

Additional submissions on the 4th and 5th

Periodic Report of Japan

Our Requesting Recommendations to Japanese government

Our voices to LOIs

Convention on the Rights of the Child Japan

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Our Key Message

Why does CRC Japan submit this replenishment report?

On November 1st 2017, we CRC Japan submitted "Alternative Report from CRC Japan" for the 4th and 5th Japan Government Report Considerations. In February 2018, we participated in preliminary session with the children. This document here is a brief summary of the recommendations we are desperately expecting the Committee to write to the government of Japan, based on the discussions at the Preliminary Sessions, List of Issues to the Japanese government, dialogue with the Japanese government etc.

Children in Japan are in danger, because "receptive and responsive human relations", which are essential to be indispensable for the growth, are destroyed throughout society. Children are not able to grow and develop with harmonious personality as the Convention expects, due to the national policies that set economic development as their top priority. Children are suffering from loneliness, despair and apathy, because they are deprived of human relations in every place like home, schools, the environment after divorce of parents, Child guidance centers, and child care facilities, etc.

This replenishment report is a proposal to restore the growth and development right of children in Japan which are infringed under the national policies seeking economic development as the top priority. It also includes a new interpretation and practice of Article 12 of the Convention.

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- (1) Ensuring the right of the children to maintain relations with both parents after divorce

Our Requesting Recommendation

The committee recommends that the State party take effective measures to ensure children's rights to maintain contacts with their separated parents after divorce.

Rationale

LOI paragraph 5 says, "Please explain how the right of the child to maintain relations with both parents after divorce is ensured."

Child visitation is essential for children to maintain human relations and contacts with separated parents after divorce, and ensure the right of the children to know and to be raised by both parents. However, it has been difficult to arrange child visitation in Japan, and many children have been deprived of human relations and contacts with separated parents by divorce.

About 220,000 children, being equivalent to 23% of the number of new births in 2017, are facing parents' divorce every year. Among them, according to a survey to parents by MHLW, about 30% participate in child visitation, and about 10% of them are at the frequency of once a month or more. The remaining 70% do not participate in child visitation at all, which means that children have completely lost human relations and contacts with either parent.

- (2) Promoting education to raise public awareness of the concept of joint custody and co-parenting after divorce

Our Requesting Recommendation

The committee recommends that the State party raise public awareness and change the traditional mindset so that parents and children can maintain human relations after divorce. Besides, they should promote to implement education for parents and encourage parents to create parenting plans regarding child visitation and child support.

Rationale

In Japan, some couples divorce by mutual consent and some divorce at courts (mediation, judgement, trial) when they disagree on terms of a divorce. Divorces by mutual consent are about 90% of the total, and court divorces are only about 10% (according to a survey by MHLW).

The procedure of divorce by mutual consent is so simple that all you need is to submit “divorce paper” to the local government office. There is a check box on the notification form, to declare whether or not agreement on child visitation is made. Even if the check box is blank, the paper can be still accepted. At that time, only a small number of local government offices provide education for parents to support them making parenting plans after divorce, while the rest are not providing them. Even in divorce through the court, only rulings on child visitation are made, and educations are little provided.

Under such circumstances, parents are likely to end up divorce without enough knowledge about divorce and its influence on children, and start lives without parenting plans after divorce. In order to provide parents with sufficient knowledge, and to make after-divorce parenting smoother, education for parents at the time of divorce and creation of parenting plans are essential.

In addition, awareness toward children’s best interest is poor in Japan. Providing education to divorcing parents will be the first step to broaden knowledge and awareness about divorce as well as its influence on children in the society.

(3) Implementation of joint custody system in Japan after divorce

Our Requesting Recommendation

The committee recommends that the State party revise the family law which stipulates sole custody after divorce without exception, and implement joint custody system after divorce.

Rationale

Japanese Family law, a part of the Japanese civil law, has never been re-written after its last amendment in 1947, shortly after the World War II. Social changes such as increase of divorce, remarriage, declining birthrate, women's social advancement, etc. have not been reflected. Regarding child custody system, the provisions of the Patriarchic era, which came into effect in 1898, has remained almost unchanged. Japan's custody system is far outdated.

Japan adopt the sole custody system after divorce, and non-custodial parents are not treated as parents under law. Almost all rights and duties to nurture children are deprived of non-custodial parents except for financial aspects such as child support payment.

Under the sole custody system in Japan, many children lose human relations with the non-custodial parents, because child visitations are not actively done in Japan. If a custodial parent remarries, the children could be adopted by the new spouse without consent of the non-custodial parents.

