



# **Women and Japan's Political Economy**

**Valerie Barske**

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The volume editor can be contacted at [Valerie.Barske@uwsp.edu](mailto:Valerie.Barske@uwsp.edu).

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## Introduction

This course reader features articles from *The Asia-Pacific Journal* (APJ) that address issues relevant to the study of women and Japan's political economy. Echoing feminist activism around the globe, the articles validate the experiences of women and analyze how "the personal is political" in post-WWII and contemporary Japan. The articles also discuss the ways in which women in Japan actively participated in global political developments such as the 1975 U.N. International Women's Year. Following the first Conference on Women held in Mexico City, the General Assembly recognized International Women's Day (already celebrated in many places on March 8) and the U.N. Decade for Women (1976-1985). Feminist lawyers such as Nakajima Michiko along with other women activists worked to pass Japan's Equal Employment Opportunity Law (EEOL) in 1985.

During the 1980s, university research institutes in Japan published an impressive amount of multi-disciplinary works on women's issues. For example, the Women's History General Research Group in Kyoto produced award-winning essay collections and groundbreaking bibliographies. Japanese feminists participated in "third-wave" criticisms that challenged the centrality of white middle-class Euro-American cultural contexts for defining women's issues globally. From the 1990s through the present-day, the study of women in Japan continues to expand in academic, political, and social spheres. At the 1995 U.N. Fourth World Conference on Women in Beijing, delegates from mainland Japan and Okinawa collaborated with women across Asia on complex issues such as sexual violence in military conflicts. Female activists in 21<sup>st</sup> century Japan participate in ongoing movements to challenge neoliberal reforms that privilege corporations over the rights of individuals. Contemporary scholars in Japan, but also in the USA, Australia, Britain, and Holland, analyze how Japan's economic restructuring directly affects the position of women in the home, workforce, and general democratic populace. Similarly, researchers have begun to trace the issue of gender equality in the relief, support, and restoration efforts following the Great East Japan Earthquake of March 2011.

The articles selected for this course packet engage with, contribute to, and intervene in the rich scholarly history on women and political activism in Japan. Some of the main themes discussed include women's rights, gendered labor practices, and female participation in politics. Several authors analyze how the realities of Japan's economic recession affect the everyday lives of female citizens. The articles highlight issues often overlooked in media representations of contemporary Japan including poverty, divorce, activism, militarism, and the long term ramifications of the U.S. Occupation (1945-1952). For example, Mire Koikari's work establishes a crucial historical foundation for understanding how post-WWII constructions of gender must be examined within ever-shifting dynamics of empire, nation, and race in Japan. She argues that American women in the U.S. Occupation employed "imperial feminism" to foster gendered narratives of how Americans "rescued" Japanese women. Featuring the activist work of feminist lawyer Nakajima Michiko, Tomomi Yamaguchi and Norma Field present the 2004 lawsuit by 15 women against the Japanese state to end the deployment of Self-Defense Forces to Iraq. This article shows how the personal life histories of women give meaning to Japan's "Peace Constitution."

Building on the theme of women's rights as articulated in the constitution, Yasuo Takao analyzes women participating in politics as voters, activists, and electoral

candidates. He suggests that despite gendered barriers, women continue to find innovative ways to enhance Japan's participatory democracy. Moving from politics to labor, Charles Weathers provides an overview of gendered employment structures that may limit women workers. He concludes that political and business leaders facing an aging population and a declining birth rate will need to "get serious" about reforming Japan's male-centered employment practices. Chisa Fujiwara focuses on how Japan's welfare reforms fail to help single mothers. She demonstrates that a large percentage of "fatherless families" include women who already participate in the workforce yet cannot overcome gendered structures to achieve economic independence.

Along with each article, this packet features supplementary sources from *The Asia-Pacific Journal*, the URLs of relevant organizational websites, and references to additional scholarly works. The materials selected provide diverse perspectives from both men and women writing in Japan, the USA, and Australia. By creating a space for international scholars to publish articles online, the *APJ* offers original English-language coverage of contemporary developments and historical research. These materials will remain an interactive digital archive of instructional materials for analyses of female political activism and women in Japan's political economy.

**"Feminism and the Cold War in the U.S. Occupation of Japan, 1945 - 1952"**

Mire KOIKARI

February 14, 2011

<http://www.japanfocus.org/-Mire-Koikari/3487>

Providing historical context for contemporary political issues relevant to women and gender in Japan, this first article examines gendered power structures in the U.S. Occupation of Japan (1945-1952). Occupational policies targeted Japanese women and the ideal of gender equity to remake Japan as a democratic nation. The Constitution of Japan, enacted May 3, 1947, states that "All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin" (Article 14).<sup>1</sup> In addition, women received the right to vote and to mutual consent in marriage based on the "equal rights of husband and wife" (Article 24). Although drafting and revising the post-WWII constitution involved numerous political actors including a few Japanese women, historical accounts of this complex process often celebrate General Douglas MacArthur (1880-1964) as a generous patriarch who "granted" rights to women in Japan. Similarly, historians in the U.S. and Japan credit women working for the occupation forces, such as Beate Sirota Gordon (1923- ), for "giving" Japanese women gender equality. Depicted as a liberator who helped to rescue Japanese women from feudalistic traditions, Lt. Ethel Weed (1906-1975) encouraged women to "pull themselves up by their *geta* straps to pioneer in democratic procedures."<sup>2</sup>

The author, Mire Koikari, challenges this gendered narrative of the occupation as a triumph of democratic emancipation for women. She argues that gender reform under the occupation represents an example of "imperial feminism" whereby women's liberation cannot be separated from Cold War "imperialist dynamics of gender, race, class, and nation." In order to view women's negotiations with power as dynamic and multifaceted, Koikari employs an interdisciplinary approach to analyzing the occupation. Her article creates a dialogue between occupation studies, feminist colonial studies, and Cold War cultural studies.

Koikari notes that occupation studies, which remain a primarily "masculine" field, often overlook the crucial intersections between race, gender, and empire, even in their treatment of female historical agents. While creating a space for women's voices, recent feminist colonial scholarship recognizes the importance of challenging the role women play in supporting, promoting, and expanding the goals of imperialism. Koikari cites historian Tani Barlow (1997) to explain how gender under the U.S. Occupation remained closely linked to Japan's own imperial history. Koikari argues that American female occupiers' efforts to empower Japanese women ironically helped to reassert some of the same racial and national dynamics central to Japan's history as a colonial power, particularly those related to "modernizing" women's bodily practices in Okinawa, Hokkaido, Taiwan, and Korea.

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<sup>1</sup> From the English translation provided on the Prime Minister and Cabinet of Japan website, [http://www.kantei.go.jp/fo\\_reign/constitution\\_and\\_government\\_of\\_japan/constitution\\_e.html](http://www.kantei.go.jp/fo_reign/constitution_and_government_of_japan/constitution_e.html)

<sup>2</sup> Comment from Ethel Weed recorded in 1948, cited in Koikari (1999, 348CHECK) and as a header quote for the introduction to her book, *Pedagogy of Democracy* (YEAR).

Finally, the author addresses how the occupation must be situated within gendered politics of the Cold War era, especially new meanings associated with a post-WWII “cult of domesticity.” Cold War civil defense programs and military notions of containment targeted female gendered spaces of the home, kitchen, and even bomb shelters. However, as Koikari concludes, Japanese women actively participated in but also resisted Cold War politics of domesticity and should not be viewed as helpless victims without historical agency. Overall, this article offers new insights on the U.S. occupation of Japan along with an accessible review of current scholarship for studying women and gender as a category of historical analysis in postwar Japan.

## Feminism and the Cold War in the U.S. Occupation of Japan, 1945 – 1952

**Mire Koikari**

### Introduction

On August 15, 1945, World War II came to an end with Japan's unconditional surrender. General Douglas MacArthur, Supreme Commander for the Allied Powers (SCAP), flew from the Philippines to Japan with a mission to occupy and demilitarize the defeated nation. The place and manner of MacArthur's arrival seemed to signal the victor's absolute confidence and unquestioned authority over its vanquished enemy. MacArthur – the embodiment of U.S. military power and a consummate actor well known for his grand performance – landed at the Atsugi Airfield, previously a training field for Japanese kamikaze fighters, with a handful of Allied troops. MacArthur himself was armed only with a cornucob pipe. Despite his staff's concern about possible attacks by enemy soldiers not yet disarmed, MacArthur's triumphant landing was followed by a smooth procession to the New Grand Hotel in Yokohama and later an entry into Tokyo where he established the General Headquarters (GHQ) of SCAP in the Dai-ichi Seimei Insurance Building. A new chapter of postwar U.S.-Japan relations thus opened with richly gendered and racialized symbolism: the United State's imposition of white masculine military authority over Japan, now a defeated and subjugated nation in the Far East.



Following the ferocious belligerence between the enemies in World War II, many Japanese feared that the objective of the occupation was to punish Japan. Yet, MacArthur declared U.S. intentions benign and noble: to "reorient" and "rehabilitate" Japan into a modern, democratic, and enlightened nation. Perceiving the Japanese as an "alien race of spiritual growth stunted by long tenure under the physical, mental and cultural strictures of feudal precepts," he was supremely confident of his ability to transplant American ideals to Japan and to civilize its subjects. He had what he considered evidence to support his conviction: a half century of U.S. governance in the Philippines had demonstrated America's capacity to "civilize" an alien and inferior race and lay the foundations for "democracy" abroad. Just as the U.S. policy of "benign assimilation" in the Philippines had uplifted its subjects from a state of ignorance and savagery, so would the U.S. occupation give the Japanese an unprecedented opportunity for civilization and enlightenment.<sup>1</sup>

It was within this context of the American project to civilize and democratize a racially inferior other that Japanese women as gendered subjects emerged as centrally important figures. Seen by the occupation authorities as victims for centuries of "Oriental male chauvinism," Japanese women embodied feudal tradition, backwardness, and lack of civilization. As helpless women of color, they became ideal candidates for American salvation and emancipation. The occupier's zeal for liberation of Japanese women from indigenous male domination was all-consuming and

multifaceted. MacArthur granted suffrage to Japanese women and praised their "progress" under U.S. tutelage as setting an example for the world.<sup>2</sup> Other male occupiers "emancipated" Japanese women by initiating various constitutional and legal changes and policies. Following a familiar colonial trope of heterosexual rescue and romance, some American men expressed their desire to save Japanese women in more personal ways: Earnest Hoberecht, a correspondent for United Press International, advocated kissing as a path to liberation,<sup>3</sup> Raymond Higgins, the military governor stationed in Hiroshima, married his Japanese maid to "save" her from the aftermath of the atomic bomb and her abusive husband.<sup>4</sup>

The postwar U.S.-Japan encounter involved dynamics that went beyond the colonial trope of heterosexual romance, however. No less earnest in their attempt to emancipate and transform Japanese women were American women reformers in the occupation forces. Beate Sirota Gordon, a twenty-two-year-old European Jewish immigrant to the US who had spent early years in Japan, pushed for a constitutional guarantee of gender equality – a guarantee nonexistent in the United States – as “the only woman in the room” where American male reformers debated the contours and content of postwar Japanese constitution.

A group of American women occupiers led by Ethel Weed worked tirelessly to implement the ideal of gender equality and transform Japanese women at the grassroots level. Using skits, role playing, pamphlets, among others, women occupiers such as Carmen Johnson and Helen Hosp Seamans disseminated the spirit and practice of “democracy” among Japanese women with whom they often formed strong bonds that continued well after the occupation. These American women's passion for gender reform was all the more remarkable, as they were utterly unfamiliar with Japan, with few exceptions had no Japanese language skills, received no extensive training for their task, and were often relegated to marginal positions within the predominantly male SCAP bureaucracy. Many Japanese women enthusiastically welcomed American reformers and their efforts to democratize Japan, and tapped into shared discursive repertoires of gender equality and democracy to articulate their own visions of postwar womanhood. For some, such as KatÅ • Shizue, the occupation provided unprecedented opportunities to collaborate with American reformers and to promote herself as the feminist leader in postwar Japan. Even those who explicitly challenged American rule, such as Nosaka RyÅ • and Miyamoto Yuriko who were communist writer-activists and champions of working-class women's causes, also benefited from the occupation as they stepped into a new space opened up by American reformers to articulate their own visions of gender and nation in postwar Japan.



**Gordon in the Occupation**

Over the past six decades, belief in the successful transformation of Japanese women's lives provided many occupiers and subsequent generations of Americans with "unquestionable" evidence that U.S. interventions in Japan were beneficent. The picture of Japanese women being liberated from feudal male domination and gaining new rights under U.S. tutelage is also etched in the minds of many Japanese, and is understood as a turning point in the history of Japan. The view of the occupation as a remarkably generous effort by the victor to democratize Japan and emancipate its women has constituted a gendered historical account shaping American and Japanese self-understandings.



**Kato Shidzue with  
Margaret Sanger**

### **Rethinking the Occupation: Women, Gender, and Cold War US Imperialism**

*Pedagogy of Democracy: Feminism and the Cold War in the U.S. Occupation of Japan* (Temple University Press, 2008) intervenes in the triumphant narrative of the occupation, women, and democracy to provide a critical feminist perspective. Rather than assessing the impact of constitutional revision, civil code reform, and other gender reform on Japanese women, it traces how the occupation opened up a new space where American and Japanese women would articulate certain forms of feminism by drawing on prewar notions of gender, race, nation and empire and refitting them to the Cold War context of anti-communism and imperial expansionism. Far from a moment of women's liberation, the occupation's gender reform was a case of "imperial feminism"<sup>5</sup> where the agenda of "women's emancipation" became deeply intertwined with imperialist dynamics of gender, race, class, and nation, turning American and Japanese women into complicit participants in the Cold War.

Specifically, during the occupation, American women participated in U.S. imperialism by disseminating Cold War discourses of femininity and domesticity and promoting the Americanization of postwar Japan in the name of women's emancipation. Such a project of women's emancipation was inspired by, and in turn promoted and justified, U.S. imperial expansionism, sustaining the pattern of feminism's collaboration with nationalist and imperialist politics that had emerged since the late nineteenth century. At the same time, American women also subverted the dominant structure of power, as their participation in gender reform in a foreign country visibly contradicted the Cold War notion of women safely contained within domestic boundaries.

Equally complex dynamics were observed among Japanese women. Japanese middle-class women enthusiastically welcomed the occupiers' reform project and embraced American discourses of democracy and gender equality, while also re-circulating prewar and wartime discourses of women, family, and nation in order to reassert their own respectability as "Japanese women."<sup>6</sup> Despite their complicity in dominant dynamics of power, Japanese women also developed a close personal bond with American women reformers, deviating however subtly from the Cold War tenet of heterosexual normativity and causing anxiety among American male occupiers. At times, Japanese women's resistance led to outcomes at odds with the occupation authorities. Women unionists openly defied the Americans by participating in communist-led labor protests and praising gender policies in the Soviet Union and China. However, they also

hewed generally to Cold War ideals of domesticity and heterosexuality and stigmatized poor, economically displaced women who earned their means as prostitutes. In U.S.-occupied Japan, then, American and Japanese women were constantly stepping in and out of the dominant apparatus of power, sometimes reinforcing and at other times undermining an emerging structure of hegemony. Recast from a critical feminist perspective, the U.S. occupation of Japan becomes an extraordinarily dynamic and multifaceted story about women's negotiations with power. Simultaneous tenacity and instability of hegemony, and unpredictable and ironic outcomes of political mobilization attempted in the name of women's liberation, constitute the major facets of this historical drama.



**Pan Pan girls soliciting during the Occupation**

In analyzing the occupation as a case of Cold War imperial feminism, I create an interdisciplinary dialogue among occupation studies, feminist colonial and postcolonial studies, and Cold War cultural studies, each one of which highlights the centrality of gender for critical understandings of nineteenth- and twentieth-century global politics. As discussed below, this interdisciplinary dialogue not only results in richer analysis of the occupation itself; it also challenges each discipline to consider some of its preexisting analytical and empirical assumptions.

## Occupation Studies

Since the end of World War II, the task of documenting and evaluating the U.S. occupation of Japan has generated numerous and contentious debates among scholars and journalists in Japan and the United States, resulting in a large body of work collectively referred to as occupation studies, or *senryō • kenkyō*. Spearheaded by such notable scholars as John Dower, Carol Gluck, and Takemae Eiji among others, the field has produced diverse interpretations of the occupation,<sup>7</sup> including recent critical studies such as John Dower's *Embracing the Defeat: Japan in the Wake of World War II* and Yukiko Koshiro's *Trans-Pacific Racisms and the U.S. Occupation of Japan*.<sup>8</sup> John Dower situates the occupation within the larger context of imperial culture, history, and politics and provides a genealogical perspective on race and racism. Observing American racism toward Japan during the war and the postwar occupation, he argues that American understanding of self as civilized and superior and Japan as uncivilized and inferior can be traced back not only to "racial stereotypes that Europeans and Americans had applied to nonwhites for centuries: during the conquest of the New World, the slave trade, the Indian Wars in the United States, the agitation against Chinese immigrants in America, the colonization of Asia and Africa, the U.S. conquest of the Philippines at the turn of the century," but more generally to the long-standing Western colonial vocabularies of the superior West and the inferior Orient/Other.<sup>9</sup> Defining the occupation as an instance of "imperial democracy" driven by the notion of white supremacy, he argues that "[f]or all its uniqueness of time, place,

and circumstance – all its peculiarly 'American' iconoclasm – the occupation was...but a new manifestation of the old racial paternalism that historically accompanied the global expansion of the Western powers."<sup>10</sup> Dower illuminates how within the context of American imperial democracy and racism Japanese actively engaged in a diverse range of political negotiations with the occupiers – from collaboration to manipulation to resistance – at the grassroots and intergovernmental levels.

Focusing on the parallel and mutually reinforcing development of American and Japanese racism and imperialism, Yukiko Koshiro argues that race constituted a common discursive ground where the two former enemies came to affirm each other's standing in international hierarchies, which led to "successful" and indeed "smooth" Cold War alliance making. Adopting Western imperial discourses of racial and national hierarchies (i.e., the superiority of self and the inferiority of others) to engineer its own colonial expansionism in Asia, Imperial Japan had constructed itself as an "honorary white," a nation capable of assimilating into superior Western culture and civilization while standing apart from and above other inferior Asians. Despite its challenge to Western imperialism during the war, Japan had affirmed and reinforced Western imperial understanding of white supremacy, and Western nations in turn had accepted to an extent Japan's sense of superiority to Asia and proximity to the West. This mutual dependency of Western and Japanese racism continued into the postwar years. After a short period of time during which race was used as a punitive tool to put Japan back in its "proper place," the United States actively cultivated and even manipulated Japan's admiration toward the West and its distance from the rest of Asia to transform the former enemy into an effective Cold War ally. As Koshiro argues, race and racism functioned as a source of productive power during the occupation.<sup>11</sup>

Despite its enormous contributions, however, occupation historiography has primarily been a "masculine" field of studies. Women may enter into discussions of the occupation in descriptive terms but are rarely treated as a central site of analysis where the occupation-time political and cultural dynamics could be reexamined and reinterpreted from new perspectives. Equally or more problematically, existing studies have hardly taken gender as an important category of historical analysis whose intersection with other vectors of power such as race, class, and nation deeply informed postwar U.S.-Japan negotiations.

Influenced by the increasing saliency of women's studies since the late 1970s, women scholars in the United States and Japan have begun to focus on women's experiences during the occupation and thereby intervene in the predominantly masculine field of occupation scholarship. Defining the occupation as an instance of "women's liberation," however, the dominant focus in this new body of scholarship has been on the positive effects the occupiers allegedly brought to Japanese women. Susan Pharr's influential article, "The Politics of Women's Rights," is a prime example. She analyzes the policymaking processes in which American women occupiers formed "an alliance for liberation" with middle- and upper-class Japanese women leaders and pursued women's rights against patriarchal resistance from both Japanese and American men. According to Pharr, the occupation was "the world's most radical experiment with women's rights" that resulted in successful "feminist reform": "The marriage of democracy and women's rights in the minds of most Occupation personnel heightened the significance of their contribution."<sup>12</sup> Such understanding of the occupation rarely questions the motives and intentions of American women

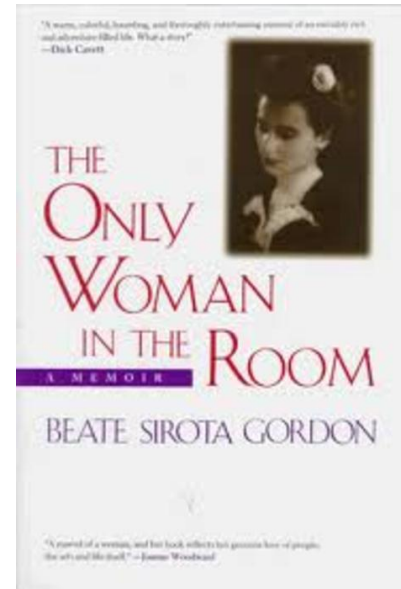
occupiers and ignores racism, sexism, classism, and imperialism that informed these women's practices in occupied Japan.

To a surprising degree, Japanese scholars share Pharr's perspective. Citing Pharr, Uemura Chikako and other Japanese women scholars argue that the occupation's gender reform provides overwhelming evidence of the positive role that the United States, and especially its women occupiers, played for Japanese women. Even though U.S. gender interventions might not have been thorough or sufficient, the occupation was a positive event for Japanese women. It is important to note, however, that the studies by these Japanese women scholars are significantly more nuanced than Pharr's, generally mentioning the limitations inherent in any effort to instill "foreign" notions of "democracy" and "gender equality." Uemura, for example, points out that U.S. gender policies were based on a U.S. middle-class ideology, and thus were not as radical as they might at first appear. Japanese women scholars, aware of the reverse course, also acknowledge the less than democratic nature of occupation interventions. Yet these observations do not lead them to a more critical reevaluation of U.S. gender reforms per se, nor of the meanings and implications of such reforms within the context of the occupation or of Cold War imperialism. They rarely question what they perceive as the genuinely liberatory motives and intentions of American women occupiers (or, for that matter, those of Japanese women), and ignore racism, sexism, classism, and imperialism that informed these women's discourses and practices.<sup>13</sup> This reflects a larger pattern of analysis that has emerged following a "women's studies turn" in studies of empire in the U.S. and Europe. As Jane Haggis points out, the feminist project of bringing women into historical analysis of empire has sustained and promoted, rather than challenged, Western hegemony as it has uncritically accepted Western women's claim for beneficent intentions in "helping" others and thereby reinterpreted imperialism as a feminized endeavor of education and civilization.<sup>14</sup>

Significantly, former women occupiers have played a salient role in facilitating this "women's studies turn" in occupation studies. Beginning with Susan Pharr's interview with Beate Sirota Gordon in the 1970s, scholars and media in Japan and the United States have sought participant accounts from women who served in the occupation. As a result, Gordon, an author of the gender equality articles in the postwar constitution, and Carmen Johnson, an officer in charge of grassroots democratization, have achieved a certain celebrity status as feminist mother-liberators of Japanese women. Not only have they become women scholars' favorite interview subjects; their memoirs have been published first in Japanese and later in English; documentaries depicting their efforts to emancipate Japanese women have been produced in Japan; academic conferences and lectures both in the United States and Japan have provided forums for them to tell their occupation stories. According to their narratives, the occupation was a moment of women's liberation where Japanese women gained freedom, equality and democracy under the guidance of American women. Importantly, the exhilarating story of American women emancipating Japanese women is not simply a product of American bias. For instance, Gordon's 1997 English-language memoir, *The Only Woman in the Room*, which was first published in Japanese, resulted from her collaboration with Japanese filmmaker, Hiraoka Mariko.<sup>15</sup> Indeed, the project of documenting Gordon's story started with Hiraoka who directed an all-female film crew to create a documentary about Gordon's involvement in the constitutional revision. The success of the film led to the publication of her autobiography, in which Hiraoka again played an

instrumental role as she interviewed Gordon and other individuals involved in the constitution revision, transcribed the interviews, and conducted archival research.

Clearly, many Japanese women – Hiraoka and numerous others who embrace the story of their emancipation by foreign women – share overlapping discursive spaces with their American counterparts, drawing on the same reservoir of ideas and assumptions about the occupation and its positive impacts on women. How do we explain Japanese and American women's collaboration in maintaining this understanding of the occupation? Crucially, the narrative of successful gender reform (dis)locates both women outside the purview of critical analysis of nation and empire. The narrative hinges on the long-standing Orientalist construction of Japanese women as helpless victims who, until the arrival of American women in 1945, had been incapable of autonomous action. The image of Japanese women as victims without agency conceals, indeed makes unimaginable, their willing participation in Japanese colonialism. The same narrative also relies on and reinforces the notion of progressive, emancipated, and thus "superior" American women who selflessly pursued the emancipation of other, inferior women. Driven by good intentions, they initiated a remarkable, indeed revolutionary, feminist reform project. The congratulatory narrative of the occupation constructs both American and Japanese women as innocent bystanders to, rather than complicit participants in, the problematic politics of race, nation, and empire. That such women-centered accounts of the occupation were widely circulated in the last decades of the twentieth century, when the controversies involving Korean Comfort Women on the one hand, and the 1995 rape incident in Okinawa on the other, began to shed critical light on Japanese and American colonial pasts as embodied by colonized/minority women, indicates central and also contentious dynamics surrounding women and gender across the divides of race, nation, and empire in the Asia-Pacific region.



While recasting women in the occupation constitutes a necessary task, even more urgent is reexamining the occupation as a gendered and gendering political process. As Joan Scott argues in *Gender and the Politics of History*, taking gender as a category of analysis goes far beyond simply uncovering information about women. Scott defines gender as a socially constructed binary opposition between the meanings associated with masculine and those with feminine. Gender as a meaning system constitutes "a primary way of signifying relationships of power" or "a primary field within which or by means of which power is articulated," and "structure(s) perception and the concrete and symbolic organization of all social life." Thus incorporating gender as a category of analysis leads to a drastic shift in historical studies. As she points out, gender analysis

provides a way to decode meaning and to understand the complex connections among various forms of human interactions. When historians look for the ways in which the concept of gender legitimizes and constructs social relationships, they develop insight into the reciprocal nature of

gender and society and into the particular and contextually specific ways in which politics constructs gender and gender constructs politics.<sup>16</sup>

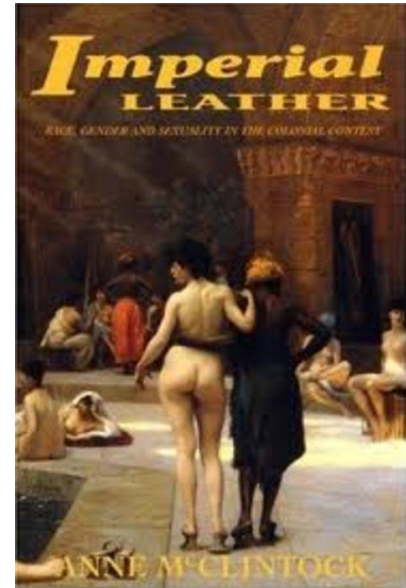
While I take seriously Scott's insight concerning gender as a centrally important category in historical analysis, I see the need to go beyond a study based on a single category of analysis. The recent important shifts in the feminist paradigm – from excavating women's stories, to incorporating gender as a category of analysis, and finally to examining the intersectionality of multiple categories of race, gender, class, sexuality, and so on – have placed studies of history on new terrain.

Among numerous studies that examine multiple and intersecting vectors of power, Anne McClintock's study, *Imperial Leather: Race, Gender and Sexuality in the Colonial Context*, is particularly useful for the analysis of the U.S. occupation of Japan, as she delineates the intricate and often convoluted workings of gender and power in imperial and colonial settings. McClintock points out that gender is always articulated in relation to other vectors of power, and insists on the importance of an analytical paradigm that takes into account more than one category, cautioning against "narratives that orient power around a single, ordinary scene":

Race, gender and class are not distinct realms of experience, existing in splendid isolation from each other; nor can they be simply yoked together retrospectively like armatures of Lego. Rather, they come into existence in and through relation to each other – if in contradictory and conflictual ways. In this sense, gender, race and class can be called articulated categories.

As she emphasizes, race, gender, class, and so on are not "reducible to, or identical, with each other; instead, they exist in intimate, reciprocal and contradictory relations." What she refers to as "a fantastic conflation of the themes of gender, race and class" is a distinctive feature of both Western colonialism and the U.S. occupation of Japan.<sup>17</sup>

Applied to the U.S. occupation of Japan, the analytical approach suggested by McClintock not only casts new light on American and Japanese women's discourses and practices during the occupation; it also leads to the observation that the occupation was an extraordinarily dynamic political process simultaneously animated by gender, race, class, and sexual dynamics. A multivector analysis of the occupation and its gender reform provides a unique analytical framework that leads to different interpretations of a given event that often oppose those exclusively focused on race, gender, or class. The significance of this approach is pointed out by Dorinne Kondo, who succinctly argues that analysis that pays attention to a single category of power "forecloses the possibility of ruptures and interventions when other forces are considered."<sup>18</sup> Indeed, the heterogeneous – and often disruptive, contradictory, and uneven – nature of the occupation and its gender reform can only be illuminated by attending to the intersection of multiple strands of power that sometimes work with, but other times against, each



other. A multivector analysis of power allows us to examine, for example, how the occupiers' gender reform as an apparatus of domination was made all the more powerful as it was energized by the convergence of race, gender, and class dynamics. Gender reform relied on and reinscribed the racialized imperial notions of American superiority and Japanese inferiority on the one hand, and on the other recruited Japanese middle-class women as a tool of class containment, that is, as conservative, anticommunist allies in the midst of increasingly volatile labor mobilization. Yet, gender, race, and class dynamics did not always so neatly line up. Gender reform also caused instability and incoherence in the occupation, as Japanese middle- and working-class women forged a cross-class alliance in critiquing the "undemocratic" treatment of Japanese women in the occupiers' approach to venereal disease control and reasserted their racial, sexual, and national respectability. A feminist analysis informed by McClintock's and Kondo's insights thus sheds light on the ubiquitous nature of hegemony, but equally or more problematically, allows us to recognize hegemony's inability to hold itself together, or its constant "leakage," in U.S.-occupied Japan.

### **Feminist Colonial and Postcolonial Studies**

The centrality of women and gender in the politics of empire has been emphasized by feminist colonial and postcolonial scholars in recent years. In Western colonial processes, the colonizers often analogized relations between colonizers and colonized to a male-female sexual encounter, in which Africa, the Americas, Asia, and the Pacific were imagined feminine, colored, and sexualized bodies, while European and American colonizing forces were white and masculine, invading, exploring, and conquering "virgin lands." Furthermore, in colonial imagination, native women were frequently constructed as helpless victims under indigenous patriarchal domination, indicating the uncivilized and racially inferior condition of colonized societies in contrast to the gender progressive, and as such, civilized and racially superior, condition of colonizers' societies.<sup>19</sup> Such construction of native women did not remain rhetoric, but frequently led to interventions in the name of "civilizing" native women and indigenous gender relations. Notwithstanding the colonizers' seemingly benign intentions, such reform process turned indigenous women into an important "entry point" for the Western civilizing project whose objective was tantamount to socializing indigenous women with Western values to create obedient and loyal colonial subjects. Gendered and racialized acculturation projects were further informed by class dynamics, as they often focused on schooling indigenous elite women. Following such reeducation, Western values would "filter downward" to the rest of the indigenous population, destructing the indigenous power structure.

American women, including feminists, actively participated in these gendered and racialized dynamics of empire building. Studies by scholars such as Jane Hunter, Ian Tyrrell, Leila Rupp, and Tracey Jean Boisseau have persuasively shown that American women's articulations of "women's emancipation" – their own as well as other women's – were inseparable from the process of nation and empire building.<sup>20</sup> With ideologies and practices underpinned by a "feminist" critique of male domination at home and an endorsement of an "international sisterhood" among Western and non-Western women, American women missionaries, moral reformers, and suffragists were often critical of U.S. imperial expansionism. Nevertheless, they often uncritically accepted and disseminated the notions of racially inferior, uncivilized, and oppressed non-Western women and civilized and emancipated Western women who were to save

women of color. Driven by a feminist intention of emancipating other women, Western women's feminist reform work provided a critical means for U.S. imperial expansion abroad, lending force and justification to its pursuit of hegemony.

In *Scattered Hegemonies: Postmodernity and Transnational Feminist Practices*, Inderpal Grewal and Caren Kaplan explore the intimate – and problematic – relation between feminism and imperialism:

Our critique of certain forms of feminism emerge from their willing participation in modernity with all its colonial discourses and hegemonic First World formations that wittingly or unwittingly lead to the oppression and exploitation of many women. In supporting the agenda of modernity, therefore, feminists misrecognize and fail to resist Western hegemonies.<sup>21</sup>

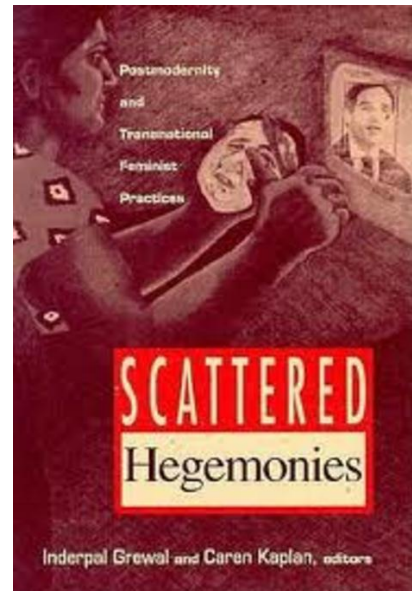
Their observations about feminism's "imbrication" with modernity and its related institutions, such as colonialism, racism, and nationalism, provide a crucial insight for analysis of Western feminist formation and its relation to other women. The question we need to ask is no longer whether Western feminists were imperialists or anti-imperialists. Rather we need to investigate when and how feminist discourses and practices inform and are in turn informed by politics of nation and empire.

In *Home and Harem: Nation, Gender, Empire, and the Cultures of Travel*, which examines British and Indian feminist formations, Inderpal Grewal offers analytical insights that are applicable to instances beyond British imperialism and that put not only Western but also non-Western feminist formations under critical scrutiny:

[M]any forms of feminisms existed through participating in certain dominant discourses so that the issue, then, is not a search for a transparent or transcendent feminism but a need to examine the conditions of possibility of these feminisms... Rather than debate feminism's collusions or resistance, I argue that nationalism, imperialism, and colonial discourse shaped the contexts in which feminist subjects became possible in both England and India."

Recognizing imperialism as an enabling condition – a condition that "provided possibilities and problematic" for feminism – is crucial.<sup>22</sup> Moreover, by showing colonized (in this instance, Indian) women's feminist formation as equally, although differently, embedded in modernity, nationalism, and imperialism, Grewal challenges binary, oppositional notions of dominant and oppressed, or colonized and colonized.

