

**Alternative Report on CRC from Japanese NGO  
for the 4th and 5th Considerations of  
Japanese Government's Report**

**Urgent Call from Japan**

A child should enjoy the Right to Create "Receptive and Responsive Human Relations" with Familiar Persons like Parents and Teachers to Ensure his/her Dignity and Growth Development Right According to the Preamble, and Article 6 & 12 of the Convention

**CHILDREN DEPRIVED THEIR RIGHT  
TO EXPRESS THEIR VIEWS  
(TO FORM HUMAN RELATIONS)  
IN NEO-LIBERAL SOCIETY JAPAN**

Convention on the Right of the Child Japan  
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CHILDREN DEPRIVED THEIR RIGHT TO EXPRESS THEIR VIEWS IN  
NEO-LIBERAL SOCIETY JAPAN: Urgent Call from Japan For Article 6 & 12  
Revolutions for the fourth and fifth Alternative Report on the  
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# 1 INTRODUCTION

## 1-1 Alternative Report from the CRC-JAPAN

In accordance with Article 45 (a) of the Convention on the Rights of the Child, the United Nations Committee on the Rights of the Child will examine at its autumn 2018 session the Third Report of the Japanese government. This is an Alternative Report to the governmental Report prepared by the NGO "the Convention on the Rights of the Child Japan" (hereinafter abbreviated as "CRC Japan") that is active for the practice of the Convention.

The main purpose of this Report is to provide accurate and firsthand information on the children's issues in Japan to the members of the CRC who will examine the Third Report of the Japanese government. But also we would like to awaken to this report's having another innovative proposal that

Article 12 of Convention should be reinterpreted as a clause to secure the child's right to enjoy "receptive and responsive inter-personal relationships" in order to materialize the loved position of the child declared by the Convention in its preamble that the child, for the full and harmonious development of his or her personality, should grow up in an atmosphere of happiness, love and understanding and the right to growth and development guaranteed by Article 6 (see chap.).

The CRC Japan believes firmly and is deeply proud that the expected goals to sharply illustrate "deprivation of childhood" in neo-liberal society, Japan and the new way to understand the Convention to recover it, have been achieved on the basis of firsthand information collected and innovative framework developed by citizens and NGOs across Japan.

At the end of the Report, some models of recommendations and proposals to the government are attached.

## 1-1-1 Who is the CRC Japan?

CRC Japan is an NGO for the rights of children newly established in 2015. CRC Japan's predecessor, DCI Japan, as its project, established the "the National Coalition Group of NGOs and Citizens for Preparing the Alternative Report on the Convention on the Rights of the Child (NCNAR)," and submitted "Citizen's and NGOs' Reports" for the considerations of the Japanese Government Reports to the United Nations'

Child Rights Committee (1998, 2004, 2010). Unfortunately, however, the main members of the NCNAR left DCI Japan establishing an independent organization with a strong leadership of a teachers union with a specific ideology, so that the rest of the overwhelming majority of citizens and NGOs who had been so far developing grassroots movement for the child's rights, newly established CRC Japan and succeeded DCI Japan's perspective and activities and heritage of DCI Japan since 1994. The creation and submission of this report is part of those activities.

The main activities of CRC Japan in the past five years are as follows:

- 1) Intensive support activities for victims (children and bereaved families) of the Great East Japan Earthquake and Fukushima Nuclear Power Damage (counseling, support for children's expression of their voices, joint support activities with local NGOs, the elucidation of the reason why 74 children were swallowed by the tsunami under school management, support for families and children who are evacuating from the affected areas in Toyo)
- 2) Development of a nationwide sunflower project (activities that people across the country sympathize with sufferers and call for participation in support activities from the perspective of the Convention on the Rights, with the sunflower as a symbol)
- 3) Ombudsman activity for parents and children infringed on their rights
- 4) Relief activities against infringement of human rights against children temporarily protected by Child Guidance Center and raising questions to the public
- 5) Support for children who are unable to interact with one parent at the time of divorce of their parents and raising questions to the public
- 6) More than 20 learning sessions to disseminate and publicize the Convention on the Rights of the Child
- 7) Issuance of CRC Japan books that carefully explain the spirit of the Convention

and our "Rational Child's Rights Theory"

- 8) Continuous issuance of institution magazine 'Child's Rights Monitor' (issued up to the current issue No. 130)
- 9) Management of CRC Japan Children organization and exchange with children gathering there
- 10) Preparation for the alternative report to the CRC

### **1-1-2 The CRC Japan Report is entirely different from the Government's Report**

Under the economic system of neoliberalism having progressed on the world scene, the Japanese government has promoted restructuring of industrial organizations to restore economic and international competitive powers for these years. Along with such policies, the government has radically changed measures for children for the first time after the lapse of sixty years since the defeat of the War. The Government Report, however, totally ignores new infringements of children's rights and deterioration of social conditions resulted from these social changes. The Report does neither express its evaluation and views on how such drastic changes have affected children in light with the Convention on the Rights of the Child nor take notice of it at all. The Third Report of the government fails to show sincere attitude of the government for drafting children's policies on the basis of the "Convention on the Rights of the Child" and for implementing those policies a step further. Nay, the Report totally ignores the existence of the Convention and even provocatively shows enmity toward it.

This Report prepared by the CRC Japan is entirely different from the Report of the Japanese government. We have common understanding that the Japanese government, regrettably, does not recognize the significance of the "Convention on the Rights of the Child". We also recognize that the government is utterly indifferent to serious infringement of rights of children happening under neoliberalism economic system in Japan and thinks nothing of the faithful implementation of the "Convention" in Japan.

### **1-1-3 What the CRC Japan believes in**

The coalition group realizes that the Convention is a monumental landmark for human rights protection which people in the world have newly attained through various movements for human rights originated in modern civil revolutions and continues to exist in the 21<sup>st</sup> century. We believe that it is the Convention that might provide the



principle to overcome the neo-liberal reforms in Japan, where not only children but also the citizens see their dignity being humiliated and denied. The group is confident that nothing but the full implementation of the "Convention" is the shortest and the best way to truly enable every human beings, not only children but also adults, to live in peace and with dignity on this earth. The group thinks it a starting point to share among each other the importance to listen to the voices of children in a humble way and to build the "receptive and responsive inter-personal relationships" with children on a daily basis. For its full implementation, adults themselves should be liberated from social burdens and become truly free. It also thinks that the basis of the society should be strongly supported by grassroots democracy, instead of the neo-liberal way of thinking, in which each individual who usually tackles with problems of children earnestly might be able to act freely based on this common recognition.

## **1-2 Background of the CRC Japan Report; New Realities**

Five years' observations on the situations into which children have been plunged convinced us that the realities are totally new and have never been seriously addressed in the CRC and that we have to question the foundation for the Convention to stand on itself and its theoretical framework. Specifically, we have to try to re-interpret the right to express views from a new perspective with the aim to bring out its potential.

The new realities and the new perspective did not suddenly come into existence. Rather, they were already addressed in our two previous reports, and the 2005 General Comment No. "Implementing children's rights in early childhood" to the Convention (referred to as "General Comment No." hereafter)."

### **1-2-1 Children's rights violations in Japan; their characteristics**

The Japanese society sees many kinds of human rights undermined or threatened despite its reputation of one of the most prosperous industrial economies. Not only classical children's rights violations such as discrimination against women and disabled and foreign children, child labor, street children, starvation, lack of educational opportunities but also new forms of violations caused by "economically developed countries." The "new version" of violations may be best characterized by "the deprivation of the childhood of children in general," which puts a grave obstacle in children's growth and development because it entails denial of their personal dignity and their rights to live happily today and develop. The tendency is prevailing

deeply in the Japanese society. Today, Japan appears to be a showcase for the violations of children's rights advanced by the Convention. Children are more and more exposed to a full spectrum of rights violations ranging from the conventional and visible ones through unprecedented ones.

The new version of children's rights violations is driven by a series of neo-liberal policies for children with the national interests which put highest priority upon the economic performance and recovery of global economic and political competitiveness. In short, the most fundamental components of children's rights advocated in the Preamble to the Convention, including 1) inherent dignity, 2) right to live happily today and 3) right to grow up, for the full and harmonious development of his or her personality, in an atmosphere of happiness, love and understanding ("receptive and responsive relationships"), are totally deprived of children under the current neo-liberal thrust. The creative childhood experienced under the receptive and responsive relationships has been replaced by the childhood which fails to provide children with opportunities to develop a sense of self-respect and capacity for sympathy. This poor childhood is a product of pauperization of families with children, forced competition for higher educational performance, and demand for more and more premature independence. In Japan children are placed under the permanent mental pressure for joining "*Kachigumi*" (camps of permanent winners) at lower and lower ages. As a result, the children's dignity, happiness and opportunities for personal development are heavily undermined, which constitutes the most serious form of violations of children's rights along with the conventional ones.

### **1-2-2 The current situation of children in Japan indicates urgent need to re-examine the raison d' être of the Convention on the Rights of the Child**

The Japanese Government considers the Convention to be exclusively applicable to the children living in developing or war-ravaged countries, and essentially unnecessary for the children enjoying "prosperity in the developed countries" such as Japan. Indeed, the Government expresses certain concerns about the traditional and obvious forms of children's rights violations. It, however, has completely neglected the recommendations made by the UN Child's Rights Committee in 1998, 2004 and 2010 on the other hand. What's worse, it has been aggressively promoting the policies for children explicitly opposing to the principles of the Convention for at least five years. The Government does not recognize the above mentioned rights; rights to

dignity, and to live happily today and develop as rights inherent for children. For the Japanese policymakers, the Convention is a ready a most a "forgotten instrument."

If it fails to establish the above mentioned rights and principles for addressing the current situation to which children are exposed in Japan, the Convention would not work and Japan's membership to the Convention would remain only nominal. The current situation casts the Convention's *raison d'être* into question.

### **1-2-3 A Proposed Interpretation of the Convention to save children from the threat to destroy their childhood**

Our "Alternative Report" will be an ambitious one in that it builds on the Convention to develop a theoretical and philosophical path to overcoming the current situation specific to children in Japan. Now, this report tries to succinctly give a fresh insight into the child rights violations which our NGOs have been observing for past four years and to provide a route to bring end to it. We hope that the CRC members will kindly understand our intention and keep up their interest in our project.

## **2 THE GOVERNMENT POLICIES FOR CHILDREN AND RESULTING DISTORTION OF CHILD DEVELOPMENT IN JAPAN**

### **2-1 Neo-Liberal Reform Undermining the Childhood in Japan**

Children, our rising generations, are now exposed to grave changes in Japan. They are witnessing the base for growing up and developing their potentials being eroded in this developed country. In response to the changing industrial structure over the past 15 years, the Japanese Government has drastically changed its policies for children by implementing a kind of “general mobilization regime” among the people in order to revitalize Japan's competitiveness.

The current Government policies for children were developed by several private advisory bodies to Prime Minister such as the National Commission on Education Reform, the Council on Fiscal and Economic Policy, Education Redefining Headquarters, Education Redefining Council, etc. Those advisory bodies were composed mainly by business leaders who advocated neo-liberal economic reforms. The policies were also legitimated by conformist scholars and intellectuals. The advisory bodies' recommendations were then rubber-stamped in the Lower House overwhelmingly dominated by the ruling parties, Liberal Democratic Party and Komei Party. The implications of the neo-liberal reform for children are described below.

#### **2-1-1 Revision of the Fundamental Law of Education affecting platform for child care and upbringing**

The 1st Abe administration Government approved the recommendations by the National Commission on Educational Reform in 2000, and revised the Fundamental Law of Education in 2007 which formed the basic framework of major reform of child policy in Japan. The revision was aimed not at developing children's

personalities as enshrined in Sec., Art. 29, but at subordinating education to the national interest, in other words, increasing Japan's political and economic competitiveness. In fact, the business community places its highest priority on developing cheaper and obedient human resources. It has been trying to eliminate the traditional life-long employment system and to restructure the labor market to reduce human cost. In short in order to introduce a futuristic neo-liberal economic system to Japanese society, the basic framework of major reform of child policy was formulated.

Specifically, the neo-liberal policies for children

- 1) Sort out potential elite children ("achigumi" winners) at earlier educational stages through repetitive competition and appraisal cycles
- 2) Provide privileged educational program for those few "achigumi," who are expected to "lead" the country.
- 3) Exclude the losers ("maegumi") or the overwhelming majority of children from the general educational program and lead them to joining the unskilled and precarious labor pool.
- 4) Indoctrinate the "maegumi" children in a new version of patriotism glorifying 20 virtues such as "dedication to public virtues" and "imperative obedience to norms" through family and community settings and in day-care centers, kindergartens, schools, companies and law-enforcement institutions.
- 5) Put children and teachers under the close and permanent surveillance for strict compliance with the rigid regulations and authoritative instructions and under persistent demands for expected achievements. Any children or teachers perceived not to be submissive or able to show expected results may be labeled as "disqualified" or "worthless," and eventually excluded from the public education scene.

In the 5 years since the last Considerations for the Japanese Government's report, it can be said that the Japanese government (in particular, the long-term Abe administration) too the child policy towards neo-liberal system in every child's realm based on the basic principle (framework) established above.

## 2-1-2 Reduction in educational welfare budgets

While the society is more and more polarized into few rich and many poor, the

a ready reduced governmental budgets for children are further squeezed to the limit, resulting in pauperization of families with children. Especially, the poverty rate for fatherless families is the highest in the world. Financial difficulties deprive more and more children of opportunities of attentive childcare and higher education. Although "an atmosphere of happiness, love and understanding" is of critical importance for creative childhood, many children experience difficulties in building that atmosphere in their relations with their parents, who are struggling for sustaining their harsh lives. On the other hand, wealthy parents put their children at their earliest childhood under strong pressure to enter prestigious universities and thereby to help them join them in the "achigumi."

### **2-1-3 Child care support policies for neo-liberal restructuring**

The Government has gradually revised the Child Welfare Act and the related laws to indoctrinate the people in the self-reliance principle based on self-determination and self-responsibility (see Sections 4-1, 4-2, and 5-3). It also opened the Government budgetary contribution specific to childcare to general fiscal resources for other purposes, and deregulated the child day-care center market for privatizing or outsourced municipally-owned child day-care centers. The Government claims that it set out the Child and Child Rearing Support Plan and the Child and Child Rearing Support ACT etc. to provide more options to address different child rearing or care demands. Those measures, however, although wonderful philosophy is written but without concrete measures, only contribute to reducing day-care staff cost and providing industries with cheap female workforce. It also offers renewed opportunities for breaking into the commercialized child care business. In short, the Government abandoned its responsibility of providing high quality of child care institutions and services and dumped the task onto the market mechanism.

### **2-1-4 "General mobilization" regime for human resource development**

In addition, the Government intervenes in parent-child relationships to develop human resources favorable for the business community. Based on the basic framework set up for transition to the neoliberal economic system mentioned above, the childcare and education are codified in laws and administrative policies as activity addressed not by schools alone, but under extensive coordination among schools, families, police, corporate entities and other state holders. The framework for childcare, however, implies that the Government will withdraw its primary obligation to equally provide

equa care and public education for children, and that parents will be subjected to the obligation to give value education within individual families. The value education will exclusively aim to contribute to the national interest, which is to create obedient workforce. Children and their parents are supposed to accept all the consequences should they fail to keep up with the neo-liberal policy. The community members are encouraged to organize "patriotism campaigns" and "ethical values campaigns" to entrench "dedication to public values" among children. On the other hand, the privatized public and family education is opened for aggressive profit-seeking activity of companies, which are directly offering elitist or value education programs to their new customers. The Government started to establish municipal school support headquarters nationwide in 2008 to locally coordinate the above mentioned stakeholders, which marks the start-up of the general mobilization of societal resources for neo-liberal human resource development.

## **2-1-5 Increased dependence on law-enforcement and incarceration**

To control the delinquent children who drop out from the neo-liberal education system, the Government has been implementing "zero tolerance" approach into schools and intensifying the "campaign for norm-adherent mindset" in coordination with schools, police and communities. Children are ever more demanded to comply with rigorous disciplines. The police now enjoy an extended policing and investigation authorities and officers freely question and incarcerate less than 14 years old children. The police intervention into suspected juveniles at that age level was previously precluded under the provision of the Juvenile Offender Law. Family courts, which have primary jurisdiction over juvenile offenders under the law, are ever more willing to send teenagers to juvenile detention centers ("Shonen-in"). In addition, the probation under the Juvenile Offender Law has been increasingly replaced by the criminal prosecution, and more and more suspected juvenile offenders are arrested and detained in police detention cells. Now, the disciplinary gaze is prevailing over the children on a daily-basis.

## **2-2 Absence of Effective Preventive Measures against Traditional Children's Rights Violations**

In addition to the above-mentioned new form of children's rights violations, which are depriving children of the social and family conditions for integral and harmonious personality development, the children are also exposed to tangible and

traditional rights violations; child abuses (see Section 4-4-1), gender-based discrimination (see Section 7-3-12), discrimination against disabled and foreign children (see Chapters 5 and 9), and more punitive and less to errant control and surveillance over suspected juvenile offenders (see Chapter 8). The CRC alerted the Japanese Government by issuing challenging recommendations in response to the findings at the previous two review sessions. The Government, however, has not yet conducted any significant measures to react to the recommendations and, what is even worse, apparently encourages and averages the discrimination to entrench its desired neo-liberal regime into the society.

For instance, in order to control any irregular behavior that the neo-liberal education reform may cause among the children, the Government emphasizes the importance of discipline training ("shitsue") and parental affection. Shitsue training, however, is commonly used as excuses to justify different psychological abuses against children (inappropriate child care), and the mental abuses may cause grave consequences in children's development, even if they give no apparent physical or life-threatening damages. More and more delinquent youth are subjected to explicitly punitive measures and abusive detention. The persistent traditional discrimination against women and disabled and foreign children are also revitalized and mobilized to offer cheap female workers and reduce governmental education and welfare budgets. These discriminations also drive further economic divide.

