

## Special Report

# Deliberately Incited Discrimination against Women:

## Gender-discriminatory remarks of public officials

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In 2002, I filed a human rights abuse complaint along with 130 other women accusing then Tokyo Governor Shintaro Ishihara of his gender-discriminatory remarks. At that time, the word "hate-speech" was relatively unknown. In Japan, the majority of people adopt a stance of "argument and counterargument" in the name of "freedom of speech," when responding to such discriminatory remarks. Today, when anti-foreign hate speeches are widespread, the situation has not changed much. In Japan, no appropriate legal framework of restricting human rights abuses, nor relief mechanisms for victims exist. Our legal claim was dismissed as Governor Ishihara's remarks were aimed at females as a whole, so the effect on individual women's rights was reduced, though his remarks bordered on the illegal.

Since then, similar sexually discriminatory remarks have been

released frequently among politicians and high-ranking public officials. Neglecting to acknowledge discrimination results in further discrimination. Public discrimination of women lurks wide and deep in people's minds through societal sex/gender stereotypes and norms of "masculinity and femininity." Such stereotypes are internalized by everyone especially women and thus reproduced in daily activities and behaviors. Discriminatory remarks released by public officials would ignite, incite and even culminate a sense of discrimination against socially-positioned minorities within people. It is hard to imagine these gender-discriminatory statements do not correlate with the spread of hate speeches targeting North and South Korean residents in Japan. Because a sense of gender-discrimination could be underground water veins blended together with various discriminatory

feelings.

**Frequently repeated gender-discriminatory remarks by high-ranking public officials**

Sexually discriminatory remarks made by Tokyo Governor Ishihara reflect this behavior: He explained, 'I heard that the worst and most harmful thing that the civilization has brought about can be said to be "Babah" (discriminatory term for old women). It is wasteful and sinful that menopausal women remain alive any longer. While men remain procreative even at 80 or 90, women lose ability of giving birth once become menopause. It is evil for the globe that such women continue to live until the ages of Kin-san and Gin-san (Kin-san and Gin-san are Japanese famous twin sisters who lived over 100 years old). (The magazine, Shukan Josei, November 6, 2001, entitled "Tokyo Governor gave barks")

These remarks, limiting women's value to their reproductive function and devalue women's existence further to nothing more than function, exacerbated multiply the impacts. Such statements were delivered by Ishihara through the use of his public position of power as a novelist and a politician. He also used his public power through influential mass media. Not only in the weekly magazine, but also in Parliament, did Ishihara make gender discriminatory statements. He quoted a novel

"Narayamabushi-ko" or "The Ballad of Narayama," wherein the novel's essence outlines in a paradoxical way the existence of elderly women as quite tyrannical compared to the lives of other living creatures. He intentionally repeated his own assertion within his official capacity as the Governor of Tokyo. He later became a Diet member and now he is a political party leader, without being admonished nor accountable to such discriminatory behavior.

Gender-discriminatory remarks by politicians occurred more frequently following Ishihara's statements. In such politicians' comments, we see a common view of women surface (toward men, also). The "view," which forms a basis of their thoughts, evaluates women only by their reproductive ability and/or as sex objects. Therefore, discriminatory remarks emphasizing stereotypes regarding the roles of women and men, an idea of adopting a social-political-emotional penalty system toward women who have no children, and remarks allowing sexual violence toward women, became frequently uncovered.

Even specifically, then Minister of Health, Labor and Welfare, Hakuo Yanagisawa stated, in 2007, "Women are likely to be baby-making machines. The number of the machines, devices, which can deliver babies is limited. I would like to ask individual females to make effort to have many babies." Then Prime

Minister Taro Aso said in 2009, "I may well have fulfilled an obligation because I have had two children since getting married at the age of 43."