The US occupation of Japan and its gender reform shed light on the important connections among women, gender, feminism, and empire: the American masculine gaze toward Japanese women, indeed toward the Japanese nation as a whole; constructions of Japan as feudal, patriarchal, and thus racially inferior, in contrast to the modern, gender progressive, and thus racially superior United States; the centrality of Japanese women's reform as an American



civilizing and modernizing project; mobilization of Japanese elite women as a point of “infiltration” in the project of postwar Americanization of Japan; and finally, American women’s feminist discourses and practices concerning Japanese women’s “emancipation” which were inseparable from gendered colonial understandings of emancipated American women and victimized Japanese women who were in need of guidance and rescue. In American gender reform in postwar Japan, feminist emancipatory rhetoric and practices were never outside, but rather at the center, of postwar American imperial expansionism.

Despite these similarities between the U.S. occupation of Japan and other instances of imperial endeavors, it is also important to analyze the distinct feature of postwar U.S. imperialism in Japan. Importantly, U.S. imperialism in the case of the occupation was significantly shaped by the nature of Japan itself. What Tani Barlow calls Japan’s “double relation” to colonialism – Japan’s own development as a colonial power in Asia since the late nineteenth century within the context of Western imperial and colonial domination – complexly shaped the postwar U.S. occupation of Japan. While contending with Western colonial domination, Japan pursued its own imperial project by colonizing neighboring nations in the name of creating the Greater East Asia Co-Prosperity Sphere.<sup>23</sup> Japanese modern feminism emerged out of this context, sharing intimate and problematic ties with Japan’s nationalist and colonial dynamics. Despite its unconditional surrender and enormous reduction in territory at the end of World War II, many aspects of Japanese colonialism, including its gendered nationalist politics, survived after the summer of 1945. As John Dower documents in *Embracing Defeat*, the existing Japanese ruling sector tenaciously negotiated with and even covertly resisted the U.S. authorities. Since the U.S. needed to remake Japan into its ally in the emerging Cold War context, MacArthur often compromised and even collaborated with the existing elites, which led not only to a retention of the Imperial Household but also to the emergence of a conservative, pro-American regime in postwar Japan. This led to, among others, the Japanese rearticulation during the occupation of its own hegemonic nationalist and imperial discourses concerning women, race, family, and nation. Japanese middle- and upper-class women leaders who were empowered under the guidance of American women occupiers participated in these political dynamics and reasserted their racial and national respectability, which in turn contributed to marginalization of those historically dispossessed in Japan’s colonial modernity, i.e., poor, working-class women as well as colonized and minoritized women.

### **Cold War Cultural Studies**

Finally, in examining the U.S. occupation of Japan as a case of imperialism, it is important to attend to its specific context, i.e., the Cold War. As well documented by scholars on Cold War culture such as Elaine Tyler May, Alan Nadel, Laura McEnaney, Guy Oaks, Christina Klein, and Ruth Oldenziel and Karin Zachmann, among others, Cold War culture spawned several distinct political discourses and practices which were deeply informed by gender.<sup>24</sup>

Elaine Tyler May’s study traces how the Cold War produced “containment culture” which was “more than the internal reverberations of foreign policy, and went beyond the explicit manifestations of anticommunist hysteria such as McCarthyism and the ‘Red Scare’” to involve women and domesticity as the central sites of its articulations.<sup>25</sup> To understand the significance of gender in containment culture, it is by now almost customary to cite the 1959 “kitchen debate”

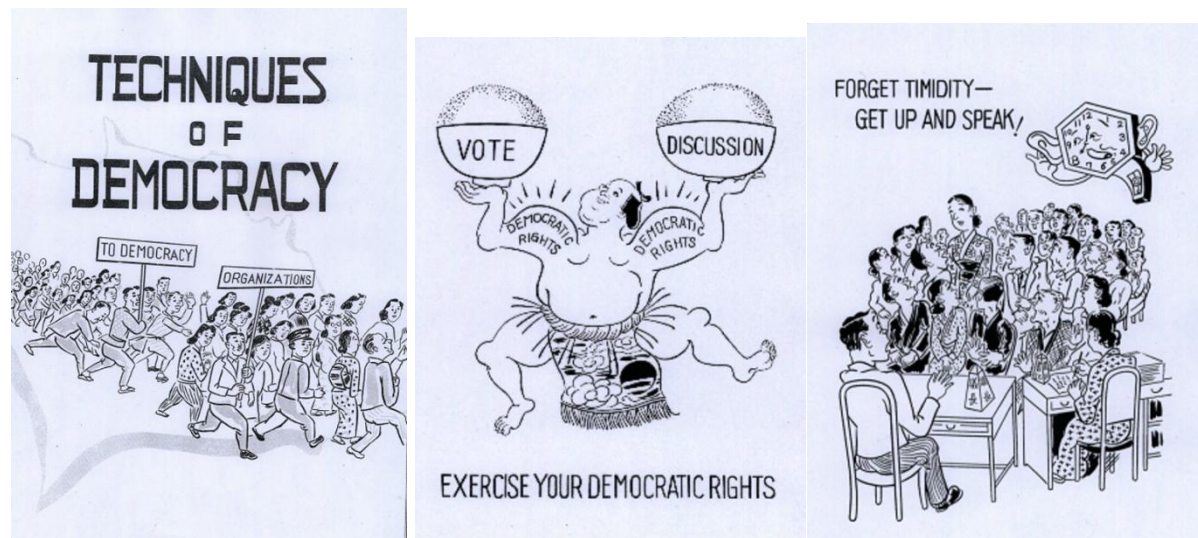
between Richard Nixon, then the vice president of the United States, and Nikita Khrushchev, the premier of the Soviet Union. At the site of the American National Exhibition in Moscow, Nixon emphatically argued that the American suburban home, equipped with modern household appliances, such as a “built-in panel-controlled washing machine,” allowed women to perform household labor more efficiently and thus to enjoy “freedom” and a good life. American women owed this to capitalism, free market enterprise, and the abundance of consumer good. All of this, Nixon insisted, demonstrated the clear superiority of American capitalism to communism. Khrushchev flatly disagreed. He pointed to Soviet women workers as evidence of the superiority of communism. Under the communist system, he argued, women were free of “capitalist” assumptions about gender roles and participated in productive activities. The debate gave new meaning and status to domesticity, endowing it with political significance specific to the Cold War era.<sup>26</sup> The importance of American domesticity – of American kitchens, fashions, supermarkets, hairstyles, and cosmetics – in Cold War politics was not limited to this instance.<sup>27</sup> As Robert Haddow documents, “exhibiting American culture abroad” constituted a salient U.S. Cold War strategy, and things associated with American domesticity, such as kitchen gadgets, played critical roles in selling the desirability of American democracy and containing the proliferation of communism in the “free world.”<sup>28</sup> As Igarashi Yoshikuni documents, occupied Japan was one of the sites where such gendered containment strategy flourished: the occupiers’ gender reform utilized radio programs, films, exhibits at department stores, and so on to introduce American domesticity as the marker of superiority and desirability of the American way of life and to mobilize Japanese women as allies in the Cold War.<sup>29</sup>

That domesticity came to possess new political significance in the Cold War is observed in other instances as well. As evidenced in the civil defense programs in the U.S., preparing for and defending the nation against Soviet nuclear attacks became a gendered project. The Federal Civil Defense Administration initiated the nation-wide campaign of “Grandma’s Pantry” which defined the home bomb shelter and its orderly maintenance by women as a chief means to securing families’ and nation’s survival in the event of nuclear holocaust. “Nuclear readiness” was equated with readiness at home, with women at the center of this domestic containment project. By “infus(ing) the traditional role of women with new meaning and importance,” Cold War culture helped “fortify the home as a place of security amid the cold war,” generating the postwar cult of domesticity where the white middle-class heterosexual marriage and family became a source of personal and national security, a symbol of (American) democracy and freedom, and a bulwark against the danger of communist infiltration.<sup>30</sup>

The civil defense programs also urged Americans to master skills and procedures through repeated practices in preparation for nuclear war. As exemplified in the drill exercise of “duck and cover,” the civil defense programs “identify the procedures essential to survival and teach the American people how to perform them,” with the understanding that “a set of rules, if correctly followed, would produce the desired results.”<sup>31</sup> The acquisition of techniques and procedures had moral and ethical implications: civil defense was a means to build a national ethic, solidify morale, and ensure the survival of the American way of life.<sup>32</sup>

Postwar Japan became a highly charged theater for emerging Cold War culture, where containment discourses and practices, including mastery of skills and techniques through repeated exercises, became disseminated as the central component of gender reform. Not only

was the American middle-class heterosexual family presented as the model of “gender equality” which Japanese women were to emulate. In reeducating and democratizing Japanese women, American women occupiers utilized numerous skits and role playing, and at training sessions, Japanese women were required, quite literally, to play a part, practicing their roles until their performance became flawless, proof that Japanese women were “rehabilitated” and “reoriented.” Through repetition, American women occupiers, and many Japanese women, came to believe in the veracity of American democratization of Japan and the desirability of the American way of life. In order to “democratize” Japanese women, Carmen Johnson devised skits and drill exercises based on the materials found in “Techniques of Democracy: A Guide to Procedure for Japanese Organization,” the pamphlet that specified the basic procedures for running an organization such as voting and making motions. In other instance, Japanese women were required to engage in role playing that depicted American-style heterosexual marital relations as a way of learning the meanings of “democracy” and “gender equality.” Thus, occupied Japan became a highly charged theater for emerging Cold War culture. It was not simply that Cold War culture was being exported to and imposed on Japan. It would be more appropriate to argue that despite its geographical distance from the U.S. continent, Japan became a salient site for the articulation of Cold War culture, with a remarkable degree of willingness on the part of many Japanese women to participate in its performance. The occupiers’ gender reform constituted one exemplary locus of gendered containment culture.



Despite its ubiquitous nature, Cold War containment culture was also fraught with ambivalence and anxieties. Extolling the virtue of traditional wives and mothers as the source of national security, containment culture stigmatized (and feared) those who fell outside of traditional heterosexual domesticity – not only “failed” wives and mothers but also leftist women, prostitutes, and homosexuals, among others – as the source of threats and even subversion. Women’s sexuality was at the heart of the problem, as seen in the proliferation of sexual symbolism in the Cold War U.S. The notion of a sexy woman as a “bomb shell,” “knockout,” or “dynamite” emerged, and a new design of women’s swimwear, the “bikini,” appeared four days after the dropping of the hydrogen bomb on the Bikini Islands. In one of the civil defense brochures, the image of women striking a seductive pose in bathing suits personified atomic radiation, articulating “the symbolic connections between the fears of atomic power, sex, and

women out of control.”<sup>33</sup> A Harvard physician predicted that an atomic explosion would result in the breakdown of familial-sexual order, leading to rampant promiscuity and a “1,000 percent increase in venereal disease.”<sup>34</sup> Moral-sexual anxieties were inseparable from anxieties about communism, and thus “[f]rom the Senate to the FBI, from the anticommunists in Hollywood to Mickey Spillane, moral weakness was associated with sexual degeneracy, which allegedly led to communism.”<sup>35</sup>

In occupied Japan, Cold War sexual politics produced a number of ambivalent and often ironic dynamics. By relegating the task of gender reform to women, the occupation authorities inadvertently created a “women-only” sphere consisting of American women reformers and Japanese middle- and upper-class women leaders. While these women were ardent promoters of containment politics, they also developed close working relationships, and on some occasions even extremely strong and passionate bonds, with each other, which led MacArthur and other male occupiers to caution against the formation of a “women’s bloc.” While this is often interpreted as a sign of American male occupiers’ reluctance in promoting genuine gender equality, reexamined within the context of Cold War containment culture, their reluctance could be read differently, possibly as an expression of ambivalence toward female-to-female homosocial bonding.<sup>36</sup> Sexuality became a source of disturbance in another way as well. Fraternization between American soldiers and Japanese women, and the resulting widespread venereal disease infection, caused a whole new set of sexual controversies. Far from being compliant subjects of the occupation, Japanese women proved to be a source of “contamination,” indeed “menace.” Unruly and uncontainable, Japanese women’s sexuality was endangering the very success of the occupation. Equally or more problematic, venereal disease was considered a sign of American soldiers’ moral, spiritual, and physical degeneration, whose lack of self discipline was jeopardizing the U.S. mission of defending democracy in postwar Japan.<sup>37</sup>

The dynamics described above challenge and complicate earlier analyses of the occupation. Recent work by scholars such as Naoko Shibusawa, Caroline Chung Simpson, Michael Molasky, and Yuki Tanaka, among others, apply gender as a category of analysis for examining postwar U.S.-Japanese encounters, i.e., the U.S. as a dominant, masculine figure with a mission to rescue and subordinate a feminized Japan. As they argue, fraternization between American soldiers and Japanese women constitutes a concrete manifestation of hierarchical, gendered, and sexualized dynamics between the victor/occupier and the defeated/occupied.<sup>38</sup> However, insights drawn from Cold War cultural studies point to a need for far more complex analysis of gender and sexuality in U.S.-Japan relations. The crisis of American masculinity represented by venereal disease and unruly and uncontainable sexuality of Japanese women indicate the precariousness of the notion of America as masculine and powerful and Japan as feminine and docile. The emergence of female-to-female bonds in the course of gender reform further challenges and complicates the argument that the occupation be read exclusively as a heterosexual narrative of white men dominating subjugated and docile women of color. Stepping into a postwar imperial project primarily defined in heterosexual and masculinist terms, American and Japanese women shifted, rather than simply replicated, these terms. A reform network consisting of American and Japanese women introduced a narrative of female-to-female homosociality into a Cold War project predicated on the erasure of any sign of sexual transgression. The current, almost exclusive emphasis on masculinization of America and feminization of Japan in gender analysis of U.S.-Japan relations falsely constructs Japan and its women as subjugated and without agency,

and thus inadvertently reproduces the dominant orders of gender, sexuality, and nation without due attention to numerous examples of resistance, subversion, and contradictions that occurred during the occupation.<sup>39</sup>

## Conclusion

Reinterpreting the meanings and consequences of the occupation from a critical feminist perspective generates a multidisciplinary dialogue among occupation studies, Cold War cultural studies, and postcolonial feminist studies where assumptions of each discipline are challenged and even altered. Occupation studies have long neglected the centrality of gender (as distinguished from “women”), and as a result, failed to understand the occupation as a deeply gendered project where American and Japanese women played centrally important roles in postwar U.S.–Japan negotiations. Insights from Cold War cultural studies and postcolonial feminist studies would lead occupation scholars to reexamine Japanese women as active and complicit participants in containment politics and to reinterpret the occupation's gender reform as a complex instance of Cold War mobilization of women where Japanese and American racism, nationalism, and imperialism converged to enable a deeply problematic form of feminism.

Cold War cultural studies has conventionally focused on domestic dynamics but not fully investigated the ways in which containment culture was also articulated abroad, with significant involvement of non-American and nonwhite others. The occupation's gender reform suggests that the international feminist movement constituted a significant site of Cold War cultural formation where American and Japanese women played active roles in simultaneously bolstering and subverting the emerging orders of gender, race, sexuality, and nation. To gain a fuller understanding of the Cold War, it is necessary for scholars to cast their gaze beyond the national domestic context and examine transnational space, especially international feminist discourses and practices, as yet another site of historical and analytical significance, with critical attention to a multitude of tensions, dissonance, and incoherence in containment culture.

Postcolonial feminist studies has been generating increasingly critical and sophisticated understandings of Western feminism. Understanding Western feminism as deeply implicated in racism, nationalism, and imperialism leads to examination of “the conditions of possibility” that contributed to feminist formations. In the case of the U.S. occupation of Japan, American and Japanese women's articulations of postwar feminism were enabled by and in turn enabled Cold War racism, nationalism, and imperialism, facilitating American (re)assertion for racial and national superiority and contributing to its pursuit of postwar global hegemony. Clearly the occupation's gender reform was at one level an instance of Western imperial feminism where the politics of “women's emancipation” reinscribed and reinforced the conventional hierarchy between a West and non-Western other. At the same time, the complex nature of the U.S.–Japan encounter requires a far more nuanced and multifaceted analysis. Far from powerless victims under U.S. domination, Japanese women engaged in a series of resistance, complicity, and subversion, not only challenging hegemonic orders imposed by the occupiers, but also appropriating them to reassert Japan's racial and national superiority and to articulate their own version of postwar imperial feminism that was no less problematic than that of the Americans. The stories of American gender reform in Japan challenge the binary, oppositional notions of

West and non-West, dominant and oppressed, or colonizers and colonized, and urge feminist scholars to critically reexamine the meanings and consequences of non-Western women's agency within the politics of race, nation, and empire.

Finally, critical examination of the U.S. occupation of Japan and its gender reform sheds light on American and Japanese postwar national memories and reveals a number of erasures, or incidents of historical amnesia, that have been enabled by the myth of American emancipation of Japanese women. The narrative of the occupation as successful emancipation and democratization of oppressed and subjugated people, especially women, has enabled America's self-understanding as the legitimate global leader in the post-World War II world, and has obscured the historical reality that the occupation was part of American pursuit of Cold War hegemony that entailed domestic and international violence and oppressions. The occupation narrative has played an equally or even more problematic role in Japan's postwar self-understanding. Not only has the myth of Japan's rebirth as a democratic and peaceful nation under MacArthur concealed the nation's colonial past filled with violence and atrocities; the narrative crucially depends on and sustains the understanding of Japanese women as helpless victims: Until the arrival of American women in 1945, Japanese women had been incapable of any action. This notion of Japanese women as victims without agency has erased from the nation's historical consciousness the problematic roles women played in prewar Japanese racism and imperialism in Asia. The two nations' continuing investment in the narratives of women's emancipation during the occupation thus needs to be interrogated and replaced by more critical understandings of women, nation, and empire in twentieth-century U.S.-Japan relations.

*Mire Koikari is the author of [Pedagogy of Democracy: Feminism and the Cold War in the US occupation of Japan, 1945 - 1972](#) (Temple University Press, 2009). She is an associate professor in the Women's Studies Program at the University of Hawaii at Manoa.*

## Notes

<sup>1</sup> Douglas MacArthur, "A Fourth of July Message," *Life*, vol. 23, no. 1 (1947), 34. There are a number of excellent studies that examine U.S. colonization of the Philippines from critical gendered perspectives. See, for example, Vicente Rafael, *White Love and Other Events in Filipino History* (Durham: Duke University Press, 2000) and Kristin Hoganson, *Fighting for American Manhood: How Gender Politics Provoked the Spanish-American and Philippines-American Wars* (New Haven: Yale University Press, 1998). U.S. colonization of the Philippines was invoked as a showcase of America's benign and beneficent rule in subsequent U.S. interventions abroad. See, for example, Mark Bradley, "Slouching toward Bethlehem: Culture, Diplomacy, and the Origins of the Cold War in Vietnam," in Christian Appy, ed., *Cold War Constructions: The Political Culture of United States Imperialism, 1945 - 1966*, (Amherst: University of Massachusetts Press, 2000).

<sup>2</sup> Douglas MacArthur, *Reminiscences* (New York: McGraw-Hill, 1964), 305.

<sup>3</sup> Obituary, "Earnest Hoberecht, Popular Novelist in Occupied Japan, is Dead at 81," *New York Times*, September 26, 1999.

<sup>4</sup> Raymond Higgins, *From Hiroshima with Love: The Allied Military Governor's Remarkable Story of the Rebuilding of Japan's Business and Industry After WWII* (Phoenix, Arizona: VIA Press, 1995).

<sup>5</sup> For one of the earliest discussions of "imperial feminism," see Valerie Amos and Pratibha Parmar, "Challenging Imperial Feminism," *Feminist Review* no. 17, July 1984. For a review of subsequent scholarship on imperial feminism in the U.S. and Europe, see my discussion of feminist colonial and postcolonial studies below.

<sup>6</sup> For discussions on Japanese women's complicity in prewar and wartime nationalism and imperialism, see, for example, Suzuki YÅ«ko, *Feminizumu to sensÅ• : fujin undÅ• ka no sensÅ• kyÅ• ryoku* (Tokyo: Marujusha, 1988).

<sup>7</sup> For earlier reviews of occupation scholarship, see John Dower, "Occupied Japan as History and Occupation History as Politics," *Journal of Asian Studies* 34, no. 2 (1975), and Carol Gluck, "Entangling Illusions – Japanese and American Views of the Occupation," in Warren Cohen, ed., *New Frontiers in America –East Asia Relations*, (New York: Columbia University Press, 1983).

<sup>8</sup> John Dower, *Embracing Defeat: Japan in the Wake of World War II* (New York: W.W. Norton and Company/The New Press, 1999); Yukiko Koshiro, *Transpacific Racisms and the U.S. Occupation of Japan* (New York: Columbia University Press, 1999).

<sup>9</sup> Dower, *War without Mercy: Race and Power in the Pacific War* (New York: Pantheon Books, 1986), 10. For another important study that provides a history of American constructions of "Orient" and "Orientals" (Asian Americans as well as Asians) within the context of Western colonial racism and culture, see Robert Lee, *Orientals: Asian Americans in Popular Culture* (Philadelphia: Temple University Press, 1999).

<sup>10</sup> Dower, *Embracing Defeat*, 211.

<sup>11</sup> Koshiro, *Transpacific Racisms*, 16. In this study, Koshiro sheds important light on the genealogy of racism in the United States. As she documents, despite a shift in American academic discourse of race that moved away from the notion of physical and biological superiority versus inferiority based on skin color to one of cultural and sociological differences and diversities in the 1940s, the physical and biological notion of race persisted. While the American authorities increasingly adopted cultural and sociological discourse of race to facilitate alliance making with Japan, the notion of physical and biological racial differences continued at the grassroots level, informing everyday U.S.-Japan encounters in covert and overt ways.

<sup>12</sup> Susan Pharr, "The Politics of Women's Rights" in Robert Ward and Yoshikazu Sakamoto, eds., *Democratizing Japan: The Allied Occupation* (Honolulu: University of Hawaii Press, 1987), 222 – 223, 248.

<sup>13</sup> Uemura Chikako, *Josei kaihÅ• o meguru senryÅ• seisaku* (Tokyo: KeisÅ• ShobÅ• , 2007). Though published in 2007, the book is based on a series of articles Uemura published in the late 1980s and early 1990s. For studies that characterize the occupation as positive for Japanese

women with personal accounts of Japanese women who were involved in gender reform, see Nishi Kiyoko, ed., *Senryōka no Nihon fujin seisaku: Sono rekishi to shōgen* (Tokyo: Domesu Shuppan, 1985), and Sakai Harumi, "GHQ de hataraita joseitachi," *Joseigaku Kenkyū* no.3 (1994). For a study that focuses on constitutional revision as the foundation of Japanese women's liberation, see Kyōko Inoue, *MacArthur's Japanese Constitution: A Linguistic and Cultural Studies of Its Making* (Chicago: University of Chicago Press, 1991). Recent scholarship on the occupation has begun to offer far more nuanced and critical accounts of American gender reform and its consequences for Japanese women. For a study that examines occupation-time labor policies targeting women, see Toyoda Maho, *Senryōka no josei rōdō kaikaku* (Tokyo: Keisō Shobō, 2007). For a study that examines occupation-era education policies targeting women, see Tsuchiya Yuka, *Shinbei Nihon no kāchiku: Amerika no tainichi jōhō, kyōiku seisaku to Nihon senryōka* (Tokyo: Akashi Shoten, 2009).

<sup>14</sup> Jane Haggis, "Gendering Colonialism and Colonising Gender? Recent Women's Studies Approaches to White Women and the History of British Colonialism," *Women's Studies International Forum* 13:1/2 (1990).

<sup>15</sup> Beate Sirota Gordon, *The Only Woman in the Room, A Memoir* (Tokyo: Kodansha International, 1997).

<sup>16</sup> Joan Scott, *Gender and the Politics of History* (New York: Columbia University Press, 1988), 44 – 46.

<sup>17</sup> Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Contest* (New York: Routledge, 1995), 4 – 5.

<sup>18</sup> Dorinne Kondo, *About Face: Performing Race in Fashion and Theater* (New York: Routledge, 1997), 149.

<sup>19</sup> As Chandra Mohanty succinctly points out in her discussions on women, imperial politics, and production of knowledge, such imperial feminist discourses continue to inform Western feminist scholars' analysis and result in binary understandings of emancipated and autonomous Western women and oppressed and victimized non-Western women. Chandra Mohanty, "Under Western Eyes: Feminist Scholarship and Colonial Discourses," in Chandra Mohanty, Ann Russo, and Lourdes Torres, eds., *Third World Women and the Politics of Feminism* (Bloomington: Indiana University Press, 1991).

<sup>20</sup> Jane Hunter, *The Gospel of Gentility: American Women Missionaries in Turn of the Century China* (New Haven: Yale University Press, 1984); Ian Tyrrell, *Woman's World, Woman's Empire: The Woman's Christian Temperance Union in International Perspective, 1880 – 1930* (Chapel Hill: The University of North Carolina Press, 1991); Leila Rupp, *Worlds of Women: The Making of an International Women's Movement* (Princeton: Princeton University Press, 1997); Tracey Jean Boisseau, *White Queen: May French-Sheldon and the Imperial Origins of American Feminist Identity* (Bloomington: Indiana University Press, 2004).

<sup>21</sup> Inderpal Grewal and Caren Kaplan, eds., *Scattered Hegemonies: Postmodernity and Transnational Feminist Practices* (Minneapolis: University of Minnesota Press, 1994), 2.

<sup>22</sup> Inderpal Grewal, *Home and Harem: Nation, Gender, Empire, and the Cultures of Travel* (Durham: Duke University Press, 1996), 11 – 12.

<sup>23</sup> Tani Barlow, "Introduction: On 'Colonial Modernity'" in Tani Barlow, ed., *Formations of Colonial Modernity in East Asia* (Durham: Duke University Press, 1997), 10.

<sup>24</sup> Elaine Tyler May, *Homeward Bound: American Families in the Cold War* (New York: Basic Books, 1999); Alan Nadel, *Containment Culture: American Narratives, Postmodernism, and the Atomic Age* (Durham: Duke University Press, 1995); Laura McEnaney, *Civil Defense Begins at Home: Militarization Meets Everyday Life in the Fifties* (Princeton: Princeton University Press, 2000); Guy Oaks, *The Imaginary War: Civil Defense and American Cold War Culture* (New York: Oxford University Press, 1994); Christina Klein, *Cold War Orientalism: Asia in the Middlebrow Imagination, 1945 – 1961* (Berkeley: University of California Press, 2003); Ruth Oldenziel and Karin Zachmann, eds., *Cold War Kitchen: Americanization, Technology, and European Users* (Cambridge, Massachusetts: The MIT Press, 2009).

<sup>25</sup> May, *Homeward Bound*, xxi.

<sup>26</sup> *ibid.*, 10 – 12.

<sup>27</sup> Nor was the significance of domesticity in imperial expansionism limited to the Cold War era. For discussions of domesticity as a site of racial conquest and national-imperial expansionism in the mid-nineteenth century, see Amy Kaplan, *The Anarchy of Empire in the Making of U.S. Culture* (Cambridge, Massachusetts: Harvard University Press, 2002), especially Chapter 1 "Manifest Domesticity." For the continuing significance of domesticity in American imperial expansionism in the late nineteenth and early twentieth century, see Rafael, *White Love*, especially Chapter 2 "Colonial Domesticity: Engendering Race at the Edge of Empire, 1899 – 1912."

<sup>28</sup> Robert Haddow, *Pavilions of Plenty: Exhibiting American Culture Abroad in the 1950s* (Washington, D.C.: Smithsonian Institution Press, 1997), especially see Chapter 6 "Men's Gadgets, Women's Fashions, and the American Way of Life."

<sup>29</sup> Yoshikuni Igarashi, *Bodies of Memory: Narratives of War in Postwar Japanese Culture, 1945 – 1970* (Princeton: Princeton University Press, 2000), 78.

<sup>30</sup> May, *Homeward Bound*, 90 – 93.

<sup>31</sup> Oaks, *The Imaginary War*, 80.

<sup>32</sup> Examining Cold War U.S. culture where containment narratives were repeatedly articulated at various sites, Alan Nadel argues that such "repetition of tropes... facilitates narratives that by virtue of their repetition seem 'natural,' like clichés, and like 'common sense,' refer to what

everyone ‘knows’ is true.” In the context of the Cold War where much remained unknown and unknowable and fears, anxieties, and ambivalence prevailed, “the rampant performance of narratives, in such a variety of sites and forms” helped “create the illusion that national narratives were knowable and unquestionable realities,” thus facilitating successful mobilization of the American public to the Cold War. See Nadel, *Containment Culture*, 8. For a documentary film that illuminates the significance of repetition as a sense-making practice in the Cold War U.S., see Kevin Rafferty, Jayne Loader, and Pierce Rafferty, “The Atomic Café” (New York: Docudrama, 2008).

<sup>33</sup> May, *Homeward Bound*, 96 – 98.

<sup>34</sup> *ibid.*, 81.

<sup>35</sup> *ibid.*, 86.

<sup>36</sup> For studies that examine sexual containment as a central theme of Cold War culture, see Geoffrey Smith, “National Security and Personal Isolation: Sex, Gender and Disease in the Cold War United States,” *The International History Review* 14, no.1 (1992); David Harley Serlin, “Christine Jorgensen and the Cold War Closet,” *Radical History Review* 62 (1995); Allan Berube, *Coming Out Under Fire: The History of Gay Men and Women in World War Two* (New York: Free Express, 1990); John D’Emilio, *Sexual Politics, Sexual Communities: The Making of Homosexual Minority in the United States, 1940 – 1970* (Chicago: University of Chicago Press). As Gayle Rubin argues, sexuality has its own institutional dynamics and hierarchy: the normative sexuality is heterosexual, marital, monogamous, and reproductive, and noncommercial, while other sexual activities and identities are defined as “bad,” “abnormal,” or even “unnatural.” These other forms of sexuality are further assigned hierarchical evaluations. Gayle Rubin, “Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality,” in Carole Vance, ed., *Pleasure Danger: Exploring Female Sexuality* (London: Pandora Press, 1989), 280 – 281. During the Cold War, not only homosexuality but also various other expressions of intimacy which fell outside the normative notion of sexuality came under intense social surveillance.

<sup>37</sup> Venereal disease has historically been a major issue for U.S. military operations both domestically and internationally. See, for example, Allan Brandt, *No Magic Bullet: A Social History of Venereal Disease in the United States since 1880* (New York: Oxford University Press, 1985).

<sup>38</sup> Naoko Shibusawa, *America’s Geisha Ally: Reimagining the Japanese Enemy* (Cambridge, Massachusetts: Harvard University Press, 2006); Caroline Chung Simpson, *An Absent Presence: Japanese Americans in Postwar American Culture, 1945 – 1960* (Durham: Duke University Press, 20010); Michael Molasky, *The American Occupation of Japan and Okinawa: Literature and Memory* (New York: Routledge, 1999); Yuki Tanaka, *Japan’s Comfort Women: Sexual Slavery and Prostitution during World War II and the U.S. Occupation* (New York: Routledge), 2002.

<sup>39</sup> Indeed, emerging “feminist” analyses tend to simplify the occupation-era sexual politics, reproducing an essentialist and universalistic notion of women (and men) which prevents nuanced and complicated understandings of women and power. For instance, Yuki Tanaka argues that postwar controversies over prostitution are examples of masculine-military violence that is part of the universal pattern of male domination, and thus constructs women as victims under patriarchal oppressions. Tanaka, *Japan's Comfort Women*, 6. Examining Japanese postwar nationalist literature, Michael Molasky also characterizes the sexual politics during the occupation as the male or masculine domain where a “distinctly male perspective” that utilizes “metaphors of linguistic and sexual subordination” of women as the narrative vehicle prevailed. As a result, he argues, women writers were “less deeply invested in the gendered rhetoric of Japanese nationalist identity” and avoided the trope of gendered nationalist narratives. Molasky, *The American Occupation of Japan and Okinawa*, 2, 132. Far from being outside the problematic operations of power, however, Japanese women, especially middle-class women leaders, were deeply invested in a gendered and sexualized understanding of nation, national body, and women played extremely active and problematic roles in sexual regulation and containment of “fallen women” during the occupation. For a recent excellent study that avoids the pitfall of essentialist or universalistic understandings of women and provides historically- and contextually-specific understandings of U.S. military and women's agency in diverse geographical sites including Japan, Okinawa, South Korea, and Germany, see Maria Höhn and Seungsook Moon, eds., *Over There: Living with the U.S. Military Empire from World War Two to the Present* (Durham: Duke University Press, 2010.)

**“Gendered Labor Justice and the Law of Peace: Nakajima Michiko and the 15-Woman Lawsuit Opposing Dispatch of Japanese Self-Defense Forces to Iraq”**

Tomomi YAMAGUCHI and Norma Field

October 20, 2007

<http://www.japanfocus.org/-T-Yamaguchi/2551>

In addition to defining specific rights for women, the post-WWII Constitution of Japan (enacted 1947) also articulated a commitment to preserving peace. Article 9 of the Constitution reads in part, “Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a mean of settling international disputes.”<sup>3</sup> The “Peace” Constitution includes a statement that Japan will “never” maintain military forces. With the start of the Korean War in 1950, U.S. occupiers re-interpreted the Japanese constitution to create the “National Police Reserve,” which became Japan’s Self Defense Forces (SDF) in 1954. SDF troops have since been deployed beyond national borders for “relief operations” beginning in 1992. Under international pressure following 9/11, Prime Minister Jun’ichiro Koizumi supported an anti-terrorism law in October 2001. This legislation allowed the SDF to provide “logistical support” for U.S. combat troops in the Indian Ocean. Based on the constitutional protection of peace, a group of 15 women led by feminist lawyer Nakajima Michiko (1935-2007) sued the Japanese state for deploying local troops to Iraq in 2004. Nakajima and the other plaintiffs argued that the continued presence of Ground SDF in Iraq violated the “right to live in peace.”

Authors Tomomi Yamaguchi and Norma Field provide a helpful introduction to the lifelong activism of Nakajima along with the context of the 2004 lawsuit. Nakajima devoted her life to feminist issues, gender equity in labor, and historical struggles for realizing peace. For example, she worked towards the enactment and revision of the 1985 Equal Employment Opportunity Law (EEO). The original law strongly suggested that companies eliminate gender discrimination in recruiting, employing, and paying employees, but contained no provisions for enforcement. Nakajima fought for new legislation such as the 1999 Basic Law for a Gender-Equal Society and further changes in 2007 that required significantly greater compliance.<sup>4</sup> In addition to gendered labor justice, Nakajima worked to advance peace activism in Japan. For example, she served as a strong supporter of the Women’s International Tribunal on Japan’s Military Sexual Slavery (2000), held in Tokyo to provide a platform for survivor testimonies and an international hearing on war crimes against women. She also encouraged the creation of the Women’s Active Museum on War and Peace, the first interactive museum in Japan to focus on women and gender in the context of armed conflicts.

