanese yen, while many elderly women living alone receive between 20,000 and 30,000 yen a month, and more than 1 million people live without pension benefits. Under the employees' pension scheme, men receive an average of 176,000 yen per month while women get 103,600 yen, about 60 percent of what men receive.¹³ The total fertility rate of 2010 was 1.39, and the estimated population in 2060 is 86.74 million.¹⁴ The declining birthrate shows no sign of coming to a stop.

15. The same survey also shows that the ideal number of children married couples want to have is 2.48 and 65.9 percent of the respondents attribute the enormous cost of education to the gap between the ideal number and the actual number of children they expect to have. Realities that over 50 percent of the youth and women work in non-regular jobs with low wages, the shortness of day-care facilities results in leaving 46,620 children nationwide on the waiting list, and the education expenses are unbearably high make it difficult or impossible for women to have children however they wish to, and to live on their own in the first place. In addition to the deep-rooted stereotyped perception of gender roles, the reduction in Government spending on social services including childcare, nursing care and healthcare has increased burden of family responsibilities for women.

16. On December 31, 2011, Japan Airlines abruptly dismissed 165 pilots and cabin attendants on the ground of financial difficulties. 148 laid-off workers including 84 women filed lawsuits in the Tokyo District Court demanding the withdrawal of their dismissals. Despite the testimony by the company's chief executive at the trials that it was possible to avoid dismissing the workers, the court gave an unfair ruling upholding the necessity of dismissals. Dismissing workers for their ages or medical records, and the fact that most of the laid-off cabin attendants were union members, constitute a grave matter in light of the CEDAW and other international law. It is feared that the existing four requirements for dismissing workers (necessity for dismissal, efforts to avoid dismissal, rationality in selecting employees, and consultation with employees) will become invalid.

17. Recommendations – the Government should:

- 1) Regulate non-regular employment and take necessary steps including law enactment and amendment to increase regular jobs;
- 2) Ensure that men and women can share family responsibilities equally and work in humane conditions, take drastic measures including cut in working hours, equal treatment, redress of wage gap between men and women, enhanced child benefit, and reduction in education cost; amend the law so that every men and women can take childcare or family-care leave when necessary;
- 3) Monitor and give necessary guidance to corporations regarding dismissals.

Women's Political Participation and the Election System

18. The major factor behind Japan's low GGI score is that women's voices are not adequately

¹³ Ministry of Health, Labor and Wealth, 2010 Monthly Labor Study

¹⁴ National Institute of Population and Social Security Research, January 30, 2012

represented in decision making; women holds only 11.3 percent of parliament seats. The single-seat constituency system introduced in 1995 has been detrimental to women's advancement in politics. NJWA along with different women's groups has been calling for an electoral system centered on proportional representation. The Specialist Committee on Basic Issues Gender Impact Assessment and Evaluation of the Council for Gender Equality issued a report in February, 2012, which says that multiple constituency and proportional representation systems are more likely than the single-seat constituency system to represent diverse opinions of the electorate and to increase the number of women who get elected. In this regard, the Government's preparation of a bill for reducing the proportional representation seats goes contrary to these calls.

19. Recommendation – the Government should:

1) Amend the law to establish an election system centered on proportional representation to ensure that the wide diversity of the electorate's political opinions is represented.

Japanese Military “Comfort Women”

20. In the previous UPR, the Government did not accept to follow up the recommendation on the “comfort women” issue (Subparagraph 5), but in the written response presented to the Eighth Session of the HRC in June 2008, it stated that it would “continue to have a dialogue with the treaty bodies on this issue.” In its Concluding Observations issued in August, 2009, the CEDAW Committee reiterated its recommendation that “the State party urgently endeavor to find a lasting solution for the situation of ‘comfort women’ which would include the compensation of victims, the prosecution of perpetrators and the education of the public.”

21. In addition to the resolutions adopted by the parliaments of different countries in Asia, North America and Europe calling for the settlement, in the Republic of Korea, the Constitutional Court ruled in August, 2011, that it was unconstitutional for the Korean government not to negotiate with its Japanese counterpart over the “comfort women” problem. Also at home, actions have been spreading nationwide urging the Japanese Government to agree to consult with Korea and to enact legislation for the settlement. 36 local governments have approved the proposals to the government to this effect.

22. Recommendation – the Government should:

1) Take action without delay for resolving the Japanese military “comfort women” issue through legislation, in response to the recommendations from international institutions and to the demands of survivors.