



CEDAW Japan Shadow Report

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prepared by the

National Christian Council in Japan

Women's Committee

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Introduction

This is a report to the Committee on the Elimination of Discrimination against Women (CEDAW), issued before the Japan Review in October 2024, on the discrimination against marginalised women in Japan. The focus is on 1) young women, 2) victims of sexual exploitation and domestic violence, 3) women of Okinawa prefecture, 4) lesbian, bisexual, and transgender women, 5) immigrant women, 6) *zainichi* Korean women,ⁱ and 7) issues around marriage and the family registration system.

In its ninth Periodic Report on the status of implementation of the CEDAW convention the Government of Japan (GOJ) stated that the investigation and analysis of discrimination against marginalised women and support for victims of sexual violence and exploitation are sufficient and that it is unnecessary to enact comprehensive anti-discrimination legislation. However, Japan ranked 118th out of 146 countries in the World Economic Forum's Gender Gap Index 2024. It is extremely low—the lowest among G7 member states. As this report reveals, marginalised women are suffering severe violations of their rights, and the GOJ's response is inadequate. Furthermore, Japan has not ratified the Optional Protocol to CEDAW. The GOJ should urgently enact a comprehensive anti-discrimination law and ratify the Optional Protocol.

While this report does not address the Japanese military sexual slavery system (“comfort women”) or the violation of the rights of Buraku women, Ainu women, women with disabilities, and other marginalised women, the GOJ should recognise the discrimination and various forms of violence against them and take concrete measures to guarantee their rights.

This report is submitted by the Women's Committee of the National Christian Council in Japan (NCCJ) with support from the Japan Evangelical Lutheran Church. The Women's Committee reflect on Christian Church's complicity in discrimination, violence, and oppression, using biblical language that reinforces and reproduces patriarchal domination and oppression, heterosexism and gender dualism.ⁱⁱ The contributors are the Young Women's Christian Association (YWCA) of Japan, KYOFUKAI—Japan's Christian Women's Organisation, Okinawa Women Act Against Military Violence, the Ecumenical Community for Queer Activism, the Centre for Minority Issues and Mission, and the National Christian Women's Association of Korean Christian Church in Japan.

Methodology

This report is based on research, analysis, and evaluation of the GOJ's efforts to fulfil its obligations to CEDAW. Previous reports by the GOJ, comments and recommendations by the United Nations, and findings and reports by civil society organisations and academic institutions to identify what has improved and what has remained the same form the basis for this report. Civil society organisations, faith-based organisations, and activists were involved and consulted in the

writing process. A focus group discussion was also held online to reflect the voices of diverse people. More than twenty people attended the discussion, including two young people and three men.

Situations of Discrimination and Recommendations

1. Young Women

Article 3: Appropriate Measures

Article 10: Education

Article 12: Health Care and Family Planning

Girls and Young Women in Need of Social Care

There is a significant disparity in girls and young women in need of social care's access to education as shown in university enrolment rates: the national average is over 50%, compared to approximately 18% for those from foster homes and 30% for those from foster families. Women are more likely to be in unstable employment conditions than men after leaving foster care: 17.8% are in part-time employment, 9.8% are contract workers, and 14.9% are unemployed.ⁱⁱⁱ

Even if students go on to higher education, there are many cases where they are unable to adapt to environmental changes and drop out. The main reason for dropping out is mental health problems, such as low motivation to learn or mental illness, rather than economic problems. Dropping out of school is proportionally linked to an increase in the number of cases of child abuse, and it is difficult to continue studying due to mental health issues caused by the trauma of the abuse experience.^{iv} The number of child abuse cases dealt with by child guidance centres nationwide was the highest ever in FY2022.^v As the above statistics show, upliftment measures to allow for the full development and advancement of young people, especially women, in need of social care, are inadequate.

The Caruna, self-support homes operated by the YWCA of Japan, have provided secure housing and employment support to a total of 65 young women since 2015 to this day.

Government subsidies for higher education have been expanded for children in need of social care, making it easier for them to pursue further studies. However, there have been reports from those involved with Caruna about cases where children have deviated from the career path they had once decided on, due to the difficulties of leaving social care and living on their own, psychological trauma from abuse, and developmental disabilities and other issues.

Currently, there are no specific efforts by GOJ to implement the provisions of Article 10, and it has been left to Caruna facility staff and children themselves. Proactively providing young people with opportunities to learn about society and professions will lead to greater 'self-awareness' and may enable them to make informed choices for their future, which in turn will enable them to

develop and improve their skills.