### 2-3 Aspects of "Eroded Childhood"

In this situation, an overwhelming majority of children are experiencing indefinite solitude and despair without being accepted or recognized. Some perceive themselves as worthless and powerless and others are over-stretched because of their excessive efforts to adapt themselves to the expectations which their parents and teachers place on them. The situation is visibly reflected in the UNICEF's survey on happiness enjoyed by the children at an age of 15 years in 24 OECD member states; the statistics showed that Japan has the single highest percentage of the children who perceived themselves as isolated, and that almost one of three children feel solitude.

As a result, many children cease to express themselves openly and learn to play the personalities which they believe compliant with the specific social groups they belong to in order to even ostensibly avoid isolation from their groups. They try to silence their feelings, give up spontaneity and intentionally paralyze sensitivity to mood



themselves into the persona models which their parents or teachers believe in. These efforts, however, drive them to insurmountable difficulties; suppressed feelings and consciousness are often translated into "symptoms" such as eating disorder, self-immolation, violence and the delinquencies. As long as you hide your real self, you cannot communicate with others in a true sense, and feel isolated when surrounded by many people. Disappointed, children are often reduced to apathy or depression and retire into themselves by absenting from school or staying at home away from the society. Some children are indulged in drugs or love life, hoping that these dependencies may give them instantaneous euphoria. Others are addicted to mobile phones hoping that they will provide reassuring communication. Eventually, some injure themselves or harm others.

## 2-4 Characteristics of "Eroded Childhood"

Eroded childhood is characterized by the absence of the human relations which boost children's self-respect and freedom and give them a sense of being protected with warm understanding by sending a strong and positive message "You have the full worth of living as you are and as you are." The desirable relation is tentatively defined here as "receptive and responsive relationships" toward children.

The erosion of childhood has as consequences;

- 1) Denial of possibility to develop their initiatives (denied dignity)
- 2) Inability to be a child today with stable self-respect and positive relations with other people (isolation)
- 3) Lack of opportunities to develop the personality so as to harmonize self-realization with a true aspiration (lack of opportunities for developing personality)

In short, children are mobilized as a whole to the neo-liberal economic regime led by the business community under the banner of "recovery of global competitiveness." Their daily lives are thoroughly governed through the competition and appraisal mechanism and by the free-market doctrine. As a result, children are alienated from receptive and responsive human relations, and deprived of a sense of self-respect and capability for sympathy. They are suffering from the lack of their own dignity, happiness and opportunities for growth and development.

# 3 FRAMEWORK FOR ANALYSIS - CHILDREN'S HUMAN DIGNITY AND DEVELOPMENT

## 3-1 The Purpose of the Convention Consists in Promoting Dignity and Development

The Convention's *raison d'être* is to secure children's right to life (see Art. 6) as well as their four other rights;

- (1) Guarantee of Dignity: To have their human dignity and initiative actively accepted (in Preamble)
- (2) Right to Grow: To be a child today in an atmosphere of happiness (the right is referred to as "growth and well-being" in Preamble and as "survival" in Art. 6)
- (3) Right to develop: To full and harmonious personality development (in Preamble and Arts. 6 and 29), and
- (4) Right to be loved: To enjoy an atmosphere of happiness, love and understanding, prerequisite for the above mentioned rights (in Preamble and General Comment No. Para. 29)

The Preamble demonstrates that these rights constitute the essence of the Convention; it establishes the rights to human dignity, growth (survival) and development as substantive rights, and requires that an atmosphere of happiness, love and understanding be provided to effectively secure those rights for children. These four rights are the cornerstones of the Convention, and the rights may, therefore, be qualified as "children's fundamental rights." The Convention should be interpreted as a legal system constructed on these fundamental rights. Other rights (including parental rights), principles (ex. best interest and protection principles) and obligations of the signatory countries and adults, as stated in the Convention, should be interpreted as

derived from, and complementary and supportive to the fundamental rights.

### **3-2 Receptive and Responsive Relationships are Essential for Children's Dignity and Development — Psychological Basis of Child's Rights**

Newborn babies are active social agents, who instinctively seek protection, care and understanding. They require these involvements from their primary caregivers for their survival, growth and well-being, very soon after birth through non-verbal communication (see Paras. 14 and 16, General Comment No.). Babies show discontent if their need is not satisfied. This is their natural reaction. Parents or primary caregivers, however, satisfy their need without negatively reacting to them. Through repetitions of this kind of experiences, they build emotional security, develop a personal identity and learn confidence to surrounding people and capacity for sympathy. The sense of being fully accepted is indispensable psychic energy to live with stable self-respect and provides a basis for independence (= autonomy). The confidence to surroundings and capacity for sympathy provide psychic basis for a trusting thinking (= morality).

Children start their development toward independent and ethical personality only after they have enough solid sense of being fully accepted and attended to develop the sense of self-affirmation and capacity for sympathy. If their need and discontent are suppressed or restrained, they cannot make a good start. This developmental mechanism is evidenced by the recent cerebral physiological findings and studies on mental traumas, which have achieved significant progress and broadened our understandings. It is also endorsed by the attachment theory of psychology and developmental pedagogy. The 2005 General Comment No. 7 mentions the mechanism.

### **3-3 Children's Right to Express Their Views guarantees the Right to be Loved in the preamble of the Convention as a Concrete Right that the Child himself realizes it**

The Convention's goal lies in ensuring children's dignity and growth and development. And as a means to realize it, the preamble of the treaty proclaims that children should be guaranteed "a family environment happy, an atmosphere of happiness, love and understanding." It is obvious that the Convention "declares that a child has a position to be loved," in other words, he or she has a qualification or right to be loved. It is

the child's right to express his or her views that guarantees this "overlooked position / qualification" or right which the child has inherently, as the right he or she can realize it by himself or herself. Article 12 has replaced the abstract and moral content of the "overlooked" position with the position being guaranteed human relations through which a child always responded receptively "A right, that's it" without being ignored or neglected against the instinctive call "Hey, hey" voiced by a child. When superimposed on the above psychologically based theory of growth and development, the guarantee of the environment of "happiness and love and understanding" is, when viewed from a child's point of view, a guarantee of "the right to make a receptive and responsive human relationship" with a familiar adult, i.e. parent or teacher who is encountered in the course of growth and development. The situation to which children are exposed in Japan is characterized by the very fact that they are deprived of this human relationship in the move toward the neoliberal reform and global competitiveness recovery.

### **3-3-1 Reason for securing children's right to enjoy receptive and responsive relationships**

Therefore, the most important question is how children can recover the receptive and responsive relationships of which deprivation would undermine the positive childhood. Originally, the attention is expected to be provided by adults with understanding and affection. Adults, however, are already immersed into the socio-cultural thinking which places the highest priority on economic development and are unable to pour the receptive and responsive relationships toward children and what is worse, parents and other caregivers tend to consider it as best interest for children to indoctrinate them in stereotypical values favoring economic profits and to place them under their disciplinary and prescriptive attention. Some parents provide excessive emotional or psychological protection to their children because they lacked those attentions in their childhood, and others neglect their children as the very consequences of that lack. What the adults conclude that is the best interest for children in the current social, cultural and economic context may deprive children of their childhood, even if the conclusion is the product of their rational thinking and good intention. Any unilateral adult arguments motivated by subjective good intention alone cannot revive the childhood; they are often the root cause of that tragedy. To give back the childhood to children, the right to enjoy receptive and responsive relationships should be effectively provided so as to ensure that children enjoy the substantive rights (right to

human dignity, right to live a happy life each day and the right to development).

### 3-3-2 Challenge to the existing interpretation of Article 12 of the Convention

What provisions does the Convention have to ensure that children enjoy the substantive rights? Article 12 states "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely (...), the views of the child being given due weight in accordance with the age and maturity of the child." The right to express views has been so far interpreted as a variant of civil liberties, as the right to freedom of expression defined in Article 13 is.

Article 12, therefore, has been interpreted in relation with the requirement that the views as expressed by children be respected in themselves (in this sense, the right is almost a synonym to the right to self-determination), or that children's right to participate in the society be respected. The interpretation may allow children beyond a specified age even to be qualified as actor capable of exerting the right or in other words as "little adults." It would, however, lead to defining younger children as immature and incapable being, or a kind of objects to be unilaterally addressed, on the other side. As qualified little adults, children may be demanded to accept the consequences of their own decisions. The provision of Article 12, therefore, may be adversely interpreted as demand for earlier independence and unlimited self-responsibility. It is obvious that the qualification as "little adults" will not have any empowering effect on the children who are always in solitude and despair and feel themselves as uprooted, worthless and powerless in Japan. What is most necessary for those children is the surrounding people who receptively and positively accept them. Only through the interaction with those people do the children develop their innate capacity of addressing and changing their realities and become actors capable of exerting the rights.

### 3-3-3 Right to express views should be interpreted as right to enjoy receptive and responsive relationships

Let's turn to Article 12 from this perspective. Paras 14 and 16 of the General Comment No. to the Convention states that the "views" expressed by children include non-verbal communication such as some instinctive affectionate behavior and emotional expression. As a logical consequence of this argument, the right to express

views may be interpreted as including instinctive affectionate attitude and non-verbal expression of needs. And the parents and other caregivers have an obligation to sympathetically react to these "views." Moreover, since children have the right to freely express their views and needs as stated in Article 12, the caregivers must not react to their expressions in a manner which discourages them from showing their feelings again. Their reactions should be always affirmative and receptive. Although children are not rational agents, but are developing toward agents responsible for their own decisions, they are capable of expressing their instinctive needs and exerting the right to do so. The right to express views provided in Article 12 states that their capacity to express their instinctive needs should be socially recognized as a legitimate power and that it should be protected in the context of that right. In addition, the article implies that children's right to durably enjoy receptive and responsive relationships from their surrounding caregivers and adults are inherent and should be effectively protected via the obligation to give those attentions on the side of adults. Thus children, exerting this right to express their views or instinctive needs to the surrounding adults (including parents, teachers and others), will be able to come to enjoy the durable, receptive and responsive relationships, under which children will get out of the solitude and despair, find themselves fully accepted and recover their dignity and independence as actors. Instead of being placed under the relationship of dominance and submission or lack of attention, each of them will be a child today in an atmosphere of happiness without refraining themselves for uncertain future success. Supported by the sense of self-respect and capacity for sympathy, they can mature into independent and ethical beings.

### **3-3-4 Reconfirmation of *raison d'être* of the Convention**

The most important aspect of the right to express views is, therefore, that it establishes that children's instinctive and inherent capacity of expressing their demand should be fully respected as essential aspect for their right to develop the relationship with their surrounding people in the process of growth and development and to actively participate in their growth and development. This right would not be categorized into rights for freedom or other civic rights, which are based on the right of self-determination. Rather, it should be considered as a variant of the right to life. The right to express views stated in Article 12 should be distinguished from the civic rights identified in Article 13 and later. According to the conventional understanding, the right to express views or right to participate in the social activities is classified

into the right concept defined in Article 13, because these rights are almost interchangeable with the right to self-determination.

As discussed in details in Section 3-2, the Japanese government is strongly pushing for neo-liberal reforms, and its policies for children are built on the competition and performance appraisal mechanism and privatization principle. Children are encouraged to internalize self-responsibility principle and to blindly and unilaterally follow the Government's policies. The importance of "receptive and responsive relationships toward children" is denied politically as well as culturally. To address the adverse situation to which children are exposed in Japan, the implications of the right to express views identified in Article 12 should be thoroughly re-examined and re-interpreted to ensure that children exert that right so as to enjoy the receptive and responsive relationships in different daily settings. The reinterpretation will allow the Convention to re-assert its value as antipode to the neo-liberal reforms in Japan, where not only children but all the citizens see their dignity being humiliated and denied.

### 3-4 Viewpoints for Examining Children's Rights in Japan

"Receptive and responsive relationships" is typically provided within families, which are defined in the Convention as "the fundamental group of society and the natural environment for the growth and well-being of children." The receptive and responsive relationships is an indispensable condition for children's dignity and growth and development, and it should be, therefore, provided in nursing and educational institutions as well. It provides a seed bed for upbringing and education. However, its importance is not recognized or being downplayed within families as well as in day-care centers and schools as a result of the recent neo-liberal reforms in Japan.

- 1) The Government totally withdraws from its primary responsibility to afford the necessary protection and assistance to parents so that they can fully assume their responsibilities as defined in Preamble and Article 18. It also abandons its responsibility to improve the conditions necessary for teachers and day-care center and other child institution staff to sympathetically accept and react to children as suggested in Article 3.
- 2) In reality, the Government is intensifying and promoting the economic and physical conditions which make it difficult for parents, teachers and day-care center and other child institution staff to perform the responsibilities to give

“receptive and responsive relationships toward children” in the move toward the neo-liberal regime.

- 3) In addition, the Government is attempting to make the people internalize the values including the “self-determination and self-responsibility principle,” “competition and reappraisal principle and market mechanism,” “earlier independence” and “dedication to public values,” which are all favorable for the neo-liberal reforms, by imposing the values to families, schools and day-care centers as upbringing and childcare principles.

## **4 EAST JAPAN GREAT EARTHQUAKE AND CHILDREN'S RIGHTS**

An unprecedented big earthquake and a big tsunami hit Japan's northeastern part at 14:46, 18:00, 2:00 pm on March 11, 2011. The number of deceased or missing people was about 20,000, and the total destruction of the building amounted to 400,827. A lot of people lost their children, lost their families, and lost job. They were shed and destroyed houses, the everyday living place of the past, the city, the hometown, and the fields. Their lands were so polluted by radiation that for more than two decades their families were torn apart and were forced to worry about their child's health concerns. CRC Japan has been carrying out various relief activities in cooperation with local NGOs in Miyagi prefecture and Fukushima prefecture immediately after the catastrophe.

Through these experiences, we have convinced that the lessons learned from this catastrophe are as follows:

The child's desperate crying, "I'm scared, mommy!" "I do not want to die!", parents' hopeless prayer, "No matter how bad you are!" "Whatever happens, live!", and disappearing desire "Do not leave me alone" "Let's live together again!". All these taught us that the best condition for human beings to live as human beings is two: (1) life (dignity of life) and (2) existence of people who can live together to be relieved (human dignity). Many people who faced that catastrophe said, "I do not care at all position and honor, deposit and wealth, whether you are well behaved, a good child or can study hard.



Even if we lose all things that we have deemed valuable socially and individually in our daily life so far, the value of the human being still lasts after cutting off everything in life is "life" and "the existence of a person living together".

The lesson we learned from the Great East Japan Earthquake and the Fukushima nuclear disaster is actually the exact same as the essence of the Convention on the Rights of the Child. As described in detail already, it lies in that the existence of familiar adults living together while creating a receptive and responsive human relationship is indispensable for the guarantee of the dignity and growth of a child. The Great East Japan Earthquake taught us the importance of practicing the Convention on the Rights of the Child by betting the lives of many victims. Currently Japanese society not only does not recognize the importance of "living together by making receptive and responsive human relationships" but also continues to adopt policies to destroy it for economic development. The government promoting competition, disparity, sorting and efficiency is destroying the environment where children and humans form a receptive and responsive relationship and live happily together at such places where children grow and develop as family, nursery schools, schools, and facilities, everywhere. In that sense CRC Japan's report was created with the lessons learned by the East Japan great earthquake disaster as a revelation.

The Great East Japan Earthquake contains so many problems that it can not cover all of it. We will submit the report below, centering on activities which we directly experienced after the earthquake.

## 4-2 Okawa Elementary School Incident

### 4-2-1 Catastrophe that 74 children lost their lives under school management

At the Great East Japan Earthquake Tsunami that occurred on March 11, 2011, 70 people in a total of 108 students in the school were killed with the teacher while 4 people is still missing. This is Okawa Elementary School Incident in Ishinomaki City, Miyagi prefecture. There was a time of 50 minutes until the attack of the tsunami, immediately behind the school there was a mountain that pupils of elementary school lower grades could climb in 40 seconds, and a school bus was also on standby. "Then why?" The Ishinomaki Municipal Board of Education (hereinafter referred to as the board of education) repeatedly responded falsely to the bereaved families seeing confirmation of the facts. The board of education ① did not hold a bereaved explanatory meeting, ② did not put out the only surviving teacher as "sick leave",

and ③ discarded notes heard from children at the early stage.

Under these circumstances, the third-party committee "Oawa elementary school accident verification committee (verification committee)" who received the request from Ishinomaki City erroneously made a mistake from the installation stage.

Although the Ministry of Education, Culture, Sports, Science and Technology selected committee members, the requests of bereaved families "I do not want people who are tied to the city or prefecture to enter" were not reflected at all. One of the committee members was a father of the representative of Social Safety Research Institute who underwent verification. There was no "objective" in the installation requirements of the verification committee, and "what to verify for whom" was unclear. Therefore, verification was done "from zero basis", and important evidence gathered by the bereaved family was not utilized at all. Verification work was far away from the core of the problem and even the testimonies of the most important living witness were buried under the name of privacy protection. There was also a mysterious thing that a psychologist conducts a tsunami survey even though there were experts. The final report listed only conflicting testimonies and facts, and abandoned the "verification". The final report was a sloppy document that abandoned "verification" merely by listing conflicting testimony and facts.

19 families among victimized 59 families who couldn't suppress their anger filed a lawsuit in the court seeking to clarify the cause. In October 2016 the Sendai District Court admitted negligence and ordered compensation of about 1.4 billion yen. However, the evidence that the bereaved emphasis was not examined in the trial, and the problems of dishonest correspondence of the board of education, the city and the prefecture were not questioned either. Even now, both parties are contested in the Sendai High Court.

