Written information submitted by NGO
to the Committee for the examination of the Japanese government’s report

**NGO report on**

**abortion and violence against women**

May 5, 2014

Abortion • • sexual assault • • domestic violence • • related issues

This NGO Report on Reproductive and Sexual Rights issues and violence against women issues in Japan was written by Sumie Asatori and Fumi Suzuki, directors of the NGO “SPACE ALLIES” and “Abortion Rights Japan” for the Human Rights Committee 111th Session, (7 – 25 July 2014)

Dear Committee members,

As one of the States parties to the Convention, Japan presented a periodic report on 26 April 2012 (CCPR/C/JPN/6) to fulfil its obligations under Article 40 of the Convention, considered during the 111th session in July 2014. We, NGO Space Allies and Abortion Rights Japan, are pleased to send you this NGO report and would be grateful if you make use of this NGO report to examine the governmental report.

Space Allies & Abortion Rights Japan

We, NGO Space Allies and Abortion Rights Japan, working in the field of sexual reproductive rights, especially abortion rights, would like to submit an NGO report focusing on the abortion issue and issue relating to violence against women.
1 Abortion issues

Being abortion as a crime and barrier to safe abortion service

The Japanese penal code stipulates that all abortion is a crime with penalty of imprisonment. Although the Maternal Protection Law stipulates the justifiable cause for noncompliance with criminalization of abortion, which means the law allows abortion for some reasons, the law requires the spouse's consent to the abortion. Thus, women who are in the violent relationship or live separately escaping her spouse's violence and stalking, have difficulty obtaining her spouse's consent, which is the legal requirement for legalizing her abortion. Due to its criminality, accurate information on safe abortion is very limited, and cost of abortion is expensive, so young women and poor women sometimes have to resort to illegal and/or unsafe abortion, although the government won't admit these truths. One case is reported that a woman who used abortifacient drug in a wrong period and way, and bled severely. This case was reported to the police by the hospital which cured her and sent to the prosecutor by the police. Additionally, sexuality education and prevalence of contraceptive to prevent unwanted pregnancy is insufficient. Some conservative politicians opposed to sexuality education. Prevalence rate of modern contraceptive method is only 44%, according to the United Nations Department of Economic and Social Affairs, Population Division. In this regard, CRC urged Uzbekistan and Lithuania to make sex education mandatory.

Potential recommendation: Decriminalize abortion immediately, eliminate barrier to safe abortion care, and promote access to comprehensive sexual and reproductive services, including safe abortion for all women, especially women who are in violent relationship, poor women, and young women.

1) Background

a) Conservative swing are making the abortion issues more difficult to solve.

According to the newspaper “Asahi Shimbun”, Liberal Democratic Party, the ruling party, politician Noda Seiko suggested that abortion should be prohibited in an attempt to tackle the falling birth-rate.

http://www.asahi.com/politics/update/0223/TKY201302230191.htm

However, the scientific evidences clearly point out that legal restrictions on abortion do not result in fewer abortions nor do they result in significant increases in birth rates. Conversely, laws and policies that facilitate access to safe abortion do not increase the rate or number of abortions. The principle effect of decriminalization of abortion is to shift previously clandestine, unsafe procedures to legal and safe ones.

The above politician’s statement is not only unscientific but also human rights violative. Although abortion is religiously and ethically difficult issue, at least criminalization of abortion and request of third-party’s, such as spouse’s, authorization for abortion are torture and other cruel, inhuman or degrading treatment or punishment and should be
eliminated immediately, as it forces women who don’t want to continue her pregnancy to keep pregnant.


b) The negative attitude of the government

As the shift to right-wing, the government comes to ignore the international norm. For example, in response to a written inquiry by a member of parliamentarian, the government officially replied to the House of the Councillors that the government doesn’t have an obligation to obey the recommendation by the UN committee against torture in June 2013.

As to abortion issue, the ministry of Justice reported that the government does not intend to make any change of abortion law in the preparation paper for the governmental report for the next periodic review of CEDAW in July 2013, despite the recommendation by the UN CEDAW committee, which recommends the government to amend, when possible, its legislation criminalizing abortion in order to remove punitive provisions imposed on women who undergo abortion.

2) Criminalizing abortion under article 212 of Penal Code

Abortion has been criminalized under the Article 212 of Penal Code.