Sexual and Reproductive Health and Rights (SRHR)

The UN Committee on the Rights of the Child has recommended the introduction of comprehensive sexuality education and Sexual and Reproductive Health and Rights into the compulsory school curriculum and that comprehensive policies must be implemented. This, however, is yet to happen in Japan. *The Courses of Study for Junior High Schools (Notification of 2017)* states that ‘the course of pregnancy shall be dealt with up to fertilisation and conception, but not the process of conception’, and ‘sexual intercourse’ is not taught in school settings. This violates Articles 10 and 12 of the CEDAW, and young people in Japan, especially girls who are vulnerable to sexual assaults, do not have access to specific sexuality educational information to protect themselves and to know their rights.

Recommendations to the GOJ:

- Take measures to expand the number of staff in counselling and social care facilities and improve their treatment.
 - Incorporate comprehensive sexuality education based on the International Sexuality Education Guidance (2020) by UNESCO into school settings.
 - Revise some sections of the current courses of study. Specifically, we recommend three of the following points:
- 1) In the *Courses of Study for Elementary Schools (Notification of 2017)*, modify ‘Young people develop an interest in the opposite sex’ (G Health (2) (イ) on p. 148) to ‘Young people develop an interest in others regardless of sex’.
 - 2) Amend section (7) of ‘3 Handling the Content’ (p. 129) in the *Courses of Study for Junior High Schools (Notification of 2017)*. Proposed amendment: the course of pregnancy, including intercourse, should be dealt with. It shall also deal with the need for respect of human rights, appropriate handling of information and choice of behaviour regardless of gender, as sexual urges and interest in others regardless of sex grow with the maturation of bodily functions.
 - 3) Amend section (7) of ‘3 Handling the Content’ (p. 139) of the *Courses of Study for High Schools (Notification of 2018)*. Proposed amendment: Education on reproductive functions should be based on the idea of human rights. It should consider the need to cultivate a sense of responsibility and respect for others regardless of sex, and to deal with appropriate responses to sex-related information.

2. Victims of Sexual Exploitation and Domestic Violence

Article 2: Obligation to Eliminate Discrimination

Article 5: Gender Stereotypes

Article 16: Marriage and Family Life

AI-Generated Child Sexual Abuse/Exploitation Materials (CSAM/CSEM)

Given the current situation where the posting of sexual images and videos on the Internet has become an industry, the GOJ has not guaranteed the safety and protection of children on social media or taken concrete steps to support victimised children. Whilst paragraph 9 of the Ninth Report lists the measures taken under existing laws, these are not adequate.

With Image-generating AI (artificial intelligence) and learning from the vast amount of data on the Internet increasing, there are no legal provisions in Japan to protect children from online violence and exploitation. Most of the AI-generated child sexual abuse materials (CSAM) are based on images of real children, but the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children do not restrict AI-generated CSAMs due to freedom of expression. It is extremely difficult to prove that AI-generated CSAMs are based on images of real children, and it is difficult to be regulated. The Act does not even contemplate AI-produced child pornography (CSAM/CSEM) at all.

Incorporating Survivor Voices into Sexual Assault Prevention

Groups of sexual abuse survivors, local NGOs, and KYOFUKAI advocated leading up to the G7 Hiroshima Summit (2023) for the empowerment of survivors (victims of child sexual exploitation and sexual abuse). The G7 Hiroshima Leaders' Communiqué "commits to the importance of strengthening efforts to eradicate conflict-related sexual and gender-based violence and to provide comprehensive support and meaningful participation to victims and survivors using a survivor-centred approach."^{vi} The content is commendable in its call for the voices of survivors to be used in policies aimed at preventing and combating further violence. However, there are no concrete policies or mechanisms to realise this commitment.

Attacks on Women's Support Groups and Activists

The GOJ has not provided adequate support for women's human rights defenders. In recent years, there have been a series of attacks on organisations and individuals who support young women with no safety at home and are at risk of sexual exploitation and abuse. The attacks include trolling, spreading false rumours and slanderous comments about them on the Internet, hurling abusive language in person, and identifying young women and individuals who support them.

While some of the attackers have monetised their activities by raising funds for litigation costs and selling their claims on the Internet, some women's support groups have suffered severe attacks that have left their staff emotionally trapped and made it difficult for them to continue their activities as public subsidies and donations have plummeted. These attacks constitute

harmful practices and crimes and are indeed gender-based violence against women human rights defenders, politicians, activists, or journalists.^{vii}

Joint Custody and Women Victims of Domestic Violence

In May 2024, a revised Civil Code was passed, which included the introduction of joint custody after divorce. This suggests that ex-wives and their children who have been abused by their ex-husbands/fathers may be forced back into a relationship with the perpetrator. It will come into force within two years of its promulgation. Under this revised Civil Code, the parents decide through consultation whether they will have joint or sole custody when they divorce. If there is a conflict of opinion or they are unable to settle the matter, the family court makes the decision. If there is a risk of abuse of the children, the family court will grant sole custody to the non-abusive parent.