#### 4-2-2 Children's opinions were completely crushed

"Teacher, escape to the mountain!" "We shall die if we stay here!" — According to the testimony of the child that was miraculously saved, many pupils were complaining about crying. In addition, some children fled to the mountain by their own will, but they were brought back as "Do not disturb the group". The board of education who heard the children's testimony of this fact abandoned the notes, and explained the reasons at the briefing session, "Children's memories will change." In addition, the bereaved family's appeal to reveal the truth as a spokesman for the child

was a so exhibited, and the only surviving teacher who should know the truth was hidden in hospital by the Board of Education without telling anything.

In the third Concluding Observations to Japanese government the CRC indicate concerns, "Traditional views which fail to respect the child as a human being with rights severely limit the weight given to children's views" (43) and that recommends, "The State party strengthen measures to promote the rights of the child to express his/her views fully in all matters affecting him/her in all contexts, including at school" (44). Contrary to these concerns and recommendations the children's opinions in Okawa Elementary School incident were completely crushed.

#### **4-2-3 Teachers couldn't respond at emergency situations**

Teachers have a high obligation to protect children's lives and safety. They are requested to foresee and avoid even dangers that non-teachers will miss. However, despite getting disaster information from the radio etc., the teachers of Okawa Elementary School did not aggressively gather information such as going to see the state of the river. When another smaller earthquake occurred two days before the incident teachers went to see the state of the river and talked about the danger of the tsunami. In spite of this why the same teachers ignored the danger at the time of far bigger earthquake on the day of incident? A surviving teacher who was supposed to be most familiar with the earthquake specialized in science urged evacuation to the backyard, but it was drowned out by the voice of a senior teacher who said "Tsunami will not come". The principal was absent and the vice-principal was unable to make a decision. Ultimately, after letting the child wait in the school yard for about 50 minutes more, teachers moved the children "toward the river where the tsunami was just coming". Immediately after that the life of 74 pupils was swallowed by the tsunami. Communication among teachers did not go well and it can be guessed that there was no teacher who could make an accurate judgment.

#### **4-2-4 Okawa Elementary School Incident symbolizes Japan's education system**

In an emergency situation, the best thing to save the child is a teacher who has the ability to respond to the situation while feeling the danger with the senses and listening to the child's appeal. Okawa Elementary School Incident is a symbol of Japan's educational system that did not train such teachers. Even though teachers can be obedient to orders from above and educational goals established by the government,

they can not defend their children while looking to the child who is supposed to be the most important, sincerely responding to children's needs and wishes. So when a problem arises, teachers rage about maintaining their own self, and run to concealment and dishonest correspondence.

#### **4-2-5 Japanese society trying to conceal Okawa Elementary School Incident**

There is no need for the bereaved family to appeal to the trial to disclose "What happened at Okawa Elementary School on that day?" (1) Why the children were forced to stay in the school yard for 50 minutes more while having an environment to escape, (2) what the only surviving teachers saw, (3) why they evacuated toward the tsunami, (4) why the board of education discarded the memoirs heard from children immediately after the tsunami, etc. All these questions must be clarified and the answer should be used for the drastic change of the Japanese educational system and for the future disaster prevention measures. The Ministry of Education, prefectural and municipal governments that have concealed evidence or taken dishonest responses, must apologize to children who died while believing the teachers and their bereaved families, and take responsibility.

Facing the reality of Japan, which is losing sight of children's opinions even in such an emergency situation, and reconsidering the significance of children's opinion in consideration of General Annotation No. 12, we have to do our best efforts to make the children's right to express opinions function everywhere in Japan on a daily basis which is the right to make relationships with teachers (adults).

#### **4-3 Fukushima nuclear power plant disaster Influences and Apprehensions to the Children Suffered from Incidents of Nuclear Power Generations in FUKUSHIMA**

There are 4 pillars in the Convention on the Right of the Child which Japan has ratified. 1. the Right to life, 2. the Right to Protection, 3. the Right to Growth, 4. the Right to Participation. In order to realize these, the best interests of the child must be considered. However, the damages that children have been suffering through the experience of the Great East Japan Earthquake, tsunami, and Fukushima Nuclear Power Plant Accident unveiled

and exhibited Japan's inherent contradiction with the philosophy, and shadowed heavily on children's daily life.

#### 4-3-1 Confusions just after the Nuclear Power Plant Accident

The scale of the nuclear accident and its impact have not yet been formulated even with experts. Many guardians were wondering how to evaluate and act on nuclear power plant accidents, judgement was divided. Immediately after the accident, Japanese government raised radiation standards for food and drinking water, annual exposure limits, in order to fulfill a responsibility to secure protection and nursing necessary for the welfare of children.

Children's outdoor activities were limited for a long time.

The Ministry of Education, Culture, Sports, Science and Technology set the limit of additional exposure, including juveniles, to 20 times (20 mSv per year / 20 mSv per year) to this quantity its traditional amount.

A figure of 20 mSv per year corresponds to nearly four times the radiation control area standard 5.25 mSv, where adults working with radiation are subject to strict personal exposure management and labor under 18 is prohibited.

In response to this, criticism was received from parents and others, and the statement that "the amount of exposure in school life aims at 1 mSv annually" was made.

There is a notion on the web site of the Ministry of Health, Labor and Welfare that children in the period of growth and development are more susceptible to radiation (more susceptible to radiation exposure) than adults. This fact showing contradictions among ministries and agencies, and nothing accommodated resulted in increasing parents' anxiety.

It can be said that children in Fukushima have been influenced and threatened with easy changes of risk assessment depending on the attitude to radiation protection of government, ministries, experts, chiefs.

Some families fearing health damage and evacuated outside Fukushima prefecture with the precautionary principle in mind, and some other families remained in Fukushima for fear of influence by parent and child being separated.

The conflict between "right to live in health" and "right not to separate family members" has not been solved yet. "Evacuate/Not Evacuate," "Wear mask/Not wear mask," "Dry outside/Not dry outside," "Buy food produced in prefecture/Not buy," "Scale radiation/Not scale," "Participate in recreation program/Not participate", the families have been forced to choose between two in various situations of everyday life.

People in Fukushima became unable to understand how the other think, and so unable to express own judgment (action). The suspicion spread not only among friends or

acquaintances but also between married couples and family members, and it spread a dull and heavy atmosphere. Research by the disaster psychology research institute of Fukushima University, etc. says that undefined anxiety of adults has been found to affect children as well.

#### 4-3-2 Various countermeasures and actions for children

It was obvious that the impact of the Fukushima nuclear accident would be protracted, so countermeasures and actions to deal with the situation were taken in place. Indoor play spaces were built because the use of school yards and playgrounds was limited. These indoor play spaces were built one after another in meeting rooms at public facilities, gymnasiums, storehouses which were not in use, and vacant stores. Fukushima prefecture subsidized these play spaces. Some kindergartens used a bus as a play space and also as a space to exercise. Prefab sandboxes, its walls contained lead plates, were set up in playgrounds. The use of outdoor swimming pools was also restricted, and private sports facilities were used instead. In order to get more exercise, the number of children who take an exercise class and a sport lesson increased. Sports day took place in gymnasium and school excursions were canceled. As a consequence of limited outdoor activity, a lack of exercise of children in Fukushima became a serious social issue. Obesity, decreased strength, and poor athletic performance led to emotional instability and poor academic performance in schools. Also, the gap of children's development, depending on attitude and financial situation of each family, was an increasing concern. When this gap causes a decline in social nature and academic ability, this could be a difficult issue to solve.

As one of official measures, decontamination started. 1 mSv of radiation per year was a long-range aim. Public facilities, schools, and parks were prioritized, and started from highly polluted areas. Because of decontamination work, the influence of radiation has been decreasing at parks, school yards, and playgrounds. However, decontamination has not started with surroundings which are rich in nature, such as mountains, rivers, and farms, one could argue that the children's right of growing up in good health has been infringed.

Decontamination work other than mandatory evacuation order areas was discretionary for local municipalities, so numerical targets and methods varied from place to place. This area difference implies that impact on children's health depends on where they live. Accordingly, this runs counter to the spirit of Convention on the Rights of the Child which advocates best interest of a child.

Families who evacuated outside the Fukushima prefecture from so-called "voluntary evacuation areas" other than forced evacuation areas stayed under roof of public housing and ending apartments treated as emergency temporary housing. Many of them are mothers and

children who have evacuated leaving his father in Fukushima. Children suddenly were separated from their family home/hometown, and forced to change the environment such as family, friends, school, society. Bullying and discrimination also occurred due to lack of understanding of radioactivity, and physical and mental disorders increased with evacuated children and guardians.

Due to differences in couples' way of thinking on radioactivity and differences in opinion on the health effects of children, the number of families who live separately or divorced has increased.

Many mothers and child refugees can not fill the gap between opinion with other people such as mother-in-law and relative.

Such environmental changes and adults' mental anxiety / stress will also adversely affect children. The lives of evacuees are heavily dependent on the discretion of the receiving municipality and the surrounding environment, that makes them uneasy. Fukushima Prefecture closed rental security for voluntary evacuees in fiscal 2016. Voluntary evacuees will be forced to judge whether they will return to Fukushima in the future or live in the evacuation destination.

And in Fukushima Prefecture, there is also concern about the serious effect of changes in family composition such as separation or divorce on the growth process of children. Marriage among EX families, etc. creates excessive dependence on fathers and mothers, and it is a problem that influences daily life - mental growth process.

### 4-3-3 Continuous exposure

The radiation dose has gradually decreased over time (half-life, movement due to wind and rain, etc.) and progress of decontamination. In addition to public facilities, parks, schools, etc., housing decontamination is also proceeding. Wipe off the roof, rinse concrete and walls with high-pressure washing, scrape off the topsoil of the garden and store contaminated soil. In some residential areas, it is possible to remove contaminated soil, but in densely populated areas, it needs to be stored at home because the land for temporary placement is not available.

The Ministry of the Environment has a plan to set up intermediate storage facility, but it has not been realized due to the delay in land expropriation. The temporary placement period, which is supposed to be three years, has already been expired. Even when the intermediate

storage facility is completed, there are concerns about re-positioning and accidents from the re-dripping of the school yards, parks, housing-buried polluted soils to loading, transportation and carry-in.

On the other hand, not all the contamination is removed by the methods according to the guidelines instructed by the Ministry of the Environment. Measurement by the administration is based on 1 meter above ground on adults, and 50 cm above ground on children. But the infant's height is lower. However, not enough attention has been paid to the fact that contamination has penetrated/fixed to the ground, so the infants, who are most susceptible, are exposed to radiation the most. In general, publicly announced figures are 1 meter above ground on adult basis and it cannot be said that people understand the influence on small children.

These days, we no longer see residents checking the surrounding dose with their own radiation measuring instruments as we found in the early days of the disaster. Residents seem to assume that the radioactive contamination problem has been solved after the housing decontamination ends. However, if actually measured, you can see that it has not returned to radiation dose before nuclear accident. Contamination has not totally been removed by the methods according to the guidelines instructed by the Ministry of the Environment. Re-contamination due to contaminated dust falling has also been confirmed. Without being aware of it, residents are made to live under exposure because of insufficient decontamination and inadequate information disclosure.

#### **4-3-4 Children's Health, particularly as it relates to Thyroid Cancer**

In 2017, out of 360,000 people in the Japanese prefecture of Fukushima who were given cancer screenings, there were 191 children who were diagnosed with thyroid cancer. The typical rate in the general population would only be 1-2 cases per million people, which led the Fukushima Special Committee for the General Health Survey to note that even if illness for this specific illness is orders of magnitude larger than normal occurrence rates. Even so, the committee also commented that it would be "difficult to think that radiation is the cause."

The Fukushima Prefecture Medical School founded the Fukushima International Medical Treatment Center as well as the Radiation Disaster Medical Treatment Center, and is currently expanding their efforts in the screening, treatment, and research at a level rarely seen in Japan. If it were true that radiation is an "unlikely" cause of the health crisis, there would be little need to invest vast sums to build new wards at the hospitals. It appears there



is a contradiction between the official Japanese national and Fukushima prefectural governments' explanations and the seemingly prescient expansion in medical infrastructure on the local level. It would seem that the prefectural government and the Fukushima Prefecture Medical School were supposedly handling the number of affected patients. They did not put surgical cases from follow-up into the number of affected people. It remains to be seen what the true number of thyroid cancer cases will turn out to be, but considering how much effort was put in concealing or diverting attention from the truth, one can only think the current situation is far removed from the true purpose of scientific research.

Whether the intent was to hide such omissions or simply to decrease or put an end to the Survey, the uncertainty and worry the children's guardians face will only increase.

Faced with such passivity the Fukushima Prefecture and National Governments, from the first days of the disaster to now, the private sector has started to take action.

The conscientious screenings for thyroid cancer provided by these groups provide a second opinion to the checks performed by the Medical School. Other private sector organizations then step in to provide the diagnosed children, and their families, with emotional and financial support. Such groups also assist people from other prefectures who either desire the screenings or already have symptoms, and these activities have led to governmental policy recommendations.

Faced with prefectural and national governments that both underestimated the damages from the disaster and have since worked to minimize their efforts to deal with the aftermath, there is no choice but for the citizens' grassroots movement to take on the role of protecting the rights of these children.

#### 4-3-5 Conclusion

This nuclear accident can be said as a complex disaster of negative elements, caused by the earthquake. The more you rely on science and technology in your daily life, the more likely such complex disasters occur. In extreme situations which even adults have never faced, children have no choices but experience so many changes in their homes, schools, and neighbors everyday.

Facing such difficulties, depending on their ages, children may feel stressed, or lose self-affirmation. Children are still not developed, grown enough or well-balanced yet. It is difficult for children to grasp accurate information from the surroundings and express their

feelings we . We the adult must seriously consider how to communicate with children and how to receive their feelings.

During their growth and development, there are times when children rapidly absorb various skills and emotions. If they live unstable lives during such times, it would take a long time for them to revive it. Otherwise, they may become adults without these abilities.

Unfortunately, children in Fukushima seem to have had no chance in the past six years. The abilities they could not gain are; "sensitivity," "gratefulness," "self-thinking and self-actions."

Since the nuclear accident, adults have been afraid that their children might be aware of negative information, and hidden the current situation and their faults. While many children have been supported by nationwide citizen activities, most of them have no idea what kind of support they've received. Adults must be responsible for what happened after the nuclear accident occurred, and share the information with children. Otherwise, we can not grasp the true meaning of support by conscience.

It is mandatory for schools, regions, and families to improve their educational power to regain children's "living ability" in Fukushima. When getting touch with other generations, children are likely to grow up and improve.

Mothers can easily exchange information and consult their issues, when they have chances to interact with each other. It will help them to improve the way to see their children, when mothers feel more stable and less stressful. We should not build the closed societies where people can rely on nobody, or only some particular persons.

In Japan where the risk of complex disasters increasing, it would be expected to create regional society with an open atmosphere, where children-oriented information is shared.

Fukushima, which gained lessons from the disaster earlier than other areas, can prepare for the next disaster.

It is necessary to protect children's health and encourage their growth and development. It is necessary to grasp the changing position situation, think how we deal with it, and keep considering the best way for children. Children should participate in each process, respect the environment in which they grow, and have the right to live adequately protected.

Children's rights must be respected than economic and social benefits. We would like the children's rights committee to grasp the current situation of the affected areas and announce recommendations to protect the rights of the children.

# 5 FAMILY ENVIRONMENT and SAFETY BASE

## 5-1 Family Environment

Ever since Japan embraced the neo-liberal national structure in earnest at the beginning of this century, the family environment, a stronghold in which children should grow up and develop well, has deteriorated more and more. As a matter of fact, in both rich and poor classes the quality of the family environment is going way from "the natural environment for the growth and well-being" of a child, "a family environment for the full and harmonious development of his or her personality in an atmosphere of happiness, love and understanding (i.e. the spot where children build up their receptive and responsive human relationships)" (see the preamble of the Convention).

### 5-1-1 Disruption of family lasting from "high economic growth structure"

After the war, all the Japanese people have been mobilized into the framework that was established to give the top priority to the national economy under the close relationship between politics and business circles. Therefore, as corporate warriors they have worked hard, sharpening their teeth; they have undergone overtime work, and have never complained about their social assignments away from their families. Accordingly, some corporate warriors or commando warriors died from overwork. Naturally the households in Japan have also been set into the general structure of mobilization for the development of the national economy. Thus, after the war at most households in Japan "parenting in the family environment in an atmosphere of happiness, love and understanding (i.e. receptive and responsive relationships)", which has been suggested in the Convention, has not been planned to ends and practiced.

#### (1) Home that fosters the spirit to obey the nation or organization

The Japanese people have devoted themselves to economic development; they have tried to restrain their own feelings of demand; and they have been flexible and obedient to their nation, organization, financial authority and state power. In return, they have got the distribution of profits, i.e. promotions and various kinds of powers

and interests, according to their level of effort. If someone gives his or her own clear opinions or raises an objection, that person would be evaluated as a disobedient person, and be put out to pasture or sidetracked. Thus, they have stopped thinking themselves and they have given up everything or sacrificed themselves; the Japanese people have been converted into persons who can do their best for the company or organization's profits and interests even if they think it is unreasonable or irrational. As a result of this, the economic growth as a national enterprise, which mobilized all the Japanese nations, was a great success until the early '90s.

Under the direction of the centralistic national education system, children in Japan were the recruitment pools in the society in which economic growth got top priority. They were ranked and sorted out in order of their intellectual levels and their degree of obedience to authority or powers through the practice of a course of study, school rules, corporal punishment, a school report, competitive examinations, and the reinforcement of government control over teachers. Furthermore, the parents, who were immersed in the high economic growth structure, and who believed that it was for their children's benefit to be so, brought up (i.e. controlled or directed) their children to adapt to the national sense of values and structure. As a result, those children had abandoned themselves and they had never expressed their aspiration; and they had been brought up to be persons who believed that the highest value in the Japanese society is to order themselves according to the standardized values around them; they believed that it is the shortcut to self-preservation.

