



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: JAPAN

THE ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION (DISC)

REPORTING	Fulfillment of Government's reporting obligations	YES, since the start of the Annual Review (AR) in 2000.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Japan Business Federation (Nippon Keidanren) (JBF) and the Japanese Trade Union Confederation (JTUC-RENGO) through consultations and communication of Government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2001 AR: Observations by the JBF.	
	Workers' organizations	2007 AR: Observations by the JTUC-RENGO. Observations by the International Trade Unions confederation (ITUC). 2006 AR: Observations by the JTUC-RENGO. 2006 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2006 AR: Observations by the JTUC-RENGO. 2005 AR: Observations by the JTUC-RENGO. 2004 AR: Observations by the JTUC-RENGO. 2003 AR: Observations by the ICFTU. 2002 AR: Observations by the JTUC-RENGO. 2001 AR: Observations by the JTUC-RENGO. 2001 AR: Observations by the ICFTU. 2000 AR: Observations by the JTUC-RENGO.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Japan ratified the Equal Remuneration Convention, 1951 (No. 100) (C.100) in 1967.
		Ratification intention	YES, since 2004, for C.111 2000-2006 ARs: According to the Government: Further study is needed in view of, for instance, the relations between the provisions of C.111 and national laws and regulations. 2000 AR: According to the JTUC-RENGO: The Government should ratify C.111 as soon as possible.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex

			2001 AR: According to NIKKEIREN: Japan should ratify C.111. Tripartite consultations should be established in order to assess difficulties and obstacles as regards the ratification of this Convention and appropriate measures in order to address them.
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES Under the 1947 Constitution (article 14, paragraph 1), «... all people are equal under the law and in political, economic or social relations. There shall be no discrimination on the basis of race, creed, sex, social status or family origin. (Excerpt.)». Discriminatory measures in contravention of the constitutional provisions in laws and/or regulations are prohibited, and in fact, no such laws or regulations and/or administrative measures exist. The Constitution (article 22) guarantees free choice to individuals for any jobs.
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Legislation, regulations and/or policy	<ul style="list-style-type: none"> • Policy: 2001 and 2006 ARs <p>According to the Government: The Equal Employment Opportunity Law was revised in June 1997 and entered into force in April 1999. Major revisions include: (i) prohibiting discrimination against women workers; (ii) introducing a monitoring and control system for enterprises; (iii) improving a mediation system at the workplace; (iv) abolishing restrictions on overtime and holiday work and night work to women workers; (v) assisting employers in addressing various issues, including sexual harassment at workplaces.</p>
		Basic legal provisions	(i) The Constitution of Japan and Mariners Law (Law No.100 of 1947) (sections 14 and 22) (ii) Labor Standards Law (Law No.49 of 1947), sections 3, 4, and 119 (iii) Mariners Law (Law 100 of 1947) section 6 (iv) National Public Service Law (Law 120 of 1947), sections 27 and 109 (v) Employment Security Law (Law 141 of 1947), sections 2, 3 and 22 (vi) Mariners Employment Security Law (Law 130 of 1948), sections 2 and 4 (vii) Local Public Service Law (Law 261 of 1950), sections 13 and 60 (viii) Equal Employment Opportunity Law (Law 113 of 1972), section 1
		Grounds of discrimination	2008 AR: According to the ITUC: Discrimination is prohibited on grounds of race, gender, disability, language and social status (late observations under the 2007 AR). 2004 AR: According to the Government: Discrimination in respect of employment and occupation is prohibited on grounds of race/colour, sex, religion, political opinion, national extraction and social origin.
		Judicial decisions	NIL
		Special attention to particular situations	NIL
	Exercise of the principle and right	Information/Data collection and dissemination	2005 AR: According to the Government: Relevant statistics on the realization of the principle and right (PR) are regularly kept by the Government.

