

TREATY BODY MONITOR

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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

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Key facts¹

| Ratified CEDAW | Reservations | Party to Optional Protocol? | Submission of State party report | Other core treaties ratified |
|----------------|--------------|-----------------------------|---|--------------------------------|
| 1985 | None | No | Due: 25 July 2006 Submitted: 30 April 2008 | CAT, ICCPR, ICERD, ICESCR, CRC |

Opening remarks by the delegation

The delegation was led by Ms. Chieko Nohno, Member of the House of Councillors. She was supported by a large delegation consisting of 20 representatives from the following Ministries: Justice; Foreign Affairs; Health, Labour and Welfare; Agriculture, Forestry and Fisheries; Education, Culture, Sports, Science and Technology. Assistance was also provided by the Cabinet Office and the Permanent Mission of Japan to the United Nations. While Ms. Nohno primarily addressed Committee members, other members of the delegation responded to questions according to their specialisation.²

In her opening remarks, Ms. Nohno noted that this year marked the 30th anniversary of Japan's adoption of CEDAW and it was 24 years since its accession to the Convention. Rather than restating Japan's written replies to the Committee's list of issues, she reviewed major points of progress since the Committee's last

¹ The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx.

² The list of members of Japan's delegation is available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm>

review, including the Second Basic Plan for Gender Equality formulated in 2005, the Programme for the Acceleration of Women’s Social Participation formulated in 2008, and advances for women in the field of employment, violence against women, and trafficking in persons. Ms. Nohno also addressed continuing obstacles to gender equality including: deeply engrained gender stereotypes, inequality in the work place and in high level academia, the situation of single mothers, and Japan’s failure to ratify the Optional Protocol.

Overview of key issues

Generally, the delegation was agreeable with the Committee’s statements and seemed open to dialogue on many issues. Although the delegation appeared well-prepared, many of the Committee’s questions received vague responses or were left unanswered due to the matter being under review by the government or awaiting public comment. The question of whether CEDAW was treated as a legally binding human rights treaty in Japanese law was a continuing theme throughout the interaction. Other points of focus included: discriminatory laws; sexually explicit video games portraying women enjoying rape; surviving “comfort women”; and gender disparities in educational material, higher education, and the workplace.

Discriminatory laws and legal status of Convention

Concluding Observations:

22. The Committee calls on the State party to take urgent steps to incorporate the Convention and the definition of discrimination against women, as contained in article 1 of the Convention, fully into domestic legislation and to report on progress made in this regard in its next periodic report.

20. The Committee urges the State party to recognize the Convention as the most pertinent, broad and legally binding international instrument in the sphere of the elimination of discrimination against women. The Committee urges the State party to take immediate measures to ensure that the Convention becomes fully applicable in the domestic legal system, and that its provisions are fully incorporated into national legislation, including through the introduction of sanctions, where appropriate. It also recommends that the State party increase its efforts to raise awareness about the Convention and the Committee’s general recommendations among judges, prosecutors and lawyers so as to ensure that the spirit, objectives and provisions of the Convention are well known and used in judicial processes. It furthermore recommends the State party to take measures to further increase awareness and provide capacity-building programmes for civil servants about the Convention and gender equality. It reiterates its recommendation that the State party continue to consider the ratification of the Optional Protocol and its strong belief that the mechanisms available under the Optional Protocol would strengthen the direct application of the Convention by the judiciary and assist it in understanding discrimination against women.

See also Concluding Observations 14 (role of the parliament in implementing Concluding Observations), 18 (removal of discriminatory provisions in legislation dealing with marriage and children born out of marriage), and 34 (required legislative amendments in relation to prosecution of and penalties for sexual crimes and sexual violence).

The Committee was very concerned by the status of the Convention in the Japanese Constitution and under domestic law. Mr. Bruun (Finland) stressed the need to fully incorporate the Convention into domestic law and to educate justices, lawyers, and those who work in the legal field, while Ms. Simonovic (Croatia) emphasised the importance of ratifying the Optional Protocol. Ms. Patten (Mauritius) pointed out the lack of a definition of discrimination outside of the extremely limited and problematic definition in the Equal Opportunity Law and asked about plans to eliminate discriminatory laws still present in the Civil Code.

