



アジア女性資料センター
Asia-Japan Women's Resource Center

Information for the UPR

Major Concerns Regarding Violation of Women's Rights in Japan

8 February 2008

Asia-Japan Women's Resource Center (AJWRC)

CONTACT INFORMATION

Hisako Motoyama

Executive Director

Asia-Japan Women's Resource Center

14-10-211 Sakuragaoka Shibuya-ku, Tokyo 150-0031, Japan

Tel: +81-3-3780-5245 Fax: +81-3-3463-9752

E-mail: ajwrc@ajwrc.org URL: <http://www.ajwrc.org/>

Introduction

1. The Asia-Japan Women's Resource Center (AJWRC) is a non-profit, non-governmental organization advocating for women's rights in Japan and in Asia. With focus on issues such as women's rights in peace and security, gender and development, sexual and reproductive autonomy, and empowerment of women, AJWRC works in three programs including Information Sharing and Networking, Training and Education, and Advocacy and Campaign. It was granted a consultative status with ECOSOC in 2000.

2. This report was prepared to provide information about some of most serious concerns regarding violation of women's rights in Japan for the Universal Periodic Review. In the past several years the Japanese government has introduced some measures to better tackle violence against women, including domestic violence, sexual harassment, and trafficking in persons. However, it has failed to address critical problems in the areas of labour, social welfare, security and immigration, which makes most marginalized groups of women vulnerable to violence, thus limiting the effects of those measures. Due to the limited space, we will address only four major issues in the following pages, namely, (1) gender inequality in labour market and impoverishment of women, (2) redress for the victims of the military sexual slavery, (3) sexual violence around the military bases, and (4) violence against migrant women.

A. Gender Inequality in Labour Market and Impoverishment of Women

Violation of Labour Rights of Non-Regular Workers

3. Despite the Labour Standards Act and the Equal Employment Opportunity Law prohibiting discrimination based on sex, women hold only 10% of management positions in economic institutions and earn 51.3% of men's earnings on average¹. This is not because of women's low participation in labour market, but because of informalization of the workforce, which affects women and youths most. The number of non-regular workers has increased from 19% to 30% of the total workforce in the past decade, and their wage per hour has dropped to 40% of those of regular workers². Women comprise 70% of those non-regular workers compared to only 30% of formal workers. Many of them are forced to choose to work as part-timer, since harder competition and longer working hours resulting from deregulation of labour standards in recent years makes it more difficult for women, who are considered as primary caretaker, to balance paid work and family responsibilities.

4. Non-regular workers are not only paid significantly less than regular workers, but also excluded from benefits such as paid leave and family allowance, even though some of them work as long as formal workers and owe great responsibility. Furthermore, many of those unstable workers are under threats of losing work contract or chance to be promoted as regular worker, which makes them vulnerable to sexual harassment and power abuse. Work contract is often terminated without renewal at the end of the employment period, especially when women announce their pregnancy.

5. Most of these employment practices are in breach of existing labour standards. Several international organizations including the ILO, CEDAW and OECD also raised concern about the growing income inequality, urging the Japanese Government to tackle the issue. However the Government rather proposes further deregulation of labour standards, while leaving the labour standards monitoring mechanisms too weak to address a number of cases of violation.

¹ 2005 White Paper on Gender Equal Society, Gender Equality Bureau, Cabinet Office, 2005.

² Economic Survey of Japan 2006, OECD, 2006

6. The revised Part-Time Workers Law that passed the Diet in May 2007 was announced to ensure equal treatment of part-time workers. However, under this law, part-time workers who are eligible for the same treatment as full-time workers must meet the following three conditions: (1) tasks and level of responsibility are equivalent to those of regular workers at the same workplace, (2) the employment contract does not have a fixed term, and (3) changes of tasks and positions, and transfers to other domestic and overseas branches are as large as those of full-time workers. These narrow definitions do not meet the reality of more than 1,200 million part-time workers. The Minister of Health, Labor and Welfare admitted that only 4 to 5 percent of them would benefit from the revised law.