Nakajima employed her experiences with various forms of feminist activism in her approach to the 2004 court case. Following the authors’ introduction, this article includes a complete translated record of the appeal, including the statements made by Nakajima and lawyer Owaki Masako, plus the individual statements of 15 female plaintiffs. The women

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<sup>3</sup> From the English translation provided on the Prime Minister and Cabinet of Japan website, [http://www.kantei.go.jp/foreign/constitution\\_and\\_government\\_of\\_japan/constitution\\_e.html](http://www.kantei.go.jp/foreign/constitution_and_government_of_japan/constitution_e.html)

<sup>4</sup> For more information on specific legislation and political initiatives for gender equality in Japan, see the Gender Equality Bureau of Japan, [http://www.gender.go.jp/english\\_contents/index.html](http://www.gender.go.jp/english_contents/index.html)

offered personal stories of their own experiences with Japan's complex history of war and peace. Their testimonies demonstrate that women's historical memories matter, as the personal is indeed political. In May 2006, the Tokyo District Court dismissed the case as "illegitimate" without examining any evidence or testimonies. Nakajima published her response to the judgment on the anniversary of the WWII Battle of Okinawa June 23, 2006. She states that despite the court's inability to "open their hearts," the collective actions of over 5,600 plaintiffs finally achieved the removal of the SDF Ground Forces from Samawa, Iraq. The work of Nakajima and other activists to preserve Article 9 remains crucial, as right-wing political leaders seek to remove any legal barriers to Japan's full remilitarization. This article represents a unique resource that provides extensive primary sources and secondary contextual information to show one important example of gender-related activism in Japan today.

## Gendered Labor Justice and the Law of Peace: Nakajima Michiko and the 15-Woman Lawsuit Opposing Dispatch of Japanese Self-Defense Forces to Iraq

Tomomi YAMAGUCHI and Norma Field

### Introduction

In 2004, then Prime Minister Jun'ichiro Koizumi, in response to a request from the United States, sent a contingent of 600 Self-Defense Force troops to Samawa, Iraq, for the purpose of humanitarian relief and reconstruction. Given that Article 9 of the Japanese Constitution eschews the use of military force in the resolution of conflict, this was an enormously controversial step, going further than previous SDF engagements as part of UN peacekeeping operations, which themselves had been criticized by opposition forces as an intensification of the incremental watering-down of the "no-war clause" from as early as the 1950s.

Many citizens, disappointed by the weakness of parliamentary opposition since a partial winner-take-all, first-past-the-post system was introduced in 1994, and frustrated by a perceived lack of independence on the part of the mainstream media, have taken the battle to the courtroom. As with Yasukuni Shrine suits, singly or in groups, with and without lawyers, they have been suing the state for violation of the Constitution in deploying SDF troops to Iraq.



Nakajima Michiko from the 2002 calendar, *To My Sisters*, a photo of her from her student days at the Japanese Legal Training and Research Institute. A larger view of the same page can be viewed [here](#).

Nakajima Michiko, a feminist labor lawyer, led one such group of plaintiffs, women ranging in age from 35 to 80. Each of the fifteen had her moment in court, stating her reasons, based on her

life experiences, for joining the suit. This gave particular substance to the claim that Article 9 guarantees the "right to live in peace"—the centerpiece of many of these lawsuits, a claim that seems to have been first made when Japan merely contributed 13 billion dollars for the Gulf War effort. What might the "right to live in peace" mean, for individuals and for the collectivity—not just in Japan, but the world? The women's invocation of their histories is key to claiming standing: like the U.S., and unlike many European countries or South Africa, Japan lacks a constitutional court, which means that abstract claims of constitutional violation cannot trigger judicial review; plaintiffs must show that they have sustained concrete injury to legally protected rights and interests.

Given the almost, though not total, reluctance of Japanese courts to exercise judicial review with respect to prime ministerial visits to Yasukuni Shrine, it is not surprising that judges have been unwilling to acknowledge a claim for a constitutionally guaranteed right to "live in peace." And yet, the elaboration of this right, the right to develop as a human being without "the fear of having to kill or be killed," is surely a logical outcome of Article 9 and the democracy set in motion with the adoption of the postwar Constitution.



**Story of the New Constitution cover**

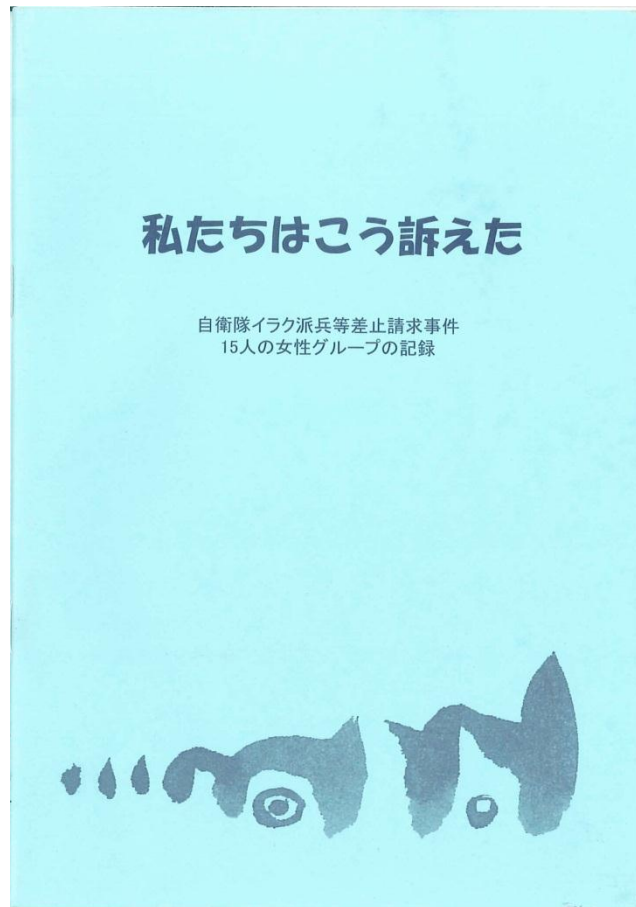
It is an outcome that is not captured by discussion of the origins of the Article (e.g., as trade-off for keeping the emperor, stated in Article 1), much less by the unimaginative arguments about

the need to become a "normal," i.e., armed nation. Nakajima's still palpable pleasure in the illustration of tanks and bombers going into a cauldron and trains and fire engines and buildings coming out the bottom in "The Story of Our New Constitution," the supplemental social studies textbook issued by the Ministry of Education in 1947, sixty years after she encountered it in junior high school, is but one indication of the enthusiasm for peace unleashed by war's end and given shape by the Constitution.



**From tanks and bombs to trains and buildings**

"Thus We Appealed: A Record of the Case of the 15-Woman Group Demanding an Injunction Against the Dispatch of Self-Defense Forces to Iraq" is a text combining the narratives and legal arguments presented by the fifteen women plaintiffs in a lawsuit filed in Tokyo District Court on August 6 (Hiroshima Day), 2004 together with the judgment, delivered in May 2004. The translation of this text, of which a revised version is presented below, was undertaken in preparation for Nakajima Michiko's visit to the University of Chicago in May 2007 as a guest for a course entitled "Postwar Social Movements in Japan" and the parallel lecture series, "Celebrating Protest in Japan." [1] Because of Nakajima's untimely death in a diving accident a scant three months later, Tomomi Yamaguchi and Norma Field, the authors of this introduction and co-organizers of the course and the series, would like to pay tribute to Nakajima by providing a brief sketch of her lifelong activism. It was the historical extent and nature of Nakajima's activities that made her the starting point of their course planning.



**Thus we appealed, cover**

Nakajima Michiko was a pioneer who became one of the most renowned feminist attorneys in Japan with a specialization in labor law. She undertook a number of cases involving discrimination against women in employment and won many of them, including the very first supreme court decision in Japan on gender discrimination in employment, which found discrepancy in mandatory retirement age for men and women to be illegal (Nissan Motors Co. Case, 1981). Throughout her career she was active in the Japan Bar Association's committee for equality for the sexes, and as a feminist practitioner, she took on many divorce cases.

Her history as a feminist and peace activist goes back to her high school days. Born in 1935, she experienced the war as a child who suffered from the loneliness of compulsory evacuation, hunger, and the terror of air strikes. Her first involvement in activism was with the Wadatsumikai (memorial society for students killed in the war) as a high school student in Toyama Prefecture. She then participated in Ampo (the movement against the US-Japan Security Treaty renewal of 1960), provided legal support for members of the Zenkyoto (All-Campus Joint Struggle Committee) radical student movement of the late 60s, and then became involved in the Women's Liberation Movement in the early 70s. While actively participating in demonstrations and actions, she conducted legal counseling sessions at Lib Shinjuku Center, a communal center formed by young women's liberation activists in Shinjuku, Tokyo.

In 1975 she formed a Tokyo-based feminist group, Kokusai Fujin-nen o Kikkaketoshite Kodo o Okosu Onna-tachi no Kai (International Women's Year Action Group) with other feminists, including Upper House representatives Ichikawa Fusae and Tanaka Sumiko, media critics Yoshitake Teruko, Higuchi Keiko and Tawara Moeko, and many other women ranging from workers, teachers, housewives, to students. Among many significant achievements of the group, the most notable one was its protest in 1975 of an instant ramen noodle TV commercial designating a female figure as the one who cooks versus a male as one who eats. The commercial ended up being cancelled, and the protest is still remembered as one of the most influential of feminist protests. Nakajima also made her office available for use as a space for various feminist activist groups.

Becoming keenly aware of the need for a Gender Equality Law in employment through her experiences as a feminist lawyer and activist, Nakajima started a new group in 1979, Watashitachi no Koyo Byodoho o Tsukuru Kai (Group to Create Our Own Equal Employment Law), with the Action Group members and others. The group argued that both women and men should work equally, and that both should lead more fully human lives. The movement resulted in the 1985 Equal Employment Opportunity Law, a law that turned out to be a major disappointment for feminists. Nakajima, together with other activists, immediately started a new movement to change the law. Their activism resulted in the revision of the law in 1999 and in 2007. Although the revisions showed significant improvement from the earlier version insofar as employers were held responsible for preventing sexual harassment in the workplace and for prohibiting indirect discrimination, deficiencies remained and new distortions appeared, reflecting Japan's increased adoption of neo-liberal principles. This in turn prompted Nakajima to focus on issues related to part-time and temporary workers. She was dismayed about the labor situation in Japan becoming more unstable and exploitative for both women and men.

Her peace activism paralleled her labor activism. In 1980, with the landslide victory of the Liberal Democratic Party in the general election and the increased dominance of conservative political forces, Japan seemed to have embarked on an accelerated course to become a "normal" nation capable of participating in war. Given this situation, Nakajima, along with feminist colleagues such as Yoshitake Teruko and Tanaka Sumiko, established a new feminist peace group, Senso e no Michi o Yurusanai Onna-tachi no Kai (Japanese Women's Caucus Against War) in 1980. She was a strong supporter of the efforts leading to the Women's International Tribunal on Japan's Military Sexual Slavery (2000) as well as in establishing the Women's Active Museum in accordance with the will of Matsui Yayori, who spearheaded transnational efforts to hold the Tribunal and bequeathed her estate to such an endeavor before her untimely death in 2002. Nakajima was deeply worried about the fate of Article 9 and active in various efforts to safeguard it. She made sure to cast her absentee ballot for the Upper House elections in advance of her fateful trip to Hawai'i in late July. Let us hope that she heard the news about the stunning defeat dealt Abe and the LDP before her tragic death although of course, she would have been the last person to slacken her efforts after an election.



Selling copies of the collectively produced book about the Women's Action Group (*The Path Opened by Women in Action*) with fellow member Kobayashi Michiko. Nakajima center.

Fukushima Mizuho, head of the Japan Social Democratic Party and former member of the Women's Action Group, read a highly emotional and moving eulogy at Nakajima's memorial service, which she later posted on [her blog](#). There, Fukushima declared, "Nakajima Sensei did a wonderful job of teaching generations of women coming after her. Without her, I would not have become a lawyer dedicated to abolishing gender discrimination." It was meeting Nakajima as a college student that attracted Fukushima to the law. Fukushima's invocation of Nakajima's cases involving Nissan Motors, Japan-Soviet Books (Nisso Tosho), Sanyo Realty (Sanyo Bussan), Showa Shell, Japan Iron and Steel Federation (Nihon Tekko Renmei), Imperial Pharmaceuticals (Teikoku Zoki Seiyaku), or Okinawa bus guides from a list "too long to enumerate" reads like the poetry of gender and labor justice, addressing not only pay inequality and retirement discrimination but mandatory transfer policy, which Nakajima would come to see as injurious to men as well.

Like the young women in Fukushima's account, Tomomi Yamaguchi was encouraged and educated as a feminist by Nakajima. She met her while a graduate student doing field research focusing on the Women's Action Group. Listening to her endlessly fascinating stories, she learned a history of activism that she had not previously encountered. Nakajima tirelessly supported and inspired her, encouraging her to pursue her interests in feminism and to become a scholar with a deep commitment to activism. Yamaguchi knows that Nakajima's influence will continue to guide her and others who follow in her footsteps.

Despite her knowledge, experience, and distinction as a professional and an activist, Nakajima was a strong believer in the ideology of "hiraba," the level field. She was someone who always listened to and talked seriously with people regardless of their age, knowledge, or experience. This was repeatedly demonstrated in the openness and earnestness with which she engaged in discussion with undergraduates at the University of Chicago during her visit in May of 2007. This characteristic carried through to her professional practice, which Field had the opportunity to witness directly. The personal and the political were clearly connected in her mind and her

actions. No detail was unworthy of her attention; she seemed to have an intuitive understanding of how shifts in the elements of daily life, both material and psychological, could make existence tolerable or intolerable. Still, devoted as she was to her profession (understanding, for example, the importance of divorce for many women clients), she also wished that she could be freed of the burdens of maintaining a practice so as to more freely devote her expertise and energies to the causes that held her attention. She identified herself as an anarcho-syndicalist: both parts are important, she emphasized to Field two years before her death.

Nakajima was well aware of the continuities in her life. When news broke of the three young Japanese taken hostage in Iraq in 2004 and threatened with being burned alive unless the Japanese Government withdrew the Self-Defense Forces from Samawa, she immediately rushed to sit in at the Prime Minister's residence. She told Field that seeing the picture of the youngest, Imai Noriaki (then 18), she had said to herself, "That's me, fifty years ago!"[2]

It is unsurprising, then, that she should have taken steps—with other women—to file a lawsuit demanding an end to the dispatch of Self-Defense Force troops to Iraq. The suit ended in defeat at the district court level in May of 2006. She was not surprised, though angered by the judges' refusal to show the semblance of engagement. The record produced here bears witness to her continued resolve.

Nakajima's commitment to peace and justice gave coherence to all her activities. Indeed, peace and labor justice were mutually indispensable to her vision of a desirable society. What she sought was not for women to become men and to dedicate themselves, mind, body, and soul to work, but for women and men to have richly human lives—each working fewer hours, thus ensuring work for all and a fulfilling existence for each. What kind of society would it take for labor to be organized in such a way? One thing is certain: it would have to be a society that had renounced war as a source of security, economic growth, and collective identity.

[1] For a podcast of her public lecture at the University of Chicago on May 4, 2007, with comments by anthropologist John Comaroff, please go to [this website](#). For a transcript of Nakajima's classroom interactions at the University of Chicago, please see [here](#). Nakajima's publications include *Onna ga hataraku koto o mo ichido kangaeru* [Reexamining "women at work"], 1993; *Kodo suru onna ga hiraita michi: Mekishiko kara Nyu Yoku e* [The Path opened up by women in action: From Mexico to New York], jt. Authorship, 1999; and *Onna ga hataraku koto, ikiru koto* [For women to work, for women to live] 2002.

[2] A podcast of Imai's public lecture may be found [here](#).

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## **Thus We Appealed: A Record of the 15-Woman Group Demanding an Injunction against the Dispatch of Self-Defense Forces to Iraq**

### **Preface**

Even now, more than three years after the start of the invasion of Iraq, chaos reigns within the country, the number killed and injured continues to rise, and because of the unrest, civilians are

forced to live a difficult life. Anguished as we were by America's unjustifiable exercise of force, once the Koizumi cabinet reached the decision to dispatch Self-Defense Force troops to Iraq, we decided to pursue the question of the unconstitutionality of the action in court.

In Tokyo, individual citizens were already filing suits in court, at the rate of one a day, and class action suits were being filed throughout Japan. At a point where, despite our sense of urgency, we could not resolve to act individually, we obtained the cooperation of a lawyer, Nakajima Michiko. As a group of fifteen women, we were able to participate in the lawsuits arguing the "unconstitutionality of the dispatch of troops to Iraq." We filed our suit two years ago on August 6, Hiroshima Day.

Faced with a judiciary that has consistently evaded constitutional findings, we regretfully decided that the only form our suit could take was that of a civil action seeking an injunction against the dispatch of troops and compensation for personal damages. Convinced that the Constitution recognizes citizens' right to live in peace, we each submitted, on two occasions, written statements detailing personal, physical, and mental injuries and demonstrating the importance of peace to our wellbeing. In spite of this, the Court reached its decision without examining the evidence, calling witnesses, or examining the Plaintiffs themselves.

The decision handed down in May of this year [2006] stated that "No statute exists stipulating the right to live in peace, either as a specific right or as a legally protected interest" and rejected our demands and dismissed our case. For more particulars, please refer to "Comments on the Decision" below.

The statements printed in this booklet represent the core of each person's written statement as revised for the concluding hearing in March, in which the Plaintiffs stood up, one after another in relay fashion, and read their pieces over the course of thirty minutes.

We asked the Court for a decision that might advance, by even one step, the cause of securing the right to live in peace, but sadly, this was not realized. We feel anew the limits of the Japanese judiciary with its low degree of independence from the government. We take pride, however, in having asserted our dissent.

June 2006

### **The Docket, Submitted Briefs, and Plaintiffs' Statements**

1. October 21, 2004 Petition Statement Statements of 3 Plaintiffs

2. December 3, 2004 Preliminary Brief (1)-1 What is occurring in Iraq and what the Self-Defense Forces are doing there: The actual conditions of the Iraq War and its illegality under international law

Preliminary Brief (2) Injuries sustained by Plaintiffs: Right to live in peace and personal rights Statements of 3 Plaintiffs

3. February 18, 2005 Preliminary Brief (1)-2 What is occurring in Iraq, what the Self-Defense Forces are doing there: The actual conditions of the Iraq War and its illegality under international law

Preliminary Brief (3) The unconstitutionality and illegality of the dispatch of the Self-Defense Forces: The recklessness of the cabinet in destroying constitutionalism

Statements of 3 Plaintiffs

4. May 13, 2005 Preliminary Brief (2)-2 Injuries sustained by Plaintiffs

Preliminary Brief (4) What Japan ought to do for Iraq: What constitutes true humanitarian aid activities?

Statements of 2 Plaintiffs

5. July 14, 2005 Preliminary Brief (5) Seeking Explanation

Submission of Proposed Evidence 1

Statements of 2 Plaintiffs

6. September 8, 2005 Preliminary Brief (6) Statement of 1 Plaintiff

7. November 17, 2005 Submission of Proposed Evidence 2

January 24, 2006 Court ruling (petition for the examination of witnesses and Plaintiffs dismissed)

8. February 2, 2006 Statement concerning court procedures

9. March 16, 2006 Final Preliminary Brief Statements of 2 attorneys

Statements of 15 Plaintiffs

10. May 11, 2006 The decision

**Heisei 18 (2006) March 16**

**Heisei 16 (2004) Number 16912: Case Demanding an Injunction against the Dispatch of Self-Defense Forces to Iraq**

**Plaintiff: Ishizaki Atsuko and 14 others**

**Defendant: The State** [the government of Japan]

## Tokyo District Court of Law, Civil Affairs Deliberation 15 System B

### *The statement of attorney Nakajima Michiko*

Your Honors, can you not hear them: the voices of pain and sadness coming from the Iraqi people, and the footsteps of war that are approaching Japan? The plaintiffs and the attorney before you can hear them clearly. We have brought this lawsuit with the urgent desire of stopping this development. It is truly a shame that the court has not admitted the testimony of witnesses and Plaintiffs, but the Plaintiffs have submitted extensive documentary evidence. We ask that the court read all the documentary evidence and take the time to confront, in silence, this photograph of a bloodstained girl. And please do not hand down a decision along the lines of the Kofu District Court decision, as argued by the State. That self-abnegating decision might as well be deemed a suicidal action the part of the Court.



The cover of *DAYS Japan*, inaugural issue (April 4, 2004).

The matters on which we request the Court's decision may be broadly separated into the following two categories:

First, we assert that the deployment of Self-Defense Forces to Iraq is unconstitutional and illegal.

The majority of decisions in peace lawsuits avoid ruling on the constitutionality of the contested issue. We accordingly ask that the Court not casually sidestep the issue of constitutionality. Under the separation of powers, the judiciary is given the authority to review the constitutionality of the actions of the Diet and the government. A representative democracy is often unable to check laws and government actions that are at odds with the people's will. This is exactly why the judiciary's authority of judicial review is indispensable. In the cases brought against Prime Minister Koizumi's visits to Yasukuni Shrine, constitutional violation has been found numerous times, even though this view appears not in the text of the judgment itself but in the reasoning. [1]Chief Justice Kamekawa, for example, in the Fukuoka District Court case stated, "If the courts continue to avoid ruling on constitutionality, it is highly likely that the

actions in question will be repeated. This Court has accordingly decided to take as its responsibility a consideration of the constitutionality of the shrine visits." [2]

This applies precisely to the question of the constitutionality of the deployment of the Self-Defense Forces. Ever since the Supreme Court avoided a constitutional judgment in the Sunagawa Incident on the grounds of sovereign immunity, the Self-Defense Forces have expanded hugely, and now, they have been armed and sent overseas.[3] This is nothing other than the result of the judiciary's avoiding its responsibility. Nevertheless, while relying on the doctrine of sovereign immunity, the Sunagawa decision also stated that if there is "blatant and egregious violation of the Constitution," then the courts needed to pronounce on constitutionality. In the current case, in which heavily armed Self-Defense Forces have been sent to an overseas war zone, there is "blatant and egregious violation of the Constitution." The State calls the deployment humanitarian support for reconstruction, but it is evident that in fact it is support for America's invasion and occupation of Iraq. This is not only a constitutional violation, but it is also an illegal act violating the Self-Defense Forces Law and the Special Measures Law [Regarding Humanitarian Reconstruction Assistance Activities and Activities to Support Ensuring Safety]. Unless the deployment of the Self-Defense Forces is declared unconstitutional and illegal by a judgment from the judiciary at this time, there will be no brakes on Japan's recklessness.

Fully three years have passed since the invasion of Iraq by the American and British armies. Security in Iraq has only deteriorated, and people's lives are exposed to danger.

This demonstrates that peace cannot be created by force, that violence begets violence, and that the chain of violence only spreads. Therefore, in order to eradicate war, there is nothing to be done but to follow Article 9 of the Constitution of Japan "renouncing all war." [4] Article 9 is truly a treasure in which Japan should take pride. People throughout the world are beginning to accord it respect.

The second judgment we ask the court to make is that the plaintiffs' rights have been violated by the deployment of troops to Iraq, and that they have incurred serious damage.

The State simply denies us standing on the grounds that this is not a legal controversy, but as already mentioned in our preliminary statements, the only stipulation on this issue occurs in Article 3 of the Judiciary Law. [5] To interpret Article 3 narrowly and reject the Plaintiffs' demand would violate the right to access to the courts guaranteed in Article 32 of the Constitution, and would constitute a failure to apply the law. [6]

The Plaintiffs claim that the following interests have been denied: (1) the right to live in peace, (2) personal rights, and (3) legally protected interests.

With respect to the right to live in peace, Professor Yamauchi Toshihiro emphasizes in his written testimony in Statement A-120 that the Preamble to the Constitution provides an explicit basis for such a right. [7] Please note his opinion that given how other countries recognize judicial norms in the preambles to their constitutions, there is no reason for Japan alone not to do the same. In the case at hand, we assert the right to live in peace based on the Preamble, Article 9,

and Article 13. [8]In its response, the State willfully ignores Article 9 and separates the Preamble from Article 13 and denies their purport. This distorts the claims of the Plaintiffs and in no way constitutes a rebuttal.

As to personal rights: for the Plaintiffs, who have lived with the precept of "neither becoming a victim nor a perpetrator of war" as central to their character formation, these are rights that cannot be withdrawn.

In the last matter, that of legally protected interests under the State Redress Law, there are many precedents showing that even those rights not yet explicitly stipulated should be recognized. About the rights that the Plaintiffs charge have been violated, please, your Honors, listen to their voices. A decision to the effect that while the "anxiety" caused by leaflets in private mailboxes constitutes a legally protected interest, the intolerable mental anguish experienced by these Plaintiffs does not constitute the violation of a legally protected interest, would be a biased judgment, one surely to be censured by history. [9]

In conclusion, I would like to express my hope that you will not issue the sort of decision made in the case of the retrial of the Yokohama Incident, a decision that refused to address neither the torture committed by the former Special Police Forces nor the responsibility of the judges issuing the original guilty verdict. [10]

Given that one role of the court is to serve as a staunch guardian of the Constitution, we strongly hope for a judgment that takes even a single step beyond previous judgments in the direction of the Constitution.

### ***The statement of attorney Owaki Masako***

For twelve years, from Heisei 4 to 16 [1992-2004], I participated as a member of the House of Councilors in discussions of the Commission on the Constitution. I heard from people in various walks of life about their views on the country and the Constitution, and I also participated in work that analyzed each clause. Among the many opinions, the one that struck my heart was that Article 9 of the Constitution of Japan was a beacon of peace in the world, the object of interest and envy among the citizens of different countries, and that when Japanese citizens went abroad on peace missions with non-profit organizations, Article 9 served as the basis of the trust granted them as Japanese by the people of the world. The warm feeling the Plaintiffs hold towards Article 9 is a feeling shared by the people of the world who hope for peace.

Now, I will argue against the claim that the Plaintiffs have no standing as well as the claim that the right to live in peace is not a specific right.

The right to live in peace is a basic human right woven into the Preamble, Article 9, and Article 13 of the Constitution; it is none other than the right that embraces the freedom to pursue peace, to live in peace, and to negate war. It has specificity as the "right to live in a Japan that does not resort to war or force." This is the brilliant theoretical achievement of constitutional jurisprudence in postwar Japan. The right to live in peace is a fundamental right in the twenty-first century.

The Japanese government violated both the Self-Defense Forces Law and the Special Measures Law Regarding Humanitarian Reconstruction Assistance Activities and Activities to Support Ensuring Safety when they sent heavily armed forces into what was clearly a war zone in Iraq, and it is clear that they are supporting the American and British occupation armies' large-scale slaughter of Iraqi citizens.

It is evident that the invasion of Iraq was in violation of international law. Japanese lives are also being lost in Iraq. The fear and torment aroused in the Plaintiffs by the deployment of Self-Defense Forces to Iraq constitutes an infringement of each Plaintiff's right to live in peace. This is nothing other than a direct and indirect violation of both their individual rights and legally protected interests. Our suit has not been filed for the sake of a merely abstract inquiry into the interpretation or value of laws.

Finally, I will say a word about the judiciary's avoidance of pronouncing on discretionary actions by the legislative and administrative branches of government.

Democracy in the Diet is a democracy of majority rule, and there is no guarantee that it will conform to law. If the opinion of the Court is that dispatching the Self-Defense Forces is a political decision to be left to the discretion of the government, then the Court has abrogated its own judicial role as a constitutional court. Please do not try to avoid judicial review.

The judiciary is the institution vested with the sole and therefore highest authority for the interpretation and application of the Constitution. In the case at hand, we hope that the conscience and wisdom of the Court and its awareness of its historic role will lead it to assume the role expected by the law and the people and rule that the right to live in peace has been violated.

### **Statements of the Plaintiffs**

March 16, 2006

Tokyo District Court of Law, Civil Affairs Deliberation 15 System B

*On living in postwar peace*

Nagai Yoshiko (born 1935)

Your Honors! My name is Nagai Yoshiko. We fifteen Plaintiffs have filed this lawsuit from the conviction that the dispatch of Self-Defense Force troops to Iraq is a breach of the Constitution and that the only way to correct this wrongful action on the part of the government is to appeal to the judgment of the judiciary. When the U.S. government ignored international law and resorted to armed strikes despite the lack of both evidence and legitimacy, the Japanese government and the Koizumi administration, ignoring our precious Peace Constitution, decided on full-scale cooperation and sent troops overseas. For this they bear heavy responsibility. We fifteen differ in our life experiences, belong to different generations, and come from different social environments, but we have in common our hope for peace and our wish to act on our

responsibility as citizens to preserve the peace and to pass on a peaceful Japan to the next generation. To that end we have made repeated efforts over the years.

Managing to escape the flames of air raids as an elementary school student and dodging machine-gun fire, I have been able to live in the peace of the postwar era. I am proud to have been taught by a national textbook in middle school that the Constitution of Japan has three great pillars, namely pacifism, popular sovereignty, and fundamental human rights. These are the thoughts that I have brought to this suit. I hope with all my heart that your Honors will show yourselves to be rightful guardians of the Constitution by finding the government's action unconstitutional.

The hoped-for examination of each Plaintiff in the suit has been rejected, but on this day, all of the Plaintiffs would like to express their thoughts, in however limited a fashion. Because time is limited, we will speak one after another.

*Memories of the Great Tokyo Air Raids 61 years ago overlap with Iraq*

Ueda Tomoko (born 1925)

My name is Ueda Tomoko. Every time I see images in the news from the war in Iraq, the terror I felt during the Great Tokyo Air Raids of sixty-one years ago is revived. "Molotov Bread Baskets," each one filled with dozens of incendiary bombs, rained down by the hundreds and the thousands. I was running about in confusion, trying to escape the flames, when, at the sound of the explosion of a one-ton bomb, my body froze. I cannot forget my friend who died, suffocated by the smoke.

Now, the same thing is happening in Iraq. Women and children are shot, innocent citizens are burned and robbed of life. The Iraq War is fresh salt rubbed in my old wounds from sixty-one years ago.

I cannot bear the anguish of knowing that Japan, with its Peace Constitution, is involved in this war.

*We have been apologizing to the peoples of Asia  
and seeking reconciliation and peaceful coexistence*

Shimizu Sumiko (born 1928)

My name is Shimizu Sumiko. The Manchurian Incident, the Sino-Japanese War, and the Second World War filled my first seventeen years. Loyalty to the emperor and the state and militarism were drummed into me. My days were spent participating in lantern parades to celebrate military victories, making care packages for soldiers who were overseas, seeing soldiers off, making thousand-stitch belts, and volunteer labor. The use of the enemy's language, English, was prohibited. There were daily air raid drills, practice sessions with bamboo spears on scarecrows, helping out with the farm work—even making charcoal—at the homes of soldiers gone to the

front, and getting sent off as volunteer corps to work in munitions factories. In school, there were no classes, and not being able to study was the hardest part.

I experienced the 1945 great air raid of Osaka and the air raid of Fukui. People running in confusion, trying to escape the hail of incendiary bombs wrapping the city in fire; American soldiers in low-altitude airplanes firing at them with machine guns; fallen bodies piling up; mothers fleeing with bloody babies on their backs; burnt and festering corpses lying in the streets; and me, also fleeing, covered in water-soaked bedding. Everything about that time overlaps with the experience of the Iraqi people now. Whenever I think of the Iraqi women and children who are exposed to incomparably greater destructive forces, I cannot bear the pain.

I held a seat in the Diet for twelve years. During that time, we sincerely reflected upon and apologized for the infringement of human rights and the virtual enslavement of colonial populations that took place under Japan's colonial rule and war of aggression. We have made efforts toward reconciliation and peaceful coexistence with the peoples of Asia, and we have repeatedly said to them that Article 9 in the Constitution stands as proof of our pledge never to let these things be repeated. We must immediately stop the dispatch of troops to Iraq, which violates the Self-Defense Forces Law and the Constitution.

*The shock of learning that nothing was told to us during the war*

Nozaki Mitsue (born 1932)

My name is Nozaki Mitsue. What scares me more than anything is the fact that a nation that wages war will come to rule over the hearts and minds of its citizens. I didn't even know that during the war, places around Japan other than Tokyo had been subjected to air raids. No matter how bad the war situation, the news shouted, "Glorious results on the battlefield" with "Our losses are slight" tacked on at the end. Even with the extreme exhaustion caused by the nightly air raids, no one could say, "I can't take any more!" We couldn't challenge the government's assertion that victory was assured because Japan was a country of the gods, ruled by an emperor from an unbroken imperial line. Jeered at as unpatriotic or traitors, monitored by the authorities, the armed forces, society, schools, and neighborhood organizations, we were roped into useless drills with bamboo spears or long-handled swords. Children during wartime knew nothing of the real state of things and were made to believe whole-heartedly that we would win. It was forbidden, like a crime, to have thoughts of one's own.

Now, I feel the mindset of that time is being revived. When the "Law to Protect the People in Conditions of Armed Attack" [passed 2006—Tr.] was being debated, I recalled the mandated destruction of buildings during the war. This was allegedly to make a buffer zone to control the spread of fires. In Hiroshima, under the scorching sun, with no protective gear, middle school students dashing off to perform that task suffered the direct hit of the atomic bomb. They were thirteen years old, the same age as me. I didn't know this until long after the end of the war. When I think about what I was doing at the time, my heart aches. The shock of not having known, the shock of not having been informed—this was the case with Okinawa, the Nanking Massacre, Unit 731, and the comfort women—I learned about these things much, much later. War is also about this kind of restriction on people's psyches and on what they know.

*To realize a democratic society, our unflagging efforts are necessary*

Kase Satsuki (born 1935)

My name is Kase Satsuki. When I was in my first year of middle school, I came across a textbook called *The Story of the New Constitution*. The textbook spoke to us, like this: "Now, the war has finally ended. Don't you agree that you never want to experience such terrible sad feelings again? .... To engage in war is to destroy human beings. It means wrecking the good things in the world." How refreshing it was! The textbook went on to say, "Two decisions were made in our new Constitution to make sure the country of Japan would never wage war again." Even now I can vividly recall what the textbook said about the renunciation of war capabilities and the exercise of military force, and how forcefully it stated, "Japan has done the right thing, ahead of other countries."