Many of the Committee’s questions were met with the response that the matter was pending or ongoing measures were being taken by the government. For instance, the delegation admitted there was a lack of consensus on the meaning of indirect discrimination because it could cover many areas, and explained that the government was listening to the trend of public opinion on the matter. In an effort to reassure the Committee

that Japan had sought to comply with CEDAW, the head of the delegation referred to laws that had been amended prior to its ratification in 1985, and advised that it had also been an important instrument in the construction of their Third Basic Plan, along with the Beijing Platform of Action. The delegation also explained that international law had equal status with domestic law, and training was provided to judges to assist them in applying the Convention in Japan. However Ms Nohno's comment that we have "really been exerting ourselves" was undermined by a subsequent acknowledgement that the Civil Code was yet to be amended to remove discriminatory provisions. Further, on the question of adopting the Optional Protocol, the delegation explained that although the Committee had previously recommended ratification, it was still under consideration.

Gender stereotypes

30. The Committee calls upon the State party to further enhance its efforts and to take proactive and sustained measures to eliminate stereotypical attitudes about the roles and responsibilities of women and men, through awareness-raising and educational campaigns. The Committee recommends that the State party encourage the mass media to promote cultural change with regard to the roles and tasks considered suitable for women and men, as required by article 5 of the Convention. The Committee requests the State party to enhance the education and in-service training of the teaching and counselling staff of all educational establishments and at all levels with regard to gender equality issues, and to speedily complete a revision of all educational textbooks and materials to eliminate gender stereotypes. The Committee urges the State party to take measures, including the criminalization of verbal violence, to ensure that Government officials do not make disparaging remarks that demean women and contribute to the patriarchal system which discriminates against women. It also urges the State party to strengthen its strategies to combat pornography and sexualisation in the media and advertising and to report the results of the implementation in its next periodic report.

See also No.44 (reincorporate goal of gender equality into national education legislation: encourage women to pursue non-traditional education and employment opportunities, increase quotas for women academics); No.46 (achieve gender equality in employment: use temporary special measures to eliminate occupational segregation, close gender pay gap and address pregnancy related discrimination); and No.48 (improve balance between family and employment responsibilities for men and women).

Committee members were concerned by the persistence of deeply-rooted gender stereotypes in both the public and private spheres. This prompted many questions about how these prejudices were adversely affecting women's lives, such as limiting women's education and employment opportunities, as well as their earning capacity, attainment of high-level decision-making positions, and participation in political and public life. For example, Ms. Neubauer (Slovenia) asked for concrete information about Japan's gender equality machinery and how gender mainstreaming was ensured. She also asked for more information on gender discrimination in the education system and the media. Ms de la Vega (Spain) and Ms Belmihoub-Zerdani (Algeria) were critical of the government's lack of effort to increase women's representation in national and local government, and encouraged it to move beyond awareness raising campaigns. Ms. Rasekh (Afghanistan), Ms. Ameline (France) and Mr. Bruun sought information about how gender equality was being promoted in the workplace and were critical of women's under-representation in high level decision-making positions. Ms Patten pointed out that the gender pay gap had widened in the years 2004-2006 and encouraged legislative reforms to guarantee equal pay for work of equal value. Ms. Bailey (Jamaica) sought an explanation for the disparity between the high rate of women in higher education and their low representation in the higher levels of academia.

In response to the Committee's very direct questions and numerous suggestions on how to address this problem, the delegation sought to highlight where government initiatives were underway to enhance gender

equality. These included a range of awareness raising measures, promotion of female role models, training for civil servants, and the review of the impact of policies by the Council for Gender Equality (comprising of 12 Ministers and other experts). The delegation explained that the National Equality Bureau was the key element of the government's gender equality machinery, and in an effort to underscore its high-level status, advised that it reported directly to the Prime Minister and other Ministers. Further, its staff of 40 and budget allocation of 4 trillion yen (approximately US\$43.5 million), were indicative of the government's commitment to achieving gender equality.