Impoverishment of Single Mothers

7. Due to this “market dualism”, relative poverty among working age population is rapidly growing. Particularly incidence of poverty among single mothers is seriously high. Single mothers’ average income is only 30% of that of married couples with children³.

8. Instead of placing effective measures to support needy single-mother households, the Government has restrained investment in Child-Rearing Allowance which is lifeline for those households. Under the Guideline to Support Independence of Single-Mother Households in 2002, minimum income level for entitlement of the full allowance has been lowered from 2,048,000 yen to 1,300,000 yen, and 80% of child support payment from ex-spouses is included in the mother’s income. The Guideline also proposed to set a 5-years-limit for receipt of the full allowance, which was finally blocked by opposing parties. The Government is planning further cuts of welfare allowance for poor households.

9. While cutting the allowance, the Government has introduced a series of work incentive measures for single mothers, including the Act on Special Measures concerning Employment Support for Mothers of Single-Mother Households in 2003. In reality, though, more than 80% of single-mothers in Japan are working and yet half of them are in relative poverty. Most of them have to take part time jobs in order to take care of children, thus receiving insufficient income to support family even if they work for 35 hours per week. Consequently, a number of single mothers take two or three jobs in order to survive. However, under the work incentive initiatives, working hard for income leads to cuts in allowance.

Recommendations

10. The government should place effective measures to ensure equal pay and equal opportunity through legislation and administration. There is also a need to greatly strengthen mechanisms to monitor and enforce existing labour standards.

11. The government should ensure that both of women and men to equally balance paid work and family responsibilities, by placing measures such as shortening working time, enhancing public childcare, and positive action measures, following recommendations of the ILO and CEDAW.

12. The government should strengthen measures to support single-mother households in poverty by ensuring entitlement to necessary public support as well as improving working conditions for working mothers.

B. Redress for the Victims of the Military Sexual Slavery

³ Comprehensive Survey of Living Conditions of the People on Health and Welfare, the Ministry of Health, Labour and Welfare, 2003.

13. The Japanese Military Sexual Slavery (so-called “Comfort Women”) during the Second World War remains as one the most serious unresolved human rights abuses in Asia-Pacific region and in the world, which has significant implications for international justice for the present-day violence against women under armed conflicts and occupation. Since early 1990s when victims started to place demands for official apology and compensation, a number of recommendations has been made by the international institutions including the ILO, CEDAW and other UN mechanisms. These international voices to demand justice for the victims were further added by the recent resolutions that passed in the United States, Canada, Netherlands and in the European Parliament.

14. However, the Japanese Government has continued to refuse to set just and adequate redress and remedy for the victims. While acknowledging the involvement of the military in recruitment and management of the sexual slavery system and making public apology in the 1993 “Kono Statement”, it has insisted that it has taken responsible actions through the programmes of the Asian Women’s Fund established in 1995. However many victims rejected to receive the “charity money”, and most of the Fund’s activities were not meant to directly benefit the victims. The Fund ceased its activities in March 2007.

15. The Japanese government has also failed to educate about the issue and to refute attempts to justify the crime. While the issue was first mentioned in junior high textbooks in 1997, there has been a massive campaign led by policy makers and mass media to defame the survivors and to justify the war, colonization, rape and sexual slavery. As a result, most of the textbook companies have avoided mentioning the issue and currently, only two textbooks among eight barely refer to the issue.

16. As the survivors get old and many of them have already passed away, there is an urgent need to bring redress through legislations and administrative measures. While the opposing parties repeatedly submitted “Promotion of Resolution for Issues concerning Victims of Wartime Sexual Coercion Bill” since 2000, it has not gained sufficient support in the Diet.

Recommendations:

17. The Japanese Government should make an urgent effort to immediately take adequate measures for redress for the victims of the “comfort women” system through legislation and administration following the recommendations made by the international bodies.

18. The Japanese Government should refute any argument to justify the crime or deny State responsibility, and ensure that education about the issue is provided at all levels.