In order to allow both parents to be involved in parenting, and children to be loved and raised by both parents, joint custody system is essential. In July 2018, the Minister of Justice announced that the government is considering to introduce the joint custody system after divorce. The government should urge its legislation.

(4) Handling children's opinion carefully at the courts

Our Requesting Recommendation

The committee recommends that the State party encourage the Japanese court to hear children's views carefully when they say, "I do not want to see my separated parent."

Rationale

It is common in the Japanese court that it takes months, and sometimes years to mediate child visitation cases. During the process, separated parents and children can hardly see each other and children are likely to suffer so-called PA: Parental Alienation. Under the strong influence of cohabiting parents, the children tend to start refusing to see separated parents, become critical, and take hostile actions. Then, the children often come to say, "I do not want to see my separated parent." The courts are so easy to swallow such statements or refusal attitudes toward the separated parents as "children's will" and deny child visitations. Behind such children's "will", there are often influence of cohabiting parents, but it is hardly taken into account.

The court decisions to deny child visitation will drive children to live in a biased or closed environment, where children have to live only under the influence of cohabiting

parents, not hearing from separated parents. As a result, “parental alienation” progresses, and the children’s refusal attitude toward separated parents becomes stronger. In other words, it will result in amplifying the vicious circle of parent-child separation. Family court inspectors often investigate children only at a superficial level. They are forcing children to take responsibility by themselves by letting them express their “will” when they are lost and confused in the midst of parents’ conflict. It results in abandoning one of their parents and losing love they should have received.

Such court's practice results in making children cut off human relations with their separated parents by their own statements. It is a tragedy.

(5) Prevention of parent-child separation by false DV claim

Our Requesting Recommendation

The committee recommends that the State party prevent parent-child separation caused by false DV claims by cohabiting parents.

Rationale

There are many cases that parents and children are separated because of false DV (Domestic Violence) claim by cohabiting parents. DV claims are easily approved only if there are claims by cohabiting parents (mostly by former wives), and no verification or investigation is required. Separated parents are often accused of DV before they are aware of it, and the new residential address of their children gets concealed by the local government, under the measures to support DV victims. In such cases, separated parents have no chance to know where their children are.

In Japan, even if it is false, once DV claim is accepted, the voice of the accused parents are not to be heard. Procedures to support DV cases are not well developed, and make the children invisible from their separated parents.

In order to prevent parent-child separation by false DV, it should not be determined only by one-sided claim but investigation based on the fact should be required

(6) Transparency of evaluation system for temporary protection by Child guidance centers

Our Requesting Recommendations

The committee recommends that the State party identify the evaluation criteria for temporary protection by Child guidance centers, and accept third parties to audit its evaluation system.

Rationale

LOI paragraph 5 says, “Japanese government should provide an update on the system for the evaluation of temporary child protection facilities operated by child guidance centers.”

In section 5 (1) of the "Guidelines for Child guidance centers", MHLW rules the criteria how they can conduct temporary protection of children. It says, they can protect children if they confirmed it is necessary, without children or parents' consent. And In Article 33 of “Child Welfare Law”, Child guidance centers are allowed to protect children “when the director of the child guidance center deems it necessary” while there is no description of the requirements. Temporary protection can be carried out only by the independent judgment of the Child guidance centers, without being checked by third-party organizations before and after their actions.

Below are the real cases that children get temporarily protected by Child guidance centers with unclear reasons. Child guidance centers temporarily protected a child because;

- They suspected parental abuse by finding a bruise on the child’s body. The truth was that the child only slipped and hurt his bat.
- They suspected parental abuse by knowing this child broke a bone. The truth was that the child only fell off from stairs.
- They judged the parents have no ability to take care of the child, only by knowing the child had been taken to a hospital.
- They suspected parental abuse by receiving an alert by a school. This child was scolded by his parents and said a bad mouth of them at the school. The school took his lie as a truth and reported to a Child guidance center. On the next day, the school found out the child’s words were untrue, and turned down the alert. However, the Child guidance center did not let the child go.

- They suspected father's abuse. Later, they suddenly changed the reason into mother's abuse.

In normal criminal cases, suspects are detained with warrantism (Criminal Procedure 199, 210, 212, 213). Anyone should not be arrested only by decisions of police or prosecutors. The court is obliged to check their decisions in advance and afterwards. However, an administrative agency called Child guidance center can take children away without a warrant. It is against the warrant principle of detention.

