

Annex 1a

A conversation between the social workers of Hachioji CGC, Tokyo and Mrs. Ide, whose son was removed from her family four years previously

30 March 2018

Hashiba (social worker):

There are various kinds of guardians and situations, aren't there?

Even when children have expressed their will to return to their original family, it does not mean that we will authorise their request immediately. We have to take all the factors involved into account including, for example, if the children will experience difficulties at home.

Mrs. Ide:

Do you mean that if Kota, one of my sons, comes back home, he will experience a hard time at home with my family?

Hashiba:

That is what Morita has just said to you. Let us take it step by step, slowly.

Mrs. Ide:

Do you mean it is more important to take it step by step than to respect the child's view?

Morita (another social worker):

Well, we need assurance as we explained to you a while ago. It would be wonderful for Kota if we could grant him his wish to return to his family immediately. However, we have policy objectives, which require us to evaluate his temporary return to or stay with your family. It is difficult to make any final decisions when considering your circumstances...

Mrs. Ide:

But I have never abused my son and I have never caused any problems during the more than four years I have been visiting my children either. Do I still have any problems, then? If you are still worried, I do not care even if you watch me constantly the whole night and even stay in my home with my family. However, I doubt you will allow what I am suggesting.

Hashiba:

Well, it is not realistic.

Morita:

We are not saying that we will never give you your child back. Our policy is to follow the steps we have outlined to you so we can return your child to you.

Annex 1b

A conversation between
the social worker of Hachioji CGC, Tokyo and
Mrs. Ide whose sons were removed from her family
four years previously /2

16 April 2018

Mrs. Ide:

In the process of the Hachioji Child Guidance Centre (CGC)'s commitment to my family, have you to date given us any support, in terms of the sound development of child-parent relations, other than removing my children from my family?

Hashiba (A Social Worker at Hachioji CGC*):

You meet with your children, don't you?

Mrs. Ide:

Only meetings?

Hashiba:

Well, I think meetings are the most important; and as for your mental condition....

Mrs. Ide:

... You say that you were not acquainted with my mental condition since the conference was held half a year ago. Do you know about my mental condition even though you have not checked on it for half a year?

* Although Hashiba works for Hachioji CGC for years, **he does NOT possess the professional qualification** of the Child Welfare Officer.

Hashiba:

Yes.

Mrs. Ide:

How many years do you think are sufficient? A child grows rather quickly. After half a year, a 6-year-old child would be 6 and a half, and after another half year, 7 years old. This is a very precious time; yet, the support you claim for parent-child integration merely consists of hour-long monthly meetings?

Hashiba:

We have added additional meetings, haven't we?

Mrs. Ide:

That started only a couple of months before last month. Before then, no less than four years have lapsed. Do you think that allowing hour-long monthly meetings is sufficient support for parent-child integration?

Hashiba:

I explained to you that we would step it up.

Mrs. Ide:

Is this something that takes as long as four years?

Hashiba:

You definitely experienced some mental instability during this period.

Mrs. Ide:

The Child Guidance Centre should offer support to parents with an unstable mental condition, shouldn't it? What was the reason, then, for removing my children from their family?

Hashiba:

We removed the children because you had a problem with something like an overdose.

Mrs. Ide:

I overdosed because you, the Hachioji Child Guidance Centre, shocked me by telling me that you would not allow my children to come back to their family, even though the doctor in charge of me agreed that you should 'give the children back'.

Hashiba:

There are no precise data at hand right now....

Mrs. Ide:

You removed my children from me, the mother whose mental condition would deteriorate further the longer my children were kept away, didn't you?

Hashiba:

There were other elements, weren't there? For example, the problem between you and your husband....

Mrs. Ide:

First of all, Kota, my son, expressed his desire to return to his mama's house; yet Morita (another social worker at Hachioji CGC) said 'no'. This is in breach of Article 12 of the Convention on the Rights of the Child.

Hashiba:

I think it should be OK to make a negative judgement if there is a risk in allowing the child's return. The will the child expressed simply does not justify that s/he should be allowed to return to the original family.