C. Sexual Violence Around Military Bases

19. Under the US-Japan Security Treaty, there are 135 US military facilities and about 37,000 US troops are stationed throughout Japan. The presence of the US military bases have caused serious damages to local communities, including noise, car accidents, plane crashes, environmental degradation, and crimes including sexual violence and murder. Particularly in Okinawa, where 75% of US military bases are concentrated on islands that consist of only 0.6% of total lands of Japan, people have suffered from human rights violation for the past six decades and economic development has been hindered, causing unemployment and dependence on military-related industry. Despite the protests by local people and municipalities, both of the Japanese and the US governments have failed to take necessary measures to prevent, minimize and prosecute the crimes committed by the US troops.

20. Women and girls around the US military bases have been under continued danger of rape, gang rape, abduction and murder by US soldiers, as shown in the records compiled by the Okinawan

Women Act Against Military Violence⁴. The records point not only to the high incidence of sexual crimes but also to the difficulties of conviction. Most of cases were never reported or prosecuted, and many perpetrators returned to the US with impunity. Victims who seek justice face great difficulty due to the Status of Forces Agreement that assures favourable conditions for the US military, inaction of the Japanese Government that prioritizes military cooperation over human rights protection, and the lack of gender sensitivity in Japanese criminal justice system.

21. Under the Status of Forces Agreement, US soldiers are allowed free movement out of the bases, while Japanese authorities have only limited power in arresting and trying soldiers who commit crimes in Japan. For example, the Japanese police is not allowed to detain suspects before prosecution, which causes serious problem in appropriate crime investigation, while in case of serious crimes such as rape and murder, the Japanese police may demand extradition before prosecution. In reality, though, Japanese and US authorities fail to cooperate in cases of criminal investigations to bring those perpetrators responsible, taking sensitive nature of sexual violence into consideration.

22. Most recently, on 14 October 2007, four marines from US Marine Corps Iwakuni Air Station allegedly gang-raped a 19-years-old Japanese woman in Hiroshima City. The marines who left the victim crying in the parking area later claimed that the sexual acts were on mutual agreement. While Hiroshima Prefecture Police was initially planning to file extradition requests, it eventually continued investigation, leaving the suspects under US custody. On November 15, Hiroshima District Public Prosecutors' Office has decided to drop charges against the suspects without clarifying the reason⁵.

23. Further, when the charge was dropped, cases involving off-duty soldiers are to be solved on negotiation between the parties involved, while in cases involving on-duty soldier it is the Japanese government that is responsible for compensation. In reality, it is extremely difficult for victims to receive satisfactory compensation, as perpetrators can take privilege of escaping from Japan without notification, protected by the Agreement. Under this situation, most of victims end up without redress, or forced to be silent for a little amount of money, as the records compiled by the Ministry of Defence indicate (see Appendix).

Recommendations

24. The Japanese Government should ensure safety of women and girls around the US military bases by taking necessary measures to prevent and prosecute sexual abuses and to protect victims. For that purpose, the Government should negotiate with and ask for cooperation from the United States Government for any necessary measures, including review of the Status of Forces Agreement.

25. The Government authorities, including Ministry of Defence and police, should make further efforts to support victims in accessing justice.

D. Violence Against Migrant Women

26. While the government has formulated anti-trafficking measures and the revised Law for the Prevention of Spousal Violence and the Protection of Victims is designed to better protect foreign wives, stricter immigration control, matched with little support for victims of violence, systematically makes migrant women, in particular those without stable resident status, vulnerable to violence and

⁴ Sexual Crimes by US Soldiers Against Women in Okinawa, 7th edition (April 1945 – August 2004), Okinawan Women Act Against Military Violence, December 22, 2004

⁵ "US soldiers accused of gang-rape", AFP, TOKYO, Saturday, Oct 20, 2007; "Japan probes reported gang-rape by U.S. Marines", Reuters, Fri Oct 19, 2007 2:22am

exploitation. Despite social and economic difficulties they face, those women are typically overlooked in gender-related government policies and limited in access to public services. Rather, they are frequently targeted by immigration authorities and policing campaigns.