The delegation also acknowledged the role of the media in improving gender equality and although this was not regulated by legislation, advised that the government had distributed guidelines to all media outlets. The government had also set a target for women to fill at least 30 percent of positions in the media by 2010. As for education equality, the delegation referenced a new education promotion plan implemented in 2008 which gave many opportunities to women. New textbooks targeting gender stereotypes were being written, which then required approval from the Ministry of Education, and selection by local boards. The gap between the rate of women in higher education and those in high level professional positions and academia was not directly addressed by the delegation. Nor was the delegation able to provide specific information about part-time employment. Although it acknowledged that the wage gap was significant, the delegation advised that it was narrowing, and under labour law, women were entitled to equal pay. Further, the government appreciated that a range of measures were required to improve women's work-life balance and make it possible for them to remain in their jobs after childbirth. The delegation also acknowledged that women's participation in politics was unacceptably low and this had prompted the government to set a target of a 30 percent increase in women's participation by 2020.

Violence against women

Concluding Observations:

32. The Committee calls upon the State party to address violence against women as a violation of women's human rights and to make full use of the Committee's general recommendation No. 19 in its efforts to address all forms of violence against women. It urges the State party to intensify its awareness-raising efforts with regard to the unacceptability of all such violence, including domestic violence. It recommends that the State party strengthen its work on violence against women and speed up the issuance of protection orders and open a 24-hour free hot-line for counselling women victims of violence against women. It also recommends that the State party ensure that high-quality support services are provided to women, including immigrant women and women of vulnerable groups, in order for them to bring complaints, seek protection and redress, thus ensuring that they do not have to stay in violent or abusive relationships. In this respect, the State party should take the necessary measures to facilitate the reporting of domestic and sexual violence. The Committee recommends that the State party implement comprehensive awareness-raising programmes throughout the country directed at these groups of vulnerable women. It calls upon the State party to ensure that public officials, especially law enforcement personnel, the judiciary, health-care providers and social workers, are fully familiar with relevant legal provisions and are sensitized to all forms of violence against women, and that they are capable of providing adequate support to victims. It urges the State party to collect data and to conduct research on the prevalence, causes and consequences of all forms of violence against women, including domestic violence, and to use such data as the basis for further comprehensive measures and targeted intervention. It invites the State party to include statistical data and the results of measures taken in its next periodic report.

36. The Committee strongly urges the State party to ban the sale of video games or cartoons involving rape and sexual violence against women which normalize and promote sexual violence against women and girls. The Committee also recommends that, as indicated in the delegation's oral assurance during the constructive dialogue, the State party include this issue in its revision of the Act Banning Child Prostitution and Child Pornography.

Committee experts Mr. Bruun, Ms. Rasekh, and Ms. Xiaoqiao (China) were particularly concerned about pornographic video games depicting women and girls being raped and asked what measures were being taken to end their dissemination. Ms. Xiaoqiao further framed the issue by asking about efforts to improve teenage sex education, making the link between the inadequacies of current efforts in this regard and high teenage abortion rates. She also raised the question of access to services to protect against domestic violence by rural women and foreign women married to Japanese men. Several Committee members asked about initiatives to end marital rape³ and Ms Rasekh expressed concern that sexual violence appeared to be viewed as a moral violation rather than a crime. Ms. Simonovic shared these concerns and added that domestic violence help lines were needed 24 hours a day.

The delegation agreed that games depicting violence against women had become a problem and advised that the government had assigned a study group to determine policy options to combat this problem. Further, child pornography laws were under review. As for the criminalisation of marital rape, the representative of the Ministry of Justice explained that under Japanese law the general crime of rape now included marital rape and cited cases in which husbands had been convicted for this crime. The delegation also explained that the definition of spousal violence had been revised to include not only physical violence, but also harm to children and other relatives. As for sex and violence education, the delegation stated that school curricula had been revised to provide awareness training to young high school students in particular.

Trafficking and prostitution

Concluding Observations:

38. The Committee reiterates its recommendation that the State party urgently endeavour 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 about these crimes.

40. The Committee requests the State party to take further measures to protect and support victims of trafficking and address the root cause of trafficking by increasing its efforts to improve the economic situation of women, thereby eliminating their vulnerability to exploitation and traffickers, as well as to take measures for the rehabilitation and social integration of women and girls who are victims of exploitation of prostitution and trafficking. The Committee calls on the State party to take appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution. It also urges the State party to take measures to facilitate the reintegration of prostitutes into society and provide rehabilitation and economic empowerment programmes for women and girls exploited in prostitution. The Committee requests the State party to continue to monitor the issuance of visas for internship and trainee programmes closely. The Committee calls upon the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime.