Sex/Gender stereotypes are also furthered by women in leadership positions. Then Prime Minister Yoshiro Mori told attendees of a lecture session on 'Society with fewer children' in 2003, "Welfare system should be planned that the National Government will look after women who had many children to show our gratitude to those women. Women who did not have any children at all, who enjoyed her life as she wished, and did whatever she wanted to do, so to speak, and then when she turned older, would be asking to support her by tax, I would say it is utterly unacceptable." One more example resonates the same line of thinking. Former Vice Minister of Economy, Trade and Industry, Yoshikatsu Nakayama stated at the APEC Women's Entrepreneurship Summit in 2010, "Japanese women are happy working at home and they have always had a domestic role within Japanese culture".

The view men use to evaluate women as sex objects is symbolized by Osaka Governor Toru Hashimoto's comment in 2013. He stated, "A comfort women system' was necessary." In 2003, a Lower House member Seiichi Ota made discriminatory remarks which called into question the arrest of male university students who gang raped a female student. He said, "Those who gang rape are better off because they have virility.

They are closer to normal." Furthermore, according to press coverage, then Chief Cabinet Secretary Yasuo Fukuda, "There are women who apparently seem to want to have sex." "Since a man is like a black leopard, leniency should be granted sometimes, shouldn't it?"

A remark by Satoshi Tanaka, then director-general of the Okinawa Defense Bureau, was also traumatic. In November 2011, he gave answers to questions by media on the delayed release of an environment assessment report on the relocation of U.S. Futenma Air Base. He avoided providing the relocation date by saying, "Would you say, 'I will rape you,' before you rape someone (women)?" This statement was particularly notable. It revealed the true nature of his discriminatory views to people of Okinawa. His remark highlighted facts he recognized the construction of a new Henoko Base "would be equal to implying an act of sexual violence against people of Okinawa." Worse still, he did not realize his comment about Okinawan people (=women) was neither a human rights violation nor a crime. What was on his mind while he was conducting his duty? He trampled on the dignity of those discriminated against, and another ignorant behavior justifying "how to treat women" in an unconscious way.

Most recently, the president of the Japanese public broadcasting station "NHK", Katsuto Momii stated every country had the practice of comfort

women in 2014. It may be said that Momii's comment is more aggressive and defiant, as it was followed by Osaka Mayor Toru Hashimoto's controversial remarks. At that time Hashimoto's remark of the necessity of female sex-slaves, which came together with praising men who risked their lives at war to save the nation, were under international criticism for its discriminatory character.

#### **Aftermath of gender-discriminatory statements by public officials**

In regard to the above cited statements, with the exception of Director-General of the Okinawa Defense Bureau Satoshi Tanaka who was forced out of office, other politicians have neither been punished nor lost their parliamentary seats. How has this influenced society?

You can see a shared sense of value in these remarks. It is an idea of considering women as tools of reproduction or sex objects. In this sense, women's individualities are discarded, and limits women's value to their reproductive function, sexual dolls or slaves for use by men. Women are not equal partners they are controllable objects. This view also reveals a false attitude of "men cannot control their sexual desire, thus naturally inclined to rape women." What thoughts are generated in society when high-level politicians repeatedly speak such false

views from their position of power and authority?

First, such viewpoints expose sex/gender stereotypes of "masculinity and femininity," creation/expansion of an environment of gender-rooted violence based on an idea of taking women as controllable objects, and a social tendency to tolerate sexual violence. Frequently, stalking-related murder and domestic violence murder cases are related to such discriminatory remarks.

Second, as seen in statements by Ishihara about elder women, his remarks foster a sense women without children are useless to society and be subject to "Ubasute" or social elimination, inflating attitudes of discrimination and exclusion of, not only elderly women but also disabled persons, homeless people, single mothers and so on. Living in widespread social/economic disparity along with a law of jungle society (almost like a new class system), dissatisfaction among people who live harsh lives have increased risk of discriminatory actions and violence toward them. A society, which tolerates discriminatory statements by public officials, can perpetuate this situation.

Third, leaving these remarks unpunished may foster and reproduce discrimination and divide society among ordinary people. It may deprive people's rights of having peaceful lives, render society unstable and shake the foundation of democracy. It might

eventually spur social and political crisis which would pave the way for a rise of fascism, jeopardizing our society's future.