The parents, who are dealing with their children now, grown up in the midst of the high economic growth structure after the war, and have acquired the sense of values of that time. Accordingly, we consider that those people's characteristics are as follows: they do not have their own ideas: they act according to the value system which put top priority to the interest of the structure, i.e., nation and organizations that they belong to: they accept media information that provides the intention of the structure: they try to devote themselves to the structure in any situation, willingly or even reluctantly. Thus, even though times have changed and the neo-liberal national structure has arrived, those people's behavior patterns, which they learned during their childhood, have not changed. Those parents tend to bring up or educate their sons and daughters with the belief: that should be the best way for their children to adapt them to the social culture structure, and it should be parents' love to do so for them. Moreover, even if their children are in the "losers' team," those parents might resign

themselves or accept the fact based on the principle of “self-decision and self-responsibility”, which undermines the value system of the present structure. Finally, we consider that home education in Japan (and school education) that fosters the spirit to obey the nation and organizations, has been cultivated under the “high economic growth structure”, and has supported and reinforced the neo-liberal economic structure (see Section 4-1-3).

## (2) Parents absent family — Mother who is forced to do parenting with threefold difficulty and loneliness

In postwar Japanese social and cultural structure, the father was a corporate warrior drafted by a company. The role of protecting the gun shots was left to the mother. Such family images that continue from before the war change shape and keep up even now in modern neo-liberal society.

According to the Survey on Social Life (2016) of the Ministry of Public Management, Home Affairs, in the households with children under 6 years of age, the husband burdens 1 hour and 7 minutes of house-keeping / childcare (of which nursing time is 39 minutes), while the wife 7 hours and 41 minutes (parenting time is 3 hours 22 minutes), and the burden of women remains still quite large (although figures remain the same as in the 2011 survey). However, the number of mothers working for living in poverty and inequality has increased.

Since the latter half of the 1990s, the number of irregular workers who are said to be one of the causes of poverty and disparity continues to increase, reaching 40% of a workers. Furthermore, among non-regular employees, there are an increasing number of part-time workers (statistics of the Ministry of Health, Labor and Welfare), not contracted employees nor contract workers. Despite the fact that internal reserves of large companies at the end of 2016 have reached a record high of 375 trillion yen (increase of 135 trillion yen from 10 years ago), the labor share at the end of 2004 is at the lowest level of 43% ("Reuters" March 9, 2017). Considering these situations together, the appearance of a mother supporting households with long hours of work, unreasonable way of working, part-time work etc emerges. As evidence, despite the fact that the government desperately continued to expand nursery schools under the "Plan for Accelerating Standby Children" (April 13, 2001), the number of waiting children will not decrease. As Prime Minister Shinzo Abe himself said at the budget committee of the House of Representatives in February 2005, "It is very tough to

achieve the Plan, because women are starting to work more than expected," the number of women who have no choice but to work has increased ("Nishiichi Newspaper" 17th February 17th). In June 2017, the government promised to prepare 320,000 people to make the waiting children zero by the end of 2020. However, Nomura Research Institute estimates that 886 thousand people are required to resolve the waiting children ("Toyo newspaper" October 16, 2017). It is quite obvious that even if the government's promise is fulfilled in 2020, another more than 500,000 waiting children will emerge. Child rearing in solitude is almost impossible for a mother who has the "threefold difficulty" if nobody listens to her problems with a tender heart. Finally, we have reached the point where we can conclude that an average family in Japan can hardly build up "the receptive and responsive human relationships" that is essential for children's growth or development.

### (3) Parents who abuse children

Those parents who have never been given secure receptive and responsive relationships from their parents, who have been buried under "the public identity", and who have not developed mature and independent "self", cannot build up good relationships with their children, cannot snuggle with their children's thoughts and wishes, and consequently control them by their social and economic sense of values. Because parents themselves are living with unreasonableness and dissatisfaction in economic and disparity society, they are not only irritated against their children but also try to "train" children severely in order to adapt to the value of society and parents. Those stresses and frustrations of parents pushed up the number of cases of abusive counseling at child guidance center to the right, and in 2016 it exceeded 120,000 (announced by Ministry of Health, Labor and Welfare, preliminary report). The number continues to increase continuously for 26 years, and has tripled in the past decade. Those parents do not hesitate often to use force and violence as a resort to maintain their dignity as the parents of their children. The Committee on the rights of children (CRC) recommended the government to remove violence from home, school, or institutions in the last two concluding observations. And the third Recommendation pointed out that an amazing number of Japanese children complain of low emotional well-being due to the poverty of parents-children's human relations (paragraphs 50, 60).

### 5-1-2 Disruption of family caused by "neo-liberal national structure"

Here, we are going to discuss two characteristics of the issue in which neo-liberal

national structure has destroyed the economic and physical requirements for a family.

(1) Families that experience full force of poverty and inequality

The nation has carried out the restructuring of industrial structure and labor force structure to restore international competitive power, in cooperating with the business world.

Currently, the number of people receiving welfare protection in Japan has been around 2.15 million people, and the proportion of those who are in need of life is not much changed. "National Life Labor Survey" in 2017 (Ministry of Health, Labor and Welfare) said that the relative poverty rate of Japanese children improved for the first time in 12 years. According to the report of "poverty," the relative poverty rate of single-parent households where economic hardship is conspicuous is almost the same between 1991 and 2015 (See, Chapter 12 "Children's poverty of this report). The income of the mother and child households among single-parent households has risen by about 30,000 yen annually, but according to the "About the support of a single-parent family etc." in April 2005 (Ministry of Health, Labor and Welfare Employment Equality · Child Family Bureau Family Welfare Section), the average annual income for mother and child households is still about half of the average worker's 4,150,000 yen, 2.23 million yen. Furthermore, considering that the working hours of a single family are getting longer, there is a high possibility that incomes are barely increasing by long hours of labor.

Thus, recent neoliberal economic structure has increased the risk of poverty and inequality, and the budget for social welfare has been cut down. As a result, parents cannot afford time and money to nurture their children; on the contrary, the family itself has been destroyed.

(2) Families suffering from expense for parenting and education

Families who do not belong to the people at the bottom of the society that is mentioned above, are also having difficulty in managing to get the expense for parenting and education ready. According to the OECD statistics, Japan accounts for more than 30% of households paying for educational expenses on children. It is the third highest among the 30 countries with data, which is known to be "a country with low degree of public expenditure and high dependence on households." This trend is unchanged even as households with a lower income increase. "Total earning expenses" has been increasing for both elementary and junior high schools ("Study on

Children's Learning Cost" in 2017 by Ministry of Education, Culture, Sports, Science and Technology). Even in the education industry market in fiscal 2015, although the "fear of declining birthrate" is indicated, the market has expanded, rising 2.0% year on year to 957 billion yen, and due to the growing demand for early English language education the English conversation / language school market is 1.01 billion yen, up by 1.0% from the previous year (Yano Research Institute, "White Paper on Education Industry 2016"). According to the estimation of the Benesse Educational Information Site, the cost per person from child to birth to college graduation is 2655 to 4,150 thousand yen, but if you go to private school from kindergarten to university at the time or go to private doctor's or dentistry university, it is over 60 million yen.

The number of cases where scholarships are used is increasing, but the case of forced enforcement including seizure of salary because of being unable to return. It also became 120 times in the decade between 2005 and 2015. In the survey of the support organization, the reason for delay was "low income" 51.6% and "increase in arrears amount" 46.8% ("Today's newspaper" February 22, 2005). The painful situation that "I can not do it even if I want to repay" floats, but the government decides to "register delinquent scholarships as banks as well as other financial products." There occur situations where entering university becomes a risk of life.

### 5-1-3. Neo-liberal sense of value infiltrating into family

As mentioned above (see Section 4-1-1-(1)), many Japanese nations have obeyed the general mobilization orders of the neo-liberal economic structure, and have turned just in the opposite direction from the formation of the family where the receptive and responsive relationships should exist.

(1) Families that put pressure to bear to join "winners", or control children  
On the one hand, the family of the people at a bottom of the society, as mentioned before, has not been successful to build a suitable household for children's growth because of poverty and inequality; on the other hand, people in the wealthy class have never succeeded in establishing the receptive and responsive relationships with children, either. As we discussed before, from after the war until the present time the Japanese people have believed in the value of "economic development." Most people in the parenting generation have followed the lessons in which they believe "I will not be happy unless I am rich." Thus, those parents consider "We have to make their children to join the 'winners' at any cost to make them happy." Then, those parents



as so thin that it is expressing parents' love to do so, and it is the parents' responsibilities what kind of child rearing programs they could buy to make their children fit for them; finally, the parents. Thus, those parents do not cherish the idea that they should secure the receptive and responsive relationships to meet their children's feelings and wishes.

As the annual income of households increases, "auxiliary earning expenses" such as earning cram schools generally tends to increase, so it is predicted that more income will be spent on educational expenses in high-income families. Thus parents' economic disparity leads to children's academic ability · academic background disparity, which also affects the future annual income of children. For that reason, even if we look at "happy" teens who have just 20 years (NHK Broadcasting Culture Research Institute), parents' answers that educational expenses are "burdened" exceeded 60%, but 70% of fathers say that "I will not spare educational expenses" and 74% of mothers. Parents who take time off and deliver lunch to cram schools, and parents who are watching children's studies on holidays all day long. It is natural for parents with high educational background and high income to see studies at home. They spend valuable time after they go home to do their children's homework, study of regular tests, studying for exams etc. The school side is also asking for it. It is also common to take care of homework assignments during long holidays of middle and high schools as well as correct and write on behalf application forms for universities or study abroad, reports from universities, etc.

In these lives, it is impossible for children to raise their curiosity about working on something by themselves, to relax at home, and to earn personal relations with their friends by accumulating experiences of pay. Conversely, those children would learn just one type of lesson: a man has no value unless he achieves good results. Thus, children seek or hide their feelings and intentionally assign a task to themselves to meet their parents' expectations, as they have not had a sense of security, a sense of self-affirmation, and experience of sympathy.

## (2) Families that cover "civic education" as national policy

Due to the revision of the Fundamental Law of Education, the families and local societies have been charged with a duty to inculcate various items of values in children: such as public spirit, disciplined attitude, or love for the country. In other words, families and local societies have been expected to bring children up as persons

who can observe rules, and adapt themselves to the society; even if a child joins the "losers" under the neo-liberal economic structure, he would take the responsibility by himself for this unsuccessful result without complaint, following the principle of self-responsibility.

It is not just the so-called "patriotism education" symbolized by the posting of national flags and the singing of national anthem. Parents were obliged to bring affinity to businesses and nurture their children to become positive consumers (citizens). Parents who have already been soaked in the value of society have no doubt at all and will take the initiative to invite neo-liberal education. For example, at Wada Junior High School in Suginami Ward in Tokyo, they started a fee-based night class "Night Special" tied up with a study cram school under the leadership of the nation's first principal nominated from among general public, resulting in an increase of applicants wishing to enter Wada Junior High School. "Asahi Shimbun" praised this, "I want to think that it is the gospel to a child who can not go to a cram school" ("Tenseijingo" January 9, 2008), without questioning the present state of public education in Japan that children can not afford to earn unless they go to cram school and the current situation where education is to be bought by money.

In Shinagawa Ward (Shinagawa), Tokyo, they started the education for becoming good citizens using a special zone system institutionalized in just 10 months from the proposal of the Economic and Fiscal Policy Advisory Council. They have created a citizen education course "to teach thoroughly what is necessary to live society." Elementary school first graders are required to study 70 hours a year and junior high school second graders and over 140 hours. The (1) moral practicing ability, (2) social skills, (3) social knowledge that the citizen's course intends to raise exactly overlaps with "ability that human resources sought by industry need" indicated in the proposal report "Promoting further reforms based on 'diversity,' 'competition' and 'evaluation' for the development of the next generation surviving the 21st century" (2005) by Japan Business Federation (Keidanren). As part of this curriculum, in a virtual city created by a major corporation called Student City, they work as corporate men, buying financial products, and experiencing meetings to raise salaries, to build a good foundation to become good citizens.

- (3) Parents who cannot find value in child-rearing, which do not accompany material return

The ultimate value in the neo-liberal economic structure has been "money" itself, and this economic system has consisted of the sense of value as follows: "if only we have money we could get everything, even happiness, love, too." So, emotional matters such as "love, happiness, and understanding" have not been regarded as value. On this extension of sense of values, we can see those parents who cannot love their children, and who work off their bad temper on their unsuccessful children who do not obtain good results, and who might transform into child abusers. Unfortunately, at present in Japan the number of parents who cannot find any values in tender human relationships has increased. The report of the National Commission on Educational Reform, which established the basis of neo-liberal education reforms, threw the following word to the people of Japan. "Who has brought you cooked warm rice? Who has brought economic prosperity that allows you to drink cold beer at dinner? And first of all, who has enabled you to sleep in peace, and to travel on weekends? We should not forget it." These words are nothing but the appraisal for materialistic richness as the supreme value.

#### (4) Children driven according to the value of society

Children also have less time to have human relations with their parents. As the grade rises, the number of children attending the cram school has increased, about 65% in junior high school third graders, more than 60% of them attended more than three times a week ("The second time after school life time survey — How to use children's time [Consciousness and reality] "Benesse Education Research Institute). As children spend a so-called activities on Saturday when they enter junior high school, children are driven to get busy with both study and club activities.

### 5-2. Children's "Safety base" at home

In Japanese society there is no recognition that it is harmful to children's growth and development, to press on the convenience of adults and society under the name of "for you", or to ignore children's thoughts and wishes. So many adults agree with moral education (mind education) and neo-liberal civic education aiming to foster social normative consciousness, and try to perform desperately without doubt the child-rearing methodology which society wishes believing "it is affection."

Such trend was institutionalized by the "revision" of basic education law in 2006. It transformed Japanese educational system from human education that maximizes the inherent ability of each child, to national policy education that aims at developing

human resources who carry out consumption activities based on self-determination and self-responsibility in the society of competition and disparity and dedicate to the country (business world) according to each person's ability. Every adult supported and faithfully followed the transformation of the child policy decided by the government with ease. "Amendment" of The Basic Law of Education includes home education (Article 10), early childhood education (Article 11), mutual collaboration and cooperation between schools, families and local residents (Article 13). After "career education," enterprises that have shortened the distance with schools using comprehensive learning curriculum and food education as a window, also started to enter without hesitation. Adults living in a society with competition, self-determination and self-responsibility chase a child with "good intentions" that "I want to give the child the ability to survive in society as soon as possible." The nationwide academic ability and learning situation survey that began in 2007 has made the ranking and screening among schools, regions, and children a reality. Parents put energy into putting their child in "winning group" from early childhood, compare to other children without worrying about his/her wishes and continue to send a message to a child saying "Please catch up with other people and catch up even a little."

If raised in such an environment, children can not think about such as "adults will accept their own thoughts and wishes." It is natural that children want to reduce the conflict, not being trouble with adults as much as possible, and acquire the skill to spend thoroughly. That's why more than 90% children say "The homeroom teacher knows me" and "I am going well with my parents," and 94% of junior high school students and 90% of senior high ones answer, "I am happy" ("A happy" teacher who has lost 20 years "NHK Broadcasting Culture Research Institute). The same survey result is shown in "Young people living in a risk society from the survey of high school students' consciousness" (Osaka University Press).

"There is a survey result with UNICEF, "One third of Japanese high school students think I am lonely" ("I am thinking that I am lonely)" ("happiness of children in developed countries") and also according to the survey by "Young people living in risk society from the survey of high school students' consciousness" (Osaka University Press), one of three high school students answered "even friends can not be trusted." However, despite this, 83.7% answered "I'm satisfied with friendship." So we can say that there are an increasing number of junior high and high school students who can not imagine "other people accept me and sympathize." A school

teacher says, "There was a junior high school third grader who often refused to go to school. The reason for failure to go to school was that parents asked him to study with a family tutor 4 days a week, and attend 4 days a week to a cram school. That child was exhausted and consulted with a counselor. In response, "Re-do from elementary school study," and parents handed over him this time elementary school questions collection. The child seriously reduced sleeping time and did the questions collection, while he was doing his homework for tutoring teacher and study cram school, but eventually stood. It was the child's habit to say, "Nobody can understand me."

As mentioned above, homes can not be called safety bases a ready. In such a situation, children can not grow and develop toward a harmonious personality (preambule). In Japanese society another a storm of new violation of the right of child, which is inherent in developed countries buried under the wave of neo-liberalism, is blowing.

## **6 DAY CARE**

### **--- Distorted day care by adults' convenience**

#### **6-1 Growing day care waiting lists and the current situation of day care**

##### **6-1-1 "I couldn't get daycare -- die Japan!"**

###### **Growing day care waiting lists**

The post was written by a mother who claimed she could not get day care for her child and would have to quit her job. The blog was much-discussed and the title was awarded the grand prize in the annual buzzwords-of-the-year contest of U-CAN in 2016. The activity of hunting for day care began to be called "hoatsu" in Japanese. According to Ministry of Health, Labor and Welfare, the number of children on day care waiting lists was 23,553 as of April 2016 (increase of 386 from previous year), growing for the second consecutive year.

The day care shortage is more serious in big cities such as Tokyo. Employees of large companies are supposed to be able to raise children while receiving enough welfare program. Many of working parents actually do not use the welfare program because they are worried that they might not get day care if they took maternity leave for a long time.

The government planned "A plan to accelerate the elimination of childcare waiting lists" (April, 2013) which aimed at the elimination of childcare waiting lists by securing childcare arrangements for 500,000 children by the end of 2017 in order to achieve "A Japan in Which Women Shine," one of the government's growth strategy. However, the plan didn't help the matter.