	Prevention/Monitoring, enforcement and sanctions mechanisms	<p>2000-2007 ARs: According to the Government: The Equal Employment Opportunity Department of the Prefectural Labour Bureau visits offices in a planned manner and grasps the employment management system of each enterprise in order to ensure the enforcement of the Equal Employment Opportunity Law. Administrative guidance is implemented in case of violation of this Law.</p> <p>2000-2002 ARs: According to the Government: Inspection Offices are established as local branches, and the proper number of necessary personnel is allocated for the monitoring and enforcement of the legal provisions. Dispute settlement is provided through advice, guidance and recommendation or mediation at the request of one or both parties concerned.</p>	
	Involvement of the social partners	<p>2005 AR: According to the Government: Employers' and workers' organizations have been involved in the development and implementation of governmental measures regarding the PR. Indeed, representative of workers and employers were involved in the revision of the Labour Standards Bill (sections 3 and 4) and the Law on Securing, etc. of Equal Opportunity and Treatment between Men and Women in Employment.</p>	
	Promotional activities	Institutions to promote equality	According to the Government: the Ministry of Health, Labour and Welfare.
		Other activities:	2001 and 2007 ARs: According to the Government: Other programmes include: (i) recruitment and screening; (ii) distribution of various educational materials; (iii) educational activities via media; (iv) training for human rights promoters on fair recruitment and screening; and (v) training for businesspersons.
	Special initiatives/Progress	<p>2001 and 2007 ARs: According to the Government: Educational activities are implemented throughout the year to promote effective employment management in accordance with the Equal Employment Opportunity Law. June is considered as the «One Month Campaign on Equal Employment Opportunity between Men and Women».</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	<p>2008 AR: According to the ITUC: In a late observation under the 2007 AR, it indicated that although the law prohibits wage discrimination, the average hourly wage for women is only 65.9 percent of the hourly wage of men. Women are underrepresented in senior and managerial posts. Much of the disparity results from employment management systems such as the two-track personnel administration system under which many private sector companies direct men into the higher paying managerial track while at the same time steering women into the lower paying clerical track. Discrimination against women in wages and employment occurs in almost all sectors, although less regarding specialists, professional, skilled workers, and the like. Furthermore, sexual discrimination and sexual harassment in the workplace remains problematic throughout the country. The new version of the Equal Opportunity law provides for enforcement of further penalties for sexual harassment at the workplace from April 2007. The ITUC also states that although persons with disabilities are not generally subject to overt discrimination in employment they face limited access of same in practice.</p> <p>2007 AR: According to the JTUC-RENGO: The Equal Employment Opportunity Law was revised in 2006. However, its amendment was insufficient in terms of prohibition of indirect discrimination. Amendment of the Law for achieving gender equality and equal treatment between full-time and part-time workers has not been realized so far. The Government should revise the labour legislation in order to achieve gender equality and equal treatment between full-time and part-time workers.</p> <p>2006 AR: According to the JTUC-RENGO: The Government should revise the labour legislation in order to achieve gender equality and equal treatment between full-time and part-time workers.</p>