Various issues are currently being raised against this revision. First, under joint custody, both parents need to discuss and agree on various matters such as a child's education, health issues, or living conditions. However, when communication between spouses is extremely difficult due to circumstances such as domestic violence, such discussions become challenging. Second, the family court is not currently equipped to accurately confirm the presence or absence of abuse, and ensure not to grant joint custody to the abusive parent. If this revision, which allows for 'non-consensual and compulsory' joint custody, comes into force, this will cause great concern for women and children victims of abuse as they will have to live in fear of the shadow of their perpetrator, the ex-husband/father.

Recommendations to the GOJ:

- Urgently enact legislation to regulate AI-generated CSAMs and strengthen regulations on platform companies to prevent the sexual exploitation of children on social media.
- Establish a mechanism to formally incorporate the voices of sexual violence survivors in the formulation and implementation of domestic violence policies and action plans.
- Take concrete measures to protect women's human rights defenders.
- Increase the judicial budget and strengthen measures to protect victims of domestic violence and abuse, taking into full account the views of the parties concerned, including children who may be affected by the introduction of joint custody after divorce.

3. Women of Okinawa Prefecture with a High Concentration of Military Bases

Article 2: Obligation to Eliminate Discrimination

Article 3: Appropriate Measures

The Current Situation of Women in Okinawa

Women and children living in Okinawa Prefecture, where US military bases are concentrated, are at risk of rape, sexual violence and murder by US military personnel, and the GOJ has not taken adequate measures to protect them. Crimes committed by US military personnel are not like other crimes in Japan because various privileges are granted to US forces and personnel under the Status of Forces Agreement (SFA) (see below).

One factor that puts Okinawan women and children at greater risk than non-Okinawans is the concentration of bases in Okinawa. Although Okinawa Prefecture has a population of approximately 1.46 million, accounts for only 0.6% of Japan's total land area, 70.6% of US military bases in Japan are located there, occupying 15% of the area of Okinawa Island. More than 70% of US military personnel stationed in Japan are in Okinawa. 90% of the US Marines stationed in Japan are in Okinawa. The safety of Okinawan women and children is being violated by the stationing of US troops on a scale necessary for the concentrated base functions.

Furthermore, the SFA, stipulated by Article 6 of the Japan-US Security Treaty, places Japan in a subordinate relationship with the US and provides for the superiority of US forces and personnel. This hinders the protection of the safety of Okinawan women and children. The SFA allows the US to use bases in Japan (Article 2) and to "take all measures necessary for their establishment, operation, safeguarding and control" of the bases (Article 3). Military personnel and their families, as well as vessels, aircraft, and vehicles owned or controlled by the U.S., may freely move in and out of and between bases (Article 5), and military personnel are not subject to the Immigration Control Act and may enter and leave Japan without passports or visas (Article 9). Above all, the US has jurisdiction over crimes committed by US servicemen and women on official duty (Article 17).

Off-base Criminal Acts by US Military Personnel Stationed in Okinawa

There are warning signs both in Japanese and English in front of the gates and on the fences of the US military bases: "Unauthorized Entry Prohibited and Punishable by Japanese Law." Women and children living around the bases are not allowed to enter or leave the bases without permission or an invitation to work on the bases. On the contrary, since the SFA guarantees the freedom of off-base activities of US military personnel, they are free to cross the border into adjacent Okinawan communities at any time, and this is where human and sexual crimes occur. In addition to the Article 17 of the SFA, the imbalance in freedom of movement between US military personnel and Okinawan people has enabled the US military bases to shelter US military personnel who have committed crimes.

Since 2023, there have been five cases of sexual assault by US military personnel, three of which were not publicly known until the Japan Chief Cabinet Secretary's press conference in July

2024.^{viii} In December 2023, a girl under the age of 16 was abducted and sexually assaulted by a US Air Force member; in 2024, there have been two reports of women sexually assaulted by a US Marine.^{ix} The first two incidents were not publicly known until June 2024. It is estimated that there are many more unreported victims. The number of arrests for criminal offences committed by US military personnel in Okinawa reached 54 in 2022 and 72 in 2023, including heinous crimes such as rape.^x The number exceeded half the number of arrests for criminal offences committed by US military personnel nationwide in any given year, again indicating that the Okinawan people, especially women and children, have long been exposed to serious dangers.

Inadequate Response by the Japanese Government, the US Military, and the US Government

Although the GOJ is working to revise the domestic criminal law based on the CEDAW, victims of rape and sexual violence continue to struggle with raising their voices. In July 2017, after 110 years, the Criminal Code was amended to abolish the *Antragsdelikt*, and in July 2023, the law was amended to “non-consensual sexual intercourse.” However, victim-blaming and “second rape”^{xi} are not uncommon in Japan and make it difficult for victims to raise their voices.