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<tr>
<th>Article 212 of Penal Code (Abortion)</th>
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<tr>
<td>When a pregnant woman causes her own abortion by drugs or any other means, imprisonment with work for not more than 1 year shall be imposed.</td>
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<th>Article 213(Abortion with Consent; Causing Death or Injury)</th>
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<tr>
<td>When a physician, midwife, pharmacist or pharmaceuticals distributor, at the request of a woman or with her consent, causes her abortion, imprisonment with work for not less than 3 months but not more than 5 years shall be imposed. If such person thereby causes the death or injury of the woman, imprisonment with work for not less than 6 months but not more than 7 years shall be imposed.</td>
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The criminalization of abortion prevents the government from addressing the abortion issue as a rights and health issue, resulting in restricting access to affordable abortion service and depriving women of their rights to make her own decision on her reproduction, although maternal mortality rate in Japan is low due to high medical standard and the other legislation, the Maternal protection law, justifies abortion on the ground of women’s health and in the case of rape.

Although the UN CEDAW Committee recommended that the State party amend, when possible, its legislation criminalizing abortion in order to remove punitive provisions imposed on women who undergo abortion, in line with the Committee’s general
recommendation No. 24 on women and health and the Beijing Declaration and Platform for Action, the government has not considered and won’t consider the abolition of the above article at all. What is worse, the current ruling party, the Liberal Democratic Party, expresses the position that they oppose to the decriminalization of abortion.

Many women are having abortion, including illegal ones, fearing punishment in case that they cannot meet the requirement of the Maternal Protection Law. For example, according to media reports, the Shinjuku Police Office sent a case of a 22-year-old woman having an abortion and using Mifepristone and Misoprostol to prosecutor as a criminal in November, 2010. The woman obtained the pills through the internet in May 2009, and took them at her house at 20 weeks of gestation. She had heavy bleeding and was taken to a hospital by ambulance. A doctor at the hospital reported it to the Shinjuku Police Office. According to the women, she decided to have an abortion, as her partner asked her to do so and he said he would not date unless she chose to abort. She also said she had not wanted to burden her parents with the cost for surgical abortion, which was more than ten times as expensive as medical abortion.

The article 213 and 214 of Penal Code, which punish abortion providers, also limit access to safe abortion services and should be abolished.

3) Maternal Protection Law, which requires the spouse’s consent to the abortion

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<tr>
<th>The Article 14 of Maternal Protection Law</th>
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<tr>
<td>A doctor who is designated by the medical association of the prefecture is authorized to perform the medical procedure of abortion for the following women, after obtaining the consent of the woman and <strong>authorization of her husband</strong>.</td>
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<tr>
<td>1. A woman for whom pregnancy or delivery could cause damage to her health for physiological or economical reasons.</td>
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<tr>
<td>2. A woman whose pregnancy is caused by violence or intimidation, during which she could not have resisted or refused.</td>
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Although the Maternal Protection Law stipulates the justifiable cause for noncompliance with the above Penal Code 212, at the same time the law requires the spouse’s consent to the abortion. This provision deprives women of their rights to make their own reproductive decision and a husband can force his wife to continue to be pregnant against her will. The provision contradicts the general recommendation 24 of CEDAW, and the clause 21 of general comment 14 of ICESCR, and the clause 29 of general comment 16 of ICESCR. Requirement of authorization of one’s spouse for having an abortion puts a barrier for women to access to necessary health care. The law puts priority on husband’s decision over women’s rights to decide on her body, health and future. Therefore, it should be abolished.

In particular, it is not realistic for a woman to get authorization from her partner, when having a difficult relationship, especially sheltering to avoid the further domestic violence. This requirement causes the delay or denial of access to safe abortion care, thus violating women’s human rights and health.
4) Forced sterilization under the former Eugenic Protection Law

Concluding observations of the Human Rights Committee to the Japanese government in 1998 pointed out that the Committee, while acknowledging the abolition of forced sterilization of disabled women, regretted that the law has not provided for a right of compensation to persons who were subjected to forced sterilization, and recommended that the necessary legal steps be taken. However, no investigation has been conducted with regard to the issue, and victims have received neither compensation nor apologies from the government since then. In this regard, CCPR recommended Czech Republic to consider establishing a compensation mechanism for victims who were forcibly sterilized in the past and whose claims have lapsed in U.N. Doc CCPR/C/CZE/CO/3 (2013).