### 6-1-2 Day care for workers

After 2000, day care facilities in Japan, which was strongly influenced by neoliberalism, have been competing with each other for their service. As a result, day care has become "parents-centered," such as extended-hours childcare and responding to various needs of parents. Especially, Toyo, which started "Toyo Welfare Improvement STEP," has regarded day care as "day care service," and declared "urban-type day care," placing a priority on supporting as many workers as possible. Parents' convenience has been taken on the highest priority, and small-sized facilities in multi-tenant buildings near train stations without playgrounds have been approved as new day care facilities.

### 6-1-3 Children who grow in a appalling environment

Day care facilities which do not meet Japan's standards for establishment of day care have increased because parents' convenience is a priority. It is not uncommon for children to spend as many as nine to ten hours a day in a small unattractive day care facility, being controlled by adults. The ratio of children to one nursery teacher is three for babies less than one year old, and there are facilities where over twenty babies spend a day in a single room. Unsurprisingly a number of babies cry at the same time and sometime they fight over toys. They are fed baby food suited to each development stage, but it is not one-on-one childcare at meals either. It is difficult for nursery teachers to take care of each child's elimination and life rhythm, so they set diaper-changing times and one nursery teacher handles "diaper-changing work." In such an environment, children are not able to express their want. Far from it, even their physiological needs are forced to fit adults' convenience. The same holds for older children. The ratio of children to one nursery teacher is five for one-year-old children, and six for two-year-old children. It is impossible for nursery teachers to respond to each child's want.

### 6-1-4 Exhausted nursery teachers and labor shortage

In such an abysmal environment, nursery teachers are expected to generate a cheerful and fun environment for children, trying to respond to children's wants as much as possible, and being forced to virtually work more than 13 hours a day. The reason why the word "virtually" is used is because their working hours are set at eight. Nursery teachers often work over working hours especially early in the morning and at night because children tend to get fuzzy at early morning and go to bed at night. Nursery teachers make all kinds of efforts to deal with this difficult situation. Exhausted nursery teachers leave their job. There are many nursery teachers who are qualified but refuse to return because nursery salaries are insufficient for the physical and emotionally taxing nature of the work. Average annual salary of a female industry worker in Japan is ¥4,150,000, according to "Result of statistical survey on actual salary in 2008," while that of nursery teachers is around ¥2,000,000. Nursery teachers are considered as "a low-wage exhausting labor" and "a work which you cannot continue after marriage." Thus, the child care industry has been facing a serious shortage of human resources. However, the government has not done a root-and-branch overhaul. A new edict took effect that allows unqualified day care staff to work.

## 6-2 The government which gives the highest priority to economic growth

### 6-2-1 Parents who are tied down to their work

Because of policies which are favorable for big enterprises, national burden has been increasing and labor share has been decreasing. More women have to work to make ends meet. This is a major factor for increase of day care waiting lists. For those who have children, short time work is established as an institution, but it is difficult for employees at small and medium-sized enterprises and sole proprietors to use it. Many mothers often return to their workplace early because their companies are suffering from a shortage of workers and as so many mothers feel uneasy about raising a child alone at home. Then mothers are tied down to workplace, working long hours under the discretionary working system, working as part-time workers and temporary workers. In order to support such labor, day care are forced to take care of children from early in the morning too late in the evening and as so sick child care is provided in order not for parents to take day off the company.

### 6-2-2 Spate of private-sector enterprises' entry into day care industry and its harmful effects

With day-care measures which prioritize "day care for workers" and "day care facilities to answer parents' needs," each child's development and wants have been ignored at many facilities, and privatization of day care facilities has been increasing in a striking manner. Non-registered day care facilities run by enterprises as we have started to receive subsidization by the government.

Even though "The rights of the child and the business world" of the 47 paragraph in "The third Concluding Observations" indicates regulations to protect children from harmful business activities, measures to cope with the situation have not been taken yet. Companies which run day care facilities only consider customer satisfaction improvement, providing early English education, and exercise class, which is not necessarily fit for each child's developmental stage, as selling points of their facilities.

As a result, many children tend to spend more hours at day care facilities and spend less time with their family, which has a bad influence on attachment.

### **6-3 Change day care measures to "measures for growth and development of children"**

#### **6-3-1 Should build receptive relationship with children?**

Day care is indispensable as a measure for workers to support their work. However, "children" should be in the center of the whole story. What is important for children is that they are raised with much care in a receptive relationship. Children are born in this world, and then are raised by adults around them with a lot of love. Only when there is an adult by a child who gently responds to the child when he or she expresses his or her views and voices, an appropriate environment for the child's development is given.

#### **6-3-2 Government is turning towards the opposite direction**

Currently, the government is promoting day care measures in order to support "people who support Japanese economy" necessary for "labor force." It is necessary to change this idea and change every day care policy with the idea of "create a good environment for children to grow." Specifically, the following three points are urgently necessary; (1) to change day care measures from "measures for people who support the economy" to "measures for growth and development of children," (2) to improve working conditions of parents and nursery teachers in order for them to give their full attention to children and to build a receptive relationship with children, and (3) to restrain profit-first private-sector enterprises from going into day care industry.



# 7 EDUCATION

## 7-1. Japanese education system with competition principle disturbing the growth of children

### 7-1-1. The current overview

In 1998, United Nations CRC announced a shocking advice to Japan, saying “Children are not protected from competition (management), violence and privacy, deprived from expressing their views, and in danger of Developmental disorder”.

After that the government has only listened to the economic authorities, deregulated the restrictions, adopted the competition principle into schools, and brought neo-liberalism based education.

The prime minister Abe, in his first administration starting from 2006, corrected the Fundamentals of Education Act of Japan, which supported the personal growth since the World War 2, into the new education system to survive the global environment. He has made use of the national study survey (National achievement test), encouraged the competition between schools or regions, supplying more budgets to the superior schools or regions, and contributed to depopulate the education levels of Japan.

His attempted to the contents of education, such as implementing education promotion basic plan (2012 and after) to realize the principle of the Fundamental Law of Education, and the way of top-down was implemented that the government makes decision and the schools obey them. The prime minister Abe, in his second administration starting from 2012, ordered the Education Reproduction Execution Headquarter to bring neo-liberalism revolution into education. The government brought capitalism to everywhere from elementary school to university, by changing the curriculum and standard of textbook. Thus, the budget for education in Japan got minimized to 3.2% of national budget, which is the smallest in 34 OECD countries with average of 4.4%. (The Nippon, Sep 12, 2017)

In 2010, CRC submitted the recommendation saying, “A surprising number of

children have insufficient emotional and mental well-being. The critical reason is the poor relationship between children and their parents or teachers." The Japanese government ignored this recommendation, and still has taken more opportunities for the parents and teachers to take a look at the children. The teachers are constrained by the governmental study guidelines, personnel evaluation systems and numerical targets, and had to be away from the real educational scenes. As there are not enough teachers and staffs at schools, more non-regular employments were hired, and the education turned out to be a kind of "HR service". The parents anxious about the future of their children let them go to the coaching schools for examinations, without caring the will of children, and the expense for education went up rapidly.

Furthermore, the government did create the menu for such parents, by encouraging more citizens to believe in neoliberalism. For instance, Sugunami district of Tokyo, where a citizen became a principal, established "Citizen division" to outsource the education to third parties. Shinagawa district of Tokyo, as a project by Economic and fiscal advisory council, founded "Citizen division". These projects to grow the consumption with budget by large companies were highly supported by the parents and media, who'd already belonged to neoliberalism society.

Thus, the neoliberal educational policies increased a lot of children, who were regarded as "defect items", lacking the empathy by excess adaptation, and cannot adopt the society.

However, Japan is so unaware about themselves that they reported in the committee in their 4<sup>th</sup> and 5<sup>th</sup> governmental report, "The committee should disclose the visible evidence showing the fact that too much competition in the school environment contributes to children's bullying, mental sickness, truancy, student dropout and suicide."

### **7-1-2. Bullying getting everyday affair; Bullying the children escaped from Nuclear power plant evacuation, School caste**

National Institute for Educational Policy Institute reported, "Not only particular

children, but almost all children have been involved in bullying, one after another." The government reported about the whole domestic situation of violence and bullying, in their 4<sup>th</sup> and 5<sup>th</sup> governmental report, "annual surveys and analysis of national conditions related to acts of violence, bullying, and other problem behavior by children" (in Paragraph 74), "if school bullying involves or is suspected to involve a criminal offense, the police will get involved based on the consent of the bullied child or his/her parent, and considering the results of the actions taken so far by the school and others. If the bullied child is in obvious need of help for recovery from mental wounds, with the parent's consent, continuous counseling and other support is provided by juvenile officers, mainly through the police's juvenile support center." (in Paragraph 120), "Understanding that no bullying is acceptable, The Act for Promoting Bullying Prevention Measures, which stipulates the basic principles and systems to confront society's bullying problem, was enacted in June 2013 and enforced in September of the same year. In October 2013, MEXT established the Basic Policy for Bullying Prevention." (In Paragraph 124). However, the act by the government has been so useless that bullying has not been terminated at all.

After 2011, when the nuclear incident occurred, the bullying to the children escaping from Fukushima district is getting popular. There are cases that the children are called "germs," even by their teachers, or deprived their money, being said "You have been paid with Compensation."

A male junior high school student in Yochama disclosed their experiences. In the Yochama case, the boy was robbed 1.5 million Japanese Yen, became stay away from school. His parents reported his situation to the school, but the school only discussed "It might not be bullying but only his delinquency," and left him alone for one and a half year. (The Yomiuri, Nov 17, 2017)

The school caste has been spread around since after 2000's, which system ranks the students in the class. It starts from a gap between individuals during elementary school, however, it turns out to be a gap of ranks between groups during junior high and high school days. The students mind the atmosphere and laugh at the one under the lower ranks, while it gives various privileges to the ones with higher ranks. Such systems are said to be regarded as bullying by children and even teachers. ("In-class caste" by Suzu i Sho, published by Kobunsha)

### 7-1-3. Increasing truancy, and incorrect policies

In 2016, The children of truancy increased to 126,000, which is 1.26% increased from the previous year. Truancy is increasing while the population of the children decreased, especially after 1990, when the Ministry of Education had started a truancy measures. ("Do you know about truancy and the rights of the child?"). This is the evidence that the government policies have been so powerless to solve the truancy problems. It is mainly because the government regards the issues as "personal problems", and has no view of "how schools should be to face truancy." They even try to solve these "personal problems" by supplying the children with mental pills. In some free spaces, it is reported that five out of 15 children are medicated with psychotropic drugs. The idea that "Children go absent from schools, because the way of raising by parents are not good" is still believed in Japan. Mothers are often accused about the truancy of their children. Ironically, some parents feel saved by being said, "The truancy happened because your children are sick."

In 2016, the Ministry of Education, Culture, Sports, Science and Technology issued a notice to prefectural governors and the Board of Education of Cabinet Order concerning "how to support school refusal children". In December 2016, "Law concerning educational opportunity equivalent to ordinary education at the stage of compulsory education" was established. At the end of March 2017, the basic policy of the Ministry of Education, Culture, Sports, Science and Technology was issued, and each local government started to study how to realize them. However, what they're doing is that the authorities including policies share the information of individual students, by using the personal charts called "citizen information" or "Supporting sheets to understand the students". We must say this system get rid of the children from schools to free schools and child guidance centers, privatize the education, and govern the "Adaptation disordered children" as "dangerous children for the society". There are municipalities that have set numerical targets to reduce the percentage of truancy in the Basic Education Promotion Plan for local governments to implement policies of the country such as Osaka City. Such policies might lead to concealing school refusal at school site, involving neglecting child's will.

Prolonged school refusal will lead to long-term withdrawal, if such children stay same without being properly engaged. Currently, it is estimated that there will be about 540,000 people in 15 to 39 year-old who are withdrawal from the society for long term, while some local governments estimate that more than half of withdrawal are over 40 years old. (The Toyo newspaper, Sep 25, 2017)

#### 7-1-4. Careless medications by giving mental pills

Medication therapy for school refugees and children who do not meet the educational system in Japan is also increasing. Schools and counselors often encourage the children to visit psychiatric clinics, which leads to medication therapy. Children who cannot behave as adults (society) expect can be treated as "subjects of medication treatment" as "mental or developmental problems". The separate volume of "Child Report" by CRC Japan reports that the children saying "When I talked about my own opinion, they called me Developmental Disorder" or "I was taken medicine when I cried to go back home to see my separated mother."

In Paragraph 60 of the 3<sup>rd</sup> recommendation, The concern was shown that "The number of consultation of ADHD is increasing", and "their symptoms are wrongly regarded as the physiology illness to be cured by medications" and "No adequate consideration has been given to social determinant issues". However, The medication to the children in Japan is apparently increasing, and no fundamental measures considering total social factors have been taken. ("Actual condition of children and mental health care")

#### 7-1-5. Schools driving the students to commit suicide

According to "Suicide measures white paper" in 2015, there are 10,848 children under the age of 18, who committed suicide in 1972 to 2013. The number of suicide is by far the most at 131 on September 1, when the long term summer vacation is over and the new semester begins, as well as 94 on September 2, and 92 on August 31. In 2017, between August 30 and September 1, 4 junior high and high school students hung their necks or throw themselves from the high buildings, and 3 of them have died, which can be highly possible as suicide. When the latter half of the summer vacation comes, TV programs calling out "Do not commit suicide," "You do not have to go to school" are being broadcast. It is not hard to imagine that school (educational system) is a factor of child's suicide. (The Mainichi, Sep 2, 2017)

The most possible cause of death in 20's is suicide, counting about 50% of the cause of death. ("Suicide measures white paper," 2017) In most major countries, accidental deaths are usually more often than suicide.

The government reported, in their 4<sup>th</sup> and 5<sup>th</sup> governmental report, "Schools provide guidance about the importance of life through the full range of educational activities,

including the moral studies, and utilize experience activities and other initiatives to enhance such education that helps students understand the importance of life. Specifically, the "Council of Survey and Research Collaborators regarding Prevention of Suicide by Child Students" has prepared a handbook on suicide prevention for teachers, a handbook on suicide prevention that directly addresses child students, guidelines for background surveys when a child suicide occurs, and an emergency response handbook. MEXT raises awareness at schools, boards of education, and other forums and conducts practical training on the response when a suicide occurs and on suicide prevention education directly for children." (Paragraph 47) However, "The importance of life" should not be realized by study but by accumulation of experience "I am cherished" in daily life. Japanese society is not providing such experience to children, as we have reported in the "General report" and "Family sector report." And in "Family sector report," we have also reported the fact that School counselors and teachers, who are supposed to be child-friendly, can not build close relationship with the children, and even drive them into suffering.

#### **7-1-6. Teachers are also suffering mental sickness**

The health of teachers, who are closely related to children, is also in danger. Among 90,000 public school teachers nationwide, about 5000 are absent from work due to mental disorder every year. 1000 patients increase, and 1000 quit their jobs every year. (Document 10 "Mental Health" of this report) The bottom cause will be their working environment with too much work. They're required to attend various meetings, meet the children and guardians, share the tasks of the events in campus, and instruct "club activities" on weekends. There is no time for them to face children at all. According to "Survey on work and consciousness of teachers" (HATO project), Teachers who say "teaching preparation time is insufficient" are 94.5% in elementary schools, 84.4% in junior high schools, 77.8% in high schools. Teachers are often forced to do extra activities such as club activities without being paid. (Document 16, "Mental health sector" of our report). Teachers who think club activities as a burden are 69.5% in junior high schools and 59.9% in high schools. In addition, the new course of study guidelines is adding 35 lessons of class hours at elementary schools. More teachers will be chased by miscellaneous affairs, suffering their hearts from overwork and being labeled "inefficient teachers," in the school environment which is far from the purpose of education indicated by article 29 of CRC.

## 7-2. Education system with Competition is suffering children

### 7-2-1. Lack of empathetic ability and increased lethargy prevail bullying

Competition cannot grow the reality of children. It will lead to the wrong path from the principle of education that "The development of the child's personality, talents and mental and physical abilities to their fullest potential"; (article 29, CRC), and "for the full and harmonious development of his or her personality," (Preamble, CRC). That's because "abilities to connect with others" encourage the growth of personality and extend the real power of the child, while "abilities to isolate the others out don't. Competition to break people deprives children of "the power to connect with others" that every child should have when they're born. It undermines their empathetic ability to feel the pain of others like their own pain. Therefore, a child in a stronger position can not use the imagination "The opponent may be hurt." A child with excellent grades, who often becomes a summary role, tends to think "Tasks other than study is not mine." On the other hand, A child in a weaker position take the tasks as "self-responsibility" take unreasonable treatments, even if it makes them regarded as the weak. Children who used to being ranked from younger ages are accustomed to rank each other. Because they know that the modern era is a competition society, they are familiar with the scenes that strong man defeats the weak. For them to act against the strong and be removed from the ranking in such a world is equivalent to being obliterated. They are willing to take the role of clown in order to secure their way to survive. This is the reason why bullying never be demolished.

Child society reflects the way of adult society. The country's hasty policy caused reflections of sloppy nuclear power policies, and restarting of nuclear power plants which do not secure accidents at all. Nuclear bullying reflects such behavior of the adult. The country gave the impression that the nuclear disaster evacuees "getting unreasonable compensation without returning to their home" and try to eliminate nuclear evacuees. Such impression was brought into child society, too. However, the government seems not changing their behavior. The Ministry of Education, Culture, Sports, Science and Technology did a bullying survey, targeting about 12,000 students from elementary schools to high schools, evacuating inside and outside the prefecture from Fukushima prefecture. The result is that they certified on 13 cases as "nuclear

incident caused by "yūjō", which are less than 10 percent of the total number. ("The follow-up result concerning confirmation of the situation of "yūjō" etc. for children who evacuated from Fukushima due to nuclear power plant accident etc." by The Ministry of Education, Culture, Sports, Science and Technology)

## 7-2-2. Children "who are obliged to be sick"

For the children who can not adapt to the ranking society, where they're required to win the competition, the school can be a place of fear. A child in a free space in Osaka called "Himawari" said that "I did not like being presented with an assignment at once" and "There is no freedom in the school." The country has no will to face these children's feelings, and no attitude to "improve the schools to let children more easily access." As mentioned above in 1-3, truancy is regarded by the government "Issue of individual child." They think that disordered children who have been subject to medication treatment tend to refuse to go to school.