The US government and the US military attempt to trivialise the crimes, although they express their “regret,” promise to tighten discipline, and implement temporary measures such as restrictions on leaving the base when an incident happens. The GOJ has also not adequately shared information with the people of Okinawa prefecture. Even though the GOJ had a mechanism in place to accurately and promptly share information on US military-related incidents with the local community based on the 1997 Japan-US Joint Commission Agreement, it has not been functioning. The GOJ has revised the operation of this mechanism in July 2024, but this has been limited to domestic operations^{xii}. Both governments recognise crimes committed by US military personnel as a factor destabilising Japan-U.S. relations and not as human rights violations. Their emphasis is more on quieting down the incidents than taking the necessary measures to eradicate the violence.

Recommendations to the GOJ:

- Review the "Japan-US Security Treaty" and the "Status of Forces Agreement", which protect the privileges of US military personnel.
- Put in place measures to protect women and girls in Okinawa from all forms of sexual and gender-based violence.
- Ease the concentration of US military bases in Okinawa since assaults on women and children by US military personnel is concentrated in Okinawa.
- Ensure that accurate and prompt information is shared with local communities on incidents of sexual assault by US military personnel.

4. Lesbian, Bisexual, and Transgender Women

Article 12: Health Care and Family Planning

Article 15: Equality before the Law

Article 16: Marriage and Family Life

Although sexual and gender minorities are becoming more visible in Japan, the situation of lesbian, bisexual, and transgender women (LBT women) is not necessarily recognised as a human rights issue.

Legal Guarantees for Same-Sex Partnerships

Currently, the “same-sex partnership recognition system” is offered as an administrative service but has no legal effect, even though 458 municipalities with more than 85% of the total population (as of June 1, 2024) have adopted the system. Regions that adopted the system, such as Tokyo, Osaka, and Hyogo prefectures, have concentrated population, resulting in a large regional disparity in the system.

Same-sex partnerships are not recognised as legal families in Japan. Since the marriage in Japan takes effect upon registration (Article 739 of the Civil Code) and the fact that the description on the registration form is “husband and wife” (Article 74 of the Family Registration Law), same-sex couples have not been allowed to register their marriages. However, lawsuits have been filed for marriage equality, and courts have ruled that it is unconstitutional in light of the Japanese Constitution that same-sex couples cannot register their marriages (Sapporo District Court, Fukuoka District Court, Nagoya District Court, and Tokyo District Court). The Sapporo High Court (2023) concluded that refusing to recognise same-sex marriages violates the equality under the law set forth in Articles 14 and 24 of the Constitution, which state that laws concerning marriage and family “shall be enacted on the basis of individual dignity and the essential equality of the two sexes.”

In recent years, more same-sex couples are raising children than before. Some women have given birth to children while married to a man or while single, but there are also cases where couples have received sperm donation and gone through pregnancy and childbirth. According to a survey (2021) conducted by Kodomappu, an association to support gender and sexual minorities and their families, 141 of the 534 people surveyed are currently pregnant or raising children, and 55% (77 people) of them have had children through sperm or egg donation from a third party^{xiii}. However, there have been major obstacles in family formation for same-sex couples because (1) reproductive technology is only available to legally married couples, and (2) although a parent-child relationship is recognised between a child and a woman who has delivered the child, parental rights will not be granted to the partner. This becomes an obstacle in family formation for same-

sex couples. Same-sex couples do not enjoy the privilege of tax deductions and pensions, which is particularly a problem for female couples, who in many cases have lower incomes.

Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorders (GID Special Cases Act)

The GID Special Cases Act imposes strict conditions for a person to change their sex assigned at birth when it does not match one's gender identity. The act makes sterilisation a requirement for gender reassignment to the family register. This has particularly been criticised internationally from a reproductive rights/health perspective. There are two surgical requirements: (1) absence of reproductive glands or permanent lack of their function (the sterility requirement) and (2) appearance similar to the genital organs of the sex to be reassigned (the appearance requirement). In October 2023, the Supreme Court ruled unanimously for the first time that the sterilisation requirement was unconstitutional. The appearance requirement, however, still remains constitutional, and the costs and risks of persons with GID are not considered.