5) Barrier to safe, affordable, and high-quality abortion care

Mainly due to its criminality, there remain a lot of problems regarding abortion as below. As to abortion method for the 1st trimester, whereas WHO guidance recommends vacuum aspiration and medical abortion, most abortion doctors mainly depend on D&C, or dilation and curettage, which WHO criticized as obsolete and risky method in Japan. As to medical abortion, whereas WHO guidance recommends the some methods, Mifepristone has not been approved and Misoprostol is not used for abortion in Japan. As to the use of anaesthesia in the course of abortion procedure, whereas WHO guidance general anaesthesia should not be used routinely, general anaesthesia is widely used in Japan. As to cost of abortion, whereas WHO guidance recommends the cost should be affordable, the cost is about 1,000 US$ even for first trimester abortion in Japan. In this regard, the CRC urged states to ensure access to safe abortion and post-abortion care services, irrespective of whether abortion itself is legal (UN Doc. CRC/C/GC/15, para.70). The CEDAW Committee was concerned that abortions, albeit legal, are not reimbursed under the medical insurance scheme and that data fail to show the impact of this policy on economically disadvantaged women and girls and recommended that the Austria government provide financial support to economically disadvantaged women and girls needing an abortion who cannot afford it in U.N. Doc CEDAW/C/AUT/CO/7-8 (2013).

(FIGURE) Huge gaps between recommendations of the WHO guideline and the Japanese situation in the field of abortion

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<thead>
<tr>
<th>WHO or International standards</th>
<th>Japanese situation</th>
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<tr>
<td>criminalization</td>
<td>criminalization causes unsafe abortion</td>
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<tr>
<td>third-party authorization</td>
<td>third-party authorization deters access to safe abortion</td>
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<tr>
<td>abortion method for the 1st trimester</td>
<td>vacuum aspiration and medical abortion</td>
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<td>medical abortion</td>
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<tr>
<td>anaesthesia</td>
<td>general anaesthesia should not be used routinely</td>
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<tr>
<td>cost of abortion</td>
<td>the cost should be affordable</td>
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**Potential recommendations**

1. The government should abolish the Article 212, 213 and 214 of the Penal Code, which punishes women who has an abortion and abortion provider.  
2. The government should remove the requirement for the authorization of one’s spouse to an abortion under Maternal Protection Law, especially in the case of domestic violence.  
3. The government should make thorough investigations about the forced sterilization, and should apologize and make compensation to the victims.

**Violence against women**

In this report, we are covering the issue of violence against women. The reason is that abortion issue is strongly linked violence issues. For example, the victims of sexual assault who got pregnant by the assault are likely to seek for abortion but most of victim services look abortion service as an optional extra issue. Furthermore, there are so many marital sexual violence and intercourse under the violence circumstances and the law requires women who want to have an abortion to obtain the spouse’s consent to abortion, and which makes abortion difficult for women suffer from domestic violence.

**Overview**

Under the Penal Code, the crime of sexual violence is prosecuted basically only upon complaint by the victim. Incest and marital rape are not defined explicitly as crimes and the minimum age of sexual consent is 13. Actually, marital rape has been punished only when the couple’s relationship was broken down. The penalty for rape is only imprisonment for more than 3 years. The domestic legislation does not cover all forms of violence within intimate relationships. DV is usually punished only when it is a crime of murder or injury. Sexual harassments often don’t meet the requirement of crime of rape, as perpetrator can rape abusing power, without using severe violence. So a large part of victims of DV and sexual harassment cannot file a complaint. The time required for issuing a protection order for DV cases is 12.9 days on average, which may further endanger the victim’s life. Dating couple living separately is excluded from the scope of protection order. Same sex couples are also excluded from protection of protection order. Immigrant women, minority women
and women of vulnerable groups have difficulty reporting cases of domestic and sexual violence. The cases of domestic violence consultation (89,490 cases in 2012), arrests for violence and protection orders (2,482 cases in 2012) are generally on the rise. Still, DV victims in Miyagi prefecture and Ibaragi prefecture hesitated to file a complaint, and which ended up in homicides in 2010. According to National Police Agency, the number of stalker cases is about 20,000 annually. Among them, consultation case was 2,000, issue of warning case was 200, prohibition order case is 10. A victim of stalking was killed in 2012 and relatives of a victim were killed in 2011 due to the police’s bungled response and insufficient legislation. As to sexual assault, although the number of confirmed crimes has not increased, the number of the unreported who cannot seek for assist remains enormous. 24-hour free hotline, sufficient protection for victims, employment promotion to assist their self-independence, housing procurement and schooling for their children, and comprehensive support for rape survivors are needed. The government started a pilot project of free hotline in 2011, but it carried out the line only for 2 months and the government will not restart it.