Before completely refusing to go to school, the children desperately show various SOS messages. However, their voices have been ignored, and the adult kept giving the pressures by their own reasons. The exhausted children have given up, thinking "Nobody understands me," and become lethargic. As stated in the summary of this report, Japanese children have lower self-affirmation and strong sense of depression. It is not hard to imagine that the possibility of suicide will increase if their feelings depressed. However, such children are diagnosed as developmental disorder ("Child Report"), and treated with medication.

## 7-3. Urgent issue is to build the relationship between the adult and the children in class

### 7-3-1. New interpretation of Article 12 of CRC, and its needs

How can we change this situation that children are so depressed? We believe we have to stop giving the needs of society to children and listen to the voice and desire of children. To make it possible, the budget should be properly applied to the education, the number of teachers should be increased, the classes should consist of smaller number of students, and the mental awareness of teachers should be secured to build relationship with children.



The educational system based on the market principle and entrance of enterprises should be corrected. The examinations to rank children should be reduced. We should stop judging children based on external value such as grades, and accept them as they are.

The children should be loved by the adult with free of charge, so that they can grow up to be empathetic human beings, who can love themselves, live as they are, and share their energy to someone else. Even the "not high grade" children, not meeting the needs by the market, should be accepted as they are. Otherwise, they will never develop their self-confidence that they themselves have confidence, basic trust that the world accepts themselves, and empathetic ability that their pain are shared with others. These kinds of feelings and skills cannot be input externally by moral education or punishing. If the government really concerns the current situation of children, they should seriously consider the 3<sup>rd</sup> recommendation by CRC, saying "A surprising number of children have insufficient emotional and mental well-being. The critical reason is the poor relationship between children and their parents/teachers" and "the government should stop concentrating on only intellectual education, but shift to the system which can help children to grow and develop both intelligence and humanity." It is important that the adult should seriously face each other with each child in front of them.

Japan is one of the developed countries which take economic development as their first priority, based on neoliberalism. That's why Japan is suffering the modern type of human rights violations above. To overcome these issues, it is mandatory to practice article 12 "respect for the views of the child," by understanding it as the right for children to build the receptive and respectful relationship.

## **8 DIVORCE AND CHILD VISITATION**

### **8-1 Introduction**

Parental divorce is one of the main factors that makes children's rights most unstable in the home environment. Child visitation is essential for parent and child

who are separated by divorce to maintain human relationship and contact, and at the same time, it is an important right for children to grow and to be raised by both parents.

However, in Japan, in many cases it is difficult to realize child visitation, and children are cut off human relations and contact with non-custodial parents. Therefore, children cannot receive love and cares from non-custodial parents, during the important process of growth and development.

It is pointed out that majority of abused children reported in news are from divorced families. There are also child abuse and mortality cases caused by mothers' new partners as reported on newspapers and television. Also, divorce can be often lead to poverty. ※ ⇒ Hashimoto's report: See "Poverty"

Moreover, it is very difficult for non-custodial parents to know how their children are doing. Even in a court, if a custodial parent refuses, address and safety of their children are non-disclosed to the other parent.

Therefore, even if a child is abused or in poverty, non-custodial parents have no way to prevent it, not even knowing where they live and how they are doing.

## 8-2. Statistical Facts

During three years from 2014 to 2016, each year, about 220,000 children are encountering parent divorce. This figure amounts to about 23% of the number of births of that year. (Demographic dynamics statistics of Ministry of Health, Labor and Welfare Ministry 2016)

Among them, child visitation is held about 30%, of which only about 10% are being held at least once a month. The remaining 70% have no child visitation, which means, children are cut off interaction with non-custodial parents. (About 90% of a divorce in Japan is consensual divorce; and about 10% are court divorce. Child visitation is carried out more often in the case of consensual divorce than that of court divorce)(Ministry of Health, Labor and Welfare Report of the survey result of Heisei 23 nationwide maternal households etc. "Status of implementation of 18 meeting sessions")

Meanwhile, among the approximately 14,000 cases that the court has decided child visitation in 2016, the frequencies are 54% for more than once a month, and 6% for once every 2 to 3 months (from judicial statistics in 2016). However, according to the survey, 44% of the court arbitration arrangements are not totally obeyed. Even if child visitation is decided at the court, actual visitation frequency is much fewer. (Questionnaire survey of 2014 JFBA)

## 8-3. Obstacle to Child visitation

### 6-3-1. About the Court

#### 1) The Convention on the Rights of the Child has no effect

Even though we have set up an interchange meeting in Article 9, paragraph 3 of the Convention on the Rights of the Child, the Convention on the Rights of the Child does not take effect in the Japanese courts. Although Article 98, Paragraph 2 of the Constitution states that "the treaties concluded by Japan and established international laws and regulations require compliance with this in good faith," the parties will notify the presence of the Convention on the Rights of the Child, the court ignores and is non-responsive.

#### 2) First to get physical custody of children has advantage

It is normal for one parent to take away the child without permission while the other parent is away, to live separately, get divorced. And "winning the child" is overwhelmingly advantageous in subsequent courts. As Japan adopts a sole custody system, custody after divorce is almost certainly given to the parents who has physical custody of children.

In the court, the tendency to maintain the current situation is too strong that the opinion of the parent who is continuously living with the child is more likely to take precedence over the separated parents. This means that priority is given to the allegiance of custodial parents who do not want children to meet non-custodial parent, and it will become increasingly difficult to carry out child visitation.

#### 3) Wrongly respected Children's opinion

In the Japanese court, even in cases of child visitation, it takes several months or sometimes several years for mediation. Separated parents and children can hardly see each other during the mediation, while children are deeply influenced by custodial parents, become overly sensitive to their mood, and start siding with non-custodial parents, become hostile to them; develop a symptom called "Parent Alienation Syndrome" (PAS). However, the court respects those refusal attitudes as children's will, and prohibits visitation with non-custodial parents. The influence of custodial parents, who spend time together with their children every day, is not taken into account.

The court decision for not allowing child visitation may result in exacerbating the biased and closed environment that the children live, under the strong influence of custodial parents while the child did not receive without correct information of the non-custodial parents. Therefore, further "PAS" progresses, the refusal attitude towards non-custodial parents becomes stronger. That is, the court's way of doing this will result in amplifying the vicious circle of making parents and children unable to meet each other.

Children under such situation may say "I do not want to see the other parent", and by saying so, children themselves will cut off human relations with their non-custodial parents. Such case is mental abuse for children. Furthermore, the court imposes a responsibility on child's remarks under the name of respect for children's opinions.

It is not beneficial for children to have biased or wrong image about other parent, and not knowing truth about non-custodial parent. It is harmful for both character formation and in their ongoing life.

#### 4) Court makes decision and close the case

Function of the Japanese court is only to make decisions, and does not look after child visitation to be carried out as a result of the decision. The court becomes a long fighting place for parents who insist the legitimacy of their own assertion and the attack others faults in order to obtain more advantageous results for themselves. This is liable to arise further dispute between parents. And, once the battle is settled, the court finishes its job. During the dispute, no opportunities for education and guidance, and counseling are provided to parents and children, and the decision only focus on short-term, there are no consideration for long term growth development of children. Originally, because child visitation is related to the formation of human beings of

children, judgment in the long run, and its follow-up, education, guidance and counseling etc. become very important. But the Japanese court will not provide such support, and naturally, the social support system is also inadequate.

In addition, the Japanese court is slow in process and it takes over months or years for trial and once the decision is made, it cannot be changed easily despite growth and character development of children. The court cannot catch up with the growth speed of children, and unable to respond flexibly according to the growth and development of the child at all.

## 6-3-2. Legal issues

### 1) Single custody

Family system part of the Japanese civil law, was last revised in 1947, shortly after the World War II. Social changes such as increase of nuclear family, divorce, remarriage, declining birthrate, women's social advancement etc. are not reflected. Regarding child custody, it remains almost unchanged since 1898 (Meiji 31). "Law does not enter household" as it suppresses public intervention and instead, leaves much to parental authority in patriarchal system (c.f. nuclear family), and strong and exclusive (all-or-nothing) child custody is maintained.

Japan takes a sole custody system when divorcing. Both parents share custody during marriage. However, when they divorce, one wins custody of their children and the other loses it. Parents who have lost legal child custody are no longer treated as parents by law and lose the right to foster their children and their obligations.

If visitation exchanges are not realized, what is left for non-custodial parents are payment of child support expenses as obligations (ban transfer, no face-to-face) and inheritance to the child after death. None of which involves human relations.

Such situation can lead to the non-payment of child support expenses.

In Japan, in 2015 data, 84.3% of the custodial parents are mothers, and 12.1% are fathers (from the Ministry of Health, Labor and Welfare Policy Administrator "Heisei 29 Population Dynamics"). In many cases mothers take the physical custody for their children before divorce and then earn legal custody. On the other hand, due to the family consciousness of a traditional "bride" (a kind of male and female base), a child custody is taken by grandparents at father's side, and the mother is kicked out from

the house without her child. There is a so a miserable case.

## 2) No enforcement, no penalties

Even if the court decide child visitation, there are no enforcement or penalties, so there are quite a few cases that are not guarded after on y the first few times (⇒ the JFBA questionnaire survey in 6-2 above). There is not guarantee that child visitation is continued, even if it is carried out present y. It a depends on custodia parent's wi . Even if the court issues recommendation for performance, to obey or ignore is up to custodia parent since is not enforceable.

For that reason, even though child visitation is decided at the court, there are many cases where parents and children cannot meet even for many years.

As the on y countermeasure against the non-performance of the child visitation decided by the court, indirect enforcement c aims such as consolation fee c aims can be made, but in many cases, the relationship between parents wi deteriorate further ma ing realization of child visitation more difficult.

## 3) Defective DV Law

There are cases that custodia parents, to avoid child visitation, c aim false DVs by using the DV Law ("Preventing Violence from Spouses and Protection of Victims"). Many parents are separated from children because of that.

DV cases are approved if c aimed from the wife's side and no evidence or investigation is required. There are many cases that husband is accused for DV before he nowns. DV is an issue between married couple, so if it is not the case for child abuse, child visitation shou d be a owed in carefully arranged environment. But when it comes to DV cases, the residence of the child becomes non-disc osure by the oca administration, the court does not approve of contact with children. Even if the DV is approved, it shou d be over imited time, but, it asts for un imited time period.

In Japan, once DV is approved, ma ing an objection is difficult, even if it is based on a false accusation. In addition, relief measures for DV are not established, so separation based on DV guarantee ong time parent-child separation.

## 4) Arrangement for child visitation is not mandatory at divorce

In Japan, there are divorce by agreement and divorce through the court. Its ratio is 9: 1. Arrangement for child visitation and child support payments are not mandatory. In order to disseminate child visitation, it is better to make these arrangements mandatory. Under the recognition that "both parents must be involved in child rearing for the growth and development of children," it is essential to develop a law where no divorce is allowed unless the arrangements for children are exchanged properly.

#### 5) Cultural background of adoption and House system

When a custodial parent is remarried, the child is adopted by his/her new spouse. This "adoption of a stepchild" is done without notifying non-custodial parents. In other words, the children can have legal new parents ("adoptive parents") while non-custodial parents are not aware of it at all. What is more, this procedure is so simple that it does not require court permission, but only a submission of the paper (Civil Law Article 798 proviso). This obviously violates Article 21 (a) of the Convention on the Rights of the Child on adoption. In the final findings of the third Committee on the Rights of the Child of the United Nations, at its 54, a recommendation "Adoptions subject to court permission, consistent with the best interests of children" is issued. However, the provision of "adoption of a stepchild" is not reviewed until today.

It is considered that the court permission is unnecessary because "adoption of a stepchild" does not do any harm to the welfare of the children. However, this idea is outdated, because there are growing number of child abuse by adoptive parent (breakdown of apprehension of male abuser, 59%: fathers, 21%: foster parents, 14%: common-law, 6%: others. "About Juvenile Delinquency, Child Abuse and Sexual Exploitation of Children in Heisei 28" Juvenile section of the National Police Agency Lifestyle Safety Department). Also growing without knowing what kind of person the real parent is will threaten the child's identity formation.

Child adoption makes visitation even more difficult, because the parents who have lost legal custody of their children at the time of divorce cannot compete with the legal "adoptive parent." Besides, they may not be even aware of it.

After the adoption, the court rules out child visitation because it may disturb the peace of the remarried family, harming the mental stability of the child, or harming the custody rights of "adoptive parents."

Originally, adoptions in Japan are developed to maintain "house" system (see below\*) based on the historical background. Even today, more emphasis is put on inheritance rather than the interests of children. So the peace and stability of adoptive "house" is considered more important than child visitation.

(\* The "house" system is a traditional patriarchal family system of Japan, continued until World War II, which is governed by "head owner" of the "house unit." "Surname" will be succeeded to the descendants as the name of the "house" unit.

Even today, there is a consciousness of the "house" system, the family registering system (family registration law) which is unique to Japan and still has the same "surname" couple and child as a family unit is a symbolic existence. Family register is considered equivalent to "house." The consciousness of the "house" system, which put more emphasis on "house" rather than individuals, has an influence on the parent-child relationship after divorce because they do not live in the same "house" unit)

#### 8-4. Procedure to prevent child visitation and lawyers benefit.

Neither the court nor the lawyers have understanding on children's rights, and the importance of child visitation is not recognized.

Although it is objectionable, following procedures are established among lawyers during the mediation over child visitation.

- a) Advise mothers who wish to divorce to leave the house with their children and live separately from her spouse.
- b) Insist on DV. It does not matter to make up the story. Go to the local government office with "certificate" of consultation issued by police or women's counsel or to get DV approval.
- c) Keep fathers away from children. Put children under PAS, during the ongoing judicial process.
- d) Make the children say, "I do not want to see my father," and the court will not allow visitation for that reason.

Then the lawyer wins the trial and deducts the contingency fee from the monthly child support payments which should be used for nurturing children. It should be prohibited for lawyers to deduct such fees from child support payments in Japan.



## 8-5. It may be a lifelong separation for parent and child

Because the importance of parent and child relationship is neglected in Japan, there is a very high risk that parent and child are ended up separated for a lifetime. Long absence of the non-custodial parent during the important time of the child growth, have long time affects, and children may not be able to associate with separated parents after growing up. Parents and children may not meet until they die.

Separation of parents and children after divorce in Japan can be compared to the abduction by North Korea, there are more on a larger scale.

This should not be allowed in the nation which ratifies the Convention on the Rights of the Child and have a constitution based on the philosophy of human rights.

In Japan, about 220,000 children encounter divorce every year, and many parents and children are separated from each other every day. Improvement of the court and establishment of legislative measures are urgent need.

In order that children can benefit from human relations and parenting support from both parents, the fundamental solution based on "child's best" such as transition to a joint custody system is urgently needed. To that end, Japan should shift from the idea that "a child's parent's possession" based on "house" system to "the child is a single person with dignity." Both parents and society need to realize that "children's growth and development is the most importance."

## 8-6 Practice of the Convention on the Rights of the Child in Japanese Society

Visitation rights (Article 9, paragraph 3 of the Convention) is the basic rights of children (essential rights to ensure the dignity and growth and development of children) (right to represent life rights, dignity, growth and development rights and rights to express relationships) -- Articles 6 and 12 of the Convention), it is important to leave the success or failure of the child visitation to the will of the child or to the feelings of the parent, or to create a situation that makes it difficult for child visitation. In addition to infringing on the most fundamental rights, it violates the obligation of the parent who has the primary responsibility of child's growth and development (Article 18 of the Convention).

Growing up with love of both parents is the children's rights (status) (preface)

which lasts for a lifetime. Visitation is a fundamental right for children to protect themselves from a threat to those close human relationships with a parent by divorce. The significance and importance of the child visitation is not recognized in Japanese society. I sincerely hope that the meaning and importance of the Convention on the Rights of the Child will become established in Japanese society.

## **9 CHILD GUIDANCE CENTER PROBLEMS**

### **9-1 Preamble**

It is true that the child guidance center in Japan has exercised certain functions to prevent abuse, which is said to have increased dramatically in recent years. But on the other hand, it has problems that are unimaginable both in terms of legal system and operational aspects. On the contrary, it is a fact that it is hard to deny that there are cases where the institution that should prevent abuse originally becomes an institution that creates abuse. The core issue is that instead of "parent-child reintegration," "compulsory disconnection of parent and child" is being promoted. Recently, it has been taken up largely in the media, and CRC Japan Ombudsman is also inquiring about many "child problems."

#### **9-1-1 What is "child guidance center problem"?**

The "Problems with child guidance centers (below, child guidance center problem)" is used in the sense of criticism of child interrogation by child guidance center and abuse by child guidance center, and includes many human rights violations that surprisingly violate the Convention on the Rights of the Child. Since the definition of "abuse" is extremely ambiguous and there is a fact that objective fact finding has not been done, scrutiny of preliminary and posterior evidence is indispensable. "Temporary custody of children" is carried out by the director of the center for reasons that are extremely ambiguous, and because it does not obtain consent from parents, it is called "abduction" or the like.