To begin with, the fact that gender reassignment is being addressed with the "Special Cases Act" is in itself problematic. Persons who have undergone a gender transition must form a new family register, but since the reason for the change is clearly stated in the new register, third parties can easily learn of the fact of the gender change in the family register under the characteristics of the Japanese family registration system

Act on Promoting Public Understanding of Diversity in Sexual Orientation and Gender Identity

(LGBT Understanding Promotion Law)

In June 2023, the National Diet, the national legislature of Japan, passed a resolution for the LGBT Understanding Promotion Law, and it went into effect. In the course of the deliberations, voluntary testifiers were invited, but these testifiers shared misinformation that was unfounded or arbitrary with data against transgender women. The misinformation even spread on social media. Attacks and hate speech against transgender women have not decreased. Not only does the law have the limitation of being a conceptual law, but it also has the added phrase, "We shall take care that all citizens can live in peace" (Article 12), which can be read as protecting the rights of those who discriminate against transgender women.

Recommendations to the GOJ:

- Improve the marriage law, which grants the privilege of marriage only to couples of the opposite sex, and make it gender-neutral.
- Revise the conditions of the GID Special Cases Act and remove the two surgical requirements (the sterility and the appearance requirements).

- The Family Registration Law itself needs to be amended for gender reassignment, rather than being set up in the Special Cases Act
- Enact anti-discrimination legislation, revise discriminatory legal systems (i.e., abolition of the symbolic emperor system and family register system based on heterosexism), and establish a comprehensive system that prohibits discrimination based on sexual orientation and gender identity as a drastic solution to eliminate discrimination against LBT women.

5. Immigrant Women

Article 11: Employment

Article 12: Health Care and Family Planning

Discrimination against immigrant women residing in Japan has not been resolved. As of December 2023, there were 3,410,992 foreign residents in Japan;^{xiv} 1,697,001 were registered as women. At the end of 2022, the total number of people on provisional release was 3,391, and 746 were women.^{xv} 164 detainees are reported to be at immigration centres, but the number of women is not announced. Although some immigrant women are supposedly not registered, the number of immigrant women in Japan is generally 1,698,000 (1.4% of the Japanese population)^{xvi}. Discrimination against them is intersectional and made invisible.

Discrimination under the Technical Interns Training System

Under the Technical Interns Training System, when female trainees become pregnant or give birth, they are often unable to access health service, welfare service, and appropriate medical care and interrupt their training because of pregnancy or childbirth. Since the beginning of the Technical Intern Training System in 1992, cases of pregnancies and childbirths of trainees and interns have occurred. In November 2019, a Vietnamese female trainee delivered stillborn twins at home alone and spent the night in her room with the bodies in a cardboard box. She was then arrested and prosecuted.^{xvii} After being found guilty in the first and second trials, she was acquitted by the Supreme Court in 2023. This trial again exposed the lack of guarantees for the rights of the trainees about pregnancy and childbirth. The information and consultation system for employment described in the GOJ's Ninth Report ("The Fifth Basic Plan provides the establishment of a consultation system and information services in multiple languages for employment support, considering multiple and intersecting difficulties that foreign women face because of not only differences in language, culture and values, and isolation in their community but also their gender," Response 49 to Paragraph 19) is not effective.^{xviii}

There is no survey on the total number of women by residential status, and the survey on the living conditions of immigrant women mentioned in the Ninth Report (Res. 16 to Para. 7) is limited in terms of publication of the results as well as surveying. In 2019, the Ministry of Justice, the Ministry of Health, Labour, and Welfare, and the Organisation for Technical Intern Training

jointly issued a notice (Notice for Prohibiting Disadvantageous Treatment Due to Pregnancy).^{xix} However, pregnancy and childbirth are among the reasons for leaving employment for female trainees. So far by 2022, no supervisory organisations or training providers receive administrative penalties for requesting suspension of training due to pregnancy or childbirth. This means that the notice is totally ineffective. Only 17% of women^{xx} returned to work after they have left employment but wished to resume. This violates Articles 11 and 12 of the CEDAW.

Intersectional Discrimination under the Family Registration Law and Nationality Law

When an immigrant woman and a Japanese citizen marry, the law of her country of origin is applied to the woman and she is excluded from the application of Article 750 of the Civil Code. In Japanese society, where 94.7%^{xxi} of married women adopt their husband's surname after marriage, immigrant women who do not share the surname with their husband are considered to be not married and are required to prove their marital status when accessing social security, creating a disparity with Japanese citizens.

Being excluded from the option of changing their surname upon marriage, immigrant women are discriminated against under the Family Registration Law and Nationality Law. The fact that the same surname is enforced for legal marriages itself contributes to discrimination.