Potential recommendation: Eliminate the requirement of the victim’s complaint in order to prosecute crimes of sexual violence, define explicitly incest and marital rape as crimes, raise the age of sexual consent from its current level of 13 years, and increase the penalty for rape. Ensure effective and adequate protection of women against domestic violence and remove barriers to bring the perpetrators to justice.

2 Sexual Violence

(1) Background

Regarding sexual crime in Japan, there are still many problems with substantive law provisions, criminal procedural law, and protection of victims. Many perpetrators of sexual crimes are not punished appropriately. Support system for victims is far from sufficient. The Committee on Economic, Social and Cultural Rights recommended in previous Concluding Observations that the State Party should apply strictly its domestic legislation and implement effective sanctions on persons responsible for violence against women in general. However, many perpetrators of this type of crime still remain unpunished, and the actual number of cases of sexual crime is unknown.

(2) Legislation

**Penal Code Article 177 (Rape)** A person who, through assault or intimidation, forcibly commits sexual intercourse with a female of not less than thirteen years of age commits the crime of rape and shall be punished by imprisonment with work for a definite term of not less than 3 years. The same shall apply to a person who commits sexual intercourse with a female under thirteen years of age.

**Penal Code Article 180 (Complaints)** (1) The crimes prescribed for in Articles 176 through Article 178 and attempts of the above-mentioned crimes shall be prosecuted only upon complaint. (2) The provision of the preceding paragraph shall not apply when
the crimes prescribed under Article 176, paragraph (1) of Article 178 or attempts of the above-mentioned crimes are committed jointly by two or more persons who are at the scene of crime.

**Penal Code Article 176** *(Forcible Indecency)* A person who, through assault or intimidation, forcibly commits an indecent act upon a male or female of not less than thirteen years of age shall be punished by imprisonment with work for not less than 6 months but not more than 10 years. The same shall apply to a person who commits an indecent act upon a male or female under thirteen years of age.

The Committee on the Elimination of Discrimination against Women expressed concern in its review of periodic report of 2009 that under the Penal Code, the crime of sexual violence is prosecuted only upon complaint by the victim and is still considered to be a crime against morality. The Committee further remained concerned that the penalty for rape remains lenient and that incest and marital rape are not defined explicitly as crimes under the Penal Code. The Committee recommended that the State Party should eliminate in its Penal Code the requirement of the victim’s complaint in order to prosecute crimes of sexual violence, and to define sexual crimes as crimes involving violations of women’s rights to bodily security and integrity, to increase the penalty for rape and to include incest as a specific crime. In the Concluding Observations on the 4th and 5th periodic reports, the Committee on the Elimination of Discrimination against Women expressed concern that the penalty for rape is relatively lenient and that incest is not defined explicitly as a crime under the Penal Code. The Committee urged the State Party to increase the penalty for rape and include incest as a specific crime in its penal legislation, and implement policies in accordance with the Committee’s general recommendation 19, in order to prevent violence. However, no initiative was taken as of today with regard to these issues.

In the Concluding Observations of the Human Rights Committee in 2008, the Committee expressed concern that the definition of rape in Article 177 of the Criminal Code only covers actual sexual intercourse between men and women and requires resistance by victims against the attack, and that rape and other sexual crimes cannot be prosecuted without a complaint filed by the victim. The Committee recommended that the State Party should broaden the scope of the definition of rape in Article 177 of the Criminal Code and ensure that incest, sexual abuse other than actual sexual intercourse, as well as rape against men, are considered serious criminal offences. The Committee also showed its concern about the low age of sexual consent, which is set at 13 years for boys and girls, and recommended that the State Party should raise the age of sexual consent for boys and girls from its current level of 13 years, with a view to protecting the normal development of children and preventing child abuse.

Similarly, the Committee on the Rights of the Child expressed concern in its review of the periodic report in 2004 that the minimum age of sexual consent (13 years) is low. It also showed its concern that the Penal Code maintains a narrow definition of rape as an act committed by a male against a female. The Committee recommended that the State Party should raise the minimum age of sexual consent, and amend legislation on sexual exploitation and abuse to ensure equal protection for boys and girls.
The Committee against torture was concerned at reports on the continuing incidents of gender-based violence, in particular domestic violence, incest and rape, including marital rape, the low number of complaints, investigations, prosecutions and convictions for such cases, and insufficient legal protections for victims and expresses its concern at the requirement of the victim’s complaint in the Penal Code in order to prosecute crimes of sexual violence and urged the government to revise its legislation to ensure that the crime of sexual violence is prosecuted without complaint by the victim in 2013.