The Committee was particularly concerned about the plight of “comfort women” who were victims of sexual slavery during the Second World War. Several members urged Japan to issue a strong formal apology, provide reparations for victims, and prosecute surviving perpetrators.⁴ Ms. de la Vega later asked a follow-up question regarding funds for “comfort women” and inquired as to whether and how they were actually receiving those funds mentioned. She also suggested that the public needed to be educated to reject sexual slavery and asked whether administrative and legislative provisions existed for this purpose. Ms. Xiaoqiao added to these sentiments, expressing her hope that Japan would address the “comfort women” issue “honestly.”

³ Ms Rasekh, Ms Xiaoqiao, Ms Simonovic.

⁴ Ms. de la Vega, Mr. Bruun, Ms. Xiaoqiao.

In response, the delegation advised that the war had been renounced in the Japanese Constitution and the government had officially expressed remorse for the use of “comfort women”. Although the Japanese Government regarded the matter as “legally settled”, it had also provided 4.8 billion yen to the Asian Women’s Fund to assist these women in their old age. It was providing funds to affected women, although the amounts varied according to which country they lived in. Ms. de la Vega’s questions about public education regarding sexual slavery were not directly addressed, but the delegation advised that some authorised text books now addressed the topic of “comfort women”.

Ms. Awori (Kenya) raised the issue of human trafficking in and out of Japan. She identified the need for a comprehensive law to prevent the use of entertainment visas and internship/trainee programmes to smuggle women for the purposes of sexual slavery and forced labour. A representative of the Ministry of Justice stated that although there was no comprehensive law on this issue, trafficking was subject to harsh punishment and victims were provided with shelter and other forms of assistance. He added that the government had clamped down on the number of entertainment visas it issued⁵ and recently revised immigration law to allow trafficking victims special landing permits and permits to remain in Japan.⁶

Other issues

The Committee also engaged the delegation in a discussion about the removal of Article 10 from the basic education law, allegedly due to the increasing difficulty of offering a comprehensive sex education program in schools.⁷ Ms. Bailey led a discussion emphasising the importance of sex education programs in schools to reduce HIV/AIDS contraction rates, sexual abuse, and teen pregnancies. This subject was only partially addressed in the Committee’s concluding observation No. 50. The issue of extreme noise pollution originating from the US air base on Okinawa was also raised, which had been linked to negative health effects including sleep disturbance and adverse impacts on the foetus’ of pregnant women. The delegation replied that they did not have specific information on the situation.

Conclusions and next steps

In her final remarks, the head of the Japanese delegation thanked the Committee for their condolences on the death of the Japanese Ambassador and expressed appreciation to Ms. Patten for her visit to Japan. She thanked the members of the Committee, the Japanese Embassy and NGOs for their participation in the review.

The Chairperson concluded by noting that although Japan’s 6th periodic report was overdue, the Committee appreciated its submission, written replies to the list of issues, informative opening statement and the constructive nature of the dialogue. She also commended Japan for the changes to its laws and policies since the last periodic report which had positively impacted on the rights of women. However, the Chairperson reiterated the need for discrimination to be defined in Japanese law according to Article 1 of the Convention and for the Convention to be incorporated into domestic law. She emphasised that discriminatory gender stereotypes should be effectively addressed, and encouraged Japan to continue its efforts to combat trafficking and prostitution and to eliminate all forms of violence against women. The need to increase involvement of women at all levels was stressed, with particular emphasis on the need to explore all steps necessary to eliminate discrimination against women in the labour market. The Chairperson re-emphasised the importance of implementing the Committee’s recommendations before the date of the next periodic report.

The next State party report (combined seventh and eighth periodic reports) is due in July 2014.

Last revised and updated: 10 September 2009.

⁵ This had resulted in a decline from 100,000 entertainment visas being issued in 2006 to only 30,000 in 2008.

⁶ Of the 230 victims of trafficking identified to be illegally in Japan from 2005-2008, 104 were granted permission to stay as a result of these legislative reforms.

⁷ Article 10 deals with State party obligations to eliminate gender discrimination in education.

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