Domestic Violence against Immigrant Women

In 2021, an immigrant woman from Sri Lanka died in an immigration facility without receiving proper medical treatment. After being beaten and kicked by her then-boyfriend, she fled to the police and was admitted to the facility. Although the Immigration Agency had issued a Guideline on Measures for Domestic Violence of Foreign Residents in 2008, neither the police nor the Immigration Agency protected her as a victim of domestic violence. Instead, they detained her as an overstaying resident. The immigration facility also received a letter from her then-boyfriend declaring revenge. Although immigration officials recognised this fact, she was not protected as a victim of domestic violence. She became extremely weak both mentally and physically and eventually died.

When immigrant women's residency status is based on marital status (with a spouse visa), dissolving their marital status due to domestic violence causes fears of losing their residency status and becoming undocumented. This leads to situations where they keep being forced to endure domestic violence. The Ninth Report (Res. 20 to Para. 9) states that violence against women is subject to penalties and appropriate disciplinary action is being taken, but not against overstaying women.

Recommendations to the GOJ:

- Effective legislation and preventive awareness-raising are necessary to eliminate violence

against women regardless of their residential status.

- Amend the law to introduce an optional separate surname system.
- Enact strict measures and accountability frameworks to protect the rights of pregnant trainees and punish offenders.

6. *Zainichi* (“Living in Japan”) Korean Women

Article 2: Obligations to Eliminate Discrimination

Article 3: Appropriate Measures

Article 5: Gender Stereotypes

Zainichi Korean women have been subjected to intersectional discrimination of ethnicity and gender in Japan. According to the Korean Scholarship Association’s “Survey on Korean Students’ Attitudes toward Experiences of Harassment” (2019-20), 17.2% of women and 12.7% of men said they have experienced “verbal harassment.” 16.4% of women and 9.4% of men reported “discomfort (discriminatory treatment)” at school. While we look at the *Zainichi* Korean women as a group of people with shared identity, they are diverse in terms of nationality, residential status, length of time in Japan, age, educational background, economic status, family history, current family situation, gender identity, sexual orientation, and other attributes.

Need for Public Survey

The Ninth Report (Res. 9 to Para. 4) states, “The GOJ should: work on learning the real situation of women who have to face multiple and intersecting difficulties because of not only the fact that they are foreigners, have foreign roots or from Ainu or Buraku communities, but also their gender.” In reality, however, no surveys have been conducted. This means that there is no comprehensive understanding of the challenges *zainichi* Korean women in Japan are facing.

The following is based on the “Third Fact-Finding Survey on *Zainichi* Korean Women” (the Survey, 2020-21) conducted by “APRO - Network for *Zainichi* Korean Women Creating the Future.” Although the survey was a valuable effort by the *zainichi* Korean women themselves, it did not reflect the variety of attributes among all *zainichi* Korean women. This is because the survey forms were distributed through acquaintances, friends, and *zainichi* Korean-related organisations since many of them use aliases (Japanese names) and have limited ways of knowing each other's whereabouts.

Survey Results

According to the results, many respondents have a fear of ethnic discrimination. 72.9% of respondents were concerned about hate speech against their children, and approximately 60% were worried about being discriminated against in employment or marriage for being a *zainichi*

Korean or for using their ethnic name. There were also reports of being turned down for care worker positions because the employers were “afraid of Koreans” (in violation of International Covenant on Human Rights A2-2, 6-1). This case shows the intersectionality of gender and ethnic discrimination. Other respondents called for the eradication of discrimination in employment, strengthening of historical education, prohibition of hate speech, granting of suffrage, resolution of the issue of no pension for *zainichi*, and public assistance for Korean schools.

Because of the strong connection of patriarchal values to Korean culture, more *zainichi* Korean women than Japanese women take on more traditional gender roles. The intersectional discrimination of sexism and ethnocentrism is evident here. 63.0% of the respondents agreed that “it is taken for granted that women are responsible for domestic work,” and 76.3% answered that their husbands/partners bear less than 40% of the burden of child-rearing and housework. Respondents said that the increase in care work for housework, childcare, and caregiving due to the spread of COVID-19 infection has reduced their leisure time (51%) and/or the time needed for living such as sleeping and bathing (21.8%). Meanwhile, 12.4% said that their husbands/partners had increased their time for care work. In a survey conducted by the Gender Equality Bureau of the Cabinet Office, 25% of men in Japan reported that they spend more time on housework and childcare.^{xxii} This again suggests that patriarchal values are deeply rooted among *zainichi* Koreans. *Zainichi* Korean women face gender discrimination when trying to value their ethnic identity. Respondents to the survey also reported cases of domestic violence by *zainichi* Korean men, sexual violence by a male leader of an organisation that aims for the democratisation of Korea, and women being burdened with cooking and other tasks in *Chesa*, a Confucian ancestor worship ceremony. These cases occur within the *zainichi* Korean community, which is a discriminated group, and it is difficult to raise voices as women fear further bashing of the *zainichi* Koreans. Of those who did or did not celebrate *Chesa* because of the COVID-19 pandemic, 98.3% said they regretted that they had fewer opportunities to gather with family and relatives, to think of the deceased or ancestors, or to experience ethnic culture, while 90.0% said they were glad to have less preparations and financial burdens (multiple answers allowed). This shows the conflict in which *zainich* Korean women sometimes have to put up with sexism in order to preserve their ethnic culture.