The Committee on Economic, Social and Cultural Rights expressed its concern that spousal violence and marital rape are not explicitly criminalized and urged the government to criminalize spousal violence, including marital rape in 2013.

Despite the above recommendations, nothing has been changed since the crime of gang rape has been added as an amendment to the Penal Code in 2004. In the Third Basic Plan for Gender Equality endorsed by the Cabinet in 2010, it stated that the government will “review the Penal Code” However, there has not been any amendment regarding the constituent elements of the crime of rape since then.

In the Concluding Observations of the 4th periodic review, the Human Rights Committee expressed concern that “The Committee is troubled that the courts in Japan seem to consider domestic violence, including forced sexual intercourse, as within the normal sphere of married life”. The Committee on the Elimination of Discrimination against Women also remained concerned that “marital rape is not defined explicitly as crimes under the Penal Code”. Although there is no article in the Penal Code to exclude marital rape from the definition of rape, marital rape has not been prosecuted in all cases in reality, except for special circumstances such as the case that the marriage relationship had already been broken.

The interpretation of “assault or intimidation” as a constituent element for the crime of rape (Penal Code, Article 177) mostly relies upon the judgment of the Supreme Court in 1949, which stipulates “the assault needs a level that makes it extremely difficult for the victim to resist against the offence”. However, it has been pointed out that above-mentioned interpretation of “assault and intimidation” makes it very hard to prosecute cases of sexual assault performed against the victim’s will, especially in acquaintance rape cases, and it has been criticised that the scope of interpretation to establish a crime of rape is too narrow.

(3) Criminal procedures

Regarding the protection of the victims of sexual assault in criminal procedure, the Human Rights Committee, for example, expressed concern about reports that perpetrators of sexual violence frequently remain impunity or receive light sentences, and that judges often unduly focus on the past sexual relationship and behaviour of victims and require them to provide evidence that they have resisted the assault desperately. The Committee recommended that the State remove the burden on victims to prove resistance against the assault, and prosecute rape and other crimes of sexual violence ex officio.

In its consideration of reports submitted by States parties under Article 12-1 of the
“Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography”, the Committee on the Rights of the Child expressed its concern that victims of crimes do not receive adequate support and assistance throughout the criminal and judicial processes. In particular, the Committee expressed its concern at the inadequacy of formal arrangements to limit the number of times children are required to testify and that the use of video evidence, in lieu of oral testimony, is not accepted during criminal procedure. The Committee recommended that the State Party urgently review, in consultation with experts in the field, its procedures for the provision of support and assistance to child victims who are witnesses, with a view to ensuring that children are not subjected to additional trauma as a result of being required to testify repeatedly and consider, to this end, the use of video evidence rather than oral testimony in such proceedings.

With regard to the assistance for victims, although the Third Basic Plan for Gender Equality in 2010 states that appropriate use of the current system should be emphasized, it does not mention the necessity of legal reform to improve the criminal and judicial procedures and the support system for victims of sexual violence, and the governmental plan has not made any outstanding achievement in this regard. Protection of the victims of sexual crime is also included in the Second Basic Plan for Crime Victims but it does not promote legal reform, nor has the Government’s plan made any significant progress. Forensic evidence collected at medical institutions cannot be used as admissible evidence unless police are involved with the collection of the evidence, and there are expectations for the introduction of new legislation to resolve these issues.

(4) Other issues

60-70 per cent of victims of sexual violence does not seek for advice, assistance and support to anyone.

The Human Rights Committee expressed concern that there is a lack of doctors and nurses with specialized training in sexual violence, as well as of support for non-governmental organizations providing such training. The Committee recommended that the State should also introduce mandatory gender-sensitive training in sexual violence for judges, prosecutors and police and prison officer. However, there is no progress in this field.