In 1952, when I was seventeen, there was a special election for the upper house in Shizuoka Prefecture where I lived, and I became involved in the investigation of systematic election fraud, which I considered the "destruction of the fundamentals of democracy." Thanks to this, I was ostracized. Having gone through that experience, I felt keenly that in order to realize the peaceful and democratic society promoted by the Constitution, we the sovereign people had to make unflagging efforts. Thereafter, having taken part in long campaigns in a variety of postwar citizens' movements and peace movements over the course of half a century, I feel ever more deeply that the principle of the Peace Constitution, which aims for "the realization of peace without depending on military power," is a compass not only for realizing peace in Japan but throughout the world, and that our Constitution is a treasure we should boast of to the world. The past several years, however, with the passage of three emergency laws, the Special Anti-Terrorism Law and other war-related laws, and the strong-arm tactics used to dispatch troops to Iraq, I cannot help feeling an impending crisis in which the Constitution will be annihilated. Through the practice of such unconstitutional politics, Japan is being distorted into "a country that is able to go to war" once again and this, I believe, must not be permitted.

*Through involvement with the Japanese military "comfort women"*

Ueda Sakiko (born 1939)

My name is Ueda Sakiko. In the Asian Pacific War, Japan not only killed an estimated twenty million innocent people, but it also engaged in outrageous antihuman practices such as forced labor, military sexual slavery in the form of "comfort women," the Nanking Massacre, and medical experimentation on living bodies. In particular, I cannot stop thinking about those women who, at the height of their youth, were forced to become sex slaves as the Japanese military's "comfort women," who were robbed of their lives by that experience. Most of these women were forcibly taken from Japanese colonies or occupied territories, or tricked and taken away, to be trampled upon as the object of soldiers' sexual violence every day. Even after the war ended, there was no restoring anything like a normal human life for these women. Finally, in the 1990s, a group of courageous victims denounced the comfort women system and sued the Japanese government, but all their actions have been dismissed. The United Nations' Commission on Human Rights, Sub-commission on the Prevention of Discrimination against Women, has demanded a fundamental settlement from

the Japanese government, but the Japanese government has made no effort even to respond to the victims' demands for justice.

In Iraq there have already been over one hundred thousand deaths in the prevailing state of war. In addition, the terrible torture in Abu Ghraib Prison and other human rights violations are coming to light together with a rapid increase in sexual violence against women. As a woman, I find these things unbearable. It is out of the question for the Japanese government to be collaborating in consigning women to such a situation. Japan must immediately cooperate in the restitution of the human rights of women.

*In the burdens of my father and my uncle,*

*the origins of the movement to advocate human rights*

Tsuwa Keiko (born 1945)

My name is Tsuwa Keiko. My father was an officer in the Kwantung Army. He moved from place to place in battles throughout Asia, and even though he returned immediately after the end of the war, a military tribunal found him guilty of POW abuse. The Chinese my father taught me was the words, "*Guniang lai lai*" ("Miss, come here"). The tone in which he said this was unpleasant to my child's ear, but as I grew up and found out about the atrocities of the Japanese military throughout Asia, it became a source of anguish for me. I did not hear anything about that period from my uncle, a military policeman, but in later years, my father sought redemption in religion.

Today, sixty-one years after the end of the war, the Japanese government has forgotten the acts committed by Japan in the past. It is not only legitimizing war and accepting the prime minister's worship at Yasukuni Shrine, but it is going so far as to introduce explicit plans to revise the Constitution in an attempt to make it so that Japan can once again invade other countries. I absolutely cannot forgive this trend toward policies leading to the quagmire of war, abetting America's unjustified attack on Iraq with an army called defense forces. Just thinking of what the Self-Defense Forces, now turned into an army, will do on the battlefield of Iraq makes my heart ache. Who can state positively that they will not conduct themselves in the same way as the Japanese army of the past? Who can promise that women, the elderly, and children will not become casualties on the battlefield?

*In solidarity with the women who suffer under the value system of male dominance*

Kobayashi Michiko (born 1947)

My name is Kobayashi Michiko. I work in a law office. In most cases where women come to consult about divorce, there is a violent husband. A woman from Hokkaido, tossed out of doors in arctic temperatures while pregnant; a person who had been kicked and had her bones broken; women who had been coerced into sexual intercourse: these women are all deeply scarred not only on their bodies, but in their hearts. Violence not only destroys women's self-esteem, but the fear and despair drive the women into self-abnegation and cause them to lose the will to live.

The male chauvinist thinking and values displayed here are similar to what happens in war. Citizens are choked by gag orders, thought-control is put into effect, and violence is glorified: this is the system of war. The images from the reports on the miserable state of affairs in Iraq overlap with the image of women suffering from domestic violence, and this tears at my heart. Scarred by these images, I have begun to suffer from daily nightmares. I am currently on medication. Nothing can cure me other than the smiling faces of the Iraqi people. There is no cure other than images of an Iraq in which life is not threatened, in which everyday life has been restored. Among the American soldiers who participated in the war, I hear that the number of those who suffer from exposure to depleted uranium shells and those suffering from stress is increasing. It has also been reported that three Self-Defense Force members returned from Iraq have committed suicide, and there are many who are suffering from trauma.

The lives of all people, from every country, are equally precious. Surely, it is the role of the Japanese government to spread the spirit of Article 9 of the Constitution.

*Let's change the way we fight terrorism under the Peace Constitution*

Niwa Masayo (born 1947)

My name is Niwa Masayo. I was born in 1947. I am proud of being the same age as the Constitution and the Fundamental Law of Education. Accordingly, in the days when I was a teacher, I thought about how I wanted to clearly convey this pride to the children. I used to say to them, "Just because we don't have an army doesn't mean that we have to be afraid. Through our decision to renounce war, we have chosen the path of walking together with the peoples of the world."

I am deeply hurt by the fact that the Japanese government is actively involved in the attack on Iraq and in the inhumane occupation of that country.

In particular, after the incident in London last July, I have begun to feel that the fear that I myself, my family, or my friends could also become the object of an armed attack has become more realistic.

I want to change the way we fight terrorism. The Japanese Constitution, which proudly repudiates war, is at once the greatest and most reliable foundation for responding to terrorism. Already, many Iraqis have been victimized, and the number of dead and wounded American soldiers is also increasing. Japanese have also died. The government must withdraw from the war as soon as possible and move towards the realization of peace.

*The fear of terror from working in a British company*

Yuzuki Yasuko (born 1948)

My name is Yuzuki Yasuko. I don't know war firsthand, but I heard repeatedly about the sufferings caused by war and the preciousness of peace from my grandmother, who experienced the Sino-Japanese War, the Russo-Japanese War, and the Second World War; from my mother,

who lost her son and husband in the war; and from my older sister, who experienced compulsory school evacuation and evacuation to live with distant relatives. My mother, who turned 85 this year, often says that when she heard the emperor's surrender broadcast, she thought, "It's good we lost the war. Now we'll have more rations. The military will no longer treat us like worms."

I work for a U.K.-owned company. Ever since the Self-Defense Forces were dispatched to Iraq, the company doors have been kept locked. This is not only because it is a corporation based in Britain, which joined the U.S. war of aggression against Iraq, but because Japan has also become a target for terrorism. In addition, the entire staff was sent e-mails pointing to the "danger of riding the subways," and we were told to be "careful about going home during the commuter rush hour." This is a danger that has arisen since the Self-Defense Forces were dispatched to Iraq. It is also said that after London, Japan is at risk. We will have to live every day in fear until the withdrawal of the Self-Defense Forces.

When I travel in Asia, I meet people concerned with remembering the brutal acts of the Japanese armed forces here and there, but even given that history, I realize I was accepted because Japan has a Peace Constitution. Over the past few years with Prime Minister Koizumi repeating his visits to Yasukuni Shrine, I have sensed the feeling towards Japanese people becoming worse in China, which I visit every year. I am afraid Japan will choose a path that will cut it off from the rest of Asia.

*As a second-generation atomic bomb victim,*

*I think the use of depleted uranium shells is unforgivable*

Mishima Hiroko (born 1949)

My name is Mishima Hiroko. I am a second-generation atomic bomb victim. My mother, who at age twenty was enrolled in a Higher Girls' School Specialist Course, was an atomic bomb victim in Nagasaki. Even though she herself was hurt, she went out to help numerous regular-course students who had been bombed in the Mitsubishi Armament works.

When she wanted to go back to rescue more people, she couldn't move, and after several days, she thought, "If I'm going to die anyway, let it be at home," so she went home. For many years, she was tormented by the thought that in leaving Nagasaki, she had not properly mourned the dead or rescued her juniors. When my mother was a teacher, she continued to express these thoughts, and I feel my own life came as an extension of those feelings. Each time I myself gave birth, I thought, "What if the effects of the Flash show up in this baby...." It is precisely for this reason that I want to pass on to my children a peaceful society and to work to prevent the repetition of such tragedies.

Thinking of the effects of residual radioactivity, I believe it is because my mother left Nagasaki that I am here today. That is why I cannot forgive America for using depleted uranium shells. Since residual radioactivity from the dust caused by depleted uranium shells can reach 1,000 kilometers in every direction, the people of Iraq could be driven to extinction. Due to the same depleted uranium shells of the Gulf War, deaths have also occurred among the American soldiers

who participated in the attack, and disabled children have been born as well. The effect on children is serious. If we are going to talk about providing reconstruction aid, we should concentrate our energy on research to remove radiation. *That* would be humanitarian support.

*I want to stop Japan from turning into a garrison state*

Sugita Yoshiko (born 1951)

My name is Sugita Yoshiko. It is clear that the Iraq War is unjustified. The dispatch of Self-Defense Force troops to Iraq is also clearly in violation of the Constitution. The use of napalm bombs, chemical gas, nerve gas, anesthetic gas, and other poison gases is turning Iraq into a testing ground for illegal weapons. It is said that the internal organs of Iraqis have been extracted and dispatched to America, so the nation acting inhumanely is in fact America itself. Due to an effort to control information, Al-Jazeera, that invaluable resource, has been blocked. If we can only receive one-sided information from the U.S. military, the truth is likely to be concealed.

While the armies of other countries are being withdrawn, Prime Minister Koizumi has decided to extend the deployment of the Self-Defense Forces in Iraq. What a reckless, foolish act. The silent media, a prime minister servile towards the United States, the profit-seeking arms traders, the hypnotized citizens: I want to stop Japan from turning into a garrison state. Learning from the Costa Rican Supreme Court Constitutional Chamber that forced the cancellation of support for the United States, may this Court deliver a constitutional judgment showing the discernment of the Japanese judiciary.

*The dispatch of troops coincides with the militarization of the schools*

Ishida Kuniko (born 1951)

My name is Ishida Kuniko. I myself have no experience of war, but through living with two children who are seventeen and nineteen, I feel keenly the gravity of a person's life. Therefore, I am intensely angered by the distorted citation of the Preamble to the Constitution that Prime Minister Koizumi presented in justification of sending the Self-Defense Forces to Iraq. Such invocation destroys the spirit of pacifism and of internationalism; it is an insult to the Peace Constitution I take pride in.

From about the time the Japanese government began preparing to dispatch the Self-Defense Forces to Iraq, in classrooms we witnessed a cessation of respect for a diversity of perspectives and saw the dominance of a culture that attempts to control even the hearts of children through enforced salutes to the Rising Sun flag and singing of the *Kimi ga yo* [the national anthem—Tr.]. Sex education, which promoted individual autonomy, the establishment of the human rights of women, and respect for the human rights of others, has been subjected to intense attacks. The state and local governments, by imposing particular values, are turning schools into places that teach obedience and the submersion of individuality.

As a citizen of Japan, which is taking part in a war that tortures the people of Iraq, I am deeply sorry and feel tormented by emotional pain. At the same time, my family and I cannot get over

the fear that we ourselves might be subjected to a terrorist attack. As a mother and as a member of the citizenry who have general responsibility for the education of children, I am deeply troubled by the militarization of the schools.

*Having experienced the terror of 9/11, I plead together with the life granted then*

Nakano Keiko (born 1969)

My name is Nakano Keiko. I was in New York where my husband had been sent on business, and so I experienced the 9/11 terror attacks.

Fortunately, since we were far from our apartment at the time of the attacks, we were not directly affected, but our apartment was close to the World Trade Center. It was two weeks later that we were able to enter our apartment. Even though we had managed to get through the rigorous security check, I did not have any proof of residence on me, so I was accompanied into my apartment by a distraught soldier. Treated like a criminal, I wailed in bitterness and sorrow. Ashes containing asbestos had gathered by the windows.

After 9/11, I think all New Yorkers were in a state of PTSD. A group of 9/11 victims' families (Peaceful Tomorrows) demanded that no war be waged in the victims' names, but Bush kept saying, "We will not give in to terrorists."

The daughter conceived in the place where 2,700 people lost their lives is now three years old. Hers is a life conceived in an apartment permeated with foul odors, where I shut myself in, feeling guilt at being alive as well as gratitude for our good fortune, and struggling to understand how I should go on living. For my daughter's sake, too, I must create a peaceful world where people need not live in fear of war and terrorism. I beg the Court to hand down a courageous decision such that Japan will not be a target of terrorism, that the blood of the citizens of the world need not be spilled.

I cannot appear in court today due to the imminent birth of my second child. But even though I am not in the courtroom, I am giving my full attention to the outcome of this trial. For the sake of my daughter and the child that will soon arrive, as well as for the sake of all the world's children, I place my hopes for peace in your Honors' courage.

*The thoughts of one who has continued in the grassroots peace movement*

Ishizaki Atsuko (born 1924)

My name is Ishizaki Atsuko. My youth was passed in wartime. When I was in grammar school, we prepared care packages for soldiers on the front and took part in lantern parades to celebrate the fall of Nanking. High-spirited with visions of victory, we knew nothing about the Nanking Massacre or the military comfort women. We were ecstatic to hear the results of the attack on Pearl Harbor from Imperial Headquarters. After that, air raids became frequent, daily provisions became scarce, and we had to start mixing our meager rations of rice with wild grass to make porridge to stave off hunger.

I became a teacher at a girls' school where I had been evacuated, but instead of teaching, my role was to accompany students who had been mobilized to help with farm work or to work in factories in Yokosuka. When we were exhausted by air raids day and night and utterly drained of vitality, the atomic bombs were dropped on Hiroshima and Nagasaki, and the war that had claimed over twenty million lives ended. But we had in our grasp the unexpected treasure of the Peace Constitution.

We had thought there would be no more war, but the next thing we knew, there was the U.S.-Japan Security Treaty, the Self-Defense Forces, and then the deployment of troops to Iraq. Since the 1960 struggle over the security treaty when I felt compelled to take my five-year-old daughter to demonstrate at the Diet, I have continued my anti-war activities. Now I am past the age of eighty, but I intend to continue speaking out against war for the rest of my life.

I have something to say to the prime minister who insists that dispatching forces to Iraq is a service to the world community as called for by the Constitution, and to the young folks watching television who think that war is cool. War is an activity in which people rob each other of life. Not just soldiers sent to battle, but young children and the elderly also get caught up in war, and the chain of violence has no benefit. We who have experienced the horrors of war do not want our children and grandchildren to go through the same thing. We should stop violating our Constitution by being servile to America in its reckless war in Iraq. Instead, we should withdraw immediately and make a contribution to international peace that does not involve dispatching the Self-Defense Forces. This is the judgment I ask your Honors to make.

*I want a society that actualizes Japan's Constitution,  
gained as a result of war*

Ueda Tomoko (born in 1925)

My name is Ueda Tomoko. I would like to say one final word. I was born in Taisho 14, the year 1925. My adolescence and youth coincided with the war. Can this court imagine what it is like to live with hunger and fear for your life, to feel that a single utterance could put you at risk? Now the politicians and elites of this country who do not know war are lightly discussing matters that will lead to war. A life once lost cannot be regained.

The Japanese people have a duty to all who sacrificed their lives in the war to uphold the vision and lofty ideals of the Constitution of Japan, which we gained as a result of defeat. In order to pass on to the next generation a society that will actualize this Constitution, I want to bequeath these words to the generations that do not know war. I want them to be aware of the importance of peace and to continue our efforts to preserve it. I want them to know that it will be too late once that peace has been lost. I want to entrust these words to the judiciary, the guardians of the Constitution, as the last testament of Ueda Tomoko.

Final Preliminary Brief

March 16, 2006

**Tokyo District Court of Law, Civil Affairs Deliberation 15 System B**

*Nakajima Michiko, Attorney et al. (7 other individuals)*

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2. The courts as guardians of the law

### **Introduction**

Your Honors, do you not hear the footsteps of war? To the Plaintiffs, the sound is loud and clear. War is getting ever closer. Any day now, it threatens to take over our everyday lives and wreak its horrors on our youth and unborn children. We sense the approaching danger. Keenly feeling the need to halt this relentless tide, the Plaintiffs have brought this case before the court. Time and again, we have submitted briefs and detailed the charges. But, despite these efforts, the Defendant, the Government of Japan, has not deigned to contest the charges, much less answer them in court. They have only submitted judgments delivered in other cases as exhibits supporting their position and have remained virtually silent in court.

Under these circumstances, the Court rejected the request to examine the Plaintiffs' witnesses and the Plaintiffs themselves. Given that the Plaintiffs have submitted abundant documentary evidence, this is truly deplorable. We sincerely hope that this esteemed Court will carefully examine the evidence and hand down a ruling that will allow it to fulfill the historic role expected of it.

### **Section 1 Regarding Defendant Exhibit No. 7 (Kofu District Court Judgment)**

#### *Grounds for citing Kofu District Court Judgment*

The Defendant State has submitted Defendant Exhibit No. 1 and Defendant Exhibit No. 7 as pertaining to this case. While these exhibits consist of court rulings or decisions, they differ in many respects from this case in that they are decisions on the Special Measures for Terrorism Law and administrative litigation, and moreover, the reasons for the claims made in many of these cases are different. Of these two exhibits, Defendant Exhibit No. 7 consisting of the Kofu District Court judgment is similar to this particular case, and the Defendant has also requested that the court refer to it in its Explanation of Filed Exhibits (4). As such, the following statements

proceed with arguments against the judgment in the Kofu District Court as a way of contesting the Defendant's claims in this case.

*Findings of fact" for the judgment*

The judgment by the Kofu District Court is premised on the following findings of fact (facts evident to the Court):The Self-Defense Forces (SDF) have successively dispatched units to Iraq since December 18, 2003.Troops are authorized to carry out activities that primarily consist of restoring and supplying medical, water, and public facilities and transporting related goods, etc. (humanitarian and reconstruction support) and supporting other nations in their activities to restore security and stability in Iraq.

The Defendant, however, has made no attempt whatsoever to verify whether the SDF is engaged in the above activities. The Plaintiffs, have, on the contrary, established that the SDF is not engaged in these activities. As proof, we have submitted the following exhibits, which establish the fact that the SDF is engaged in neither water supply nor in public facility reconstruction, etc.: Plaintiff Exhibit No. 105 ("Humanitarian Water Support—Japan Gets Lapped," *Tokyo Shimbun* [11]); Plaintiff Exhibit 107 ("Justification for Deployment Getting Fuzzy," *Tokyo Shimbun*); Plaintiff Exhibit No. 108 ("Increased Security for Ground Forces," *Asahi Shimbun*); Plaintiff Exhibit No. 109, 1, 2 (statement of questions by Representative Kazuo Inoue, House of Representatives, and government response);Plaintiff Exhibit No. 110, 1, 2 (statement of questions by Representative Tomoko Abe, House of Representatives, and government response); and Plaintiff Exhibit No. 76 (Watai Takeharu's documentary film *Little Birds* [Ritoru baazu]).In addition, the Plaintiffs have submitted Plaintiff Exhibit No. 77, 1, 2 (Watai Takeharu's documentary film *Destroyed Friendship* [Hakai shita yuko]; Takato Nahoko's *What's Really Happening in Iraq Now* [Iraku de ima hontoni okotte iru koto]), etc.These exhibits establish that SDF deployment in Iraq has changed Iraqi sentiment toward the Japanese—from amity to enmity—and that it is contributing to a decline in public order and safety.

In making its judgment, the Kofu District Court, without examining the evidence presented, simply asserted that SDF engagement in the activities for which they had been dispatched constituted "facts evident to the Court."The ruling is appalling in its negligence of the most basic rule of fact-finding, that is, examination of evidence.

*Rejection of Right to Live in Peace*

(A) The Kofu District Court Judgment rejects the Plaintiffs' right to live in peace, the right to pursue peace, and the right to live in a Japan that does not exercise the use of force or engage in war. The arguments put forth by the Plaintiffs in the Kofu District Court are not necessarily the same as those of the Plaintiffs in this case, but the Defendant State offers similar substantiation for its position in both cases. For this reason, we cite the Kofu District Court's Judgment below as a means of rebutting these points.

The Judgment cites the following in its rejection of the right to live in peace:

(1) The concept of peace is necessarily open to divergent interpretations depending on a person's philosophy, beliefs, worldview, and values. Based on different ways of thinking, the specific means and methods to realize peace also vary.

(2) This is evident from the fact that the Plaintiffs are strongly opposed to the Special Measures Law passed by the Diet, which is entrusted by the people to act on their behalf. According to this legislation, its aim is "to contribute to the peace and security of international society, including Japan."

(3) The Plaintiffs assert that the Constitution unequivocally employs the term "demilitarized peace" as the means by which to realize peace, but the concept of "demilitarized peace" is also unavoidably open to divergent interpretation.

(4) As a result, when we refer to the present Constitution, whether the Preamble or Article 9, it is not possible to know immediately what concept of peace and what means and methods of attaining peace are legitimate, or which ones superior.

#### (B) Objections to the above reasons

It can only be said that the reasons given above by the Kofu District Court in its ruling are utterly appalling in their disregard for the Constitution. In past so-called "peace lawsuits," some lower courts have rejected the people's right to live in peace, but none have disregarded the Constitution to this extent or treated it with such contempt.

The reason cited in (1) above might be plausible if the Preamble and Article 9 of the Constitution were regarded as nonexistent and the issue were limited to a consideration of individual views, beliefs, etc.; but if we take the current Constitution as our premise, it is not possible to assert that there are diverse means and methods of concretely realizing peace and that various ideas can be put into practice. Regardless of how diverse individual views and beliefs may be, when the Constitution sets forth only one ideal and the means or method by which to achieve it, it is incumbent upon the state (including the judiciary) to abide by it. A ruling that refuses to do so, such as the above-mentioned Judgment, is one that fails to uphold the Constitution.

The reasons cited in (2) are grossly mistaken and logically flawed. First, it is claimed that the Special Measures Law for Iraq was passed by the Diet, which is entrusted by the people to act on their behalf, with the aim of contributing to the peace and security of the international society, including Japan, but the people of Japan have not entrusted the Diet to pass this special measures legislation for Iraq. In the upcoming elections, the special measures legislation for Iraq has not been put before the people for debate, and public opinion polls invariably show that a majority of the people opposed to the deployment of SDF troops to Iraq (Defendant Exhibit No. 106).

Second, the Plaintiffs are strongly opposed to the Special Measures Law for Iraq because it is a violation of the Constitution, not because of their individual worldviews or values. To reduce the assertion of Constitutional violation to a question of worldview, and to then switch the argument to one about the basis for "diversity" betrays an illogic so disgraceful that one is tempted to avert one's eyes.

The reason cited in (3) above is based on the claim that the notion of "demilitarized peace" is unavoidably open to divergent interpretation, but Article 9, Paragraphs 1 and 2, unequivocally asserts a "demilitarized peace" in stating that "land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized." This law was confirmed and enacted by a constitutional assembly and clearly explained to the people in Plaintiff Exhibit No. 1, *The Story of the New Constitution* [Atarashii kenpo no hanashi] and other materials. Subject to the government's agenda, the interpretation of Article 9 has since changed, but the constitutional provisions themselves have not been revised and do not admit of ambiguous or equivocal interpretations. Thus, although political positions may effect changes in interpretation, it is not to be expected that judges, who are bound by duty to honor the Constitution, simply follow suit.

### *Rejection of personal rights and personal interests*

#### (A) Grounds given in Kofu District Court Judgment

The Kofu District Court judgment rejects the allegation that the plaintiffs' personal rights and personal interests have been violated on the following grounds:

(1) The troop deployment does not directly require Plaintiffs to carry out a duty or achieve a result; nor is there the risk or fear of endangering the Plaintiffs' lives or violating their persons. Even assertions of the rising risk of terrorist attacks based on the diverse motives and causes behind terrorist acts cannot be verified in terms of concrete and realistic risk.

(2) It can be surmised that the Plaintiffs harbor strong aversion to the troop deployment and that this could plausibly be construed as mental anguish. This sentiment, however, should be situated in the realm of emotion—of feelings of righteous indignation, displeasure, irritation, disappointment, etc.—arising from opposition to measures and policies decided and implemented by the state under a system of representative democracy that conflict with individually held beliefs, convictions, and interpretations of the Constitution, etc. This sort of mental anguish is inevitable when decisions are made according to the principle of majority rule, and should either be redressed through activities directed at criticizing state policy and seeking wider acceptance of the legitimacy of one's own understanding of the issue, or endured as a necessary aspect of life under representative democracy. As such, however severe the mental anguish may be in subjective terms, the private emotions of individuals cannot be deemed as meriting protection under the law and cannot be construed as infringing on personal rights or exceeding the limits of forbearance that are generally expected by society at large.

#### (B) Objections to grounds given above

According to the reason cited in (1) above, the diversity of motives and causes of terrorist attacks makes it impossible to verify with certainty whether the concrete and realistic risk of terrorist attacks has increased. It is difficult to contain one's amazement at such a statement. The Plaintiffs are not asserting that there is a general risk of terrorism, but rather that armed groups have protested the assistance given by Japan's SDF to the U.S. invasion of Iraq and have named Japan as a target for reprisal (Plaintiff Exhibit No. 104), and that in actuality, indiscriminate terrorist

attacks have occurred in Spain and Britain, nations that have deployed troops in Iraq. Are the judges who refuse to recognize this danger suggesting that they are in a position to guarantee the safety of Japanese nationals?

This judgment, which denies the rising risk of indiscriminate terrorism, completely rejects the Plaintiffs' claim that the troop deployment to Iraq has generated feelings of anxiety and fear that their lives and personal safety are endangered.

The fear of terrorism is a constant subject of discussion in the United States, and many share feelings of anxiety. In Japan, a nation which is supporting the United States, there is undeniably good reason to fear terrorism and feel anxious

As seen in the reason cited in (2), a significant part of the judgment calls for forbearance regarding all acts of the Diet and the government in the name of representative democracy. It is precisely because we have a representative democracy that the judiciary is given the authority to determine questions of constitutionality, and this point will be addressed below. As stated above, however, the people of Japan have not mandated the Diet to pass the Special Measures Law for Iraq or to dispatch the SDF to Iraq, and these actions are opposed by a majority of the people. This indicates that representative democracy in Japan is becoming defunct, and judges who nevertheless declare that we should endure decisions of the Diet because they are based on the will of the majority have repudiated the very principles of democracy.

#### *5.Rejection of claims for compensation*

The Kofu District Court Judgment, in rejecting the Plaintiffs' demand for compensation, acknowledges that under the State Redress Law, Article 1, Paragraph 1, illegal acts committed by the state for which compensation may be demanded, consist of violations not only against established rights, but also against those that are not yet clearly established as legally protected rights in cases where their violation may be deemed illegal; and that when the mental anguish of an individual exceeds the limits of endurance that are generally expected by society at large, there are times when personal rights should be legally protected, and that depending on the manner and degree of infringement, there is room for acknowledging that an illegal act has taken place. Nevertheless, it states that because the right to live in peace and pursue peace can be considered neither a concrete right nor interest, it is not possible for these rights to be violated, and for this reason rejects the Plaintiffs' demands.

It is, however, manifestly contradictory to state in the first half of a judgment that even when some rights are not yet established as concrete rights, the mental anguish of an individual may sometimes require legal protection, and then to state in the second half that because the right to live in peace and the right to pursue peace are not concrete rights or interests, the demand for compensation is groundless. The judgment also rejects the demand for compensation because it is impossible to imagine a situation in which the Plaintiffs' personal rights and personal interests have been infringed by the dispatching of the SDF to Iraq. The judgment makes no mention, however, why it would be not be possible to imagine such a situation. The lapse in reasoning is blatant.

### *6. Significance of the Kofu District Court Judgment*

As stated above, the judgment of the Kofu District Court is tantamount to the judges abandoning their responsibility to the law and announcing the suicide of the judiciary. We only hope that such a judgment will not be delivered in this case.

## **Section 2 Issue for judgment—the constitutionality and legality of dispatching troops to Iraq**

### *Significance of judicial review*

Under the separation of powers set forth in the Constitution, the judiciary exercises its authority independently of the legislative and administrative branches. Article 76, Paragraph 3 states, "All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws." According to Article 99, judges have the obligation to respect and uphold the Constitution. Furthermore, Article 81 gives the courts the power of judicial review, and under the separation of powers, the judiciary has been established to determine whether laws or dispositions are in conformity with the Constitution. As stated above, in representative democracies, laws and ordinances as well as government actions will often conflict with the will of the people, and for this reason, the judiciary's exercise of judicial review is a necessary and essential practice for ensuring order consistent with the Constitution.

This lawsuit asserts the dispatching of the SDF to Iraq to be a blatant and egregious violation of the Constitution. Many judgments only involve determining whether the courts have a particular power to judge a particular case, but this case seeks a judgment on whether dispatching troops to Iraq is constitutional. For the courts to evade making a judgment on constitutionality is tantamount to the judiciary's abandoning its role in government.

### *Comparison with lawsuits contesting the constitutionality of Yasukuni Shrine visits*

Concurrent with this lawsuit regarding the unconstitutionality of SDF deployment to Iraq, there are lawsuits contesting the constitutionality of Prime Minister Koizumi's visits to Yasukuni Shrine. One common aspect of these lawsuits is that the courts have, in both cases, dismissed compensation claims by the plaintiffs, asserting that their legal interests have not been violated and that they are therefore not entitled to damages.

While dismissing compensation claims by the plaintiffs, the court cases regarding the constitutionality of the Yasukuni Shrine visits differ in several notable respects from the current case on the constitutionality of troop deployment to Iraq. As will be discussed below, the judgments by the Sendai High Court, the Fukuoka District Court, and the Osaka High Court state in their reasoning that Yasukuni Shrine visits are either unconstitutional or possibly unconstitutional. Even in those cases in which the courts declined to discuss constitutionality in their reasoning, evidence regarding plaintiffs' damages or the meaning of Prime Minister Koizumi's Yasukuni Shrine visits was examined concretely.

There is criticism in some quarters of the Osaka High Court Judgment (which dismissed Plaintiffs' compensation claims but nonetheless judged the shrine visits to be unconstitutional in its reasoning) on the principle that courts, having dismissed plaintiffs' demands for compensation, should not then engage in needless distraction by pronouncing the visits unconstitutional.

Nevertheless, it stands to reason that courts, when directly confronted with the reality of unconstitutional or illegal situations, should attempt in various ways to exercise the powers vested in them by the people.

In the past, when former Taiwanese soldiers who had been forced to participate in Japan's war of aggression sought to receive compensation on the same terms as provided by law to Japanese soldiers and civilian employees of military, the Tokyo High Court dismissed the case, but at the same time, in pronouncing the judgment, urged the government to "promptly enact legislation." This statement served as an impetus for subsequent legislation, and we should recall that in the end, this resulted in the payment of compensation, however inadequate, to the former Taiwanese soldiers.

According to Okudaira Yasuhiro, Professor Emeritus of the University of Tokyo and an authority on Japanese constitutional law, the essence of judgments on unconstitutionality seems to lie in the reasoning rather than the text of the judgment. He spoke highly of the Osaka High Court's judgment as follows: "The question of whether Yasukuni Shrine visits violate the separation of state and religion under the Constitution is a separate issue from the question of who can contest constitutionality and with what qualifications. It is absurd that no one can contest the illegal actions of the state unless there has been an infringement of legal interest" (*Tokyo Shimbun*, May 10, 2005).

On this point, the Fukuoka District Court's ruling of April 7, 2005 (Kamekawa Kiyonaga, presiding judge), which found the Yasukuni Shrine visits unconstitutional, has this to say: "Despite deeming the visits unconstitutional, the court dismissed compensation claims in the absence of illegal acts. Opinion may differ about the court's pronouncing on the constitutionality of the visits. Nevertheless, under present law, even if the visits are in violation of Article 20, paragraph 3 of the Constitution [12], there is no provision for bringing a lawsuit seeking judgment just on the constitutionality of the action, or for seeking redress through an administrative suit. Accordingly, suing for compensation for damages was the only means available to the plaintiffs to have the unconstitutionality of the visits acknowledged."

The judgment goes on to observe that "The Yasukuni visit in question was carried out without full debate as to its constitutionality, and the visits have continued since. In view of this situation, if the courts continue to avoid ruling on their constitutionality, it is highly likely that such actions will be repeated. This Court has accordingly decided to take as its responsibility a consideration of the constitutionality of the shrine visits and has decided as indicated above."

"If the courts continue to avoid ruling on their constitutionality, it is highly likely that such actions will be repeated": isn't this precisely what is happening in the controversy surrounding the constitutionality of troop deployment to Iraq?

Why is it, in the case of Self-Defense Force suits, that is to say, Article 9 lawsuits, that the courts not only avoid making constitutional judgment, but also avoid the finding- of-fact stage that should constitute the basis for making a judgment?

The result is the current situation, in which the government's repeated explanation that the principal mission of the SDF is defensive, that it does not recognize the right to exercise collective self-defense, is worth as much as a scrap of paper; in which Prime Minister Koizumi continues his Yasukuni Shrine visits despite court rulings that they are unconstitutional; in which the mandatory observation of the Rising Sun flag and singing of the *Kimigayo*, in violation of the guarantee of freedom of thought and conscience under Article 19 of the Constitution, have transformed the schools into sites of extraterritoriality where the Constitution does not apply. In view of these circumstances, it is impermissible for the courts to avoid making a judgment.

In the prevailing circumstances, in order to restore the authority of the law and constitutionalism, the courts must have the courage to abide by the letter of Article 76, paragraph 3 of the Constitution, which stipulates that "All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws."