			<p>According to the ICFTU: (i) women are under-represented in managerial track; (ii) persistent discrimination based on retirement age especially against women; (iii) persisting sexual harassment at workplace; (iv) discrimination on grounds of social origin in recruitment; (v) discrimination against foreign residents in national and local public services; (vi) disabled people are under-represented in private companies.</p> <p>2005 AR: According to the JTUC-RENGO: (i) no improvement in wage disparities between men and women; (ii) lack of labour legislation review.</p> <p>2003 AR: According to the ICFTU: (i) discretionary choice given to the employer at recruitment; (ii) persisting discrimination against women workers; (iii) lack of penalty and sanction measures to address sexual harassment at workplace; (iv) persisting discrimination against migrant workers; (vi) increasing vulnerability of disabled people in the labour market.</p> <p>2002 AR: According to the JTUC-RENGO: (i) persisting discrimination in employment and occupation; (ii) lack of understanding of C.111.</p> <p>2001 AR: According to the ICFTU: (i) persisting discrimination against women workers; (ii) higher concentration of women in temporary jobs and increasing female unemployment, especially young women; (iii) managerial-track jobs as a male domain in most companies; (iv) lack of effective prohibition of discrimination; (v) lack of effective sanction measures as regard sexual harassment at workplace; (vii) Japanese nationality as a requirement for employment in national and local public services and the private sectors, (viii) migrant workers subject to abuses.</p>
	<p>According to the Government</p>		<p>2007 AR: According to the Government: The Equal Employment Opportunity Law (Law No.113 of 1972) was revised in 2006 with a view to promoting further equal opportunity and treatment between men and women in employment.</p> <p>The Government replies to the JTUC-RENGO comments as follows: According to the Government, in order to promote equal opportunity between men and women, the Ministry of Health, Labour and Welfare submitted at its 164th session a revised bill of Equal Employment Opportunity Law and related laws, which included provisions such as prohibition of discrimination against both men and women, and prohibition of indirect discrimination. The bill was approved in June 2006.</p> <p>The Government further states that with regards to the structure of the provision prohibiting indirect discrimination, the bill stipulates that the ministerial ordinance of the Ministry of Health, Labour and Welfare should specify 3 kinds of cases, and that these would be considered illegal when there are no legitimate reasons. It was decided to adopt this structure on the grounds that the Labour Policy Council, consisting of intellectuals, representatives of employers and employees (all employees' members are representatives of JTUC-RENGO or its affiliated groups), concluded that it would be appropriate to adopt a legal framework in which these 3 cases activities would be considered indirect discrimination, and that the scope of prohibition could be revised to include other cases if needed, taking the trend of judgments of the court into consideration.</p> <p>Therefore, according to the Government, JTUC-RENGO's observation that the amendment was insufficient misses the point, because the amendment covers sufficient matters, and it was based on the tripartite consensus.</p> <p>Additionally, in July 2006 the Ministry of Health, Labour and Welfare started a discussion on a policy concerning part-time work in the Equal Employment Subcommittee of the Labour Policy Council, consisting of intellectuals, representatives of employers and employees, and it is scheduled to compile a final conclusion at the end of this year. The Ministry of Health, Labour and Welfare intends to take appropriate action based on the conclusion.</p>

		<p>2005 AR: In its response to the JTUC-RENGO's observations, the Government made the following comments: (i) a panel has been held in relation to the PR; (ii) the Minister of Health, Labour and Welfare will take appropriate measures as a follow up of discussions initiated by the Equal Employment Subcommittee of the Labour Policy Council since September 2004; (iii) it is necessary to reach an agreement on the issue of strengthening regulations to ensure equal treatment in working conditions for part-time workers and to implement adequate measures based on a national consensus.</p>
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the Government	<p>2000-2001 ARs: In its response to the JTUC-RENGO's comments, the Government made the following observations: (i) comments made by the JTUC-RENGO on ratified Conventions should not be reflected in the compilation of the annual report; (ii) the follow-up should not lead to the establishment of new supervisory machinery and to the duplication of the reporting system on non-ratified Conventions already established in the Constitution.</p>
TECHNICAL COOPERATION	Request	<p>2005-2007 ARs: According to the Government: ILO technical cooperation will be necessary to facilitate the realization of the PR in Japan in the following areas: (i) assessing the national situation as regard this PR and discussing it in a national seminar on the 1998 ILO Declaration, so as to adopt an action plan to combat discrimination.</p>
	Offer	<p>ILO (technical assistance in the labour law review process).</p>
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) noted the intentions expressed by most governments, including the Government of Japan, to ratify or consider ratification of Conventions Nos.100 and/or 111. They encouraged the governments to accelerate this process so as to make an important step forward towards universal ratification. Given that many countries have requested ILO technical cooperation in the ratification process (on the content of Conventions Nos. 100 and 111, labour law review, ratification process, etc.), the IDEAs requested the Office to strengthen its assistance in this regard (Cf. Paragraphs 66 and 67 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	<p>NIL</p>	