Even "The law on the prevention of child abuse, etc.", which should rule the grounds law, does not define the concrete criteria of "abuse". Therefore, even in cases which is apparently not an abuse, Child guidance centers can perform temporary protection or take the child to nursery institutions only by their own judgment. From the viewpoint of securing proper procedures in administrative measures, Child guidance centers should clarify the evaluation criteria of abuse. Besides, they should assign third parties to check if their assessment process is appropriate or not. Each protection case should be verified according to an evaluation standard which is disclosed to public.

(7) Guarantee of access rights, communication rights and the rights to receive education for children temporarily protected by Child guidance centers

Our Requesting Recommendation

The committee recommends that the State party guarantee that children can make access (visit, exchange letters or call) to their parents or guardians, even when they are temporarily protected by Child guidance centers or taken to institutions.

The state party should improve the educational environment of children who are temporarily protected by Child guidance centers.

Rationale

LOI paragraph 5 says, "Japanese government should provide an update on the system for the evaluation of temporary child protection facilities operated by child guidance centers."

According to Article 12 of "the Act on Prevention of Child Abuse etc.", Child guidance centers are granted to "restrict all or part of visitation / communication with a child who

are temporarily protected". This should mean they can "partially restrict" or "restrict under special circumstances", and should not mean "totally restrict". However, the actual situation is that Child guidance centers or institutions have all the rights to make decision without any disclosed procedures. They often protect children into institutions for years, and restrict all access, communications with people outside. Under such situation, we must say that children are completely separated from their families.

Even if you are in prison, you can accept the visits of your family members. Even if you have received a penalty in a prison and are prohibited to meet anyone, it should be only an exceptional and temporary treat. However, Child guidance centers are allowed to shut out all the visitation and communication during protection. Furthermore, they do not even let anybody know where the children are. They are violating human rights and parental rights, much more severely than imprisonment.

Temporary protection and nursing at institutions should be a temporary procedure to re-build the relationship between parents and children. However, Child guidance centers prevent the parents to visit, exchange letters or call their children. This is a serious violation of basic human rights that is stated in Article 9 of CRC, "a child shall not be separated from his or her parents against their will".

Furthermore, children who are temporarily protected at Child guidance centers are not only separated from their parents, but also prohibited to go to schools, kindergartens, and nursery schools. They are almost completely confined and hidden.

They can only be educated by themselves, as facilities are not arranged with persons with educational licenses. We must say that Child guidance centers are infringing children's right to receive education, and seriously violating their human rights.

- (8) Improvement of children's social care system, enhancing education and human deployment for Child guidance centers, Child care facilities and Foster parents

Our Requesting Recommendation

The Committee expresses deep concern that the State party has not improved its social care system, and recommends that they should standardize the educations to the staffs of Child guidance centers (hereinafter Center), Child care facilities (hereinafter

Facility), and Foster parents. The Centers and the Facilities should clarify the management criteria, and improve their operations as well as the human resource assignment. Furthermore, they should adopt third party's evaluation, save children out of separation from parents and re-unite their relationship.

Rationale

LOI paragraph 5 says, "Please inform the Committee on concrete steps taken to prevent children being removed from or abandoned by their families, to speed up the deinstitutionalization of children and to facilitate alternative care by foster or adoptive parents".

In Japanese children's Social care system, there are gaps in the quality between the staffs of Centers, Facilities and Foster parents. It leads to difficulties in improving the whole social care system. Especially the lack of responsiveness and skills are the factors giving huge impacts on the physical/mental growth of children, who are living apart from their families. It also increases the mental burden of parents, and makes it even more difficult to re-unite the families. Moreover, staffs are not well motivated under such severe environment. The working environments of Centers and Facilities are often very poor, and they find it difficult to recruit their staffs steadily.

Regarding Foster caring, it is essential to enhance education / training on basic child rearing, as well as education for Foster parents, especially for Foster parents with no experience in child rearing.

While things are not getting better on family reunification in Japan, it is a concern that the detection system of abuse is prioritized instead of encouraging parenting. In a case we have heard a report, Centers' staffs visited a family on the day after the infant medical checkup, suspecting an abuse by finding an insect bite. While more and more children are separated from their parents, the government is not actively engaged in efforts to make policies to prevent the separation and reunite the families.

Seeing such situations above, it is necessary to improve the quality and responsiveness of the staffs at Centers and Facilities. It seems their KPI is the number of children they are protecting, however, it is non-sense. The government should fundamentally review the social care system and rebuild a healthier operation / management / personal distribution of Centers and Facilities.