#### *Necessity of delivering judgment on the Constitution*

When the Osaka High Court ruled that Prime Minister Koizumi's Yasukuni Shrine visits were unconstitutional and the Tokyo High Court, followed by the Takamatsu High Court, refrained from ruling on the constitutionality of the visits, many Japanese people came to question the fact that different rulings had been delivered on the same case. In the end, these differences can be attributed to differing views about the role of the courts, and the *Asahi Shimbun* carried comments by Professor Kinoshita Satoshi, who backed the ruling of the Osaka High Court, and by Judge Inoue Kaoru, who maintained that a ruling on constitutionality was unnecessary (Defendant Exhibit No. 111). According to Professor Kinoshita, "The Constitution gives the courts the power to determine the constitutionality of any law, order, regulation or official act and this power includes the role of supporting the rights of individuals as well as the regulative role of ensuring that governmental bodies do not engage in acts that are in violation of the Constitution .... In the judgment of the Takamatsu High Court, the stance adopted by the court, which used absence of damages to legally protected interests as justification for avoiding a decision on the official nature and constitutionality of Yasukuni Shrine visits, can be described as a refusal to see that the suit was seeking "regulation of acts by governmental authority that violate the Constitution." This [Professor Kinoshita's—Tr.] view is consistent with the following passage in the "The Story of the New Constitution" (Plaintiff Exhibit No. 1).

"One extremely unusual aspect of this Constitution is that it empowers courts to examine whether laws created by the Diet are in accord with the Constitution. If a law is found to depart from what has been decided in the Constitution, it is possible not to obey that law. In this sense, the courts have been given a very heavy responsibility.

"We the people think of the Diet as acting on our behalf and place our trust in it. In the same way, we should think of the courts as our allies who protect our rights and freedoms and should give them our respect."

The Plaintiffs ardently wish to respect the courts as their allies who protect their rights and freedoms. This, however, becomes impossible when we read the decision to refrain from judging the constitutionality of the Yasukuni Shrine visits and the decision of the Kofu District Court submitted in Defendant Exhibit No. 7. At the present time, when many Japanese people have lost respect for the courts, we hope that the courts will reconsider their role as a way of recovering the trust of the people.

The article above reported that Judge Inoue Kaoru, who maintained that a court decision on constitutionality was unnecessary, had often been criticized for his decisions, which were too brief and unpersuasive to the parties involved. Facing a problematic reappointment on the tenth year of his term, he himself declined to be reappointed to the bench.

#### *Representative democracy and right to determine constitutionality*

The decision by the Kofu District Court cited earlier states that while it was not difficult to understand the strong sentiments of the Plaintiffs against troop deployment to Iraq, the situation was unavoidable under the system of representative democracy in which decisions are based on the principle of majority rule, and that the only choices were for the Plaintiffs to seek change through criticism of government policies or, failing that, to accept the situation.

Certainly, if parliamentary representatives were elected on the basis of their views on critical issues, if laws were enacted after due deliberation according to constitutional law, and if the government were to implement them legitimately, it would be inappropriate to rashly exercise the power of judicial review.

Unfortunately, however, the system of representative democracy in Japan is in effect moribund. Elections are not the occasion for debate on critical issues. The general election in September 2005 was fundamentally a single-issue election that centered on the privatization of the postal system, and as the victory of the Liberal Democratic headed by Prime Minister Koizumi indicates, the election did not address the dispatch of troops to Iraq, tax hikes, social welfare measures, or other significant government policies. Representatives were elected without a debate on the Special Measures Law for Iraq, which constitutes the basis for dispatching the troops in this case, and this legislation was simply rammed through the Diet by sheer force of numbers. Moreover, the Cabinet has repeatedly violated even this special legislation for Iraq. In such a situation, we can only say that the system of representative democracy is effectively moribund.

This is precisely the reason that the right of the courts to determine the extent to which any law, order, regulation or official act is consistent with the Constitution is necessary.

The separation of powers was originally established so that an independent judiciary would serve as a check on the actions of the legislature and the administration. There can be no democracy, however, when the people are told that they should forbear and abide by the decisions of the legislative and administrative branches however much they may violate the Constitution.

#### *5. Duty to uphold constitutionalism*

In 1972, when *Mainichi Shimbun* journalist Takichi Nishiyama was convicted of complicity in violating the National Public Service Law by revealing a secret telegram between the U.S. and Japan regarding the reversion of Okinawa, the head of his defense counsel, Date Akio, who, as the presiding judge in the Sunakawa Incident had ruled that U.S. bases were in violation of the Constitution, concluded his defense with the following statement. A judge can do nothing other than faithfully follow the Constitution and follow the law.

To be sure, it is not the duty solely of the courts to realize constitutionalism and the rule of law, but rather a duty to be shared by all the people. Article 12 of the Constitution states, "The freedoms and rights guaranteed to the people by this Constitution must be maintained by the constant endeavor of the people," and thus assigns to the people the duty to struggle for such rights. The suit brought by the Plaintiffs regarding the dispatch of troops to Iraq is nothing other than the exercise of this "duty to struggle for such rights." We only hope that the court will deliver a judgment that will serve as a step, however small, toward restoring the rule of law and ensuring the sovereignty of the Constitution in Japan.

#### *6. Troop deployment in Iraq—unambiguous constitutional violation*

The Preamble of the Constitution declares, "[R]esolved ... never again ... [to] be visited with the horrors of war through the action of government, [we] do proclaim that sovereign power resides with the people and do firmly establish this Constitution." It also sets forth that "We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world.... We recognize that all peoples of the world have the right to live in peace, free from fear and want."

Furthermore, Article 9, paragraph 1 states, "Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes," and paragraph 2 states, "In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized."

The session of the Diet in which the Constitution was enacted confirmed that war for the purpose of self-defense was also renounced (Plaintiff Exhibit No. 3). Thereafter, with the outbreak of the Korean War, a National Police Reserve was created on the orders of the Supreme Allied Commander Douglas MacArthur, and the Self-Defense Forces (SDF) were inaugurated in 1954. During the interim, the government repeatedly offered shifting explanations and finally tried to put the matter to rest by stipulating in Article 3 of the Self-Defense Forces Law that "The Japanese Self-Defense Forces are charged with the primary duty of defending the nation from direct or indirect threat in order to preserve national security and safeguard the peace and independence of the nation, and when necessary, will undertake the maintenance of public order."

On the occasion of the vote on the Self-Defense Forces Law, a resolution barring the overseas deployment of the SDF was passed in a plenary session of the Diet's upper house on June 2, 1954.

In the Plaintiffs' view, the very existence of the SDF itself is a violation of the Constitution, but even if we were to accept its existence for the purpose of national defense, the dispatching of troops to Iraq is clearly a violation not only of the Constitution, but also of the Self-Defense Forces Law.

Now, a heavily armed Ground Self-Defense Force can be sent overseas to areas of conflict and, under certain circumstances, exercise the use of force. Moreover, the SDF has been dispatched and stationed at the behest of the United States which, in violation of international law (Plaintiff Exhibit No. 89, International Criminal Tribunal for Iraq Judgment) and without justification, continues to engage in armed attack and occupation of Iraq. [13] This is a blatant and egregious violation of the Preamble of the Constitution and Article 9, and the courts cannot possibly deny this. No doubt, a number of judges know in their hearts that this is a violation of the Constitution. This must be the reason that they avoid ruling on the Constitution and dismiss lawsuits brought to court for lack of standing.

As noted above, however, when the courts avoid making decisions on the Constitution, the violations of the Constitution by the Diet and administration are accepted *de facto*, and Japan moves one step closer to war.

The unconstitutionality and illegality of dispatching the SDF are detailed in Preliminary Brief (3).

#### *Dispatching of SDF to Iraq also violates the Special Measures Law for Iraq*

As detailed in Preliminary Brief (3), not only does the Special Measures Law for Iraq itself violate the Constitution, but the current dispatching of the SDF to Iraq in fact violates the Special Measure Law for Iraq. What is most evident is its violation of Article 2 of said law. Article 2 of this law stipulates that "[Activities for humanitarian and reconstruction assistance] to be conducted by the SDF shall be implemented in areas where combat is not taking place and is not expected to take place throughout the period during which the activities are to be conducted there." [14]

The city of Samawa, where the SDF is deployed, however, is an area of combat. Dutch troops, having suffered both deaths and injuries, have already withdrawn, and attacks continue against the British troops who have replaced them. On a number of occasions, mortar shells and rockets have targeted the SDF camp, and on June 23, 2005, a shell landed and exploded near a Ground SDF convoy (Plaintiff Exhibit No. 49, 1, 2; Exhibit No. 50, 2). It is a complete fabrication to say that Samawa is not an area of combat. For Prime Minister Koizumi to say that the SDF is not deployed in an area of combat is pure sophistry, but this is the view that has been pushed through the Diet. How can we say that the Japanese nation is founded on constitutional principles?

#### *State of affairs in Iraq and SDF activities*

The Plaintiffs refer to the state of affairs in Iraq in Preliminary Brief (1)-1, (1)-2 and have submitted abundant documentary evidence. The photographs in Plaintiff Exhibit No. 13 and No. 14 are particularly instructive. Take note, also, of the documentary evidence (Plaintiff Exhibit No. 81 and No. 85) regarding the damage caused by depleted uranium ammunition, used by the U.S. military, with a half-life of 4.5 billion years. Make sure to read all of *Little Birds* (Plaintiff Exhibit No. 76) as well. This will require much time and mental fortitude, but it is indispensable for making a judgment in this case

The SDF is now assisting in an unprecedentedly brutal invasion by the U.S. and British military. Up to now, the Ground SDF has avoided assisting the U.S. and British military in the use of direct force, but at the urgent request of the U.S. military, it is providing "psychological" support, while carrying out none of the "activities for humanitarian and reconstruction assistance" which constituted its original mission. Regarding water supply, as indicated in Plaintiff Exhibit No. 105, a French NGO (non-governmental organization) was supplying water for 120,000 people as of May 2004. This amount far exceeds the SDF's target of supplying water for 16,000 people, which has made it unnecessary for the SDF to continue its water supply efforts. Even in paving roads or building schools, it is much cheaper and more efficient to use an NGO than the SDF. As the statements of NGO staff indicate, the government only exploits the term "activities for humanitarian and reconstruction assistance" for political purposes.

The Air SDF provides transport for the armed U.S. military and its multilateral forces, a fact that is also acknowledged by the Japanese government. During the one-year period after the Air SDF began providing transport in February 2004, it transported medical equipment only once, on its first transport mission. This is evident from the fact that, upon making a request for disclosure to the Japan Defense Agency, we were told that with the exception of the first transport mission, all subsequent transport missions were confidential and no details could be disclosed. Clearly, at this point in time, no "activities for humanitarian and reconstruction assistance" are being conducted at all. The Maritime SDF has continued to refuel U.S. aircraft carriers, an act which cannot be construed as "activities for humanitarian and reconstruction assistance," but rather, constitutes support for the U.S. exercise of force.

### *9. Withdrawal of Ground SDF and shift to a new order*

As stated above, the activities of the Ground SDF have been phased out, and given that the forces of the Netherlands have withdrawn from Iraq, soon to be followed by British and Australian troops, the Ground SDF is faced with the concrete reality of its own withdrawal. Under pressure from the United States, however, Japan is unable to express intent to withdraw, and a bill is now being prepared to authorize provisional transfer of the SDF to Kuwait (Plaintiff Exhibit No. 116).

On the other hand, it has become known that upon extending troop deployment in Iraq for one year, the government also revised a major provision of the Special Measures Law, increasing the number of domestic airports in Iraq where the Air Self-Defense Forces could operate from thirteen to twenty-four (Plaintiff Exhibit No. 112).

Furthermore, it has come to light that at the beginning of this year, when the United States formed Provincial Reconstruction Teams (PRT) on the pretext of improving the public security and administrative capabilities of regional governments following the withdrawal of the Ground SDF, it approached the commanders of the Ground SDF about the possibility of having the Ground SDF participate in this effort (Plaintiff Exhibit No. 113, No. 115). It requested that Japan increase the areas where the Air Self-Defense Force can fly C130 transport airplanes to two, which will include the capital of Baghdad (Plaintiff Exhibit No. 115). This indicates that now, in addition to the back-up support of Air SDF, the Ground SDF and U.S. troops have united to directly enforce public security together. Such acts only augment the violation of the Japanese Constitution, which states that "The right of belligerency of the state will not be recognized."

In this way, the support given by the SDF to the Iraq war and the occupation of Iraq has increasingly assumed the nature of military involvement. In such a situation, unless the judiciary delivers a judgment that clearly establishes the unconstitutionality of dispatching troops to Iraq, it will not be possible to halt these reckless developments and reverse their direction.

#### *10. Iraq and significance of the Japanese Constitution*

While the U.S. military occupation continues, Iraq is said to be trying to establish a new government through elections, but the conflict between the Sunni and Shiite sects has resulted in many deaths, and Iraq now appears to be moving toward civil war (Plaintiff Exhibit Nos. 117-119). Although the U.S. government claims that it is merely observing, the U.S. military that took control over Iraq through force is now seeking a military solution.

Since U.S. President Bush declared victory almost three years ago, public security in Iraq has only deteriorated, and its people live in mortal danger. This is proof that peace is not made by military force, that force only begets more force, extending the chain of violence. This reinforces what is stated in the Japanese Constitution—the only way to eliminate war is to renounce war and never maintain war potential of any sort. In a world ever beset by war, Article 9 of the Japanese Constitution is held in high regard by people everywhere, and has become a precious legacy that Japan can take pride in. Whether this legacy is to be protected is up to the will of the people, but today, as our system of representative democracy becomes increasingly hollow, what we need now are judgments on unconstitutionality by judges who are bound only by their conscience, the Constitution and the law.

### **Section 3 Issue for judgment—sending troops to Iraq is a violation of the Plaintiffs' interests**

#### *1. Standing and right to access to courts and judgment (Article 32, Constitution)*

The Defendant State only asserts that Plaintiffs' demands cannot be recognized because they lack standing. In response, the Plaintiffs have provided specific counter-arguments that are explained in the Preliminary Brief (5), but the Defendant has made no attempt to reply. For the Court to reject the Plaintiffs' claims without attempting to exercise the right to clarify facts and issues is unjustifiable under Code of Civil Procedure.

As stated below, the Plaintiffs have filed suit claiming infringement of concrete rights, but in the first place, depending on how infringement of concrete rights and standing are defined, the people risk losing the right of access to the courts guaranteed in Article 32 of the Constitution.

As explained in detail in Plaintiffs' Preliminary Brief (2) and (2)-2, there are no stipulations regarding standing in the Constitution, but only in Article 3 of the Law of the Courts, a lower law. Accordingly, the Defendant State argues that in Japan, judicial review takes place as needed in the course of applying laws and statutes to the cases at hand. There is a trend, however, toward merging this form of judicial review with abstract judicial review, since each is a means of safeguarding constitutional order, and jurisprudence increasingly holds that standing should be broadly construed. If it is narrowly construed, as maintained by the Defendant, it will inevitably lead to a violation of Article 32 of the Constitution, as will be shown.

As maintained in Plaintiffs' Preliminary Brief (6), even though it would be an exaggeration to deem Article 3 of the Judiciary Law unconstitutional itself, if it were to be used as the sole justification for a narrow interpretation of standing and therefore as a basis for turning down the Plaintiffs' case, then such application of Article 3 of the Judiciary Law infringes on the right of access to the courts guaranteed in Article 32 of the Constitution and would therefore be a case of unconstitutional application.

We might here refer to the 2004 revision of the Code of Administrative Procedure, whereby Article 9, paragraph 2 provides that a plaintiff seeking repeal of a disciplinary action need not be the party directly subject to the action. This was a move to guarantee to the people the constitutional "right of access to the courts" as widely as possible. Article 3 of the Judiciary Law should also be interpreted in this spirit.

## *2. Right to live in peace*

First among the rights violated by the dispatch of the SDF to Iraq that the Plaintiffs wish to assert is the right to live in peace .

In an astounding judgment, the Kofu District Court ruled that this cannot be considered a concrete right because peace as well as the means of maintaining peace are values that differ from individual to individual. The Preamble of the Constitution, however, states that "We recognize that all peoples of the world have the right to live in peace, free from fear and want," and as the means of achieving this, Article 9 clearly stipulates, the "Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized." The means and method here are unequivocal. Regardless of attempts to change this interpretation, whether due to pressure from the United States or the motives of politicians, it is incumbent upon the courts to deliver judgments that are based on the Constitution in all cases.

In a similar suit filed in Shizuoka District Court, constitutional scholar Yamauchi Toshihiro testified regarding the right to live in peace (Plaintiff Exhibit No. 120, 1, 2). Professor Yamauchi

based the right to live in peace on the Preamble of the Constitution and put forth a detailed explanation of the judicial norms presented in the Preamble. We would like to call particular attention to the part in which he shows that given how, in France and Germany, the preambles of the constitutions are recognized as providing judicial norms, the argument denying judicial normativity to the Preamble of the Constitution of Japan is unpersuasive from the perspective of comparative constitutional law. In fact, in Japan, too, there are cases in which lower courts have found a direct basis for their decisions in the Preamble.

Furthermore, it is also noteworthy that the Supreme Court has not yet delivered a decision rejecting the right to live in peace. The Supreme Court decision in the Hyakuri Base Case is understood to have rejected this right, but this ruling pertained to government action in a private capacity and did not involve dismissal of the right to live in peace in the context of the exercise of public authority. [15]

Professor Yamauchi, basing the right to live in peace directly on the Preamble of the Constitution, goes on to testify that the meaning of peace as used here is concretely explained in both the Preamble and Article 9, and the meaning of the right to live in peace is supplemented by each of the provisions pertaining to human rights in Article 13 and subsequent articles. As for the conditions in which the right to live in peace can be found to have occurred, he states that "a situation in which the lives and freedoms of the people are violated due to war, the threat of war, or an act of support for war or when there is the threat of such violation." Furthermore, in "situations where, in the event that the government, in violation of the Constitution, carries out a concrete act of support for war, there is a violation of the right of the people not to become perpetrators of war or becoming party to an act of support for war, or when there is the threat of such violation."

Legal theories that recognize the right to live in peace cite various grounds to justify this right, but insofar as Japan's exceptional refusal to accord judicial normativity to the Preamble of its Constitution is not recognized from the perspective of comparative law, it would seem correct to base the right to live in peace on the Preamble, which puts forth this right in a clear and unequivocal manner. The various views, however, are not mutually contradictory. Plaintiffs have asserted that the right to live in peace is clearly based on the Preamble of the Constitution, that the concrete meaning of this right is set forth in Article 9, and that it is guaranteed as a concrete right in Article 13 of the Constitution. The Defendant, on the other hand, rejects this claim by separating the Preamble from Article 13 and considering them to be separate rights. The Defendant's claim, which makes no mention of Article 9—the crux of the right to live in peace—does not constitute a counterargument to the Plaintiffs' claims. We request that the Court refrain from taking the part of such slipshod arguments.

### *3. Personal rights*

Because the Defendant asserts personal rights are not concrete rights, Plaintiffs have provided Preliminary Brief (6) listing cases that have recognized personal rights in the past. The concept of personal rights, in addition to those fundamental to personhood— life, body, and health— refers to the totality of interests associated with reputation, name, image, privacy, freedom, livelihood, etc. Among personal rights, what is at stake in this case is the right of a person never

to be placed in the position of having to rob or be robbed of "life," in other words, a guarantee of the right "to be neither a perpetrator nor a victim of war." Because the Plaintiffs have, in the course of their lives, placed "respect for life" at the center of their character formation, they feel strong psychological resistance and emotional shock at finding themselves on the side of those who rob people from other countries of their lives, not to mention being placed at risk of endangering their own lives.

#### *4. Interests to be guaranteed by law*

According to the Tokyo District Court judgment in the Minesweeper Case (May 10, 1996), "Illegal acts committed by the state for which compensation can be demanded under the National Compensation Law, Article 1, paragraph 1, include not only those that violate established rights, but also those that violate interests not yet clearly established as rights that should be recognized as legally protected rights whose infringement would be illegal. When an individual's mental anguish incurred by injury to feelings exceeds the limits of endurance generally expected by society at large, it may be construed that there exists a personal interest that should be legally protected, and in case of infringement of the same, this infringement can be understood as having constituted an illegal act, depending on the condition of infringement and the degree.

Furthermore, "in order to assess whether the mental anguish incurred by injury to the feelings of an individual has exceeded the limits of endurance generally expected by society at large, the individual must have experienced, as the result of being in a certain, particular position, etc., the sort of serious distress, irritation, etc., that could not have been incurred in the ordinary course of daily life in society."

The judgments on peace lawsuits thus far, including the one above, are mistaken with regard to constitutional rights, and we cannot agree with their conclusions. Nevertheless, in this case, while the dispatch of the SDF to Iraq may be construed as a logical step in a series of unconstitutional acts leading to the present, the deployment of armed SDF troops to a combat zone differs in substance in every way from these preceding cases in that the Plaintiffs' right to live in peace is flagrantly violated and their mental anguish ensuing from it has clearly exceeded the limit of endurance expected by society.

Further, recall the case in which a widow sued the Japanese government for the enshrinement of her deceased husband, an SDF officer. Professor Yamauchi argues that the "interest in praying for the spirit of one's deceased husband without being disturbed by others," as articulated by Justice Ito Masami in the Supreme Court decision in that case [16], deserves to be considered a constitutionally guaranteed right. Additionally, the Supreme Court decision in the case of Delayed Certification of Minamata [mercury poisoning] Disease Victims ruled that an "interest to live peacefully without mental anguish" constituted an interest to be protected against infringement under the law against illegal acts. [17] From these cases, we can see that there is a broad concept of legally protected interests.

We ask your Honors to carefully examine the photographs submitted as Plaintiff Exhibit No. 13 and 14. Looking at these photographs, do you not feel mental anguish? And do you not feel distressed to know that the Japanese SDF has been deployed to assist the U.S. in this war?

Today, school children are forced to honor the Rising Sun flag and sing the *Kimigayo* anthem. If children do not perform these acts in the manner deemed appropriate or if teachers do not cooperate, the teachers are disciplined. Those distributing leaflets or writing graffiti saying "anti-war" in public restrooms have been arrested or subject to extended detention and given guilty verdicts. We cannot help thinking that the [prewar] Peace Preservation Law has been revived. The Plaintiffs fear that this sort of situation will lead Japan down the path to war. Such fear must be distinguished from indignation, anger or despair over having one's assertions denied. It is not that our peace of mind has been disturbed. No, our peace of mind has been destroyed, and we are subject to unbearable pain night and day. This pain cannot be compared to the unease of having a flier stuffed in one's mailbox (in the Tachikawa Tent Village case, the Tokyo High Court, determining that citizens derived to be legally protected against unease, found the flyer distributors guilty). The pain we feel is incomparably more significant and grave. The above-mentioned judgment in the minesweeper case requires that "in order to assess whether the mental anguish incurred by injury to the feelings of an individual has exceeded the limits of forbearance generally expected by society at large, the individual must have experienced, as the result of being in a given, particular position, etc., the sort of serious distress, irritation, etc., that could not have been incurred in the ordinary course of daily life in society."

In the terms of that judgment, the Plaintiffs in the present case, having either experienced war or grown up hearing about the experience of war, who therefore have centered their character formation on the belief that the Japanese Constitution was uniquely precious in never permitting the catastrophe of war to be repeated, who now witness the ravages of the Iraq War, the participation of the Self-Defense Forces in that war, and the concomitant destruction of the Constitution, assert that they are experiencing unbearable pain. These circumstances are such that they could not have been incurred in the ordinary course of daily life in society.

In this case, the Plaintiffs who have experienced war have stated their views. How did they sound to your Honors who do not know war? Might you have heard them as simply referring to the past, having nothing to do with you? But the Plaintiffs know what war is. In the previous war, too, preparations were made in secret, and when it started, it was no longer possible to raise voices in opposition. We hope your Honors who do not know war will learn about how that war started amid the suppression of free speech, and how the Japanese military committed atrocities and killed twenty million Asian people, and how the war also killed over three million Japanese, and having learned this, we hope you will apply it to your ruling in this case.

#### Section 4. What we seek from the court

##### 1. War responsibility of judges

On February 9, 2006, Presiding Judge Matsuo Shoichi of the Yokohama District Court handed down a judgment that dismissed the petition for retrial of the wartime "Yokohama Incident," in which five people were tortured and died, and many others wrongfully convicted. The decision to dismiss the petition for retrial was based on the fact that the Peace Preservation Law under which the victims were arrested and convicted no longer exists, and amnesty had been granted. This, however, covers up the responsibility of the Special Police officers who conducted the torture to extract so-called confessions, and the judges who followed the Peace Preservation Law

and delivered guilty verdicts based on those confessions on September 9, 1945, after Japan had been defeated. According to Kimura Maki, petitioner for retrial, the question was not one of declaring nongUILTY or dismissal, but "solely whether the judicial system can fully recognize past crimes and apologize to the victims. "Former Supreme Court justice and leading counsel Kan Naotsugu stated, "As a former member of the judiciary and a private individual, I find it unbearable to think that there are still courts delivering such embarrassing rulings" (Plaintiff Exhibit No. 121)

In the postwar period, the Tokyo War Crimes Trial did make an attempt, albeit inadequate, to pursue the question of the war responsibility of the military leaders, and politicians and industrialists were purged from public office. Within the judiciary, however, hardly any judges were purged, even though, through their rulings, they were responsible for acts of suppression in the name of public security. Only 32 public prosecutors who had been involved in ideological crimes were purged. Moreover, many of the purged were later reinstated, and some, like Imoto Daikichi, even rose to become Public Prosecutor General.

In contrast, in Germany, after leading figures were tried in the Nuremburg War Crimes Trials, continuing trials were opened to prosecute those responsible in twelve different fields such as the judiciary, foreign affairs, economy, medicine, etc. The judiciary, in particular, has continued to reflect on Nazi era law, and the legal academy, which is responsible for the training of lawyers, is said to continue to address the issue of war responsibility on the part of the judiciary. Japan, however, has failed to pursue the war responsibility of the judiciary, and the curriculum of the Legal Training and Research Institute of Japan does not touch upon the wartime judiciary. The consequence is decisions such as Judge Matsuo's ruling in the Yokohama Incident retrial case, and other decisions that remind us of conditions under the Peace Preservation Law.

## 2. The courts as guardians of the law

As for this lawsuit, are your Honors of the opinion that you should reject or dismiss the suit by delivering a ruling in accordance with previous judgments, and which limits itself to a minimal interpretation? We ask you to remember, however, that the courts are the guardians of the law. If constitutional violations are left unaddressed, we can imagine a future in which Japan once again heads down the path to war, and the Japanese people as well as people of all nations (in particular, of Asia) will suffer the ravages of war. The courts can reverse this tide by adhering to the Constitution. The courts can fulfill their role as guardians of the law not only by delivering a ruling that finds a violation of the Constitution, but also by demonstrating an understanding of the distress of the Plaintiffs who feel unbearable pain over the current SDF deployment in Iraq. The Plaintiffs sincerely hope for a judgment that will reverse the direction of the previous judgments and bring us back even one step closer to the Constitution.

End

Date of Judgment: May 11, 2006

\* Section pertaining to judgment of the court

## Judgment of Tokyo District Court

## Section 3 Judgment of the Court

*1. Regarding the request for injunction*

We consider the assertion by the Plaintiffs that their right to live in peace and personal rights based on the right to live in peace have been violated, and that if this violation is left unaddressed, there is a high risk of irreparable damage, and for this reason, they have the right to seek an injunction to stop the dispatch of the Self-Defense Forces.

## (1) The right to live in peace and personal rights based on the right to live in peace

The second paragraph of the Preamble of the Constitution confirms that "all peoples of the world have the right to live in peace." The Preamble, however, is first and foremost a statement of the Constitution's principles, foundation, etc., and even though it indicates the guiding principles and criteria for interpreting the individual articles that make up the body of the Constitution, it is not possible to interpret it as directly giving rise to legal effects or binding power. As such, despite what the second paragraph of the Preamble stipulates, it is not possible to derive from it, as maintained by the Plaintiffs, the right to live in peace or personal rights based on the right to live in peace.

Moreover, even though Article 9 states that the Japanese people renounce war as a sovereign right of the nation and the threat or use of force, will not maintain war potential, and do not recognize the right of belligerency of the state, it is evident from the wording of that Article that it presents a normative statement about state structure and state actions, and it is not possible to derive from it a right under private law such as the right to live in peace or a legal interest.

Moreover, Article 13 sets forth respect for all people as individuals and the right to the pursuit of happiness, and the provisions under Chapter 3 of the Constitution set forth the rights and duties of the people, and there is no wording referring to the right to live in peace, the right asserted by the Plaintiffs. As such, it is not possible to derive from these articles the right to live in peace as a concrete right such as asserted by the Plaintiffs or as a legal interest.

In addition, no legal ordinances exist regarding the right to live in peace as a concrete right such as asserted by the Plaintiffs or as a legal interest. In view of the above as well as the Constitution and various laws and ordinances, it is not possible to recognize the right to live in peace as a concrete right such as asserted by the Plaintiffs or as a legal interest. Furthermore, based on the Preamble of the Constitution, Article 9 and Article 13, it is not possible to recognize the existence of personal rights such as stated by the Plaintiff.

2) Consequently, it is clear that the right to live in peace as a concrete right such as asserted by the Plaintiffs or as a legal interest is not a concrete right guaranteed by the Constitution or legal interest, and there is generally no basis for a request for injunction, and therefore, it is not necessary to consider the remaining points, and the request for injunction itself is subject to dismissal by the court as illegitimate.

## *2. Regarding compensation for damages*

The Plaintiffs assert that that their right to live in peace and their personal rights based on the right to live in peace have been violated.

Nevertheless, as explained above, the right to live in peace as asserted by the Plaintiffs and the personal rights based on the right to live in peace cannot be recognized as a concrete right or legal interest guaranteed by the Constitution.

As such, the Plaintiffs' petition for compensation lacks an interest that has been infringed, and therefore there is no reason to consider the remaining points.

## *3. Conclusion*

The court delivers a judgment as follows: In this case brought by the Plaintiffs, the court dismisses the lawsuit seeking an injunction on the grounds of its illegitimacy and rejects the remaining request (request seeking compensation for damages) for lack of reason to merit consideration.

Tokyo District Court 15<sup>th</sup> Civil Division

Presiding Judge Udagawa Motoi,

Judge Nakasato Atsushi

Judge Yasumi Akira

## **Regarding the Judgment**

Lawsuits contesting the constitutionality of SDF deployment in Iraq have been filed by approximately 5,600 plaintiffs in eleven courts in Japan, making this collectively the largest peace lawsuit in Japan's postwar history. While many of these lawsuits are still continuing, the Japanese government announced on June 20 that it would withdraw the Ground SDF now deployed in Samawa. Our lawsuit has been a part of this series of events. We feel that we have played a certain role in this withdrawal, not only through our lawsuit, but together with citizens' movements against the deployment of troops in Iraq.

Nevertheless, the government is now considering expanding the Air SDF's airlift operations that transport troops of the multinational forces and supplies to twenty-four airports in Kuwait and Iraq. If this is realized, the Air SDF will be providing direct support for the military operations of the U.S. forces, constituting what will be an even more evident violation of Article 9. We demand the withdrawal of all SDF forces including the Air SDF and will continue to take action in various ways to achieve this.

Many decisions have been handed down in the lawsuits contesting the constitutionality of SDF deployment in Iraq, all deciding against the plaintiff. The fifteen-woman lawsuit opposing the

SDF in Iraq was no exception. Based on the series of events up to now, this did not take us by surprise, but we hoped to extend and develop the reasons given in the judgment, thereby pushing legal theory to a deeper level as well as appealing to the conscience and emotions of the judges. But, as we presented argument after argument, the three judges closed their hearts, turned away from our legal assertions and summarily dismissed our lawsuit with reasons amounting to a mere two pages.

We will never forget the names of the three judges who delivered this judgment. We believe that history will one day judge those judges, including the three presiding in our lawsuit, who have dismissed the lawsuits contesting the constitutionality of SDF deployment in Iraq.

Nakajima Michiko

June 23, 2006

*Translated by Kathryn Tanaka, Nick Albertson, and Sarah Allen with permission of Nakajima Michiko. Editorial assistance from Scott Mehl. Kathryn Tanaka and Nick Albertson study Japanese literature, Sarah Allen, Japanese art history, and Scott Allen, comparative literature, all at the University of Chicago.*

[1] The "text of the judgment" here refers to "shubun," and the contrasting "reasoning" to "riyu"; these might have been translated as "holding" and "obiter dicta" or "ratio decidendi," but given the amount of discussion, particularly on the latter two terms in the English-language literature, it has seemed wiser not to be overly ambitious in aiming for precision in translating terms of art.

[2] For a Korean report on the 2004 verdict, see [here](#).

For a discussion of the constitutionality of Koizumi's visits, see [here](#).

[3] The Sunagawa Incident refers to large-scale protests in of plans to enlarge the U.S. base at Tachikawa, west of Tokyo, in 1957. The Tokyo District Court, as part of its March 1959 decision, declared the presence of U.S. bases in Japan to be in violation of Article 9 (see below [4]), a finding reversed by the Supreme Court in December of that same year.

[4] "1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. 2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized." [from the official translation; the entire text may be found [here](#).

[5] "Excepting those instances where the Constitution has made specific provision, the courts are vested with the authority to judge all legal disputes and to make determinations with respect to all other laws." [Judiciary Law, Article 3, paragraph 1]

[6] "No person shall be denied the right of access to the courts." [Article 32]

[7] "We, the Japanese people, acting through our duly elected representatives in the National the Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim that sovereign power resides with the people and do firmly establish this Constitution. Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people. This is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith. We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want. We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations. We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources." [from the official translation]

[8] "All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs." [Article 13]

[9] On February 27, 2005, Obora Toshiyuki, Onishi Nobuhiro and Takada Sachimi (all men in their late 40s) were taken into police custody for distributing pamphlets in the SDF dormitories, asking SDF members to think more deeply about their involvement and support for an illegal and expensive war. The men were held for seventy-five days before being charged with criminal trespass and released on bail. Prosecutors asked the Hachioji branch of the Tokyo District Court to give the men a six-month prison sentence, but the case was thrown out of court. The prosecutors appealed to the Tokyo High Court, where on 9 December 2005, the three men were convicted of criminal trespass for the danger they posed to the SDF. The men are currently appealing this conviction and the ¥100,000 fine levied against them (although this was reduced from ¥200,000). For further information in English, see [here](#) and [here](#).

[10] The Yokohama Incident is a term used in the postwar period to describe the arrests of more than fifty journalists and lower-ranking government officials, beginning in Yokohama on 14 December 1942 and continuing into 1945. Trumped-up charges implicated the accused of Communist activities. The incident is seen as a prime example of the deployment of the Peace Preservation Law for the wartime suppression of ideas deemed dangerous by the government as well as brutal interrogation techniques that led to the death of four men in custody and two others shortly after release on bail.

The arrests had especially serious consequences for two of the most influential liberal journals of the prewar era, *Kaizo* and *Chuo Koron*. Senior staff at both magazines were forced to leave after

publishing articles the government deemed Communist in 1942, and both magazines ceased publication in 1944 under this pressure. They were restarted in 1946.