Currently, both the Hate Speech Elimination Law and the Basic Law for a Gender-Equal Society are conceptual laws with no penal provisions. Therefore, they have little power to change people’s views, and human rights education and awareness-raising are also ineffective. Legal regulation is essential to overcome the difficulties of intersectional discrimination faced by *zainichi* Korean women as described above.

Recommendations to the GOJ:

- Conduct a survey of the actual situation of *zainichi* Korean women by a public organisation through random sampling.
- Enact and enforce anti-discrimination laws that prohibit ethnic (racial) and gender discrimination.

7. Issues around the Marriage and Family Registration System

Article 2: Obligation to Eliminate Discrimination

Introducing the Optional Separate Surname System for Married Couples

The Basic Plan for Gender Equality is reviewed every five years, and it states that the revision of the Civil Code, including the legalisation of the optional separate surname system for married couples (a separate surname system), would continue to be examined considering judicial decisions. The most recent Fifth Basic Plan has taken a step back as it states that the system regarding the surname of a married couple will be examined considering the discussions in the Diet, including the expansion of the use of the maiden's name from the perspective of gender equality. This ignores the changing times and the demands of society. With women's social advancement, changing one's surname creates difficulties in personal identification: Married women generally lose their credibility and cannot lay claim to the achievements they have built up through their work. When using their maiden's name, it is complicated to prove that the two surnames belong to the same person, often requiring the disclosure of unnecessary personal information. It also causes mental anguish.^{xxiii} The expansion of the use of the maiden name promoted by the government is far from gender equality. Although the Supreme Court has ruled that it is constitutional to change one's surname based on the free choice of the couple and that it does not violate gender equality because it does not force the husband's surname on the wife, more than 95% of married couples chose the surname of the husband.^{xxiv} Under the pressure of patriarchal views of the family and stereotypical gender roles, women are effectively forced to change their surnames. Article 750 of the Civil Code deprives couples of the "freedom to marry" by not allowing them to legally marry unless they use the same surname. The "freedom not to be forced to change one's name" is a human rights issue. Although the Supreme Court's first and second rulings in separate surname lawsuits have ruled that Article 750 is constitutional, it does not deny the introduction of the separate surname system. It urges discussion in the National Diet, saying that the nature of a married couple's surname "is a matter that should be discussed and decided by the Diet." It shows the lack of gender equality that no legislative action has been taken since the 1996 report of the Legislative Council and that no concrete consideration has been given to the issue. The Ninth Report (Res. 3 to Para. 1) states that the GOJ received a recommendation from CEDAW regarding the issue; in fact, the obligation to use the same surname violates Article

2(a) of the CEDAW. The third lawsuit has begun, and the government has taken the position that the creation of a new system is a matter of legislation and is not subject to judicial review. If this is the case, the legislature should act promptly.

Discrimination against Children Born Out of Wedlock

The Convention on the Rights of the Child, ratified by the GOJ, stipulates that a child shall not be discriminated against in any way based on birth. Since 1995, the relationship of the child with the head of household has been described as "child" regardless of whether the child is legitimate or not. In 2004, the Enforcement Regulations of the Family Registration Law were partially amended, and the relationship was changed from "man" and "woman" to "first son, second son" and "first daughter, second daughter," the same as that of a legitimate child. It is now possible to correct a "man" or "woman" who has already been reported and to request that the family register be reconstituted so that no record of the correction remains. In 2013, the Supreme Court ruled that the provision stating that the inheritance of a child born out of wedlock is one-half of that of a legitimate child is unequal, and the Civil Code was amended. It is recognised that there is a history of consideration in light of the Constitution, which provides for the dignity of the individual and equality under the law, and these modifications have been made to eliminate discriminatory attitudes. However, the discriminatory columns for "legitimate child" and "child born out of wedlock" remain in the birth notification in the family register (Article 49 of the Family Registration Law), and the Ninth Report (Res. 67 to Para. 25) shows the violation of the article 2 (a) of CEDAW. Although the Ministry of Justice says that it is a legal term, there should be no violation of rights or loss of respect for the individual based on the child's inability to make his or her own choices.

Recommendation to the GOJ:

- Promptly take all necessary measures to introduce the optional separate surname system, including legislation if necessary.
- Remove the columns for "legitimate child" and "child born out of wedlock" in the birth notification in the family register.