(9) Respecting the voices of the children who have experienced social care

Our Requesting Recommendation

The committee recommends that the State party strengthen its efforts to promote the research of children's social care and disclose its results to public in and out of Japan. Furthermore, they should listen to the opinions of the children who have experienced social care, and renovate their system to support children after leaving social care.

Rationale

The Japanese government has not established a system that reflects the voices of children who experienced social care in Japan. For example, they have been requested to build a third-party evaluation system by the experts and graduates, or to provide children with the right to select the careers by themselves. Even though they made some attempts in the past, those actions have been in vain because the benefits of the adults have been always prioritized. As a result, the social care system in Japan has not been improved for decades, and the children are obliged to stay under inappropriate environments, which infringe the rights of the child.

Children after graduating from social care should be supported not only by Social welfare staffs but the whole community. However, it can be said that the Japanese government has not made any efforts to create a system to help them out of loneliness and difficulties. Besides, the children are forced to leave Facilities and stand on their own at the age of 18 in principle. They have no comfortable places like home to return even when they are exhausted. The current society absolutely lacks such environment for the children to stand on their own feet. We must create a community to minimize their loneliness and difficulties as soon as possible.

In total, they should allocate enough budget to improve the situation of social care. Japanese government should research how to improve children's social care, disclose the result to the public and build up the mechanisms for the children.

(10) Survey on actual condition of children's mental health care

Our Requesting Recommendation

The Committee encourages the State party to research the actual condition of mental health care for children, such as the way psychotropic medicine are given to children for psychiatric purpose, the situation nonadaptation prescription / multiple drug combination are used for children, how much medicines are provided to the children under social care, the number of children hospitalized in psychiatric hospitals, the duration of been hospitalized, and the number of isolated / physical restraints / ECT / death discharge and how those children grow after taking such medical care

Rationale

Currently, it is widely practiced in Japan that the children with “problematic behavior” take mental health care without considering social determinant factors.

Nonprescription medicine non-regimen and multi-agent combination are commonly used for the children. Many children are forced to be hospitalized in closed wards of psychiatric hospitals, where psychoactive drugs and sleeping pills are administered to children under social care.

The government should see the reality that many children have lost happy childhood by uncontrolled psychiatric care. Some children are suffering severe disorders or aftereffects. Some are forced to stay hospitalized for a long period of time. It is doubtful whether such current situation of Japan is compliant to Article 33 of the CRC, which states the State party should "protect children from unauthorized use of drugs and psychotropics."

Before we discuss how to protect children's rights in the field of mental health or carry out appropriate measures, it is mandatory to grasp the exact actual situation of child's mental health care in Japan.

In addition, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) told us at a meeting in October 2018 that 8,000 teachers of public schools are on leave of absence due to illness, and 5,000 of them are suffering mental sickness. This fact could be explained by the overworking environment of teachers, which is mentioned in (11) of our report. And the government must be accused that they procrastinated with efforts to improve the educational environment.

Wherever children are in families, schools or social care institutions, the first thing we can do should not be medicating or restraining them. It is more important to listen to their voices and take environmental or social approaches. It is necessary for adults in any fields to reconfirm this understanding and take various training and learning opportunities.

(11) Improvement of school environment

Our Requesting Recommendation

The Committee recommends that the State party order schools not to hide criminal cases which students are victims in schools but make legal actions in principle. Furthermore, they should make appropriate regulations on working hours and labor density of school teachers.

Rationale

We must say that many children are bearing a high mental pressure when in schools Japan. It comes from the Japanese cultural background that regard schools as a kind of community, and the educational policies under the principle of competition

When students are encountered with violent offences by other students or teachers, the incidents are often concealed by teachers. The victims are likely to face secondary inflammation with a high possibility. It is a fact that that the judiciary is not working well against criminal cases inside schools.

In addition, many school teachers are suffering from overwork and forced to take leave or retire every year, even though they are one of the adults who get touch with children most closely.

To practice children's rights in schools, it is mandatory to recover the rules of law within schools and guarantee physical and mental health to school teachers.

(12) Reform of the social transfer system to solve the poverty of children

Our Requesting Recommendation

The Committee recommends that the State party immediately take effective steps to reform the social transfer system, in order to solve the poverty of single-parent households. The policies should include the improvement of child allowance, child support allowance, social insurance premium (national pension / welfare pension /health insurance / national health insurance), and taxation (income tax / resident tax).

Rationale

LOI paragraph 9 says, Japanese government should provide “provide information on the measures taken to address the growing poverty among children and its negative impact on child-related social protection. Please also explain the causes of the low impact of social transfers on the reduction in the rate of child poverty and the practical measures that the State party plans to take to make social transfers more efficient.”