The victims of these arrests and their families have engaged in a lengthy court battle with the Japanese state, asking for an apology and restitution of their good name. The Tokyo High Court recently dismissed appeals brought by family members of five of the men (all now deceased) who sought to clear their names. For more information in English, see [here](#) and [here](#).

[11] The article describes how Japan contracted out the water-supplying mission to a French NGO, which then had the actual work done by Iraqi workers. The project as executed by the NGO is said to be far more effective, both in cost and numbers served, than what the SDF itself was targeted (and budgeted) to achieve. According to sources cited in the article, this is true for water purification, the construction and reconstruction of schools and roads as well. Since Japanese taxpayer money would have been far better served supporting NGOs, "humanitarian support activities" in fact obscures the political purpose for SDF presence.

[12] "The State and its organs shall refrain from religious education or any other religious activity." [from the official translation]

[13] Japanese citizens organized an International Criminal Tribunal for Iraq (ICTI; Iraku kokusai minshu hotei) to run in conjunction with the World Tribunal on Iraq (WTI), an international people's tribunal modeled on the Bertrand Russell World Peace Foundation tribunal of the late 1960s on crimes committed in Vietnam. The Russell Tribunal was also the model for the Women's Tribunal on Japan's Military Sexual Slavery in 2000, and those involved in the latter contributed the lessons learned from that experience to the WTI. The ICTI, like the Women's Tribunal, had an international panel of judges; defendants were George W. Bush, Tony Blair, Koizumi Jun'ichiro, and Gloria Arroyo (President of the Philippines). Information may be found [here](#). The WTI held hearings "on crimes against humanity and against the planet" in twenty sites around the world, beginning in 2003, and delivered its judgment in a final session in Istanbul that was attended by representatives from over 100 countries in 2005. For an observer's report [here](#). Arundhati Roy delivered the opening keynote, "On Behalf of the Jury of Conscience of the World" on 24 June 2005, to be found [here](#). A number of sources refer to a WTI website [here](#) that could not, however, be accessed as of 8 October 2007. The findings of the Jury of Conscience may be read [here](#).

[14] From a provisional translation of the Special Measures Law for Iraq by the Ministry of Foreign Affairs available [here](#). The term "combat" is marked with an asterisk in the original, but there are no footnotes.

[15] The Hyakuri Base suit concerned the efforts of citizens to prevent state purchase of land for the purpose of air base construction. The Supreme Court in its 1989 decision confirmed lower court rulings that the state was acting in a capacity equivalent to that of a private citizen and that the case therefore did not involve the Constitution. For insight into the continued Japanese distinction between "private law" and "public law" as applied to this case, see [here](#); a good brief discussion of the case in Japanese may be found [here](#).

[16] For a contemporary report in English see [here](#); unfortunately, an English translation of the Supreme Court ruling that was available [on this website](#) but a few months ago has disappeared.

[17] For an update on Minamata contextualizing the Supreme Court ruling see [here](#).

## “Equal Opportunity for Japanese Women – What Progress?”

Charles Weathers

October 3, 2005

<http://www.japanfocus.org/-Charles-Weathers/2012>

In addition to political participation, women's groups in Japan continue to advocate for equality in employment opportunities and to challenge gendered labor structures. Charles Weathers discusses the question of whether Japan has truly progressed towards equal career opportunities for women after twenty years of legislative interventions (1985-2005). Weathers provides a concise overview of some of the lingering obstacles that women confront in Japan's workforce. First, he highlights the reality that companies in Japan find ways of evading gender equality in hiring and promotion structures. The so-called “dual-track” personnel system allowed corporations to hire managers (men) versus clerical workers (women). Even after the equality laws established in 1985 and 1999, firms could still divide workers into “regular” versus “non-regular” categories. Female employees often fall into the category of “non-regular” workers, which include “part-timers” who may work full hours or temporary employees with limited contracts. Non-regular workers lack job security, an issue particularly discriminatory when some firms continue to offer “regular” male employees lifetime employment.<sup>5</sup>

Regarding promotion patterns, Weathers cites a survey from the Japan Institute of Worker's Evolution that shows many firms “rarely promoted women.” Despite recent examples such as Sanyo Electric Co. hiring a female CEO Tomoyo Nonaka (1954-) in 2005, women in Japan still face a “glass ceiling” effect; they can only climb so high on the corporate ladder. Married women also face tax disincentives if they earn more than a limited amount in a dual income family. Working parents in general may be penalized or disadvantaged in terms of equal advancement when corporations require regular employees to accept transfers and “on-call” availability.

In terms of advocacy for women's worker rights, the author demonstrates that current support systems rarely challenge the company-centered *status quo* of gendered labor practices in Japan. Weathers explains that many Equal Opportunity offices remain “reluctant to support women actively challenging employer discrimination.” Government employees and bureaucrats handling labor issues, reflecting neoliberal privileging of corporations over citizens, tend to side with businesses in maintaining discriminatory practices. Similarly, labor unions may be limited in how much they serve the needs of women and non-regular workers. However, the largest national trade union organization in Japan, RENGO (Japanese Trade Union Confederation), clearly states in their 2010-2011 Action Policies that they will achieve “an increase in the number of female executives, which is the biggest issue of promoting equal participation of women and men in trade unions.”<sup>6</sup> It is noteworthy, however, that the Action Policy does not address the issue of sexual harassment as central to labor unions and their involvement in equal opportunity.

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<sup>5</sup> According to Hiroshi Ono, while journalistic coverage suggests that Japan's system of lifetime employment is all but dead, he argues that the practice indeed still continues at least through 2005.

<sup>6</sup> RENGO Action Policy 5 2010-2011,

[http://www.jtucrengo.org/12th\\_biennial\\_convention/data/action\\_policies2010-2011.pdf](http://www.jtucrengo.org/12th_biennial_convention/data/action_policies2010-2011.pdf)

Sexual harassment in the workplace remains one of the key complaints brought to Equal Opportunity offices, but labor unions rarely focus on this issue.

Weathers concludes his article with a discussion of whether contemporary Japanese women choose to work or to marry, given the difficulty of doing both. He suggests that the first generation of women after the 1985 EEOL tended to embrace a worker identity to pursue careers intensely, even to the detriment of their personal lives. However, Japan may be witnessing a reversal of this trend. Women may opt for the perceived financial security of marriage, despite a rise in divorce rates and pressures of a shrinking Japanese economy. Overall, Weathers offers an important summary of the main issues that continue to challenge working women in Japan. This article serves as a reference point for examining the effects of later interventions such as the 2010 “Action Policy for Promoting Work-Life Balance,” which targets the employment rate of women as central to achieving a society based on “economic independence.”

## **Equal Opportunity for Japanese Women – What Progress?**

**By Charles Weathers**

Career opportunities have improved greatly for many Japanese women in recent years. More large companies are willing to hire them as career-track employees, and their share of elite civil servant positions has been growing. Although female students at my institution, Osaka City University, still encounter discrimination during the job hunt, they have actually outperformed men in recent job searches. A survey of the top 74 universities confirms the trend, showing that women had higher job placement rates this spring in most of the 395 departments covered. [1] It appears that some businesses are taking more seriously the mantra that ability trumps gender in today's more globalized, market-oriented economy.

Despite these signs of progress, however, employment opportunity for the majority of women may actually be getting worse. The main reason is that employers are intent on reducing costs by replacing regular (seiki) employees with lower-paid, disposable non-regular (hiseiki) workers, including part-timers, agency temporaries, and contract workers, who often do the same or similar work. The Ministry of Health, Labor and Welfare (MHLW) estimates that non-regular workers constituted 34.6 percent of the salaried work force in 2003, and the figure continues to rise. The Japanese have assigned the name *hiseikika* (non-regularization) to the rising ratio of non-regular workers. Some, particularly housewives caring for young children, are content with non-regular and part-time jobs, but the number of "involuntary" non-regulars, those unable to find regular positions, has grown steadily in recent years. Further, even regular female employees are bothered by sexual harassment, discrimination in promotions to management, and refusal of childcare leave.

Twenty years after the passage of the first Equal Employment Opportunity Law, why does Japan's progress toward equal opportunity remain so erratic, or worse? What are the prospects of improvement as MHLW officials urge business to accept a revision of the country's weak equal opportunity law, hopefully by next year? Below, I outline some of the major issues and problems facing Japan's equal opportunity reformers.

### **Equal opportunity laws, new and old**

In the mid-1970s, just as the United Nations began to actively promote gender equality, Japanese employers were expanding use of women as non-regular employees in order to reduce rising labor costs in a tight labor market. As a result, the ratio of part-timers in the work force increased from 3 percent in 1975 to 12 percent in 1992. The original Equal Employment Opportunity Law (1985) was passed largely to placate international opinion. It did not prohibit discrimination in hiring or promotion. Many large firms evaded the law by establishing so-called dual-track personnel systems, which included separate management-track (*sogo-shoku*) and clerical-track (*ippan-shoku*) courses. Their main function was legal cover for continuing to assign jobs on the basis of gender. Even in 2000-01, according to a government survey, only 2.2 percent of employees in large companies' career tracks were women.

By the early 1990s, there was growing pressure – economic as well as social – to strengthen the clearly ineffective EEOL. The government had hoped that the original EEOL would put an end

to discrimination lawsuits; instead the proliferation of dual-track systems triggered a “second boom” in discrimination lawsuits. Overt discrimination was clearly out of touch with changing social values, and business leaders, increasingly concerned about global competition, recognized that the law was not promoting the utilization of women’s talents. But most importantly, around 1990 an unexpectedly sharp decline in the birthrate, leading to projected labor shortages, jolted national leaders into taking action. Alarmed that a declining population would undermine the economy, they feared that poor childcare support and bad working conditions for full-time employees (especially notoriously long hours) were both discouraging couples from having children, and leading women to forego careers or quit professional jobs.

Labor ministry bureaucrats took advantage of this situation to press a campaign to revise the EEOL. The Revised EEOL, which took effect in 1999, is also weak, but it makes discrimination in hiring and promotion illegal. It also provides better support for women challenging discriminatory practices in court, although it prescribes no penalties. The Revised EEOL was successfully utilized by anti-discrimination plaintiffs for the first time in a lawsuit against Nomura Securities. In a verdict handed down in February 2002 after nine years of litigation, the court acknowledged that discrimination had occurred for many years, since the women were clearly paid less than men for doing similarly skilled work. The company promoted the three plaintiffs who were still working, and paid lump-sum settlements to all 13 plaintiffs. However, the court ruled that the practices were illegal only from April 1, 1999, when the Revised EEOL took effect, limiting the size of the damages. Although the case was a landmark, its implications remain uncertain. Nomura was perhaps careless in openly using low-paid female employees to perform skilled work; other firms can take precautions such as redefining jobs, or using non-regular workers, whose rights are ill defined. Further, Japan’s conservative courts place relatively little weight on precedent, so the Nomura case’s impact will not be clear until more cases have been settled, and a broader legal pattern established.

### **Obstacles to equal opportunity**

Despite the widely recognized economic importance of working women, Japan’s would-be reformers have achieved only incremental advances in protection of women’s job rights. When seeking to establish new laws (or revise existing laws), labor-welfare ministry officials first convene policy deliberation councils (*shingikai*) consisting of representatives of labor, business, and the “public interest” (mostly lawyers, academics, and journalists) who debate drafts of bills before sending them to the Diet. To gain business consent to significant new proposals, it generally must be clear that they are necessary to respond to changes in public opinion or in international standards, or that they have economic merit; the anti-discrimination clauses in the revised EEOL basically met all these conditions. More far-reaching proposals have not.

The current discussion on revision centers on five issues: prohibiting denial of childcare leave rights, prohibiting indirect discrimination, strengthening anti-sexual harassment measures, strengthening the application of positive action (the counterpart to the US’s affirmative action), and shifting the law’s basis to gender neutrality (prohibiting discrimination against men as well as women in order to achieve greater equality). The first (leave rights) and third (sexual harassment) are fundamentally about getting serious about enforcing the law. But indirect discrimination – practices that are nominally gender-neutral but in reality disproportionately

disadvantageous to women – is notoriously difficult to clearly define and identify. The channeling of women into non-regular jobs is generally regarded as indirect discrimination (in many countries), especially when wage and benefit differentials regular and non-regular work are large, as in Japan. Thus indirect discrimination is closely linked to non-regularization, and is accordingly the present shingikai's central issue. Employers and unions did agree at the June meeting that height and weight requirements for employees would constitute indirect discrimination, but in other cases, such as different compensation for regular and non-regular workers, clear standards have been nearly impossible to produce.

Meanwhile, relations between ministry officials and equal opportunity activists and litigants remain strained. To date, local Equal Opportunity offices have been notoriously reluctant to support women actively challenging employer discrimination. Labor bureaucrats actively joined business in the late 1990s in supporting the liberalization of agency temporary work.

Progressive observers regarded that as detrimental to the interests of workers, especially women, who then accounted for nearly ninety percent of temps. Proponents argue that liberalization has expanded job possibilities, while critics point to falling wages and lack of benefits. The average wage for temps dropped from around 1704 yen per hour in 1994 to around 1430 yen by 2004 as the number of temporary workers increased sharply, according to Haken Rodo Network, an NPO that supports temps' rights.

### **Non-regular workers**

While the numbers of non-regular workers have grown in most industrialized countries, the increase has been especially rapid in Japan, tripling since 1980, and increasing 1.5 times in the past decade. From 1997 to 2002, about three million regular jobs were lost, while a slightly larger number of non-regular jobs was created.

Employers have long maintained that lower pay and benefits for part-timers are justified because they have fewer skills and less responsibility than regular workers (they earlier made the same points about female workers in general). That stance was always shaky, partly because many women were denied the chances to raise skills, and it is increasingly wide of the mark. Not only do many "part-timers" work full-time hours (they are sometimes called "false part-timers"), but part-timers' skill levels have increased considerably since the mid-1980s, while employers continue to hold down their compensation. The term part-timer (paato) is as much about status (low) as about work hours (variable).

The incentive for hiring non-regulars is not just lower pay and fewer benefits. Often even more important is that they are far easier to dismiss than regular workers, whose job security has been protected by the courts. In principle, non-regulars have the same job security rights as regular employees, but the courts have been reluctant to give them the same backing. Many companies use carefully crafted contracts that spell out work periods to prevent part-timers from claiming renewal rights. Instead of directly firing workers, companies simply do not renew their contracts (yatoi-dome). In addition, businesses often get away with illegal dismissals because many employees do not know their rights. Reformers are seeking to legally require managers to explain rights to workers when they sign contracts, as well as to challenge the free use of yatoi-

dome. Critics charge that firms often use contract non-renewal to rid themselves of employees who join unions, become pregnant, or press sexual harassment complaints (Asahi Shinbun, 23 May 2005).

In the meantime, employers are developing new personnel practices to maximize the use of inexpensive non-regular labor. [2] Paato in many firms have been subdivided into “core” and “supplementary” employees. Some companies have created such categories as “regular worker-type paato” and “paato-type regular worker” (the terms are equally clunky in Japanese). The new employee categories are often based on willingness to accept transfers involving relocation, and willingness to work irregular hours. The higher-ranking categories have better pay and promotion prospects. Supermarkets are in the forefront of the changes since most of their employees are now part-timers. Many of their paato perform low-level managerial functions, such as supervising particular sections – the meat section, for example – but at lower pay than regular employees. These practices penalize working parents and maintain corporate control over employees, since any employee who wants a full wage must essentially agree to be constantly available to work and ready to accept transfers involving relocation. That makes it harder, as reformers have long argued, to advance equal opportunity or improve general work conditions.

Suganuma Tomoko, one of the most prominent lawyers supporting equal opportunity plaintiffs, told me that 1998 was thought to be the “divide” when non-regularization replaced dual-track personnel systems as the core obstacle to the advancement of equal opportunity (interview, 10 September 2004). In other words, the main target of litigation shifted from assigning women to non-career tracks, to employing them as non-regular rather than regular workers. This reflects the falling legitimacy of the dual-track system, which is out of step with the young generation’s support for gender equality at a time of rapidly expanding use of non-regular workers generated by the pressure to cut labor costs.

The number of large firms using dual-track personnel systems fell to 46.7 percent by 2003, according to MHLW. Moreover, recent MHLW investigations indicate that many other firms, especially in the financial sector, have abandoned dual-track systems in the last year or so. That is not a wholly positive trend, however, since most firms simply use non-regular women rather than clerical-track women to perform the same jobs. Indeed, the dual-track system is showing surprising signs of life. The share of mid-size firms (100-299 employees) using dual-track systems rose three points to 13.7 percent from 2000 to 2003. (Smaller firms typically ignore troublesome labor laws, and thus have less need to justify questionable personnel practices.) A recent report from MHLW’s ongoing equal opportunity committee observed that companies that use dual-track systems promote very few women to managerial level – in the bureaucratic committee-speak of such reports, that suggests that these firms tend to be active discriminators. [3]

One standard estimate puts the percentage of female managers in Japan at about 9 percent, compared to 30 percent in Britain and 45 percent in the US. According to MHLW, women accounted for just 2.7 percent bucho (department heads), 5 percent of kacho (section chiefs), and 11 percent of kakaricho (low-level supervisors) in 2004. A survey conducted last March by the Japan Institute of Workers’ Evolution, a quasi-public organization that promotes women’s advancement, verified that many firms rarely promote women. Of 409 firms surveyed, 79

percent had no female bucho, 55 percent no female kacho, and 19 percent no female kakaricho. Typically, the smaller the firm, the greater the gender inequality. Thirty-nine percent of the firms did not expect to increase the share of women in managerial positions in the next five years. Furthermore, only 4.4 percent of the firms had established numerical targets to increase the number of female kanrishoku (mid- and upper-level managers). Studies of the US that are well known in Japan demonstrate that clear targets, along with active participation by senior managers, are essential to breaking through glass ceilings.

## **Unions**

Japanese unions, like their counterparts elsewhere, historically neglected non-regular workers, because enterprise unions often share managers' propensities to regard low-cost non-regular workers as buffers protecting the company and its regular employees. It was a logic that was particularly compelling for unions representing workers in large enterprises who enjoyed substantial employment security. After three decades of suffering a steady decline in union membership – from 35 percent in 1975 to under 19 percent today – the mainstream union movement knows that it has to start serving female and non-regular workers if it is to reverse the drift toward irrelevance. According to Yoshimiya Sogo, a senior official in the labor federation Rengo, eliminating gender differentials and strengthening protections for non-regular workers are the federation's top priorities. [4]

But union reformers face long odds in efforts to promote the interests of non-regular workers, many of whom are women. If many Rengo officials are reformers at heart, the federation has no authority over the enterprise unions, which, Yoshimiya points out, frequently ignore its directives to help women and part-timers. 95 percent of Rengo unions do not represent part-timers, and most have no desire to do so. The estimated organization rate for part-timers was just 3.0 percent in 2003.

Japanese unions are often most effective in protecting minimum standards and preventing arbitrary management abuses, but in a stagnant economy they have trouble gaining significant wage raises or improved benefits. Non-regular workers, who need representation most, are often reluctant to pay union dues or attend meetings since they can't perceive the benefits. There is also a low level of understanding of unions, especially among younger people. I was recently told by local union officials operating around Tokyo's Kameido district that members often quit unions even when the unions manage to maintain or raise wage levels because they do not realize how their interests are served. (Local unions are primarily tiny organizations with low-paid and/or volunteer staff, and the progressive outlook of social activists.)

## **Childcare leave**

Although the push for equality on the part of some in business and government is largely motivated by fears of the low birthrate, progress in strengthening childcare support, critical to expanding the female work force, is at best erratic. Official statistics show that most eligible women take childcare leave. But these statistics leave out the majority, the approximately two-thirds of women workers who quit work when they become pregnant.

Pregnant women often quit rather than take childcare leave because they are reluctant to force extra work on coworkers during their leave. Indeed, many women who do take childcare leave experience considerable resentment among coworkers who have to cover the extra work. Nihon Keizai Shinbun (Nikkei, 9 May 2005) reports that female rather than male employees seem to draw the parceled-out work, and have practically no chance of improving their job ratings by working harder – instead, the extra workload results in more problems and errors.

Although the law prohibits dismissing or penalizing people for taking childcare leave, it is widely believed that women who take leave frequently face “disadvantageous treatment” if not outright dismissal. (Men have the legal right to childcare leave as well, but they are even more vulnerable, and rarely take it.) As a result, strengthening the childcare leave right is one of the main subjects under review. The government has also made expanding daycare a priority even as it tacitly encourages daycare centers to hire low-paid non-regular workers to hold down costs.

### **Rising insecurity**

Until relatively recently, near-full employment (for men) helped to maintain a high level of economic security, but that has been changing with the rising rates of divorce, non-marriage, and youth unemployment. The number of single-mother households rose by 30 percent to 1.22 million from 1998 to 2003. Women have become much more willing to abandon annoying or abusive spouses, particularly since marriage no longer provides a strong guarantee of economic security. However, most women seeking to return to the work force after bearing and/or raising children are relegated to non-regular positions paying low wages. Single mothers do a little better than others in finding regular positions, but their incomes remain low. In 2002, according to MHLW, single-mother households had average incomes of just 2.2 million yen, compared to 3.9 million yen for single-father households.

Finally, sexual harassment in the workplace remains a serious impediment to women’s economic advance. The Revised EEOL clearly proscribed sexual harassment, but it still accounts for 80 percent of the discussions conducted for women at Equal Opportunity offices (Nikkei, 18 January 2005). These discussions generally take place after a woman’s appeal to the company has been rejected. The woman is especially likely to lose her job if the violator is a top manager, as is often the case. Non-regular workers are especially vulnerable, and in extreme cases, harassment can lead to severe depression or even suicide. Local union officials say they sometimes negotiate with employers on behalf of victims, but that they are usually limited to demanding more severance pay. The amounts are small, they say, but the real purpose is to provide moral support and bolster the worker’s self-esteem. Labor ministry officials and labor representatives in the equal opportunity committee want to add teeth to anti-sexual harassment rules, but employers are likely to veto such measures.

### **Marriage over work, again?**

There are signs of a shift in the consciousness of young women, at least those qualified for white-collar occupations (Nikkei, 22 June 2005). Some observers report a significant shift in attitudes among many young Japanese women, towards preferring marriage over careers. These women, the thinking goes, are increasingly aware that a business career can be a grind. It is the

common wisdom for instance that women in the first “post-EEOL” generation – those who took career jobs around 1985 to 1995 – tended to work furiously in order to succeed in the male-dominated business world, yet all too often found their careers unrewarding because of lack of acceptance from male coworkers, persistent glass ceilings (barriers to promotion for women), and neglect of their personal lives. A very high proportion of the few women who reached management rank never had children (this phenomenon is not, of course, limited to Japan). Throw in the problems of long work hours and declining job-and-income security, and it is no surprise that many young women seem to be leaning toward other options, including marriage and alternative work, even if the pay is low. But that spells potentially big economic trouble for a society that is about to see its working-age population decline. Business and political leaders may soon have another compelling reason to get serious about reforming the country's employment practices.

### Notes

[1] AERA, 15 August 2005, pp. 72-77.

[2] See the January 2005 issue of *Business Labor Trend*, a monthly Japanese-language publication of the quasi-governmental Japan Institute for Labour Policy and Training.

[3] The report, regarding the July 27th session, was posted on MHLW's website on August 3rd.

[4] Interview, 11 September 2004. Yoshimiya is also one of the labor representatives in the ongoing EEOL deliberations. Rengo, which selects all the labor representatives, has at best limited contact with women's groups.

## **“Single Mothers and Welfare Restructuring in Japan: Gender and Class Dimensions of Income and Employment”**

FUJIWARA Chisa

January 2, 2008

<http://www.japanfocus.org/-Fujiwara-Chisa/2623>

While Weathers highlights structural issues facing working women more generally in Japan, Chisa Fujiwara focuses specifically on the plight of single mothers. Fujiwara analyzes the intersections between gender and class in Japan, especially with regard to factors inhibiting single mothers from achieving self-sufficiency. The author aptly notes that in most studies of Japanese society, poverty and social class receive little to no attention. This oversight may result from assumptions that Japan is an affluent, homogeneous nation with a large comfortable middle class and no poverty. Fujiwara explains that 90% of the Japanese population self-identifies with this “middle class myth.” However, she demonstrates that the everyday realities of many individuals, including single mothers, present a challenge to this constructed notion. Along with ethnic and racial diversity, Japan features a far greater spectrum of socio-economic class differences than is often recognized.

Most single mothers in Japan are middle-age women who married, had children, and then divorced. According to Japan’s Ministry of Internal Affairs and Communications, divorce rates have experienced an upward trend since the 1960s, reaching a peak in 2002 (290,000 total divorces) with another high point in 2010 (251,000). Fujiwara explains that in response to this trend, the Japanese government implemented welfare reforms for single mothers in 2003. For example, welfare restructuring imposed a time limit to reduce the total amount of “dependent children’s allowance” that a single mother may receive. At the same time, despite new legal requirements for child support payments, child support is often not enforced and thus not a guarantee for women. Rather than implementing measures for enforcing child support payments, the 2003 regulations limit the amount of time women may receive benefits and emphasize the need for single mothers to participate more in the workforce. However, over 80% of Japanese single mothers already work, a high percentage when compared with their counterparts in a majority of industrialized countries around the world. This statistic challenges the assumption that most mothers in Japan are “professional housewives” (*shufu*). Beginning in the Meiji Era (1868-1912) of Japanese modernity, womanhood became directly tied to domesticity through the state-supported ideal of woman as “good wives, wise mothers.” In the postwar era, the image of a professional housewife revitalized this gender ideal and government policies promoted marriage rather than active participation in the labor force as a form of lifetime employment for women. In reality, many women still engage in the workforce following what scholars refer to as the “M-curve.” Fujiwara explains that it remains common for Japanese women to work until marriage and childbirth (first peak in the M) and then to return to the workforce after the children go to school full time or leave home (second peak in the M). This pattern places extra strain on single mothers, most of whom must change their work status quickly following a divorce.

Funded by the Japanese Department of Labor, Fujiwara joined a group of researchers to study work patterns among single women. Their findings suggest that even though a large percentage of women work, due to the very issues highlighted in Weathers’

article, these women cannot earn enough to become economically independent. In fact, many "fatherless families" live way below the poverty line. Fujiwara identifies significant class differences, especially educational attainment, as greatly affecting a single mother's ability to secure permanent well-paid employment. She concludes that to raise the incomes of single mothers, the government must target not only work opportunities, but also foster "greater chances for educational advancement." In the end, Fujiwara continues to challenge assumptions about the invisibility of social class and poverty in Japan. After more than a decade of recession, the author states that it is time to shift notions of gendered and classed inequalities in Japanese society.

## **Single Mothers and Welfare Restructuring in Japan: Gender and Class Dimensions of Income and Employment**

### **Fujiwara Chisa**

Since the 1990s, Japan has experienced an increase in the number of single parent families due to a significant rise in the divorce rate. In response to this trend, the Japanese government introduced welfare reforms in 2002, which aimed to limit welfare expenditures for single mothers and strengthen mothers' self-sufficiency through work. Becoming self-sufficient through work, however, is not just a matter of will and effort. As I will show in this paper, a single mother's ability to find employment is strongly influenced by her educational and class background, an issue which until recently has received comparatively little attention. In what follows, I examine single motherhood in Japan from the perspective of social class. Poverty and social class are rarely discussed in studies of Japanese society, in part because Japan is widely considered to be a quite affluent and egalitarian society. However, social class, which is chiefly explored through educational background in this paper, is an important factor that affects the living conditions of single mothers in contemporary Japan. [1]

### **Section 1: Single mothers and welfare reform in Japan**

#### **Welfare reform**

As in other industrialized countries, welfare support for single parent families has become a major concern of policymakers in Japan. Because of a significant increase in the number of divorced and unmarried mothers, as well as their tendency to rely upon public support, welfare expenditures on single mothers (not including widowed mothers who receive widow's pensions) has been subject to reform in Japan.

In light of these concerns, policymakers in Japan have seen the recent reforms in the United States and the United Kingdom as an attractive model. In the U.S., welfare reforms introduced in 1996 have tried to limit welfare expenditures through the introduction of welfare-to-work policies, and have dramatically reduced single mothers' reliance on cash assistance. Similarly, in the U.K., the New Deal policy for lone parent families introduced in 1997 aims to reduce poverty among single parent families through the introduction of welfare-to-work policies. Likewise, in Japan, the dependent children's allowance (*jido fuyo teate*), which is the major source of support for divorced and unmarried mothers, has been subject to restructuring in the past two decades. In response to increasing demand, policymakers have tightened the conditions for eligibility and reduced both the amount of benefits and the number of recipients in a series of cuts carried out in 1985 and 1998. As in the U.S. and the U.K., policymakers in Japan have been concerned with the increasing caseloads and welfare expenditures.

In 2002, the Japanese government introduced a number of reforms, which aimed to limit welfare expenditures for single mothers. Since 2003, single mothers have been subject to a time limit, which reduces the dependent children's allowance for mothers who have received the allowance for more than five years or who have been single mothers for more than seven years. In lieu of cash assistance, a number of services and programs have been extended to support single

mothers' access to work and income. The revised law about single-mother families (*boshi kafu fukushi hou*) of 2002 stipulates that single parents are given preference in placing their children into subsidized day care centers. Under the new 2003 regulation for child support enforcement, single mothers are able to not only lay claim to past unpaid child support payments, but also ensure that future payments will be taken directly out of the fathers' paychecks. As work-related services, the Japanese government is urging local prefectures and cities to establish special job centers and job training benefits for single mothers.

### **The characteristics of single mothers in Japan**

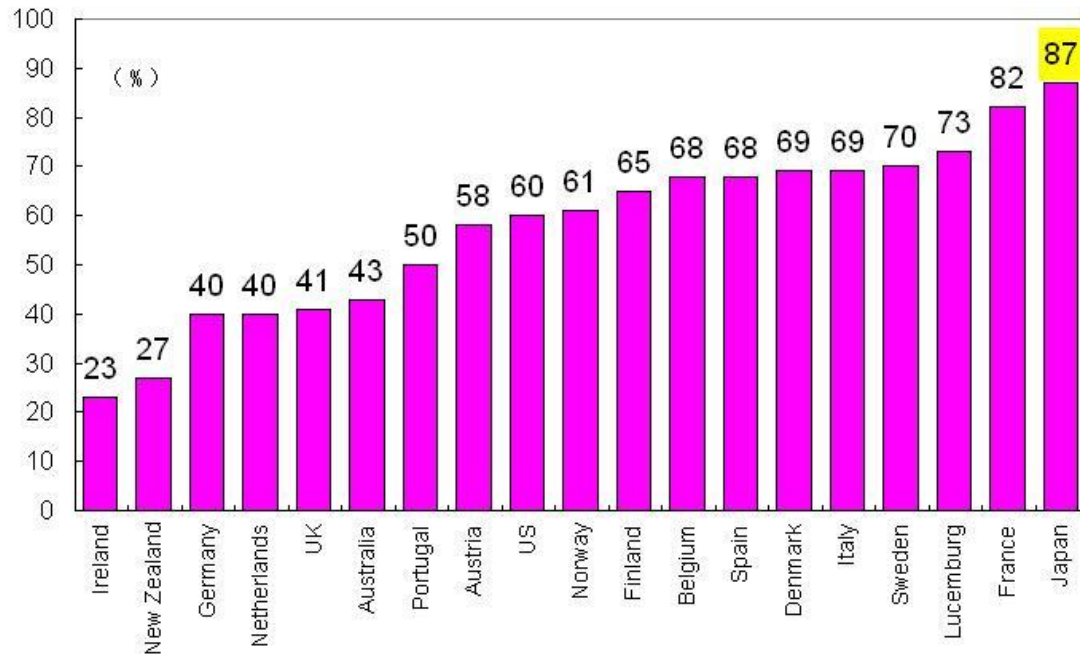
The goal of these programs is quite similar to that of the welfare reforms introduced in the U.S. and the U.K. The major objective is to increase employment among single mothers and to make them economically self-sufficient. On the surface, policymakers in the U.S., U.K. and Japan seem to face similar problems: burgeoning expenditures on welfare support for single mothers and increasing numbers of single mothers who rely on public support. However, the situation of single mothers in Japan differs quite significantly from other industrialized countries in several ways.

First of all, in comparison with the U.S. and the U.K., single motherhood in Japan is a marginal social phenomenon. Whereas the share of single mother families among all families with children is over 20 percent in the U.S. and the U.K., in Japan, they account for just 7 percent of families. Also, unmarried mothers in Japan accounted for only 8 percent of single mothers. In the United States, by contrast, over 40 percent of single mothers were unmarried. Moreover, most single mothers in Japan are in their 30's and 40's. Many become single parents only after marriage, childbirth, and divorce. Therefore, single motherhood in Japan is largely associated with divorced middle-age mothers rather than unmarried teenagers.

**Figure 1. Single mothers' workforce participation rate in the early 1990's**

Figure 1

Single mothers' workforce participation rate in the early 1990's



Source: Bradshaw, J. et al. [1996] *The Employment of Lone Parents: a comparison of policy in 20 countries*, London, Family Policy Studies Centre.

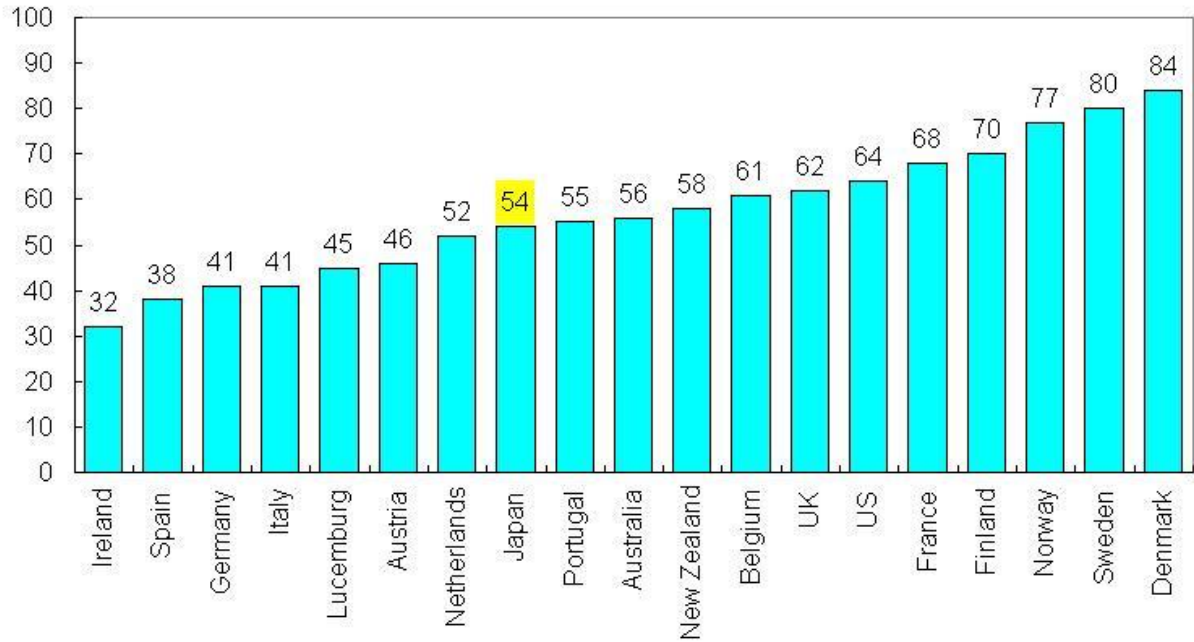
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Another characteristic of single mothers in Japan is that their work participation rate is the highest in the world, far exceeding the majority of other major industrialized countries (Figure 1). In the early 1990's, an astonishing 87 percent of Japanese single mothers (including widows as well as divorced and unmarried mothers) were working. Even more striking is the fact that their work participation rate has been over 80 percent for the entire post-war period.