The Committee against Torture recommended in Concluding Observation that the State Party should take measures to provide education to address the discriminatory roots of sexual and gender-based violations, and provide rehabilitation measures to the victims, including steps to prevent impunity of perpetrators. It also recommended that the State Party should adopt preventive measures to combat sexual violence and violence against women, including domestic violence and gender-based violence, and promptly and impartially investigates all allegations of torture or ill-treatment with a view to prosecuting those responsible. The State Party was also encouraged to undertake training programs for law enforcement officials and the judiciary to ensure that they are sensitized to the rights and needs of victims, to establish dedicated police units, and to provide better protection and appropriate care for such victims, including, inter alia, access to safe houses, shelters and psychosocial assistance. The Committee also recommended that the State Party should ensure all victims can claim redress before
courts of law, including victims of crimes committed by foreign military personnel stationed on military base.

An emergency telephone counselling service for victims of spousal and sexual violence was set up by the Government for a limited period of February and March 2011, and this can be highly valued in this regard. Nevertheless, it ended in March 2011 and there is no continuity for the project, no long-term support for the victims, nor any liaison and cooperation with medical institutions and the police, which are all necessary to carry out such services.

The provision of One-Stop Centres for victims would reduce the burden for the victims to visit various institutions and being asked to talk about their situation of the crime repeatedly. However, the establishment of One Stop Centres has been delayed, as pointed out in the Third Basic Plan for Gender Equality in 2010, and in the report submitted by the governmental special on Violence against Women set up by the Government, and there are only about ten One Stop centres, most of which are poor-funded private centres.

**Potential recommendations**

1. A number of recommendations by international human rights treaty bodies, including the Human Rights Committee, CEDAW, and the Committee against Torture, have been made with regard to the crime of rape: the definition and range of the crime of rape should be stipulated from the view point of victimized women’s human rights and in order not to require desperate resistance against the offence of victims, incest and marital rape should be defined explicitly as crimes, and the government should raise the limit age of sexual consent from its current level of 13 years.

2. The government should eliminate the requirement for complaint of the victim as a prerequisite for prosecution constituent component of the crime of rape.

3. The government should establish special educational programs based on the gender perspective for judicial professionals dealing with rape cases such as judges, public prosecutors, investigators, and attorneys.

4. The government should publish the number of cases of marital rape which have resulted in a guilty verdict, explicitly define marital rape as a crime, and apply its legislation strictly for a case of marital rape.

5. Regarding the problem of focusing on the victim’s past sexual history in the criminal proceedings, the government should introduce effective measures including rape shield law and more effective legislation to protect the victims in the court.

6. The government should strengthen the assistance system for the victims of sexual violence, including child victims and male victims of sexual violence.

7. The government should resume the 24-hour hotline service, and spend more for establishment and maintenance of one-stop rape crisis centres, and provide victims with long-term assistance service.
3  Domestic violence

Background

Despite the Domestic Violence Prevention Law, more than one hundred women are still murdered by their husband per year. The number of apprehension of the perpetrators relating to DV in 2012 was only 4,457, while the corresponding number recognized by the police was 43,950, and which has been increasing dramatically for this decade. National Police Agency instructed every police office to prioritize arresting the perpetrator but it is rare that the perpetrators are charged, due to passive attitude of police officer, neglecting safety of the victims. The courts often request the DV victims to withdraw application for protection order, therefore the case’s number of withdrawal accounts for 16% of applications of Protection orders. According to a news article, although a DV victim submitted application to the court for the spouse's leaving order of their main home, as a protection order, the court officer urged her to withdraw the application, saying that this court was not supposed to issue the leaving order, against the law. 

As it takes about two weeks to issue protection order from application to issue of order, partly because ex-parte hearing procedure and emergent protection order are not supposed to apply to this procedure, therefore the judicial system cannot response to emergency. The order is issued only for the DV case in married couples and unmarried couple living together, and which means that dating couple and same-sex couple are excluded from the protection of this law. There is not sufficient support for the survivors. There is no helpline funded by the government that offers 24-hour assistance, and DV centre has not functioned effectively and the number of temporarily protection by the DV centre is about 10,000 cases per year and it has decreased gradually despite the many DV cases which need temporarily protection. Quantity and quality of social resources differ greatly between regions, and most cities do not have DV centre, or basic plan on countermeasure against DV. There is little financial support for private DV shelters in rural area. The government fails to offer mid-and-long-term assistance for the survivors on the pretext of “self-reliance”, causing feminization of poverty.

Judicial professionals have not been well-educated, therefore in particular, they don’t apply the existing law strictly to the perpetrator, and they don’t have much understanding and consideration for domestic violence in many divorce cases and child-custody cases. Thus, judicial procedure is sometimes misused by the perpetrator to control the victim, harming victim and her children.