Japan's social transfer system is not working properly enough to save single-parent households out of poverty. Especially the households with lower working incomes are even suffering the negative impact of the social transfer system, which even drives them to more serious poverty. The government has been criticized for years that the social transfer system has a structural problem to bring such contradictory effect. For example, Ota (2006) and Komano (2009) pointed out the negative influence of the social transfer system to single-parent families.

Single mothers who work as non-regular employees gain averaged annual income for 1.25 million JPY, while those regularly employed gain 2.7 million JPY. It is said that disposable income of the non-regularly employed mothers could be lower than that of jobless single mothers living on welfare. It is also suggested that disposable income of regularly employed single mothers is also not increasing enough.

Why the social transfer system is resulting in such minor effects? One reason would be that the amount of child support allowance is too insufficient. Another reason would be that tax burden on social insurance premiums / individuals is too heavy. According to the economic forecast, the amount / rate of social insurance premiums may continue to increase, even though the government is setting an upper limit. It will harm the positive effect on working single mothers as well as their families. We must say the

government is not taking effective measures at all to reform the current system.

- (13) Implementing one-stop governmental support system for single-parent families who are unemployed against their will

Our Requesting Recommendation

The Committee recommends that the State party strengthen support for unemployed single-parents who are willing to work. The government should invite non-governmental human resources and establish a system to support single-parent households with cross-bordered functions.

Rationale

According to the research by the Cabinet Office, Japan's relative poverty rates of single-parent households is 50.8 %, which is the highest among 34 OECD countries. The payment rate of child support by non-residential parents is as low as 24.3 % (in case of single mother families), according to the research by MHLW in 2017. Such situation is lasting for years, however, the government has been so reluctant in supporting those single mothers. Many of them cannot get jobs due to lack of child's nurseries and child-care institutions, or because of physical / mental disabilities.

Roughly 20,000 single mothers in Japan are jobless, even though they are not with disabilities. They have no choice but stay home, because there are not enough rooms in nursery schools to take care of their children during working time. This number has not decreased for several years. On the other hand, the number of single mothers who are with disabilities and cannot work is increasing. The direction of governmental support does not match the needs, as they prioritize the financial aid to single-parent households. Different types of supports are dispatched without consideration (e.g. financial aid, employment support, nursing care support, psychological support, etc.), and such policies would not be sustainable.

The government should establish a core supporting structure for single-parent households, so that single parents can be stably employed.

- (14) Securing the right of the child to express his/her views freely, defined in article 12 of CRC

Our Requesting Recommendation

The Committee recommends that the State party establish a system to support children by mental / economic / social means, so that children can freely express their views (including attachment behavior, desires and ideas). They should guarantee children's right to be responded acceptably at any time, at any places related to their growth and development, particularly at families and schools.

The Committee also recommends that the State party conduct training and campaigns to raise awareness through all opportunities, so that the people can learn that receptive and responsive relationship between the child and their familiar adults which is essential in the growth and development process of children into a human with a harmonious personality.

Rationale

In the last Third Concluding Observations to the Government of Japan in 2010, the Committee expressed concerns that the remarkable number of children in Japan have low levels of emotional well-being at home and school. The committee declared that its crucial factor lies in deterioration and poverty of relationship between children and parents/teachers (para 50 and 60). Based on the concerns above, the Committee recommended the Japanese Government to "take effective measures" so that children can grow and develop in a happy environment both at home and at school (para 51 and 61).

Eight years passed after the recommendation above, and the growth environment of Japanese children has deteriorated further. This is because the national policy (success targets) "to build strong Japan that dominates in economic and military international competitions" and the neoliberal economic system to achieve it have been further strengthened. Children are suffering from worse poverty due to economic disparity, early selection based on competitive principle, request for autonomy as soon as possible, pressure to remain in the winning group, and even faithful devotion to national policy. Japanese children have been deprived of "receptive and responsive human relations" which is indispensable to personality formation in homes, schools and institutions, and increasingly driven to loneliness and emotional instability and apathy. Children are

forced to spend their childhood without being cultivated "self-affirmation" or "empathic ability" indispensable for "growing into adults with harmonious personality". It is urgently required to rescue the children from above new infringements of the children's human rights caused by Japanese social and cultural structure, which is originated from the economic success of our country.

To that end, new interpretation and practice of the children's right to express their views (including attachment behavior, desire and thoughts) of Article 12 of the Convention are indispensable, which is specified as the concrete right usable by children in order to attain "love, happiness and understanding environment" which the preamble of the Convention request as the wisdom of mankind for children's growth and development.