**Figure 2. Married mothers' workforce participation rate in the early 1990's**

Figure 2

Married mothers' workforce participation rate in the early 1990's



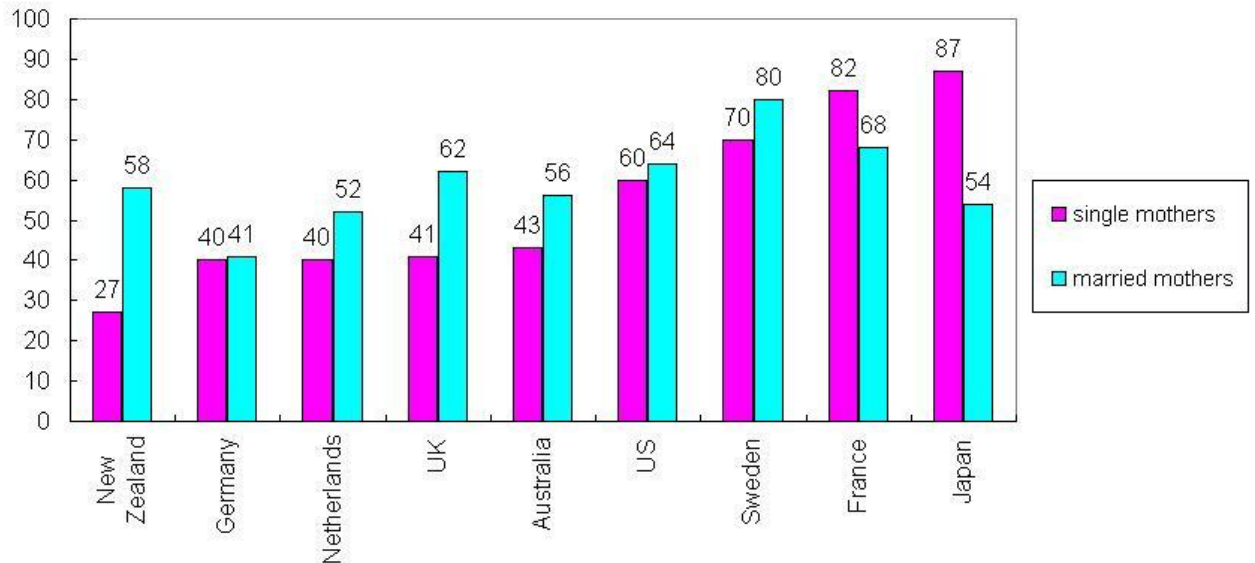
Source: Bradshaw, J. et al. [1996] *The Employment of Lone Parents: a comparison of policy in 20 countries*, London, Family Policy Studies Centre.

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### Figure 3. Comparison of workforce participation rate among single mothers and married mothers

Figure 3

Comparison of workforce participation rate among single mothers and married mothers



Source: Bradshaw, J. et al. [1996] *The Employment of Lone Parents: a comparison of policy in 20 countries*, London, Family Policy Studies Centre.

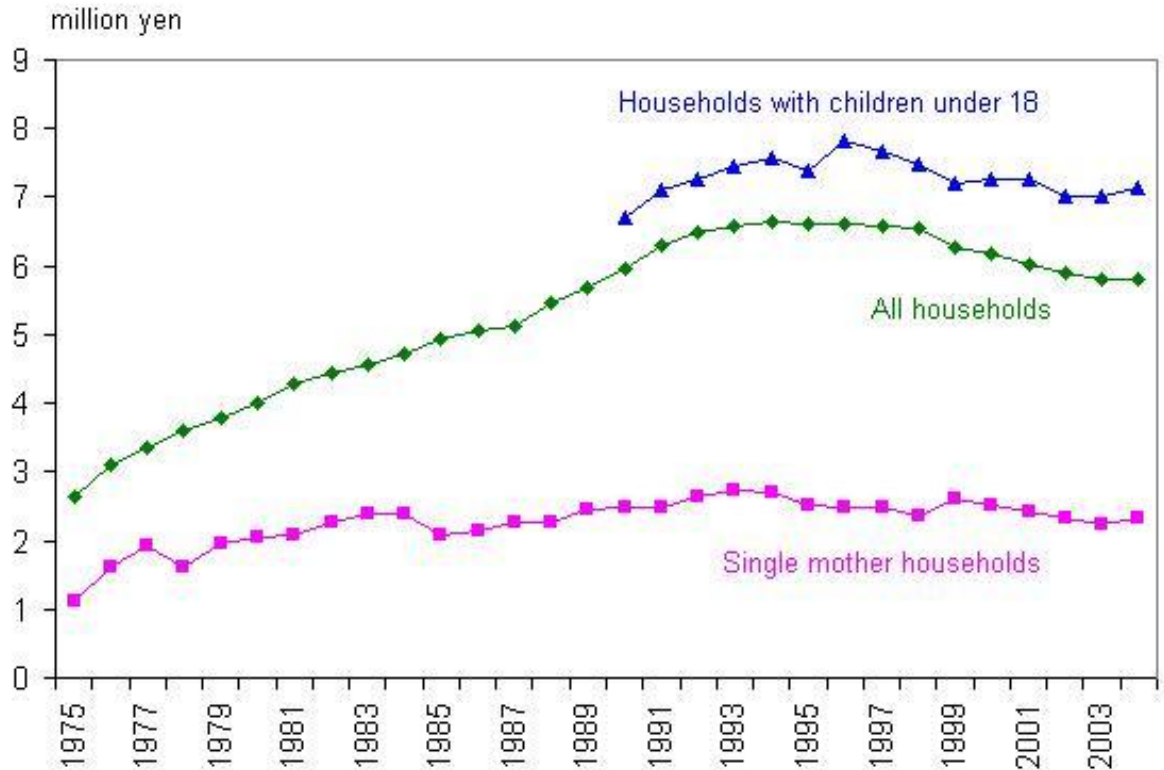
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This may come as a surprise, because it is often assumed that most Japanese women are housewives. Indeed, in the 1990's, only 54 percent of married mothers in Japan were working (Figure 2). This indicates that it remains common for Japanese women to stop working at the time of marriage and childbirth and to return to the labor market in middle-age. This makes the high work participation rate of single mothers all the more striking. As shown by Figure 3, the work participation rate of Japanese single mothers is over 30 percentage points higher than that of married mothers. A difference in the work rate of single mothers and married mothers in itself is not so unusual; it can also be seen in the United Kingdom and New Zealand. However, one particularity about Japan is that the work participation rate of single mothers, though not married mothers, is significantly higher.

**Figure 4. Trends in the average annual income of households in Japan — including public and private transfer**

Figure 4

Trends in the average annual income of households in Japan (including public and private transfer, before tax)



Data: Basic Survey on National Life, various years

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Since almost all Japanese single mothers are working, one might assume that they are economically self-sufficient. Unfortunately, because of low salaries, it remains difficult for them to make ends meet on their incomes from work. In the 1990's, the average annual income of single mothers amounted to less than 40 percent of the average Japanese household income (Figure 4). The increasing disparity in incomes can be explained by the growing number of dual-earner families with higher incomes. The low income of single mothers also illustrates persisting disparities in women's and men's average income: the average wage of women remains at about 60 percent that of men. Since the dependent children's allowance supports mothers with low incomes, it constitutes a crucial contribution to the welfare of single mothers and their children.

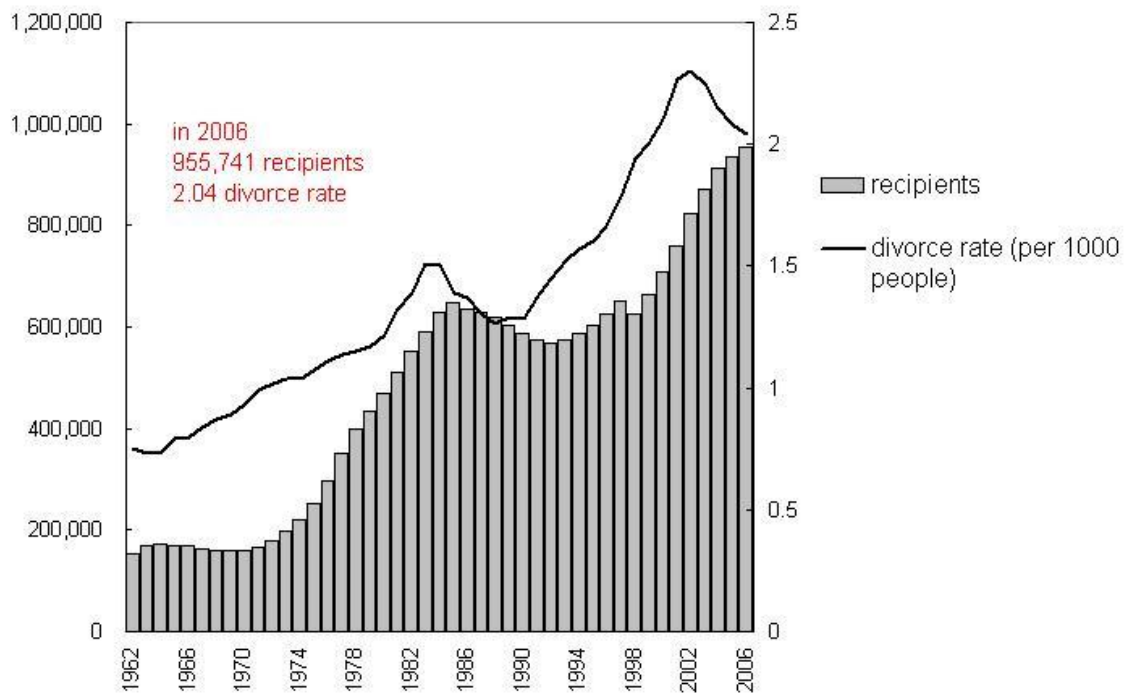
### The political background of welfare reform in Japan

One may wonder why, in light of the high work participation rate of single mothers, the Japanese government has introduced new regulations which aim to strengthen mothers' self-sufficiency through work, that is, to reduce state support. It was the continued increase in divorces, and therefore demand for government assistance, rather than a lack of engagement in work, that made policies toward single mother a focus of policy revisions. As Figure 5 shows, Japan's divorce rate has increased significantly in the 1990s. Since most single mothers (71% in 2003) qualify for the dependent children's allowance because of low income, this led to a significant increase in the demand for the dependent children's allowance.

**Figure 5. Trends in Japan's divorce rate and the number of single mothers receiving the dependent children's allowance**

Figure 5

Trends in Japan's divorce rate and the number of single mothers receiving the dependent children's allowance



Data: Statistical Report on Welfare Administration, Vital Statistics Survey, various years

[Enlarge this image](#)

The main reason for the reforms was the government's need to reduce expenditures in order to cut back on deficit financing. In addition, public discourse began to portray the increasing divorce rate as a modern phenomenon associated with Western countries. It is widely believed

that higher educational attainment and economic independence among women has contributed to the rising divorce rate [2]. Based on the assumption that divorcees are making a personal choice, policymakers argued that mothers should not feel entitled to government support. The low income of single mothers has often been explained by the lack of work experience of women who became housewives after having children.

### **Class aspects of single motherhood**

What is missing from this picture are the socio-economic dimensions of divorce trends. Many studies in other industrialized countries have investigated the relationship between single parent families, poverty, and social class. They have shown how the economic disadvantages of single parent families are related to class, race, ethnicity, and gender inequality. So far, no analysis of this kind has been done in Japan. This is in part due to the lack of divorce statistics which specify socio-economic background. Statistics on single mothers also rarely indicate educational background and work patterns.

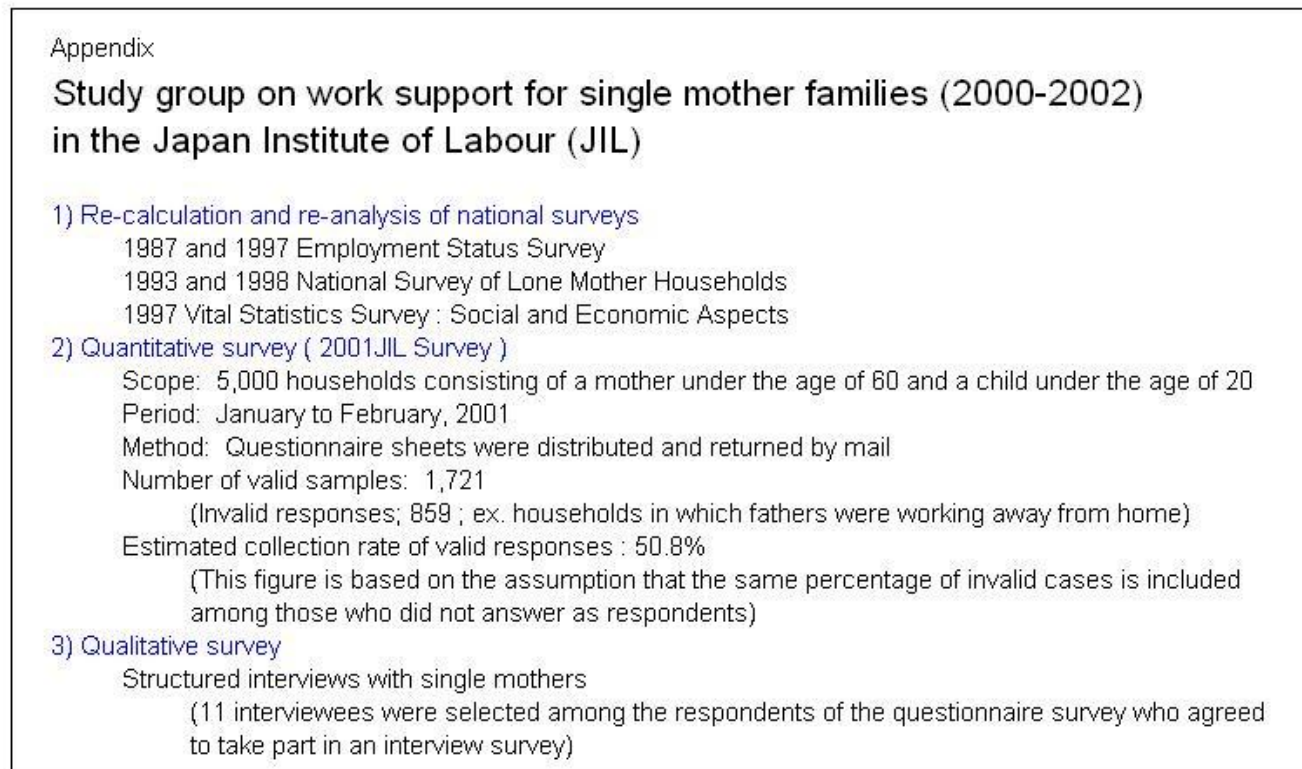
Even more striking is the fact that the Japanese government has no official data assessing the poverty rate. As a matter of course, the government counts and releases the number of recipients of public assistance (*seikatsu hogo*), but does not seem to be interested in how many people fall through the cracks of the public assistance system. The government does not count the number of households living under the poverty line and does not release the take-up rate of public assistance system. The absence of such data has made poverty invisible in Japan. However, as in other industrialized countries, educational attainment as a factor of class background is an important issue.

## **Section 2: Educational attainment and employment patterns among single mothers**

### **Data**

In this section, I discuss the findings of a study group which looked at employment support services for single mothers. This group met between 2000 and 2002 with support from the Japanese Department of Labor. As a member of this group, I conducted several studies concerned with the work patterns of single mothers. The resulting group report was the first intensive study on the working conditions of single mothers in Japan.

## Appendix. Study group on work support for single mother families



[Enlarge this image](#)

Our research examined single parent families from several angles. First, we recalculated and analyzed several national surveys conducted by major Japanese ministries and government offices. Until then, raw data about single mother households had not been made available to individual researchers. The different datasets allowed us to compare the situation of single parents with that of married parents. We also conducted a quantitative survey with a random sample of single mothers based on the Population Census. Finally, we collected qualitative data based on interviews with single mothers. The members of this group were not particularly concerned with the class dimension of single motherhood. However, unexpectedly, our findings indicated that there were significant differences in the educational attainment of married parents and single parents.

### Differences in educational background

Figure 6 shows the result of a re-calculation of the Employment Status Survey of 1997. This survey is one of the largest government surveys and covers about 20,000 households. Although it includes single parent households, reports usually do not single out single mothers. The government however gave us special permission to recalculate the results in order to investigate the situation of single mothers in greater detail.

### Figure 6. Educational attainment of single parents and married parents

Figure 6

**Educational attainment of single parents and married parents**



Data: 1997 Employment Status Surveys

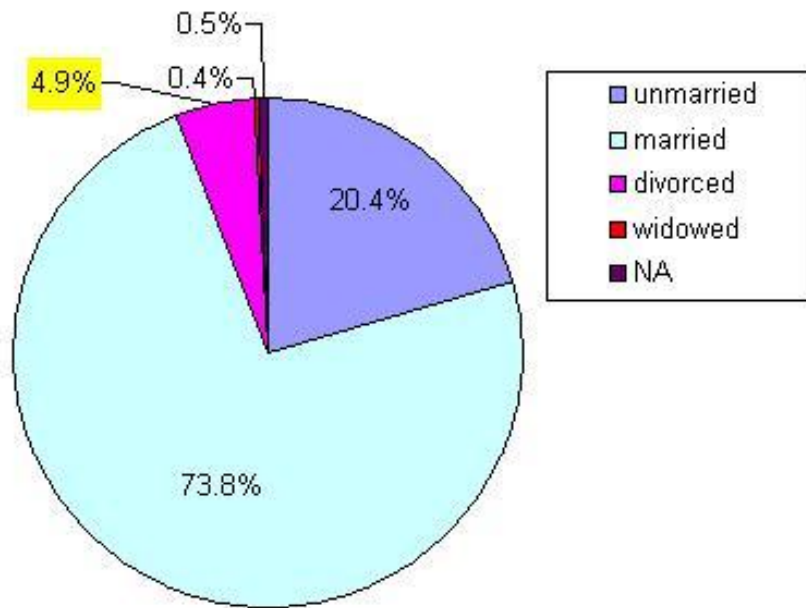
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Since there had been no existing data on the educational attainment of single mothers in Japan, and single motherhood is not as strongly associated with race, ethnicity and class in public discourse as in other industrialized countries. We were surprised to find that the educational attainment of single parents (mothers or fathers who had no spouse and lived with their own children under the age of 20) was very low. They tend to be graduates from junior or senior high school, whereas a significant proportion of married parents (mothers or fathers who lived with their spouses and their children under the age of 20) are junior college or university graduates. Among single mothers, 19 percent had not gone beyond junior high school. Among married mothers, by contrast, the ratio of junior high school graduates was just 8 percent. Moreover, 10 percent of married mothers have university degrees, whereas only 4 percent of single mothers do so.

The same tendency can be seen among single fathers. 28 percent of single fathers have only a junior high school degree, as opposed to 12 percent of married fathers. The ratio of single fathers who are university graduates is 15 percent, a rate lower than half of that of married fathers. Certainly, in terms of the age structure, single parents are on average older than married parents, so the differences of the educational attainment may be an effect of age. However, data from the Population Census also shows that single parents tend to have a lower educational attainment.

**Figure 7. Marital status of women age 30-39**

Figure 7  
Marital status of women age 30-39

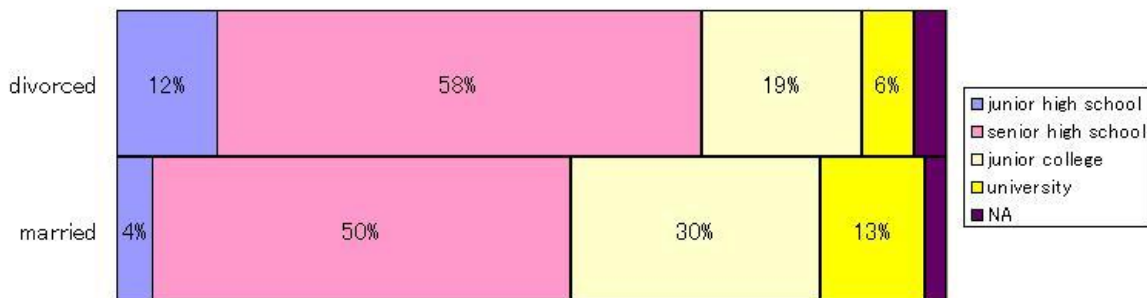


Data: 2000 Population Census

[Enlarge this image](#)

**Figure 8. Variation in educational attainment and marital status of women age 30-39**

Figure 8  
Variation in educational attainment and marital status (women age 30-39)



Data: 2000 Population Census

[Enlarge this image](#)

The pie chart (Figure 7) depicts the attributes of Japanese women in their 30's based on data from the Population Census of 2000. Among this sample of women, 73.8 percent were married, 20.4 percent were unmarried, and only 4.9 percent were divorced. The bar graph (Figure 8) indicates the educational attainment of married and divorced women. As shown in the figure, 12 percent of divorced women have only junior high school degrees. The ratio for married women of the same age is only 4 percent. Among divorced women only 6 percent were university graduates, but in the case of married women, 13 percent had university degrees. The same tendency can also be observed in other age groups and men.

Taking these observations as a point of departure, I will now examine the relationship between single mothers' work patterns, incomes and educational attainment. Unfortunately, it is difficult to perform the same analysis for single fathers because of limited data availability.

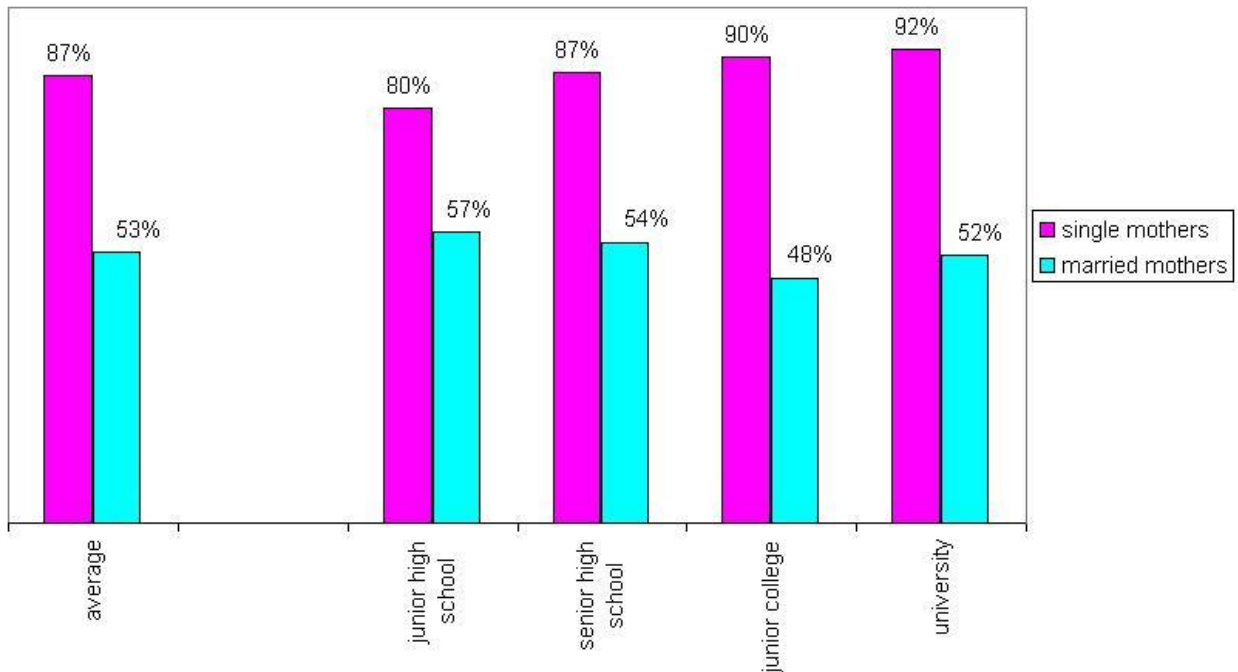
### **Educational attainment and workforce participation among single mothers**

Figure 9 illustrates the workforce participation rate of single mothers and married mothers. One significant finding here is that the workforce participation rate of single mothers with only a junior high school degree is lower than that of single mothers who are university graduates. Interestingly, the relationship between educational attainment and workforce participation rate is inverted in the case of married mothers. The workforce participation rate of married mothers is lower for university or college graduates. What this means is that highly educated married women tend not to work because their husbands bring home an ample salary. Japanese social policies in the areas of tax, insurance and pensions encourage married women to limit their outside paid work and remain dependent on their husbands. Consequently, many women stopped working when they were married.

### Figure 9. Educational attainment and workforce participation of single mothers and married mothers

Figure 9

Educational attainment and workforce participation of single mothers and married mothers



Data: 1997 Employment Status Surveys

[Enlarge this image](#)

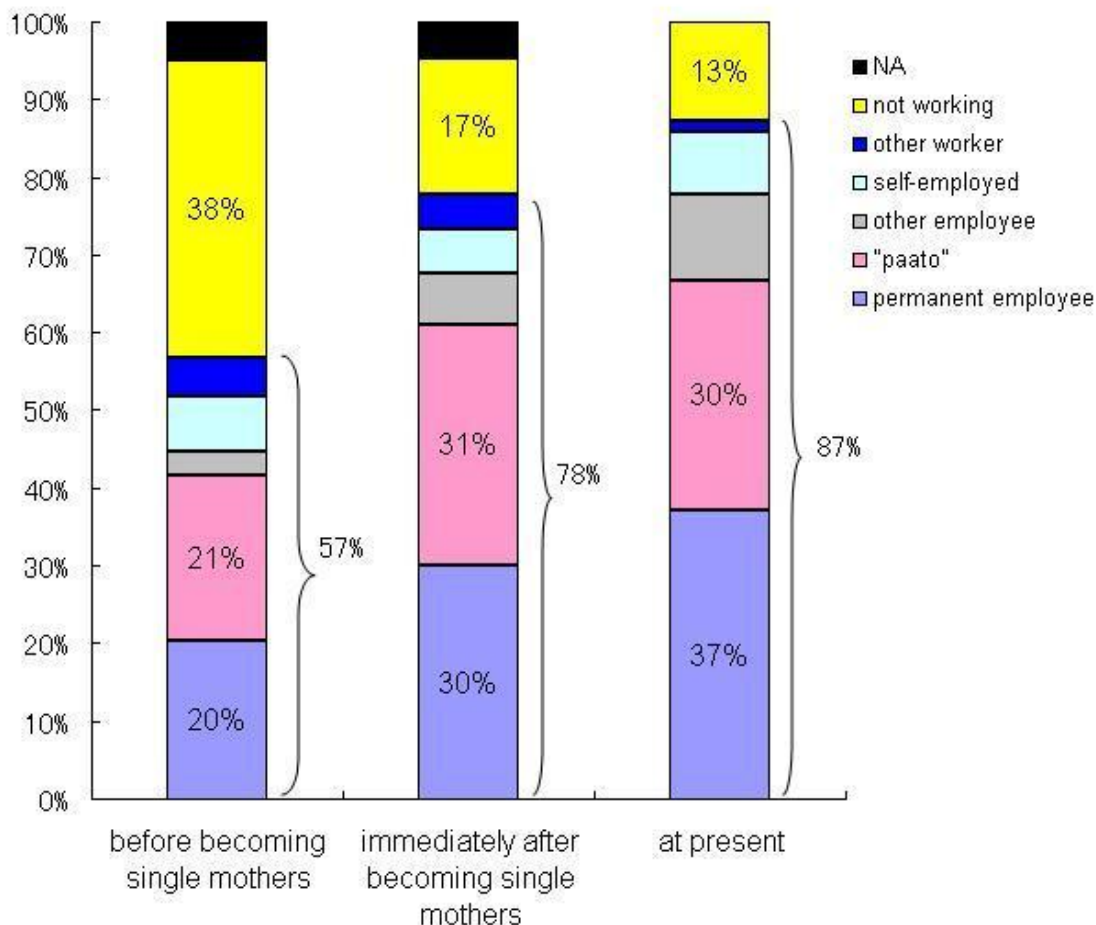
### Changes in women's work status in becoming a single mother

Another issue that has to be examined is how mothers make the transition from housewife to worker. Our survey allowed us to look at this process through which women became single mothers more closely. Figure 10 shows changes in the working status of single mothers. Before they became single mothers, 38 percent of women were not working, meaning that they were full-time housewives. Immediately after becoming single mothers, this ratio decreased to 17 percent. By the time of survey, only 13 percent were not working. In correspondence with the decreasing number of non-working mothers, the number of permanent employees among single mothers increased from 20 percent to 37 percent during the same period. Those without permanent employment were working part-time, in short-term contracts, or were self-employed.

**Figure 10. Work status of single mothers**

Figure 10

Work status of single mothers



Data: 2001JIL Survey

[Enlarge this image](#)

This means that even before the introduction of schemes aiming to promote employment among single mothers, becoming a single mother has meant for most women entering employment or changing their work status to full-time or permanent positions. These dramatic shifts in the working status of single mothers demonstrate their strong incentives to work. It must be added, however, that these trends do not apply evenly. We found significant differences in the probability of single mothers finding permanent employment depending on their educational attainment.

**Educational attainment and single mothers' work status**

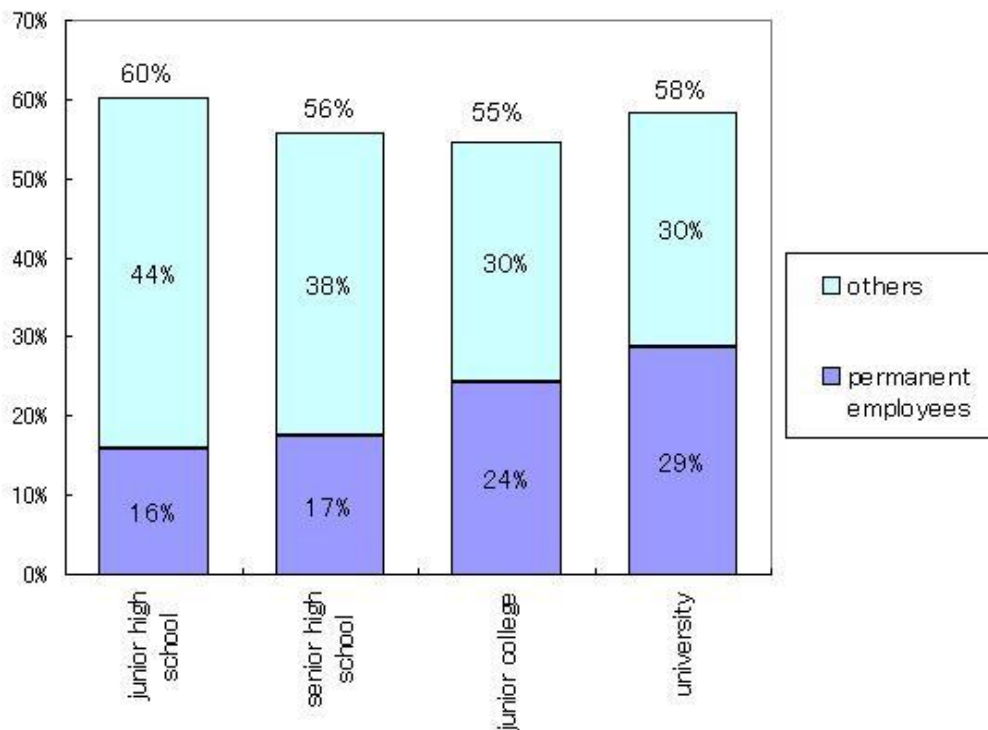
Figure 11 indicates the workforce participation rate and work status of single mothers before they became single mothers. As in the case of married mothers, there are no significant

differences in the workforce participation of single mothers. However, in terms of work status, only a quarter of single mothers with junior high school degrees held permanent positions, whereas half of single mothers with university degrees worked as permanent employees.

**Figure 11. Workforce participation rate and work status — before becoming single mothers**

Figure 11

**Workforce participation rate and work status  
- before becoming single mothers**



Data: 2001JIL Survey

[Enlarge this image](#)

There were also differences in the process through which women became permanent employees (Table 1). The percentage of women who were not working before becoming single mothers but became permanent employees immediately afterward was 19.1 percent for university graduates, but only 8.6 percent for junior high school graduates. In addition, the ratio of women who were previously working as a *paato*, which refers to quasi part-time jobs, but became permanent employees immediately after becoming single mothers, was 37.5 percent for university graduates, but only 14.6 percent for junior high school graduates. It seems therefore that single mothers with high educational attainment find it easier to find permanent employment than those with less educational attainment.