ⁱ Millions of Koreans came to Japan because of Japan's colonial rule over Korea. Many of them continued to live in Japan after the liberation of Korea. "Zainichi Koreans" is the collective term to address these Koreans and their descendants; it may also include those who came to Japan after 1965 to work, study, marry, etc.

ⁱⁱ See NCCJ Gender Justice Policy. <https://ncc-j.org/wp-content/uploads/2024/05/81d80dd2002f022c06b203f86c770ae0.pdf> [accessed 2024 September 8]

ⁱⁱⁱ https://www.b4s.jp/wp-content/uploads/2021/10/1028_B4S_TrackingReport_2021.pdf [accessed 2024 September 9]

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- ^{iv} https://www.cfa.go.jp/assets/contents/node/basic_page/field_ref_resources/a176de99-390e-4065-a7fb-fe569ab2450c/12d7a89f/20230401_policies_jidougyakutai_19.pdf [accessed 2024 September 9]
- ^v Ibid.
- ^{vi} <https://www.mofa.go.jp/files/100507035.pdf> [accessed 2024 August 8]
- ^{vii} CEDAW General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. (2017).
- ^{viii} <https://digital.asahi.com/articles/ASS7325RZS73UTFK006M.html> [accessed 2024 September 6]
- ^{ix} <https://ryukyushimpo.jp/news/entry-3255998.html> [accessed 2024 September 6]
- ^x https://www.jcp.or.jp/akahata/aik23/2023-04-28/2023042802_05_0.html,
<https://mainichi.jp/articles/20240810/k00/00m/040/187000c> [accessed 2024 September 6]
- ^{xi} Secondary victimization of rape victims eith verbal and emotional assaults in the process of reporting, etc.
- ^{xii} <https://www.tokyo-np.co.jp/article/339571> [accessed 2024 September 6]
- ^{xiii} Akitomo Shingae, et. al., “Report on the Survey on Understanding the Actual Conditions of Childbirth and Childrearing among Sexual Minorities in Japan : From the Results of an Internet Survey Conducted in 2021,” The Journal of Human Rights, vol. 19 (2022).
- ^{xiv} “Statistics on Foreign Residents in Japan” (former “Statistics on Registered Foreigners”), Immigration Services Agency, end of December 2023. <https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&toukei=00250012&tstat=000001018034&cycle=1&year=20230&month=24101212&tclass1=000001060399> [accessed 2024 August 8]
- ^{xv} “Immigration Control Act violation cases in 2022”, Immigration Service Agency.
https://www.moj.go.jp/isa/publications/press/09_00025.html [accessed 2024 August 8]
- ^{xvi} Calculated based on the number of foreign resident women in 2023 (1,697,00, see endnote xi) plus the number of cases of violation of the Immigration Control Act in 2022 (https://www.moj.go.jp/isa/publications/press/09_00025.html [accessed 2024 July 18]) and the population of Japan, according to the Statistics Bureau of the Ministry of Internal Affairs and Communications (<https://www.stat.go.jp/data/jinsui/2023np/index.html#a05k01-a> [accessed 2024 July 18]).
- ^{xvii} Charged with abandoning corpses.
- ^{xviii} The Fifth Basic Plan provides for the provision of multilingual information and the development of a consultation system for employment support, taking into consideration that foreign women may face difficulties due to differences in language, culture, and values, as well as isolation in the community, which are further compounded by the fact that they are women.
- ^{xix} Notice from the Tri-Party Federation of the Ministry of Justice, the Ministry of Health, Labor and Welfare, and the Organisation for Technical Intern Training.
- ^{xx} In the five years from 2017 to 2022, 1,434 people reported suspending technical training due to pregnancy and childbirth, 134 of whom requested continuation of technical training. Only 23 actually made it to the resumption of training.
- ^{xxi} Data on the Couple’s Family Name (Surname and Clan), Gender Equality Bureau, Cabinet Office, Government of Japan (2022). <https://www.gender.go.jp/research/fufusei/index.html> [accessed 2024 August 8]

^{xxii} Report of the Study Group on Impacts and Issues for Women under the Situation with Coronavirus, Gender Equality Bureau, Cabinet Office, Government of Japan (2021).

https://www.gender.go.jp/kaigi/kento/covid-19/siryo/pdf/post_honbun.pdf [accessed 2024 August 8]

^{xxiii} <https://www.nichibenren.or.jp/en/document/statements/240614.html> [accessed 2024 September 8]

^{xxiv} Data on the Couple's Family Name (Surname and Clan), Gender Equality Bureau, Cabinet Office, Government of Japan (2022). <https://www.gender.go.jp/research/fufusei/index.html> [accessed 2024 August 8]