Mrs. Ide:

In the enforcement of the rights of the child at an infant stage, 'active measures to protect their rights and promote their survival, growth, and well-being, ...measures to support and assist parents and others who have day-to-day responsibility for realizing children's rights' are necessary. [*General Comment No 7 on 'Implementing child rights in early childhood', the Committee on the Rights of the Child*] – Yet, **the only concrete measure that you have taken is to remove my children from their family.**

Hashiba:

No, we offer meetings --

Mrs. Ide:

... which, for the past four years, have taken place once a month only and for an hour only? Kota has been allowed see me once a month only. This increased to twice a month only a couple of months ago, after four years had passed! Wasn't there anything more that the Hachioji Child Guidance Centre could do in terms of integrating the parent and their children?

Kota couldn't see me for three months following his initial detention. Thereafter, the monthly meetings on the premises of the CGC for a couple of hours continued for half a year, and eventually became longer, up to three to four hours; but after my divorce, the meetings were again scaled back to once a month for an hour. After my child was transferred from the infant home to the alternative care facility, I was unable to meet him for three months. When I was hospitalised due to my overdose, I couldn't see him for five months.

When I was shocked by your judgement and was subsequently hospitalised due to my overdose, I was not able to meet them for five months.

Is this parent-and-child integration?

Hashiba:

We cannot make a judgement. The CGC should not make judgement in this regard.

Mrs. Ide:

You cannot judge? Who makes the judgement, then?

Hashiba:

The Child Guidance Centre sets up the programme on its own to carry out the meetings. If you have objections, please tell them. I am ready to answer your questions.

Mrs. Ide:

For example, the welfare schemes of other advanced countries besides Japan are so well developed that they do not remove children from their parents outright. Rather than removing children from their parents, they offer support

to the children at home without destroying family ties. It is *only in Japan* that the director of a Child Guidance Centre is entitled to remove children from their families at his/her sole discretion. In most advanced countries, the removal of children from their families should be used as a measure of last resort only and for the shortest appropriate period of time. All State Parties, *except Japan*, abide by this provision of the Convention.

In the light of this international norm, what kind of support have you, the Hachioji CGC offered to my family? For as long as four years, you only gave us the opportunity for hour-long monthly meetings?

Hashiba:

Although it turned out that way, we set up the meetings taking the situation into consideration. What happened during that period, such as your mental instability... ?

Mrs. Ide:

There are many countries that support parents who suffer from mental instability; however, there is no other country that bans parents from seeing their children for this reason.

Hashiba:

We carry things out taking into the best welfare of the child into consideration. However, we are not in the position to comment on how domestic laws comply with the Convention.

Mrs. Ide:

You cannot answer, right?

Hashiba:

I didn't say I couldn't answer. I said that we should not comment.

Mrs. Ide:

Because of your judgment, my family's happiness has drained away for four years or more. Why can't you, the Hachioji Child Guidance Centre, comment on this matter?

Hashiba:

I mean that we cannot comment on how the domestic law is compatible with the Convention. Our operation is carried out based on a [domestic] law called the Child Welfare Act as a matter of course...

Mrs. Ide:

Do you know that the United Nations' international treaties have power superior to domestic laws?

Hashiba:

We are obliged to carry out our operations pursuant to the Child Welfare Act....

Mrs. Ide:

Then, based on the Child Welfare Act, you can offer no support in terms of family integration but remove a child from their parents.

Hashiba:

I have repeatedly told you that we have proposed to step up the meetings.

Mrs. Ide:

It is the stepping-up programme that the Child Guidance Centre prepared.

Hashiba:

Prepared.... We proposed this programme to make it fit your case.

Mrs. Ide:

Now I understand. The stepping-up programme proposed by the Child Guidance Centre was not prepared in accordance with international standards....

Hashiba:

No, I don't mean that. I didn't say up to the international standard or without support....

Mrs. Ide:

You haven't offered any substantial support in terms of parent-and-child

integration. Rather you have removed and detained my children, and have continued the hour-long monthly meetings for four years....

[...].

This was the time when my children were most lovely.

Hashiba:

I proposed suspending the meetings to you, and you agreed, didn't you?

Mrs. Ide:

If I had not agreed, things wouldn't have proceeded. Would they? Things will not move forward even if a layman like me sets oneself against the authorities that brandish the Child Welfare Act and Abuse Prevention Act. As my sense of mistrust grew, I began to study and become acquainted with the UN Convention on the Rights of the Child, and realised that these [domestic] Acts are in violation of the Convention. Thus, I am reconfirming what has happened so far with you.