#### **9-1-2 Deprivation of parent-child relationship by prohibiting full**

## visitation communication — Abuse by child guidance center

Temporary custody of children is a temporary measure for the purpose of "parent-child reintegration." However, it is neither "temporary" nor "custody," effectively "long-term isolation" due to visitation and communication prohibition has been made, which can be said to be a substantial suspension or deprivation of parental authority. Blocking the visitation and communication is a serious infringement of the basic right of children and their parents to live together as their families.

### 9-1-3 List of child guidance center problems in Japan

Child welfare is transformed into "means to ruin parents" instead of "welfare for children," abuse judgment in temporary custody of children is transformed into the presence or absence of a risk rather than the fact of abuse.

In Japan there is a principle of separation of powers, but many of the investigators who should investigate the situation of parents and children in a neutral position are collaborating with the child consultation center and the judge who accepts the child consultation center's claim as it is overwhelming in many cases.

Listing the problems of child guidance centers in Japan, the following items can be cited.

1. Judiciary is not involved in temporary custody of children
2. There is no objective fact certification on temporary custody of children
3. The regulatory agency of the child consultation center is unclear and the location of responsibility is ambiguous
4. The validity of correspondence of temporary custody of children is not guaranteed
5. To restrict (prohibit) visitors and communications to attorneys as well as parental authorities
6. Drug administration is being performed without parental consent to children who are in temporary custody and who are entering the facility
7. Family courts, lawyers, etc. are not guaranteed substantial independence from child guidance centers

8. Do not obtain consent of parental authority for temporary custody of children
9. There is a temporary custody unit price system that income comes in if temporary custody of one child is taken.
10. There is not sufficient measures taken to improve the expertise of the child guidance center
11. Explanation of reason for custody is insufficient
12. Legal position as parental authority is unfair

#### **9-1-4 The child guidance center problem discussed in this report**

In order to rectify a lot of these, strict recommendations of the United Nations' Committee on the Rights of the Child (CRC) are required, but this report will report in particular the following items.

1. Judiciary is not involved in temporary custody of children
2. There is no objective fact certification on temporary custody of children
3. The regulatory agency of the child consultation center is unclear and the location of responsibility is ambiguous
4. The validity of correspondence of temporary custody of children is not guaranteed
5. To restrict (prohibit) visitors and communications to attorneys as well as parental authorities
6. Drug administration to children who are in temporary custody and who are entering the facility
7. The guarantee of substantial independence from the child's philosophy for family courts, lawyers, etc.

#### **9-2 About temporary custody of children not based on objective fact finding and parental consent**

##### **9-2-1 About a definition of the abuse**

The revised law about the parental authority rule of the civil law was passed (2012) on May 27 in 2011.

As a result of this amendment, it was stated that custody is the right and obligation to supervise and educate the child for the benefit of the child.

In Article 820 and 822, even when disciplining a child, the disciplinary authority against the child is recognized by the parent/author within the scope of custody and education for the benefit of the child. It was clearly stated.

The problem here is where the boundaries between the purpose of the disciplinary action and the necessary scope, that is, the exercise of the "permitted ability" of the parent and the "exercise of unacceptable ability" are located. In other words, it is the definition of abuse.

Under the definition of such ambiguous "abuse," a child guidance center under the jurisdiction of the Ministry of Health, Labor and Welfare (hereinafter referred to as Ministry of Health, Labor and Welfare) was granted a powerful authority unrivaled in the world.

The Child Abuse Prevention Act stipulates Article 2 of the definition of "abuse," but its definition is extremely abstract and subjective, even if it is a wound or a bruise made by children's play. If it is judged to be violence by their parents by the child consultation center, it will be treated as abuse.

The Child Abuse Prevention Act has definitions and descriptions on "abuse," but there is no definition / description about "corporal punishment," and "corporal punishment" as disciplinary permitted by parents can also be recognized as abuse.

In order to prevent infringement of human rights by arbitrary judgment of the child consultation center, preliminary and posterior evidence examination is essential.

## 9-2-2 About objective fact finding

A Temporary protection business began from "childhood protection dormitory" among them, centering on a nursery school (protection department) as a social project which was a prewar system. In recent years, the rise of the idea of "abuse risk" has caused parents according to the degree of risk and monitors parents judged as "high risk" has become the main purpose of child welfare.

Child welfare is transformed into "means to reunite parents" instead of "welfare for children," abuse judgment in temporary custody of children is transformed into the presence or absence of a risk rather than the fact of abuse.

"Temporary custody of children" of Article 33 of the Child Welfare Act is "when the director of the child guidance center deems it necessary," there is no description of the requirement, and no preliminary or subsequent check by a third party organization is required. Because it is carried out by the president of the director due to extremely ambiguous reasons such as a wound and a horse made by children's play and having a fight with a couple in front of a child, the consent of the guardian is not obtained, so the child's "temporary custody of children" is called "abduction" etc.

In the case where such strong authority is given to the administration, it is a most the case that a strict procedural law is stipulated so that administration will not run away, but the legal basis for temporary custody of children is very thin.

In criminal cases, detainees are detained according to the court's warrant, but usually the court conducts a preliminary check or a post check, so it cannot be arrested by the police and prosecutors alone.

There is also a problem with expert skills and methods to interrogate when finding facts.

They used anatomical dolls that are criticized for use in diagnosing the presence or absence of sexual assault as an aid, and take measures against misjudgment by bias based on obtaining prior information, They have not taken any effort.

The officials assigned to the child consultation center are decided by personnel change of each local government and there is no qualification necessary to become an official of it, so the person who worked at the civil engineering section of the government office until recently, It is quickly fulfilled as "Child Welfare Expert" by one.

And they will be on the frontline as field workers simply by receiving simple business training less than a month.

For this reason, judgment standard manuals prepared in advance based on related laws and regulations are prepared, and by following the manual, it is possible to make certain judgment even if they do not understand the law.

However, amateurs have decided to protect with powerful authority and are dealing with them afterwards, so it is impossible for amateurs to solve the problem as it is in the field, which is also a cause of missing a real abuse case. As so, there are many mistakes that will confuse crucial cruelty and protect them from a healthy home.

Children who were misidentified and in custody by the child guidance center also reported "There was no explanation for temporary custody of children at all."  
"Everyone was treated like a prisoner in prison." "The one who was most afraid was" One person "It is a punishment that I am always scared by "one person." (Children report ⑥ I want to live with my mother)

As described above, there are actual situations in which objective fact finding is not made in the diagnosis of inherent abuse by definitions, fact finding, diagnostics, diagnostic methods, and even the judgment criteria of risk, so beforehand / after Proof of evidence is indispensable.

### **9-2-3 Point in conflict with the Convention**

The temporary custody of children by the child guidance center "is not the best method of settlement." And Without a feasibility study and a warrant, it takes a child away suddenly from the first and isolates parent and child afterwards for a long term. So it violates treaty Article 37 (b).

### **9-2-4 Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child**

The government reported with, "clarifies a definition of the child abuse with 61 and forbids this." But a general and unambiguous definition does not exist, and it is entrusted to the arbitrariness of the child consultation center.

## **9-3 About unspecified competent authorities and validity of temporary custody of children**

### **9-3-1 About the competent authority**

The jurisdiction of the child consultation center is under the jurisdiction of the Ministry of Health, Labor and Welfare under nominal terms, but its position is not clear either in terms of law or on-site administration.

The Ministry of Health, Labor and Welfare has a comprehensive role, but it is not given direct guidance and supervisory authority.

The governor and the mayor are responsible for overseeing the work of the child consultation center, but there are no actual situations such as instructing work or giving a caution recommendation, and it is operated as an isolated department.

In other words, the child consultation center is operated under extraterritorial rights among local governments, it is not controlled from anywhere, and it is difficult to improve even if there is an error in response or operation. For this reason, it is necessary to identify the regulatory authorities that control the child consultation center and clarify the location of responsibility.

### 9-3-2 About the evaluation of temporary custody of children correspondence

When temporary custody of children, the child guidance office protects the child by opening the door of the house with a chainsaw, chops away children from the car parked in the parking lot during the commuting / parking or parental shopping sometimes.

In the case where such strong authority is given to the administration, it is a most the case that a strict procedural law is stipulated so that administration will not run away, but the legal basis for temporary custody of children is very thin.

It is neither "temporary" nor "custody," effectively "long-term isolation" by prohibition of visitation and communication is done, it is a worse treatment than the family of prison inmates, substantial suspension or deprivation of custody It can be said.

Moreover, in the final finding 62nd, it is written that "children who do not satisfy the behavioral expectations at school are being sent to the child guidance center, pay attention with concern", that point out the danger of reporting the school for the purpose of sending to the child guidance center to eliminate students who do not meet the expectations.

In order to clarify and improve these problems, it is necessary to establish a neutral organization composed of third parties unrelated to child guidance centers, courts, child care centers, etc., It should obligate external institutions to assess temporary



custody of children response.

### 9-3-3 Point in conflict with the right treaty of the child

The child consultation center takes a child away without an agreement of the pro-incarnation by the personal judgment without depending on the warrant of the court, and it performs the compulsory separation of parent and child without judicial examination promptly. It violates treaty Article 5, treaty Article 9 and the proviso.

### 9-3-4 Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child

The government reports that "We have established the provision to the effect that we can listen to the opinions of children and family members" at 39, but the Child Welfare Council judged on it from opinions from child guidance centers, It is not working.

The government reports at 60 that "We stipulate the provisions and provide adequate protection, etc. for the affected children" at 60, but the provision is restrictions on parents and strengthening penalties, Restrictions and penalties that are not guaranteed legitimacy are obviously infringement of rights.

The government reports that "We are considering establishing a third party evaluation mechanism for temporary safekeeping facilities at child guidance centers" at 106, but the Child Welfare Council is a candidate as a third party organization It is not appropriate because it judges on it from opinions from the child guidance center.

## 9-4 Guarantee the Rights of Visitation or Contacts with Child

### 9-4-1 Reality in which visitation / communication restriction (prohibition) is applied in principle

In Article 12 of the Child Abuse Prevention Act, "It is possible to restrict the who or a part of the meeting with the child / the communication," but this can be "restricted" Or "It can be prohibited under special circumstances." Its premise is "do not limit" and exceptions cannot be converted into principles.

However, in the case of temporary custody of children or facilities accommodation,

the child consultation center, often completely prevents a meeting, communication not only the pro-incarceration but also Lawyer pro-incarceration agent. Especially when asking for explanation, pointing out the unreasonableness of temporary custody, asking counsel, nearly always will be subject to restrictions and prohibitions of visitation / communication. Then the child consultation center does not inform even the safety information of the child and performs complete human rights violations more than a prison, a parental authority infringement.

As for both the limit (prohibition) and some limits, the requirements are entrusted to a child consultation center and the nursing home's one-sided judgment. The result is complete separation with the families virtually and is not exaggeration even if it's said as abduction.

For the purpose of to inspire a child with a lie, and to isolate parent and child for a long term, the child consultation center abuses prohibition of a meeting and the communication. The child who was in custody by mistake by a child consultation center report, I was always told "telephone communication was not established even if a child consultation center called mother, and mother was confused when it was established, and a story did not advance. But it was a lie." "Mother called the child consultation center many times and was going to talk hard" (Report of the child ⑥ I want to live with my mother)

In this way, all restrictions of the meeting communication (prohibition) are serious rights abuses to become the complete separation with the family. It cannot but be called the abuse by the child consultation center when prohibition of the meeting communication continues more than one month with there not being the special circumstances.

Visiting exchanges are aimed at achieving "fundamental purpose of child welfare" reforming human relationships and reintegrating parents and children", and to identify and clarify protection reasons, and more than anything is also the most effective and indispensable means to ensure the dignity of children's human beings and should be fully guaranteed as long as there is no danger to realistic and specific life bodies.

The reasons and grounds for banning visits should be explained clearly by the child guidance center side, and if it cannot be done, visitation communication should be resumed immediately.

However, even if parents or lawyers listen to specific reasons or grounds for prohibiting visitation / communication, the child guidance center side rarely answers it seriously. Besides that, even if appealing to the family court, there are few cases where there was a most no case where visitation / communication ban (restriction) was canceled by simply taking a claim of the child guidance center (just pushing a rubber stamp).

#### 9-4-2 Point in conflict with the right treaty of the child

When a child is in temporary custody, a meeting and the communication with the parent is interrupted for a long term, so it violates treaty Article 5 and Article 9.

The child consultation center takes a child away without an agreement of the pro-incarnation by the personal judgment without depending on the warrant of the court, and it performs the complete isolation of parent and child without judicial examination promptly. It violates an Article 9 proviso.

And the child consultation center does not recognize the meeting interchange right with child whom they take temporary custody and pro-incarnation or Lawyer agent.

And the child consultation center conveys the opinion of the child orally through the staff outside. It violates treaty Article 12 Clause 1.

#### 9-4-3 Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child

In 60, the government reports that it is carrying out appropriate protection, etc. for victimized children of abuse, but in paragraph 308 of the third government report to be referred to, Restrictions and penalties to parents are indicated, and restrictions and penalties that are not guaranteed legitimacy are obviously infringement of rights.

In 165, the government approved visits with relatives, counselors, etc., acceptance of letters and visits with relatives, except in the case of arrest of the current criminal, it is not arrested unless it is based on a warrant, We will not be detained unless we are immediately informed of justifiable reasons. "However, as mentioned above, it took temporary custody without warrant, not on parental authority, but as a custody attorney lawyers completely stop visiting and communication. It has done terrible

complete abuses of human rights and custody infringement than prisons.

## 9-5 Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child

### 9-5-1 Medication that is abused for further facility management without parental consent

Child guidance centers, in many cases, do not disclose the treatment and medication information for children. The doctor Act stipulates obligations such as describing clinical practice for patients in the medical record and instructing necessary matters, and children and their guardians have the right to read it.

The Child Welfare Act stipulates that the heads of child welfare institutions, etc., can take necessary measures for the welfare of children and others while they are present even when there are parents, when urgent need arises. It can be done against the will of the parent.

That is, unless it is urgently needed, it means that you cannot do it against the will of custody etc.

At child guidance centers, psychotropic drugs with side effects are administered to newly custody children and children who have made noise in facilities without reporting or consent to parental authorities.

Children who were misidentified and in custody at the child guidance office also said, "Even if you say that you do not want to drink, you should drink it because it is a rule, you have to ask the public health nurse to stop it, but now I was forced to drink because public health nurse was not there at that time." (Child report ⑥ I want to live with my mother)

There are as many problems in the psychotropic medicine itself, facility staffs in the field also know that psychotropic drugs are harmful. And they admit that they are administering them for their own convenience.

Many books issuing warnings on this problem have been published, which show the seriousness of the problem.

Thus, administering a psychotropic drug with many side effects to children in the

growing process is nothing but anything other than infringement, and should be banned completely.

The psychiatrist only receives a request from the child guidance center, makes a judgment convenient for the child guidance center, and in the end it is only to administer a psychotropic drug with many side effects. Therefore, they should not be involved.

Leaving medical attendance at child guidance centers is a violation of children's human rights. Therefore, in order to protect the rights of children, active involvement of custodial persons is necessary for the lives of children being in temporary custody and children currently in the facility.

Medical care for children is an important component of parental authority and it is unacceptably deprived of children's development and parents' right to encourage them by depriving them of "temporary custody of children" or "entering facilities"

#### **9-5-2 Point in conflict with the right treaty of the child**

Neither the Ministry of Health, Labor and Welfare nor the child guidance center do not grasp the actual state of psychotropic medication administered at facilities, nor do they protect children from illegal use of psychotropic drugs. It violates Article 24, Article 25, and Article 33 of the Convention.

#### **9-5-3 Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child**

The government reports at 107 that "training for experts in mind care for children adolescents is being conducted for doctors working at child guidance centers etc." However, the target is only staff, not children.

#### **9-6 On the guarantee of substantial independence from child guidance centers, such as family courts, lawyers, etc**

##### **9-6-1 Current situation**

A part of the budget allocated to the child guidance center is paid as a remuneration

to a lawyer who reads the child's facility measures to the court after temporary protection, and it is also paid as compensation to child psychiatrists who prescribe psychiatric drugs without the consent of parental authority to a child being in temporary custody who wrote a medical certificate that certifies abuse.

If a lawyer who has been delegated from a child guidance center gives priority to the interests of the child and gives advisory advice on temporary protection and treatment of the child guidance center, the delegation will be canceled and the remuneration will be lost.

Children who are in temporary custody are given false information such as their parents have not come to see me, and even psychoactive medicines are prescribed. "Children's report ⑥ I want to live with my mother"

Ultimately, the child guidance center will petition the family court to request measures so as to limit the visit and communication between the parent and the child in future and to completely accommodate the child from the parent and to be accommodated in the "child care facility"

And the petition for appeal of the facility measures of the child guidance center to the family court which is the sole judging body of the child guidance center is institutionally strong and formally on the side of the child guidance center. It falls as an institution that approves the assertion as it is, and it is difficult for the opinion of children and parental authorities to be reflected in the result of the trial.

In Japan there is a principle of separation of powers, judiciary should be independent, but the court has "administrative barriers". Therefore, the court is weak against the government (administrative) and has a strong stance of not entering administrative discretion. Many of the investigators who are supposed to investigate the situation of parents and children in a neutral position also participate in the child guidance center and overwhelmingly have judges who accept the motion of the child guidance center as they are.

As stated above, these are bringing about the violation of the human rights of children and parents, it is necessary to ensure substantial independence from child guidance centers, such as family courts, child psychiatrists and lawyers.

## 9-6-2 Point in conflict with the Convention

Parental guardian is a "Interested person" and is not in the same position as a child guidance center, so it violates Convention Article 37 (d). Also, after the facility entrance measures are decided, the rejection rate of renewal examinations conducted every two years is 0%. It cannot be said that there is a problem with validity, it violates Article 25 of the Convention. Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child

### **9-6-3 Discrepancies at Combined Fourth and Fifth Periodic Report of Japan on the Convention on the Rights of the Child**

The government reports that "We are providing adequate protection, etc. for victimized children of abuse", but the family court, lawyers, etc. are complicit in the child guidance center and the child's best. It is not the profit of the child guidance center, but the priority of the child guidance center is considered top priority, and there are no cases in which it cannot be said appropriate protection.