27. Japan is one of the major destination countries for women trafficked for commercial sexual exploitation purposes. Facing the international pressure, the government formulated the National Action Plan to Combat Trafficking in Persons in December 2004 in haste. Accordingly, the Immigration Control and Refugee Recognition Act was revised to stipulate that victims of human trafficking can get special permission. It was also determined that Women's Consulting Offices established by prefectures should accept victims for temporary protection which should also be entrusted to private-run shelters.

28. However the determination of whether a person is a victim to be protected is made by the police and/or Immigration Bureau, and the guideline or/and system of recognizing trafficking victims remains unclear. Actually, persons who ask protection at a police box may be treated as victims, but those who are discovered during the investigation for sex related businesses may be arrested even if they could be victims. Consequently, many trafficked victims are treated as illegal migrants and thus deported without redress and remedy. The fear of arrest and deportation makes migrant women working in sex industry an easy target of exploitation and violence by both customers and employers. Even if the victim was identified to be in need of protection, the measures taken by the government are not sufficient for the victims to recover physically and psychologically, There is a lack of comprehensive support, including interpretation, medical care and counselling, and legal support in claiming unpaid wages or compensation. Another problem is the lack of international coordination. There is a lack of information-sharing and internationally co-ordinated efforts to prosecute those engaged in trafficking, and to protect the victims after they returned to home countries.

29. Significant numbers of women married to Japanese men experience violence based on gender and ethnicity. Often the resident status of these women depends upon them remaining living with their abusive spouse. Consequently, the fear of deportation is often a deterrent against these women seeking assistance, reporting instances of domestic violence or seeking divorce or separation. There have been cases of women calling a shelter to get protection, only to have their husbands report them to the immigration bureau to request that their visa shall not be extended. Women who have fled from their abusive spouse and failed or are denied extension of their visa are often treated as criminals for violating immigration law.

Recommendations

30. The Japanese Government should make more internationally coordinated efforts to share information, investigate and prosecute the organizers of trafficking, and to support victims after their return to their home countries. There is a need to greatly expand assistance measures for victims to ensure protection until their full recovery, including interpretation, medical care and counselling, and legal support in claiming unpaid wages or compensation.

31. The government agencies should ensure that victims of violence receive protection and support regardless of nationality and status of residence and without fear of being reported to the immigration office.

32. Considering that the unstable resident status makes migrant women vulnerable to violence and exploitation, the Japanese Government should provide residency based on the needs and living conditions of individual migrant woman, regardless of marital status with Japanese spouse or existence of children of Japanese citizen.

Appendix

Number of crimes and accidents involving member of US Armed Forces, civilian component and their dependents, and cases in which compensation to victim were made

(Prepared by the AJWRC from the data provided by the Department of Defence Facilities, Ministry of Defence, 31 March 2006, through the Association of Victims of US Military Crimes)

		Cases involving on-duty soldier	Cases involving off-duty soldier	TOTAL
2001	Number of cases	345	1,388	1,733
	Number of compensated cases	343	40	383
	Amount of compensation (million yen)	141	199	341
2002	Number of cases	320	1,624	1,944
	Number of compensated cases	278	8	286
	Amount of compensation (million yen)	341	13	353
2003	Number of cases	315	1,764	2,079
	Number of compensated cases	316	36	352
	Amount of compensation (million yen)	151	35	185
2004	Number of cases	255	1,611	1,866
	Number of compensated cases	283	24	307
	Amount of compensation (million yen)	157	114	271
2005	Number of cases	239	1,516	1,755
	Number of compensated cases	260	41	301
	Amount of compensation (million yen)	358	33	392

Note:

1. "Number of cases" is the accumulated number of cases that came into knowledge of the Department of Defence Facilities as crimes or accidents involving US troops.
2. "Number of compensated cases" and "Amount of compensation" cover cases that were treated under the Article 18 of the US-Japan Status of Agreement and thus compensated. Cases involving off-duty soldiers are to be resolved based on negotiation between the parties involved as a rule. The large difference between the number of cases involving off-duty soldiers and the number of compensated cases is due to exclusion of cases resolved as such.