When we filed the complaint calling Tokyo Governor Ishihara's "Babah" (elderly women) remark into question, we received various reactions from men close to us. They said half-jokingly, "Don't get angry over such small matters," or "That's just a joke."

Even a lawyer who advocates for human-rights thought the trial would not be successful. At the beginning of the court trial he said, "this case will burst open, but fall very soon." In media only Ishihara was pulled into attention, mostly in fun, for TV variety shows. In despite of our lawyer's prediction, the court trial continued for six years, and came to an end November 2008, with a dismissal at the Supreme Court. It was the very first trial in Japan calling for apology and revocation of gender discriminatory remarks stated by a public official. We now reconfirm the significance of the trial in today's society where hate-speech problems akin to gender discrimination emerge as a new form of human rights abuse.

### **Discriminatory speech of public officials are equal to an act of hate speech**

Our legal claim, accused Tokyo Governor Ishihara of using insightful gender discriminatory language was lost because of a lack of legal framework to restrict human rights abuses targeting

specific populations, particularly women, and the necessary relief mechanisms to protect them. In the verdict, Tokyo District Court Judge said, "The view, which evaluated women only by the ability of reproduction, is not incompatible with the Constitution, laws such as Basic Act for Gender-Equal Society and the basic idea of the effort in the international society, such as International Covenant on Civil and Political Rights and Convention on the Elimination of All Forms of Discrimination against Women, which rules respect for an individual person and the equality under the law." However, our claim was dismissed as the court deemed Ishihara's remarks were aimed at females as a whole, so the effect on individual women's rights was reduced. The District Court rejected our claim of defamation and compensation. And later Tokyo High Court retained this verdict.

Now we have this experience to underscore our concerns for gender discriminatory language usage of public officials. Once we learned the phrase sexual harassment, we could wage complaints about unsolicited sexual contact. As the concept of hate speech is relatively unknown, we filed a complaint against Ishihara's remarks as "verbal violence." Through this avenue we strongly emphasized the injustice and its subsequent effects as he made his remarks in his official capacity as Governor of Tokyo. Now, I identify Ishihara's remarks as an act of hate

speech.

The act of hate speech is defined as, "In a broad sense, it is an act of discriminatory expressions toward minority groups (divided by race, ethnicity, nationality and sex) or individuals in light of their group orientation. Most essential parts are an "incitement to discrimination, hostility or violence." (Article 20 of the ICCPR) And furthermore as "an act of "attempting to justify or promoting racial hatred and discrimination in any form" (Article 4 of the ICERD) and "verbal violence, attacks and persecutions." ("What is Hate Speech?" by Yasuko Morooka)

In this regard, not every gender discriminatory remark is considered hate speech. The critical point for distinguishing hate speech from free speech is whether it "incites discrimination." And this is also the point from which how to deal with it. Lawyer Morooka says, "In international human-right standard, it is required to take necessary actions, such as criminal regulation for aggravated activities, civil regulation for the cases not cruel and some containment measures for less cruel cases. Not every speech should be punished" (cited from "What is Hate Speech?") Considering the influence of public officials, their sexist remarks are illegal and seditious. This should be specially emphasized, with the consideration of their extensive social impact, the role of securing and valuing

Japan's Constitution, and compliance requirements to international treaties. I think all discriminatory statements made by public officials would be eligible for criminal recourse. At least some sort of regulation should be applied for such situations which currently do not go far enough for criminal case.

What kind of measures should be taken? Both Houses of Parliament have their own "code of political ethics" and "code of conducts," enacted in 1985. And both Houses have political ethics hearing committees. The code of political ethics contents remain within the framework of "politicians should work hard to eradicate political corruption in order to prevent criticism from general public." In the 'code of conduct', a phrase outlines, "Politicians should take action concerning the prevention regarding money-related issues that may bring about suspicion." It is highly recommended this political code be altered to include cases of discriminatory statements made by Parliament members. What is essential to change is building a social consensus underscoring discriminatory remarks including gender-related ones made by public figures constitute a crime.

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