**Table 1. Change of work status — immediately after becoming single mothers**

Table 1  
 Change of work status  
 ~ immediately after becoming single mothers ~

	from not-working to permanent employees	from 'paato' to permanent employees	from permanent employees to permanent employees
junior high school	8.6%	14.6%	66.7%
senior high school	19.8%	15.2%	73.5%
junior college	23.2%	18.4%	89.2%
university	19.1%	37.5%	91.7%

Data: 2001JIL Survey

[Enlarge this image](#)

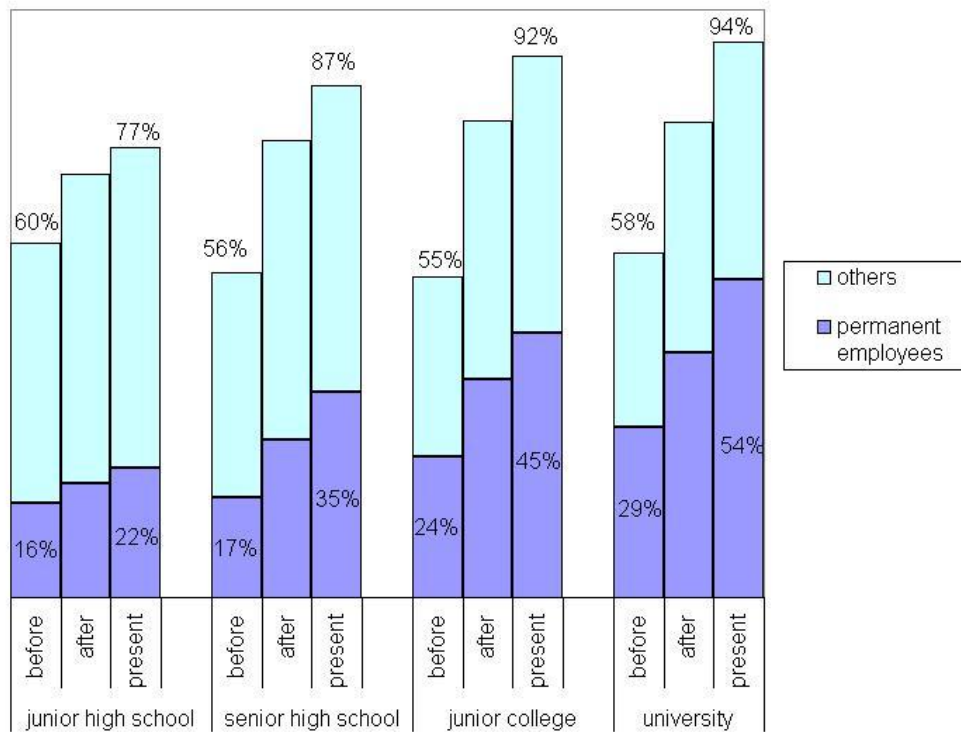
Further underlining this point, we also found differences in the probability of maintaining a working status as a permanent employee. More specifically, 66.7 percent of junior high school graduates who were permanent employees prior to becoming single mothers, as compared to 91.7 percent of those university graduates, continued as permanent employees after becoming single mothers. This may mean that it is difficult for single mothers with low educational attainment to keep permanent jobs, even when they worked as permanent employees prior to divorce. We do not know for certain why low educational graduates have a tendency to lose their permanent jobs. But it could be that women who have only low educational attainment are more vulnerable to losing their job after becoming a single mother.

**Changes in women's work participation rate as single mothers**

There are also significant differences in the degree to which single mothers find employment and obtain a position as a permanent employee after becoming single mothers, depending on their educational attainment.

### Figure 12. Workforce participation rate and work status — before and after becoming single mothers

Figure 12  
Workforce participation rate and work status  
～ before and after becoming single mothers ～



Data: 2001 JIL Survey

[Enlarge this image](#)

First, according to Figure 12, the overall workforce participation rate of mothers who later became single mothers is almost the same as that other mothers regardless of educational attainment; only at the stage of becoming single mothers do we see differences. The workforce participation rate of single mothers who have higher educational attainment increases rapidly. The workforce participation rate of single mothers with lower educational attainment, by contrast, increases only moderately. As a result, at the time of the survey, there are significant disparities in the overall workforce participation rate: whereas only 77 percent of single mother junior high school graduates work, 94 percent of single mother university graduates are engaged in the workforce.

Second, it seems easier for single mothers with higher educational attainment to become permanent employees. This tendency also applies to the period preceding divorce, and persists after women become single mothers. For mothers with high educational attainment, work opportunities expand after they become single mothers. Currently, 54 percent of single mothers with a university degree are working as permanent employees, whereas only 22 percent of single mothers with no more than a junior high school degree have the same work status.

### **Educational attainment and income levels**

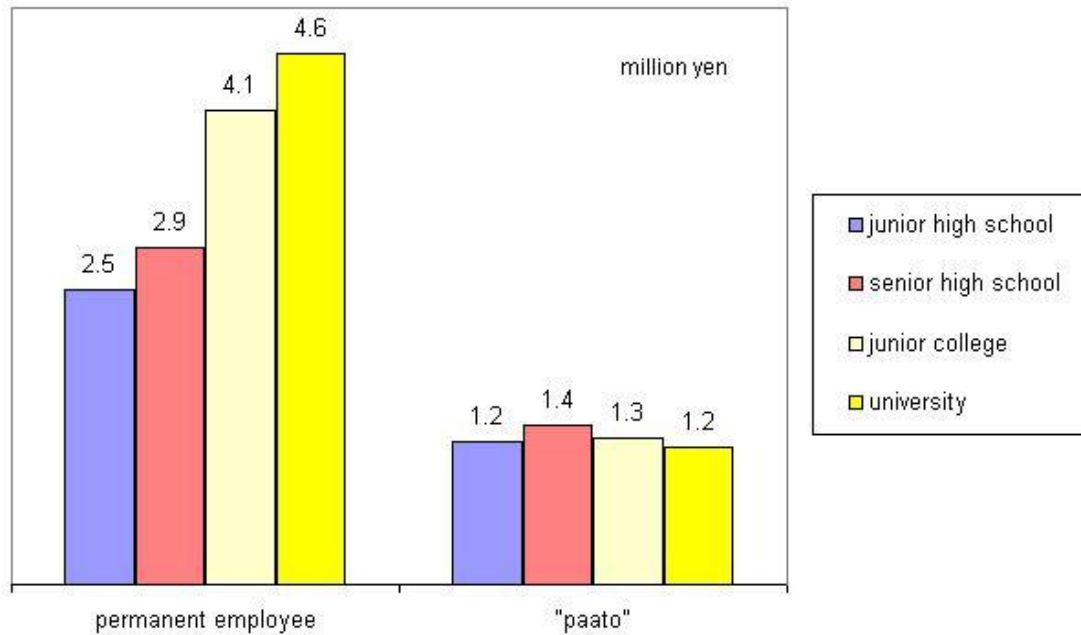
As a final illustration, we will discuss the average income of working single mothers. The average annual income of working single mothers is 2.5 million yen. For permanent employees, the average annual income is 3.4 million yen. However, for *paato*, the average annual income is just 1.3 million yen. *Paato* is generally translated as “part-time workers”. The reason why I do not translate this term as “part-time workers” is because in reality, *paato* workers do not necessarily work fewer hours than full-time workers. For example, the average working hours of single mothers who are working as *paato* is 33.8 hours per week (2001 JIL Survey). Over half of single mothers who are in *paato* positions work over 35 hours per week, just like permanent employees (50.9 percent in 2001 JIL survey, 54.4 percent in 1997 Employment Status Survey). In Japan, these workers are ironically called “full-time *paato*.” Therefore, I use the word “permanent employee” and *paato* instead of “full-time workers” and “part-time workers”. In summary, there is a large difference in the annual incomes of permanent employees and *paato* workers. However, even though becoming a permanent employee is the ideal for single mothers, there are significant differences within this status.

Figure 13 shows that there is no difference in wages among *paato* workers, regardless of educational background. However, in the case of permanent employees, we see a large gap. The average income of single mothers with a junior high school degree who are working as permanent employees is about 2.5 million yen. By contrast, the average income of university graduates working as permanent employees is approximately 4.6 million yen. In other words, it is not only more difficult for junior high school graduates to become permanent employees, but they also get paid significantly less than university graduates.

**Figure 13. Variation of the average annual income of working single mothers by educational backgrounds**

Figure 13

Variation of the average annual income of working single mothers by educational background



Data: 2001 JIL Survey

[Enlarge this image](#)

In summary, the workforce participation rate of single mothers in Japan is very high even though half of such women were not working before becoming single mothers. There are, however, significant differences in terms of single mothers' ability to find jobs as permanent employees depending on their educational attainment. Single mothers with lower educational attainment find it more difficult to become permanent employees. Even when they became permanent employees, they still face a significant wage gap because of their low educational attainment. Most importantly, there is a tendency for single mothers to have a lower educational attainment than married mothers.

### Section 3: Discussion

These findings have a number of implications for our understanding of single motherhood in Japan. Most observers of single mothers in Japan see their low income from work as the major problem. Even though Japanese single mothers are working, their incomes are not sufficient to make ends meet. This is also why the Japanese government has introduced work related services to reinforce their self-sufficiency through work. Although these are important issues, we also need to ask why the income of single mothers is so low.

### Services and programs as a substitute for cash assistance

As single mothers' incomes from wages remain low, government assistance in the form of the dependent children's allowance has played an important role in assuring the welfare of single mothers and their children. However, the government has tried to reduce welfare expenditures, and in lieu of the dependent children's allowance, a number of services and programs have been extended. Daycare services and vocational training programs are important elements for supporting working mothers, yet since many of them have been in existence for a long time, it is questionable whether they will significantly change the employment opportunities and incomes of single mothers.

Japanese policies have aimed to support the self-sufficiency of working single mothers through various programs and services. One of the oldest programs, established in 1953, is a low or no-interest loan program (*boshi fukushi shikin*), which is administered by single mother consultants (*boshi soudan-in*) in welfare offices. These loans can be used for various purposes, such as children's education, vocational training and establishment of a small business such as a dry cleaning shop or tobacco store.

In terms of affirmative labor market policies, from 1960's to 1970's, job centers (*koukyo shokugyo anteijo*), which are available nation-wide and serve all types of job seekers as well as the unemployed, set up special sections for a group labeled 'hard to employ' (*shushoku kon-nan sha*). Since that time, single mothers in Japan have been traditionally considered one of the 'hard to employ' groups (other groups including the elderly, disabled, minorities (*douwa chiku syusshin sha*), former coal miners and so on), and thus have been eligible for a range of special work-related programs. Individuals who seek to strengthen their qualifications can also apply for subsidized vocational training in various job categories. Businesses which employ the 'hard to employ' can apply for a wage subsidy for the first year of their employment.

Although the revised law of 2002 stipulated that single parents be given preference in placing their children in subsidized day care centers, it is merely a statutory recognition of a continuing condition for many years. According to a 1998 survey, the majority of single mothers used day care centers to care for their children (61 percent) or sent them to kindergartens (13 percent). In contrast to the U.S. and the U.K., where informal and in-home care is common, only 12 percent of single mothers in Japan reported relying on family members or relatives (2 percent).

In addition, only very limited numbers of single mothers are ensured future child support payments by the new regulation of 2003. One reason is that in Japan, over 90 percent of divorces are settled by mutual agreement (*kyogi rikon*), that is, out of court. Child support payments are required by Japan's Civil Code, but are not enforced. Child support enforcement of this kind is only possible if child support payments have been officially agreed on in a divorce settlement. It should also be added that since 2002, 80 percent of child support payments are counted toward the single mothers' income. Since child support payments even now are not guaranteed, and a higher overall income decreases the amount of the dependent children's allowance, the new rule creates a significant disincentive for single mothers to pursue child support payments.

### **Persistent wage gap between men and women**

Even though the income of single mothers is very low in comparison to that of other families, it should be noted that their income is actually not lower than that of married mothers and other women. According to our data from the Employment Status Survey of 1997, the average annual working income of single mothers was 2.2 million yen, whereas the average working income of married mothers was only 1.9 million yen.

If single mothers are earning more than other women in the workforce, why is there such a widespread perception that their incomes are low? Why do they have difficulties providing for themselves and their children, even though they earn more on average than married mothers and all women? Evidently, this is not because of a lack of effort, but rather because the average wage of men is significantly higher than that of women. The average wage of married fathers was 5.9 million yen in 1997. Adding to this, many families now have two wage earners. Single mothers, by contrast, have to bring up their children with just one income in a gendered labor market. Consequently, these families find it difficult to maintain the same standard of living as two parent families.

A further observation deals with the persistent wage gap between men and women in Japan and the generally difficult working conditions facing women. According to the United Nations Development Programme (UNDP), Japan ranks 42nd in the world on the Gender Empowerment Measure (GEM) in 2004. In terms of the Human Development Index (HDI), however, it ranks 7th in the world. To address this disparity between a high human development index and continuing gender inequalities, the Japanese government has made an effort to promote a gender-equal society, and has also shifted its social policy model from a male-breadwinner family with a full-time housewife to dual-earner family. Evidently, addressing gender inequalities is an important element for improving women's status, especially in the area of the labor market.

Yet, from the perspective of single mothers, this approach to gender-equality through social policy is not entirely satisfactory. In essence, even though an increase in working women and working mothers may be seen as an improvement in women's status, it has adverse effects on single mothers: the increase in working women and dual-earner couples has the potential to amplify the disparity between the incomes of one-parent and two-parent families. It may make it easier for women in general to work, but will not necessarily help them to earn a living wage.

### **Class dimensions of single motherhood**

A final point concerns the continuing increase in the divorce rate in Japan in the 1990's. It is widely believed that the rising divorce rate is a consequence of the higher educational attainment and economic independence of women. This view has also justified a reduction in welfare expenditures for single mothers' families, and a growing focus on self-sufficiency through work over government assistance. However, as I have shown in this paper, the educational attainment of single parents actually tends to be lower than that of married parents.

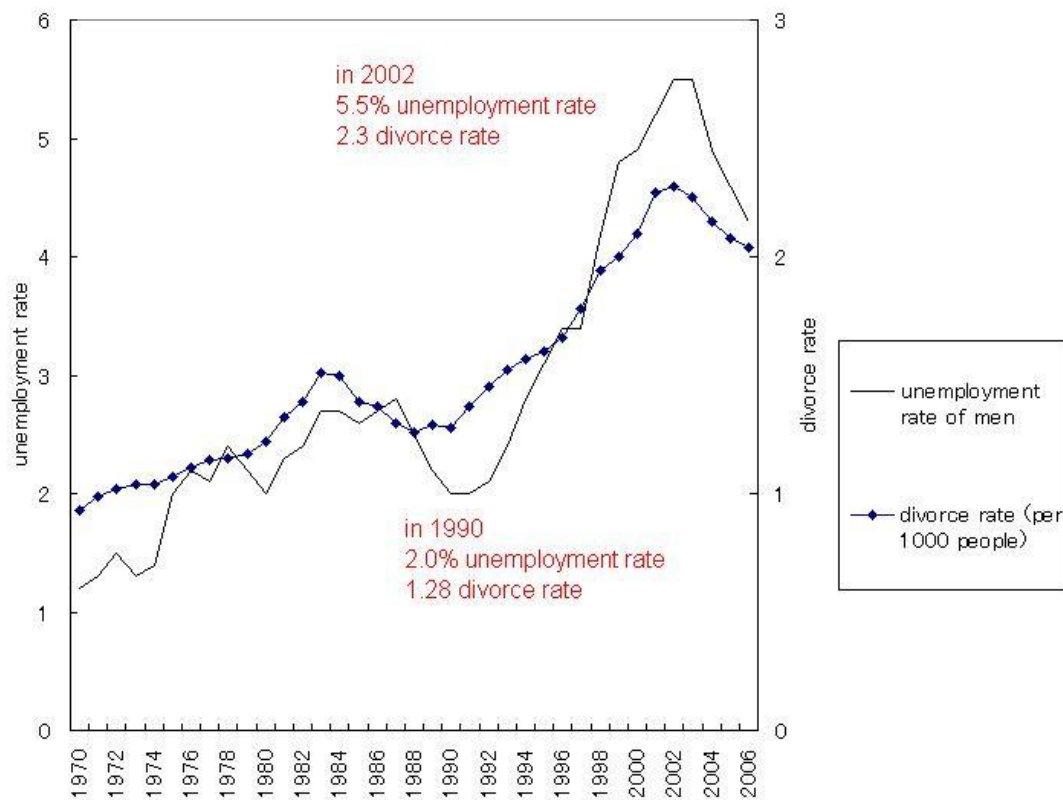
I suppose that there are two potential explanations for this. First, those with lower educational attainment have a higher tendency to divorce or become widowed than couples with higher

educational attainment. The other possible explanation is that it may be more difficult for those with lower educational attainment to remarry. Unfortunately, there is no available empirical data to confirm these hypotheses. In Japan, as described in Figure 14, however, the trends in the divorce rate are quite similar to those in men's unemployment rate. In the 1990's, Japan was mired in a serious recession which caused unemployment to rise to unprecedented levels. It could be argued that since divorced men and women tend to have a lower level of educational attainment, an increasing risk of unemployment might lead to a rise in the tendency to divorce.

**Figure 14. Trends in Japan's divorce rate and men's unemployment rate**

Figure 14

Trends in Japan's divorce rate and men's unemployment rate



Data: Labour Force Survey, Vital Statistics Survey, various years

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It is often assumed that marriage in Japan is a system of economic security for women. Marriage, in other words, is often considered as the lifetime employment of women. However, this only applies to cases where the husband is able to provide for his wife and children on a single salary and has job security. As we have seen, however, although 38 percent of women are housewives prior to divorce, many women do work not only prior to but during marriage and after giving birth to children, possibly for financial reasons. Unfortunately, there is no data that can clearly show the relationship between unemployment, divorce, educational attainment, and socioeconomic background. However, it could be argued that individuals and families with a

lower educational attainment are more vulnerable to economic crisis than those with higher educational attainment, and that for women in such situations, marriage does not constitute a reliable source of economic security. In light of the difficult living conditions of single mothers with lower educational attainment, as well as their high representation among single mothers, there seems to be little evidence to support the claim that the recent increase in divorce and single mothers is a sign of women's growing economic independence. Instead, it might be better considered as a sign of a declining ability for women to rely on husbands and marriage for their livelihood.

#### **Section 4: Conclusion**

My analysis highlights several distinctive aspects about the situation of single mothers in Japan. First, unlike in most advanced industrialized nations, there are comparatively few single mothers in Japan. In addition, whereas limited participation in the workforce, and reliance on the welfare system has become a problem in other countries, in Japan the workforce participation rate of single mothers is strikingly high. It may be that because of the limited presence as well as high workforce participation rate, single mothers have attracted relatively little attention in public discourse. There are no stories of "welfare queens" who take advantage of the welfare state, or the reproduction of single parenthood through teenage pregnancy. Most importantly, rather than being part of a disadvantaged class or minority group, single mothers have been assumed to be middle class women whose choice to divorce is facilitated by their educational attainment and "economic independence". This trend may also have been influenced by the general assumption Japan is a middle-class society, since 90 percent of the population identify themselves as such.

Consequently, social class is not only invisible, but has also not been considered as a factor influencing the situation of single mothers in Japan. Since single mothers also earn on average more than married women, one might not consider them to be in a disadvantaged position. However, as my analysis has shown, single mothers have on average a lower educational attainment than other mothers, meaning that many come from lower-class backgrounds. There are also significant disparities in incomes as well as ability to secure a permanent job among single mothers. The low income of single mothers is not only a consequence of gender inequality in the labor market, but is also due to lack of work opportunities for women with a lower educational attainment. Even though some single mothers with university education may do quite well, those with less than a senior high school degree face great difficulties. It is difficult for mothers with a junior high school degree to obtain a permanent job, and even when they do, their incomes are significantly lower than those of mothers with university degrees. To raise the incomes of single mothers, therefore, involve not only work opportunities, but also greater chances for educational advancement.

Viewed from this perspective, recent cuts in welfare support for working single mothers in Japan may cause great difficulties for single mothers with low educational attainment and income. Rather than chastising single mothers for their personal choices, policies need to address the problems and difficulties single mothers face as part of the working poor. After a decade of recession, it is high time to dismantle the middle-class myth and address existing class inequalities in Japanese society.

*Fujiwara Chisa is an Associate Professor in the Faculty of Humanities and Social Sciences at Iwate University. She is the coauthor with Aya Ezawa of “[America fukushi kaikaku saikou](#) [Reconsidering U.S. Welfare Reform : An Analysis of Welfare Policies and Their Implications for Japan].” *Kikan shakai hoshō kenkyū* [The Quarterly of Social Security Research] Vol.42, No.4. p.407-419.*

*This is a revised and expanded version of a paper that appeared in *Japonesia Review* on September 14, 2007. Posted at *Japan Focus* on January 2, 2008.*

### Notes:

[1] The author would like to thank Aya Ezawa for help in revising this paper.

[2] The Ministry of Health, Labour and Welfare (*kosei rodo sho*) in a bulletin (No.102, May 19 2003) on the reforms explained: "There are a variety of the reasons behind the rise in divorce, and one can not pinpoint out a particular one. However, one of the factors is a decrease in the difficulties of divorcing compared to before, due to a change in attitudes toward divorce and increasing economic independence among women."

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(Summary in English [here](#).)

**Asia-Pacific Journal Articles Recommended for Further Reading****“Women in Japanese Local Politics: From Voters to Activists to Politicians”**

Yasuo TAKAO

January 29, 2008

<http://www.japanfocus.org/-Yasuo-TAKAO/2647>

*This article is highly recommended, and readers are encouraged to read the following introduction and corresponding article immediately after Tomomi Yamaguchi’s and Norma Field’s essay. The article is a revised and expanded version of an essay that was previously published as “Japanese women in grassroots politics: building a gender-equal society from the bottom up” in The Pacific Review, Volume 20, Issue 2, pp. 147-172 (May 23, 2007). The permalink for the article is <http://dx.doi.org/10.1080/09512740701306790>.*

This article addresses further some of the themes presented in the first two essays including women’s rights, activism, and political participation. The author Yasuo Takao explores the political roles of women, including the possibilities for alternative approaches to improve representative democracy in Japan. Takao explains that women’s engagement in politics increased in the 1990s, particularly with the 1999 Basic Law of Gender-Equality in Society and the “unprecedented success of grassroots campaigns to increase women’s share of seats in local elections.” In addition, the one-party dominance of the Liberal Democratic Party (LDP) that defined post-WWII Japan since 1955 came to an end in 1993. The subsequent electoral system reforms included proportional representation, which seemed to create a more favorable environment for successfully running female candidates.

Along with placing women in political positions, organizations such as the Ichikawa Fusae Foundation created training centers to help more women gain access to practical knowledge and political education. Ichikawa Fusae (1893-1981) was a feminist leader who worked for women’s suffrage in the pre-WWII era. She became one of the first women elected to the Diet in 1952 and served a total of five terms. In her honor, the Foundation offers grassroots political training to help women receive hands-on experiences with key decision-making processes.

Further expanding the meaning of political engagement, organizations such as the Life Club Consumers Co-operative Union (Seikatsu Kurabu) play a crucial intermediary role in achieving policy decisions. The Tokyo Citizens’ Network coordinates “policy consultation between citizens and the metropolitan administration.” By hosting conferences and special citizen input sessions, the Network achieves legislation on concerns salient to women, especially food safety for children, air quality controls, and measures to address domestic violence. Other Non-Profit Organizations (NPOs) also offer women alternative opportunities for political involvement including recycling centers, tree-planting activities, and clean-energy campaigns.

Despite all of these advancements, Takao explains that there remain certain limitations for women’s access to political power in Japan. Some women’s networks require a rotation system to allow for a greater number of participants. This system limits the benefits individual female candidates can receive from the Diet structure that privileges lifetime male politicians. In 2007, mergers of municipalities restructured local elections

and severely altered the power of local grassroots groups, the specific kinds of groups that female candidates utilize. Organizations such as the Gender Equality Bureau continue to fight against such inequities. According to data accessed in 2012, in 2009 Japan's House of Representatives included only 16.7% female candidates, a statistic the Bureau seeks to expand to a full 30% by 2020. This goal will be challenged by the increasing prominence of neoliberal policies in Japan. Takao uses the term "neo-liberalism" in reference to economic rationalism that celebrates the unbridled rule of the market throughout society and decreases spending for social services. In this context, Takao notes that gender plays a significant role, particularly as women struggle to reconnect political equality with economic equality.

In his conclusion, Takao presents an encouraging view that despite ever-present barriers, Japanese women's groups work to overcome gendered structures and to promote social renewal. This article provides students of contemporary Japan with both useful statistics for quantitative analysis, along with qualitative explanations of how specific groups engage with ongoing pressures against women in politics.

For Mire Koikari, "Feminism and the Cold War in the U.S. Occupation of Japan, 1945-1952"

**"U.S. Courts-Martial in Occupation Japan: Rape, Race, and Censorship"**

Terese Svoboda

May 23, 2009

<http://www.japanfocus.org/-Terese-Svoboda/3148>.

This article addresses how the U.S. Occupation in Japan censored cases of rape. The author presents evidence from her own family history to examine the correlations between sexual violence, race relations, and U.S. attempts to suppress rape reports.

**"The Cold War Explodes in Kobe—The 1948 Korean Ethnic School 'Riots' and US Occupation Authorities"**

Mark E. Caprio

November 24, 2008

<http://www.japanfocus.org/-Mark-Caprio/2962>.

This article offers another historical case for challenging the "triumphant narrative" of the U.S. Occupation of Japan. The author discusses protests in Kobe after U.S. occupiers instructed Japanese authorities to close Korean ethnic schools.

**"Occupation Authorities, the Hatoyama Purge and the Making of Japan's Postwar Political Order"**

Juha Saunavaara

September 28, 2009

<http://www.japanfocus.org/-Juha-Saunavaara/3229>.

The author addresses how the General Headquarters (GHQ) leaders decided to purge politician Hatoyama Ichirō and support Yoshida Shigeru as the first postwar Prime Minister of Japan in 1946.

**“The Allied Occupation of Japan—An Australian View”**

Christine de Matos

July 27, 2005

[http://www.japanfocus.org/-Christine\\_de-Matos/1765](http://www.japanfocus.org/-Christine_de-Matos/1765).

While most works focus solely on the role of U.S. occupiers in Japan, other Allied Powers including Australia were involved in this complex rebuilding process. This article summarizes some of the main contributions of the Australian occupiers. The author also published an article more specifically on Australian women in the occupation.

For Tomomi Yamaguchi and Norma Field, “Gendered Labor Justice and the Law of Peace”

**“Why I Went to Iraq: Reflections of a Japanese Hostage”**

Noriaki IMAI and Norma Field

December 29, 2007

<http://www.japanfocus.org/-Imai-Noriaki/2620>.

Imai, who travelled as an individual citizen to Iraq to bear witness, discusses why he decided to go to Iraq, his experiences in Iraq, and his struggles to deal with intolerant “bashing” in Japan.

**“Engendering the Concept of Peace: On Violence Against Women”**

Ruri ITO

April 3, 2003

[http://www.japanfocus.org/-Ito-Ruri/2309#\\_published\\_XX](http://www.japanfocus.org/-Ito-Ruri/2309#_published_XX)

Ito discusses positive peace as a gendered concept, one that requires attention to the politics of dealing with Japan's wartime violence against women.

**“The Women's Active Museum on War and Peace: Its Role in Public Education”**

Rumiko NISHINO

December 16, 2007

<http://www.japanfocus.org/-Rumiko-NISHINO/2604>.

This article, written by the Director of WAM, explains the role of the museum in educating the public on wartime violence against women.

**“Article Nine in Context – Limitations of National Sovereignty and the Abolition of War in Constitutional Law”**

Klaus Schlichtmann

June 8, 2009

<http://www.japanfocus.org/-Klaus-Schlichtmann/3168>

The author offers a historical and comparative examination of the “peace” clause in Japan’s postwar constitution.

For Yasuo Takao, “Women in Japanese Local Politics”

**“Japan’s Worker Co-operative Movement into the 21<sup>st</sup> Century”**

Bob Marshall

(No date)

<http://www.japanfocus.org/-Bob-Marshall/1704>

In the context of the co-operative movement across Japan, Marshall discusses women’s worker co-operatives and the Seikatsu Club referenced by Takao.

**“Japan Gender Conflict Sparks Censorship Debate”**

Tony McNicol

March 23, 2006

<http://www.japanfocus.org/-Tony-McNicol/2114>

McNicol provides a brief summary of an incident surrounding a cancelled lecture by gender-rights advocate and leading scholar Chizuko Ueno.

**“Fukushima Women Against Nuclear Power: Finding a Voice from Tohoku”**

David Slater

November 9, 2011

<http://www.japanfocus.org/events/view/117>

This article presents the role of women as political activists following the devastation of the 3/11 earthquake and subsequent nuclear disasters.

**“Japan’s Grassroots Pacifism”**

Mari YAMAMOTO

February 24, 2005

<http://www.japanfocus.org/-Mari-YAMAMOTO/2102>

Analyzing peace movements in Japan, Yamamoto includes a section on the role of housewives and women in postwar pacifist activism.

For Charles Weathers, "Equal Opportunity for Japanese Women—What Progress?"

**"The Development and Structure of Japanese Enterprise Unions"**

John Benson

November 3, 2008

<http://www.japanfocus.org/-John-Benson/2938>.

The author assesses the current situation of Japan's unionism in light of the economic struggles since the turn of the 21<sup>st</sup> century.

**"Lifetime Employment in Japan: Concepts and Measurements"**

Hiroshi ONO

April 26, 2006

<http://www.japanfocus.org/data/Ono.pdf>

The author explains that assumptions about the realities of Japan's "lifetime employment" system are difficult to isolate, define, and measure. However, he presents evidence that firms continue to offer regular male employees at least some version of lifelong job security.

**"Sexual Harassment: The Emergence of Legal Consciousness in Japan and the US"**

Chika SHINOHARA and Christopher Uggen

August 3, 2009

<http://japanfocus.org/-Christopher-Uggen/3199>

This article discusses a rising consciousness about sexual harassment claims and an increase in women reporting to local Equal Employment Offices in 2008.

**"Gender, Equity and the Japanese Welfare System"**

Philip Brasor

October 31, 2011

<http://www.japanfocus.org/-Philip-Brasor/3625>

The author discusses comments about changes to the social security system and other issues made by the first female to be appointed to Japan's Ministry of Health, Welfare, and Labor, Yoko KOMIYAMA.

### **“Women and Japan's New Poor”**

J. Sean Curtin

May 19, 2005

[http://www.japanfocus.org/-J\\_Sean-Curtin/1641](http://www.japanfocus.org/-J_Sean-Curtin/1641)

This article provides divorce rates and a case study of how a single mother is affected by Japan's welfare reforms.

### **“Turning Back the Clock on Gender Equality: Proposed Constitutional Revision Jeopardizes Japanese Women's Rights”**

Satoko KOGURE

May 22, 2005

<http://www.japanfocus.org/-Satoko-KOGURE/1814>

The author addresses attempts by the Liberal Democratic Party to change Article 24 in the Constitution, one of the articles that protects gender equality.

### **Recommended Articles from Other Sources**

For Mire Koikari, “Feminism and the Cold War in the U.S. Occupation of Japan, 1945-1952”

Mire KOIKARI, “Rethinking Gender and Power in the US Occupation of Japan, 1945-1952,” *Gender and History* Vol 11, No 2 (1999): 313-335.

Mire KOIKARI, *Pedagogy of Democracy: Feminism and the Cold War in the U.S. Occupation of Japan*, Temple University Press: Tokyo, 2009.

Mire KOIKARI, “‘The World is Our Campus’: Michigan State University and Cold-War Home Economics in US-Occupied Okinawa, 1945-1972,” *Gender and History* Vol 24, Issue (1) (April 2012): 74-92.

Mark McLelland, *Love, Sex, and Democracy in Japan during the American Occupation*, New York: Palgrave Macmillan, 2012.

For Tomomi Yamaguchi and Norma Field, “Gendered Labor Justice and the Law of Peace”

[http://www.gender.go.jp/english\\_contents/index.html](http://www.gender.go.jp/english_contents/index.html)

The website for the Gender Equality Bureau of Japan, a resource with English-language translations of specific legislation, political initiatives, and action policies for achieving a gender equal Japan.

<http://www.pbs.org/wnet/wideangle/episodes/japans-about-face/map-japans-self-defense-forces-deployments/1275/>

Interactive Map Posted by PBS on Japan's Self-Defense Forces Deployment around the world since 1992.

<http://www1.jca.apc.org/vaww-net-japan/english/womenstribunal2000/whatstribunal.html>

Violence Against Women in War-Network Japan (VAWW-NET), Website on The Women's International War Crimes Tribunal on Japan's Military Sexual Slavery.

For Yasuo Takao, "Women in Japanese Local Politics"

"Expansion of Women's Participation in Policy and Decision-Making Processes in All Fields of Society," Japan Cabinet Office Gender Equality Bureau, Goal 2020, [http://www.gender.go.jp/english\\_contents/mge/process/index.html](http://www.gender.go.jp/english_contents/mge/process/index.html)

The Fusae Ichikawa Memorial Association, Bibliography and Timeline of Fusae Ichikawa, <http://yoshtec.com/japanologie/07.pdf>

Robin LeBlanc, *Bicycle Citizenship: The Political World of the Japanese Housewife*, Berkeley: University of California, 1999.

LeBlanc examines women's everyday experiences with politics, especially how they navigate political spaces as "bicycle citizens," a view that represents a more female-centered approach to democratic participation.

Seikatsu Club Consumer's Co-operative Union, Shinjuku Branch English Website, <http://www.seikatsuclub.coop/english/>

The website provides background information on the history of co-operatives in Japan, membership statistics, alternative economic activities, etc.

For Charles Weathers, "Equal Opportunity for Japanese Women—What Progress?"

Japanese Trade Union Confederation (RENGO) English Language Website, <http://www.jtuc-rengo.org/>

Council of Executives of Public and Private Sectors to Promote Work-Life Balance, "Action Policy for Promoting Work-Life Balance (Revised 2010), [http://www.gender.go.jp/english\\_contents/mge/wlb/index.html](http://www.gender.go.jp/english_contents/mge/wlb/index.html)

This plan first identifies what constitutes a work-life balanced society. The first category of economic independence targets the employment rate of women ages 25-44 to be improved by 8% in 2020.

Hiroya Nakakubo, "'Phase III' of the Japanese Equal Employment Opportunity Law," Japan Institute for Labor Policy and Training, 2007, [http://www.jil.go.jp/english/JLR/documents/2007/JLR15\\_nakakubo.pdf](http://www.jil.go.jp/english/JLR/documents/2007/JLR15_nakakubo.pdf)

For Chisa Fujiwara, "Single Mothers and Welfare Restructuring in Japan"

Ministry of Internal Affairs and Communications, Statistical Handbook of Japan 2011, Chapter 2 on Japan's "Population," <http://www.stat.go.jp/english/data/handbook/c02cont.htm>

Aya EZAWA, "From Welfare to Work: The Conditions of Single Mothers' 'Independence,'" *Journal of Political Science and Sociology*, Vol 7 (March 2007).

This article explores further the notion of independence, especially economic independence, and how welfare work policies affect single mothers.

Aya EZAWA and Chisa FUJIWARA, "Lone Mothers and Welfare-to-Work Policies in Japan and the United States: Toward an Alternative Perspective," *Journal of Sociology and Social Welfare* Vol 32, No 4 (December 2005).

The authors provide a comparative perspective between policies on the U.S. and Japan.

"Facts and Figures" on the Japanese Population, Posted by the Gender Bureau, [http://www.gender.go.jp/english\\_contents/category/pub/pamphlet/women-and-men10/pdf/1-1.pdf](http://www.gender.go.jp/english_contents/category/pub/pamphlet/women-and-men10/pdf/1-1.pdf)