Hashiba:

You are talking about the article stipulating the expression of the views of the child in the Convention, right?

Mrs. Ide:

Kota, capable of expressing his own views, keeps saying, 'I want to go to mama's house,' yet Morita continues to deny his wishes. His disrespect violates Article 12 of the Convention, doesn't it?

Hashiba:

I don't think that's right.

Mrs. Ide:

Why?

Hashiba:

I cannot make a judgment because I am not a specialist on international

treaties....

Mrs. Ide:

Did you, a Social Worker at the Child Guidance Centre, say that you are not a specialist!?

Hashiba:

I said that I am not a legal specialist.

Mrs. Ide:

You, supposedly conducting your duties in compliance with juvenile laws at the Child Guidance Centre, talk your way out of the need for a qualification in law?

Hashiba:

I am not a specialist in the interpretation of the law.

Mrs. Ide:

Well, then a person who cannot interpret the law or the Convention maintains a decisive influence on the precious life of children. Right?

Hashiba:

No, that's wrong. We study the Child Welfare Act thoroughly; however, having read each article of the Convention, I have found that it allows for quite a wide range of interpretations, does it not?

Mrs. Ide:

No! You are in breach of Article 37 of the Convention, which stipulates that the separation of a child from its parents must be undertaken for the shortest appropriate period, are you not?

Hashiba:

What period is the shortest, according to your criteria?

Mrs. Ide:

Can you say that more than four years is the shortest?

Hashiba:

I think it depends on the case.

Mrs. Ide:

Two months is the maximum limit for temporary custody of a child, is it not?

Hashiba:

The maximum limit is two months; however, it can be extended pending the approval of the family court from April 2018 on. This does not mean that it is not possible to extend temporary custody of a child beyond the two-month limit.

Mrs. Ide:

Which means that a child could be placed under temporary custody for more than two months if the director of the Child-Guidance-Centre regards it as necessary, is that right?

Hashiba:

Yes, this is so, pending the approval of the family court.

Mrs. Ide:

Then, do you think that two months would be shortest for a child?

Hashiba:

It depends on the case.

Mrs. Ide:

You said it depends. Then, I will appeal to the UN Committee on the Rights of the Child to ask whether two months are long or short, or four years are long or short.

Hashiba:

Kota is not under temporary custody, is he?

Mrs. Ide:

No, he was placed in the alternative care facility (ACF) by your authority after he was brought into temporary custody.

Hashiba:

In the case of placement by the authority, we obtained agreement from you.

Mrs. Ide:

I asked you at that time what would happen if I filed an objection. You responded that the filing of an objection would merely prolong temporary custody; the chance that I could get my children back would be very slim. My children couldn't get vaccinated, and I couldn't meet with my children. Thus I'd be better off agreeing with the authority's placement to the ACF. This is why I signed the placement document, albeit reluctantly. Then, my son was placed in the ACF, and I was able to meet my son; however, it was merely once a month for an hour, a situation which lasted four years! It was not until last month that I became able to see my son twice a month. Shouldn't there be any support from you besides removing my children from my family and putting my children in custody? You could at least let my two sons, Shunsaku and Kota, meet one another.

Hashiba:

We have thought about this, I believe.

Mrs. Ide:

No, there had been no such plan until I advised it Morita of it in November 2017. And, although a meeting should have been held in December 2017, it actually took place in February 2018.

Hashiba:

Yes, you are right.

Mrs. Ide:

Which means you did not offer any substantial support besides removing my children and detaining them.

Hashiba:

In addition, the interviews we are doing now....

Mrs. Ide:

Only a couple of interviews per year? Is this a manifestation of your positive support towards parent–child integration in light of international norms?

Hashiba:

We do not operate according to international norms.

Mrs. Ide:

A State Party has to abide by the Convention.

Hashiba:

I know; however, we comply with the Child Welfare Act.

Mrs. Ide:

That's right. Which means you give domestic laws priority over the Convention, do you not?

Hashiba:

Yes.

Mrs. Ide:

Now I understand. [...]