Potential recommendations

1. The government should the apply current laws on domestic violence (DV) more strictly and appropriately to the perpetrator. The government should introduce aggravated penalty for the domestic violence.
2. The government should take measures to shorten the time to issue protection order for DV victims. To improve the current situation, the government should take measures, including amending law, to protect the victims promptly.

3. The government should amend the law for judges to protect the victim of DV cases of dating couples living separately or same-sex couples, issuing protection order.

4. The government should increase assistance for victims, including temporarily protection, and reduce the gap between regions, public sectors for DV survivors and private ones to realise universal access to protection and consultation services, including financial support for private shelters.

5. Due to the change of immigration law, migrant domestic violence survivors can lose her visa status when the survivor separates from her husband, if authorities judge her not having due reason for separation. The government should take measures to prevent immigrant DV victims from losing her visa status.

6. The government should ensure mid-and-long term support and assistance for victims of domestic violence and her children.

### 4 Other related issues

**Trafficking in women**

The Japanese government has not ratified the Palermo Protocol. There is little progress in taking measures against trafficking in women and children. Victims of sexual exploitation and human trafficking do not receive assistance and protection they deserve. The Japanese government fails to address the root causes of trafficking such as poverty, unemployment, under-education and gender inequality. The government announced that the number of protection of trafficking is only 12 persons in 2013, but most of NGO doubt it. The actual situation of human trafficking is unclear, especially in international marriage cases. There are a lot of flaws in certification and protection of victims.

Potential recommendation: Take further measures to protect and support victims of trafficking and address the root cause of trafficking, thereby eliminating their vulnerability to exploitation and traffickers. Take measures for the rehabilitation and social integration of women and girls who are victims of exploitation of prostitution and trafficking. Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Implement the recommendations made by the UN Special Rapporteur on trafficking in persons, especially women and children.
Sexual exploitation and pornography

Committee on the Elimination of Discrimination against Women expressed its concern that prostitutes are subject to prosecution under the Anti-Prostitution Law, while their clients do not face punishment, requested 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, and called on the State party to take appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution and also urged 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 in 2009. However, the government have not done anything about the above issues.

In Japan, although there is a myth that young women goes into sex industry for quick money, curiosity and pleasure, the fact is that most women in prostitution have to work in sex industry for their poverty, the victimization of abuse and violence in their family, and lack of safer space in their family or society.

The Committee strongly urged 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 and recommends that, the State party include this issue in its revision of the Act Banning Child Prostitution and Child Pornography. However, the regulation on porn has not developed since the year of 2004, when it toughen the punishment.

Potential recommendation:

The government should decriminalize the behaviour of women in prostitution itself and stop discriminatory response to the prostitute under the Anti-Prostitution Law, which regards the women in prostitution as the target of “correction” and prevent them from human right violation.

The government should take effective measure to suppress the exploitation and discourage the demand for prostitution and sex industry, including the punishment of the buyer of sex.

The government should criminalize possession of pornography and consider to regulate non-live-action pornography and violent pornography against adult and to prevent victimization through the process of production and distribution of pornography, including regulation of revenge porn and shooting and distribution porn without the subject’s free will and consent.

The government should take effective 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.

**Discrimination on the ground of sexual orientation and gender identity**

In Japan, there is no legislation to prohibit discrimination on the ground of sexual orientation or gender identity. As a result, this kind of discrimination is prevalent, therefore LGBT people often cannot obtain appropriate support, many of them are often subjected to violence, harassment and bullying, and sometimes resulting in committing suicide, resignation, and depression. Some lynch cases targeted gay men cases and bullyings on the pretext of SOGI are reported. LGBT people do not have access to protection, such as protection order, and support, such as shelter, due to flaw in the legislation and lack of understanding of the public officers.

**Potential recommendation:**

Take measures to prevent violence, to eliminate discrimination on the ground of sexual orientation and gender identity, including legislative measure in all area including social security, education, and employment.

Take measures to protect and support the victims of such violence and bullying based on sexual orientation and gender identity, including applying DV protection order to the same-sex couple and establishing shelter for LGBT people.

We hope that this information is useful during the Committee’s review of the Government’s compliance with the provisions of the Covenant on Civil and Political Rights. If you have any questions, or would like further information, please contact the undersigned.

Sincerely,

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