### **9-7 Emergency: SBS Should Never be Considered Abuse**

#### **9-7-1 Compulsory parent-child separation by automatic diagnosis of SBS (Shaken Baby Syndrome)**

If there is subdural hematoma and fundus hemorrhage in infants under 1 year, SBS diagnosis is done automatically, and the baby is subject to temporary protection as abuse by child guidance center.

It is a readily well-proved medically that acute subdural hematoma of the infant occurs even if the head is slightly bruised due to daily falls during the process of virgin walking. In Japan, more than 200 cases have been confirmed in 14 papers since the 1960's ("Weezy Friday" August 18, 2018, No. 1148, 2017)

In Europe and the United States, this automatic diagnosis has already been reviewed, but in Japan it has been done together with the big abuse prevention campaign, and erroneous abuse "fa e" has been created. For child guidance centers that do not carefully explain the reason for protection, SBS is a user-friendly tool, and a considerable number of parent-child separation and management and monitoring for families are carried out. At least CRC Japan's Ombudsman Committee has consulted parent-child separation by three false abuses called SBS in a year, and opposition campaigns by parents who have similar experiences are also taking place all over the country. Let us indicate that Swedish Supreme Court judged that the scientific

evidence for the diagnosis of violent shaking has turned out to be uncertain.  
(B-3438-12 judged on November 2, 2014).

### 9-7-2 Stop immediately the automatic diagnosis for the ground of temporary protection

Parent-child separation in infancy that requires the most attachment relationship is a way of subtle abuse. The original role of Child Guidance Center is to support the family (parent) so that the child can grow and develop with peace. Even if there is abuse, it should be a duty of Child Guidance Centers to adjust the child so that parents can properly nurture their children, ensuring the safety of their children.

Failing to do so, asserting SBS by automatic diagnosis, and separating parent and child is contradicted to the way of home aid requested by Article 11 of the Child Abuse Prevention Act and the Convention on the Rights of the Child.

The Ministry of Health, Labor and Welfare should review the "Child Abuse Response Manual" (revised August Heisei 20s), which is the source of automatic diagnosis, and give a notice Child Guidance Center, police and a hospital with pediatrics, to stop automatic diagnosis even if subdural hematoma and fundus hemorrhage are found with infants under 1 year and at the same time to investigate the cases where parent-child separation and intervention in families are undertaken currently and examine them carefully.

And if the positive finding was found they should apologize promptly and care for parents and children's relationships and feelings hurt by the intervention so far.

## **10 FOSTER PARENTS and CHILD CARE FACILITIES**

### 10-1 Overview:

In this chapter, we are reporting that the rights of children are infringed by Japanese social care systems, consisted from "Foster parents system" and "Child care facilities". It's based on our interviews the children under social care, the social workers, and child consultation officers.



## 10-2 Foster parents

### 10-2-1 No growth of foster families

Based on Article 18 of United Nations Convention on the Rights of the Child and the United Nations Guidelines (UN General Assembly Resolution 64/142), the final findings of the Third Committee on United Nations Convention on the Rights of the Child (paragraph 53) advised as below.

All the foster children shall be supplied with the care under the appropriate environment, continuously monitored to confirm if they're under the good qualities of care, and all the foster parents shall be protected with financial support.

In 2017, Japanese Ministry of Health, Labor and Welfare announced the new target that more than 75% of the infant and more than 50% of the children shall be raised by foster children. Japanese government says, "Small sized residential raising system (Group homes) is established" at paragraph 92 (a) on their recent report.

However, The fact is that less than 20% of the children are accepted by any foster systems including Family homes. It was 14.8% on March 2013, while the other children are raised in the child care facilities. Children still have to rely on the facilities.

### 10-2-3 Lack of care to foster parents

#### (1) Lack of funding

When foster parents accept the second child, they can be paid with only half allowance of the first child, and their effort is not rewarded. The Japanese Government says, "All the foster parents are supplied with care expenses, medical expenses, educational expenses, as well as foster care allowance and special foster care allowance for nurturing foster parents and special foster parents." at paragraph 92 (d). However, actually there're no guarantees that they can receive the full amount.

According to the survey report of the Foster parent consignment promotion committee in 2001, 28% of the children are "physical or intellectual faulty" and about 30% of the foster parents are raising children with physical or intellectual disabilities. However, even if receiving foster children with disabilities that need various cares, the foster parents receive a certain reward only calculated by their annual incomes.

## (2) Lack of legal system

There is no legal system to support social care in society. As mentioned above, many of the foster children have disabilities, and there are high needs for a wide range of specialized support such as medical care, education and psychology. However, there is no system that the local governments are required to support foster parents.

Japanese government set the effort goal by the guidelines for foster parents etc. (paragraph 92 (b)) in 2012. However, they totally rely on the foster parents themselves for the mandatory efforts to totally efforts by only the effort goal is waiting alone, but Foster proper quality of care Most of the efforts to keep the foster parents have a tough situation.

### 10-2-3 Required measures

Foster parents will not increase on their own by holding "such as formulating guidelines and policies. In order to promote foster consignment, it is necessary to support the foster parents physically and mentally. In order to do so Government or municipalities must (1) bear all the necessary expenses for the fostering of foster children, (2) institutionalize the team support system with comprehensive regional and multi-institutional cooperation system as soon as possible in the area where foster-children live, (3) provide support to daily living such as support foster parents' household affairs, free usage of nursery school and childcare etc.

### 10-3 Child care facility

The social care of Japan begins with a child guidance center, which investigate children involved in it, sort them, send them to facilities and foster parents.

#### 10-3-1 Actual state of social care, Current situation:

According to the data released by the Ministry of Health, Labor and Welfare in July 2017, the total number of children targeted for social care is about 45,000, of which about 27,000 children are entering the child care facility and about 2,900 entrants to infancy institutions, while the number of children consigned to foster parents is about 5,000. (Document 1, 2).

The total number of consultation cases handled by child guidance center is sharply rising in recent years. It was about 88,933 in 2014, and increased 1.4 times to 122,573 in 2016. The breakdown is psychological abuse, physical abuse, neglect, and sexual abuse in descending order, with nearly half of the psychological abuse. This also includes what is called DV (domestic violence) discord, fighting and violence by parents before the child is watching. (Reference 3-1). As to the abusive consultation route, consultations from police began to increase from 2011, and nearly half of them are from the police in the year of 2016.

It is said that the number of children who need protection has increased, but when compared between 2014 and 2017, the number of admitted children has decreased from 46,000 to 45,000.

It can be said from the above that while the number of nursing children has remained unchanged in recent years, the number of consultations has increased by a considerable number in a year. However, out of the total number of child officials handling it in a month, it is said that 7% is actually needed for protection, while being chased by the response for remaining 93%. We can say that the staff can not deal properly with children who truly need protection. In addition, when I asked the reason for the increase of the number of consultation from police since 2011, the police answered, "Because the reporting campaign began."

Thus unless the child guidance center concentrates on the response of 7% children who truly need protection, improvement of social care in Japan will not begin. "

### **10-3-1 The facility should fulfill accountability, and the government should survey the operation of the facility, personnel affairs, budget, etc. to collect and open the inside information.**

About the decision making process (structure) inside the facility, what is the internal daily life, what kind of grounds and reasons are for certain disposal and action, etc., outside people can hardly know. Staff members do not respond to a most any questions because of the protection of inmates' privacy or the safe operation of facilities.

### **10-4 Parent-child separation inhibiting attachment formation**

It is more important than ever for children to feel that they are loved by their parents. Even in cases where there is abuse and separation is necessary. Parent-child relationship and attachment formation should be maintained, for example frequent interchange and exchange support by visitation and correspondence are necessary. However, at the facility, under the direction of the child guidance center, there are a lot of responses such as "Parents are likely to take away their child," hiding their child's place of residence, restricting communication, not communicating parental information to children. Regarding the problem of parent-child separation by the child guidance center, although there are descriptions in this Report separately (the "Child guidance center problem" and "Children's report"), I also heard the following real experience, "I was not informed that I had a family until I left the facility. For a while after my withdrawal my father, who was my underwriter, was unable to accept the situation and it was really painful. Why did not he pick me up sooner? "

## 10-5 Forced medication without consent of principal and parents

Prohibition of compulsory medication without consent of principals and parents

The psychological burden imposed on the child leaving the familiar environment and placed under the facility life is great. Even if you are an abusing parent, the children cannot disregard the affection for their parents. Children often rampage from loneliness and boredom, crying out in many cases ("Fluctuation and Diemina of Psychotropic Drug by Staff of Child Care Facilities" -- Welfare Sociology Research 10 by Kohei Yoshida (Document 6)). To solve this situation, there are many cases where psychopharmacists and sleeping pills are used in facilities. This is an act of infringing Article 33 of the Convention on the Rights of the Child. Particularly children of low age, whose brain is underdeveloped often cause sequelae and addiction (See chapter 5 "Report: Mental Health" in this Report). Also, please refer to the "Children's Report" submitted CRC Japan on the compulsory use of drugs that the principal does not want.

## 10-6 Abuse in the facility

Regarding the actual situation of abuse by facility staff and children, it is familiar with "State of correspondence of each prefecture city to treated child abuse etc in 2004" published by Ministry of Health, Labor and Welfare (Document 7). In the past

few personnel shortage, excessive labor, and variation in quality have been pointed out. In some cases the number of overtime hours exceeds 100 hours per month, and there are staffs who go home around 1 o'clock in the morning. In addition, there is also pointed out a problem of "low nurturing skills and impulsiveness and impaired control of anger of staff who abused".

### 10-7 Support after discontinued withdrawal

There is also a problem of support after withdrawal, from facilities (Reference 8). When a guarantor cannot be found contracts for residence and telephone are restricted or cannot be made in many cases. Facilities are also required to care after withdrawal, but there are some children who do not want to be monitored even after withdrawal, and cannot obtain "where the mind settled". They have to live by themselves while holding anxiety that they are alone.

### 10-8 Conclusion

According to the International Human Rights Standards, "It is defined as the last resort to accommodate children under social protection in the facility (Reference 9). Efforts to capture social care more widely, increase foster cares or family homes, and mechanism the society as a whole support the development of the children are urgently required. In addition, when it is inevitable to separate parent and child, the facilities have to continue to assist parents and children in maintaining relationships, prepare programs for reintegration as soon as possible, and at the same time, to ensure that children can live with peace of mind in it. In order to increase the number of staff closer to children who become unstable, improvement of working conditions of staff should be done.

## 11 DISCRIMINATION

11-1 Discrimination (children of minorities such as immigrants and indigenous peoples) has not been rectified

Minorities who are of different ethnic and nationality of Japan including such as Koreans and South Americans, indigenous people such as the Ainu, and refugees from Southeast Asia, etc. This report covers the children of these minority groups.

Foreign residents have increased significantly since around 1990, but foreign policy has been narrowed only from economic and labor policy point of view. For this reason, human rights policy based on the principle of internal and external equality as stipulated by the International Convention on Human Rights has not been positioned, and comprehensive policies for minority's language guarantee, education security, social welfare etc. are poor. This means that the minority's children, in general, are not undertaking surveys on their difficulties and that the laws that state the obligations of the national and local governments to guarantee their educational rights are obviously not in place. Thus, while there is no comprehensive policy to ensure minority rights, improvement of minority's child problem is delayed.

In the third CRC recommendation paragraph 35, "prohibition of discrimination" has been repeated. However, in the 4th and 5th reports of the Japanese government, in paragraph 127, there is no discrimination, "there is no schedule of concluding a treaty on prevention of discrimination treatment in UNESCO's education." Furthermore, the government report does not fully describe the legislative policy and program creation issues concerning minority children. It is necessary to conduct comprehensive review measures and enactment laws.

The current situation and problems will be described below

## **11-2 Do you guarantee the right to fair access to public education?**

Requesting fair access to the "Article of Article 29 of the Convention on the Rights of the Child" and paragraphs 86 and 87 of the third CRC Recommendation on "Children in Minority or Indigenous Peoples Group." In order to respond to this request, it is necessary to make all children eligible for compulsory education regardless of nationality. Among OECD member countries, only Japan is not "guaranteeing compulsory education of foreigners."

### **11-2-1 Lack of policy based on the actual conditions of children non-participating / pre-schooling / refusing school**

2-1-a. About the actual situation survey of the Japanese government

According to statistics, there are 142,761 foreign children based on age (December 2015 Ministry of Justice 6 to 17 years old), while the number of foreign nationals enrolled in the Ministry of Education, Culture, Sports, Science and Technology (May 2015) is 81,899. About 60,862 children (42.6%) do not receive school education.

2-1-b. About high school admission rate

According to a survey of high school attendance rate, there are about 20% in Heisei 28 (2016) in the prefecture of the Chubu district, and 75% in the Heisei 23 (2011) survey in Aichi Prefecture. A country-wide investigation is required.

### 11-2-2 Education and language security of foreign students

Learning rights must be guaranteed regardless of nationality. It is an urgent problem especially for children.

The Ministry of Education, Culture, Sports, Science and Technology issued the "School Education Law Enforcement Regulations Partial Amendment (2014)" at 60 of Attachment 2 of the Government Report, and as a "Special Curriculum Program", proposing Teaching Japanese as a second language to a Foreign Child Student to the local education committee etc. Although this is the first step of improvement, it is not an obligation of the local board of education etc. In addition, training and securing teachers who teach Japanese is not progressing, and there is shortage of teachers. "Educational content required for teacher training for Japanese teachers to foreign students is not considered and there is no national qualification. Furthermore, it is not set as a subject.

### 11-2-3 Exclusion of Hate Speech and Free Education for Korean Intermediate School

2-3-a. Hate speech (hatred expression) problem

In recent years, the magnitude and frequency of hostile demonstrations to Koreans in Japan are increasing momentum, as Japan's nationalism is increasing with nostalgia towards neighboring countries regarding territory and history issues. The scale is small, but since it uses a loudspeaker, its impact is great.

Under these circumstances, the "Law on Promotion of Efforts towards Elimination of Unfairly Discriminatory Behavior from Outside Japan" (Law for the Elimination of Hate Speech) passed and was approved at the House of Representatives Plenary on May 24, 2016. It was delivered and enforced on the 3rd of the month. However, this

aw, a philosophy law without penalty, has no regulations on hate speech by candidates and SNS (Social Networking Service) such as Twitter in the election, and it is a loophole of the above law.

#### 11-2-4 Problems of educational and other rights of the indigenous Ainu

In 1997, the Japanese Government enacted the Ainu Culture Promotion Act (Act on Promotion of Ainu Culture and Ainu Tradition, etc. Dissemination and Enlightenment Act) and abolished the Civil Protection Act (enacted in 1899). However, this is limited only to the aspect of culture promotion, it does not admit the organizational educational activities of the Ainu race, and furthermore does not allow early childhood education by Ainu language immersion. In addition, the "living improvement measures" which the government and Hokkaido invested in 50:50 have not been applied outside Hokkaido. Therefore, the life of the Ainu living outside Hokkaido is more painful, the economic disparity with Japanese people (Japanese other than Ainu) expands, and the education gap of children also arises with poverty. The rate of university entrance into Hokkaido is as slow as 25.8% compared with an average of 43.0%, which is an obstacle to improving social status.

In September 2007, the Japanese government adopted the "Declaration of the United Nations concerning the rights of indigenous peoples" (Declaration of the United Nations) "declaration of interpretation such as" Do not accept human rights as collective rights". Then in June 2008 the National Assembly unanimously adopted "Diet resolution requesting that Ainu race be an Indigenous people." However, this also approves the indigenous nature of the Ainu race, but does not admit the legal indigenous right. Also, "Ainu policy meeting promotion meeting" was established in response to "report of knowledgeable counselors on Ainu policy idea" (July 2009), but improvements on living environment and education etc are delayed.

From now on, the Government of Japan aims to implement the "Declaration of the United Nations" mentioned above, and it is urgent to establish a "Ainu Basic Law of Indigenous Peoples" (provisional name) \* 1 and to improve fundamental policies.

#### 11-2-5 Refugees and stateless children

Stateless people are more active than published figures. As a common subject, the legal status is not clear. It is impossible to register the resident in the local autonomy law, and the right to receive services such as life, medicine and education is denied.



(Where are the refugees in this introduction?)

### 11-3 Conclusion

Concerning minority children, implementing appropriate measures in line with the treaty and making urgent measures are necessary to improve legislative policies.

11-3-1 "Convention on the prevention of discriminatory treatment in UNESCO's education" and mandating primary and secondary education regardless of nationality.

11-3-2 To conduct an accurate survey of preschool and school refusal for each municipality helps to clarify the actual conditions of minority children.

11-3-3 The high school entrance rate also varies widely from 20% to 75% in each municipality, and the special measures concerning high school entrance exams also differ from prefecture to prefecture. To conduct such nationwide surveys is needed to clarify the actual situation.

11-3-4 Fundamental maintenance of various conditions necessary for implementing Japanese language education

(1) The Ministry of Education, Culture, Sports, Science and Technology aims to study the "contents of education required for teacher training for Japanese" for children, and rush to train Japanese supervisor at university. Also, using this as a national qualification, revising the teacher's license law helps to establish a teaching license for Japanese language instruction.

(2) To establish a Japanese (JSL) subject as a second language.

(3) The establishment of a Japanese class specializing in Japanese language instruction nationwide has been delayed. Working towards securing assistance for teacher placement and classroom establishment that can teach Japanese are crucial.

(4) Provide enough opportunities for learning your mother tongue.

11-3-5 Toward Elimination of Hate Speech and Ethnic Discrimination

(1) To aim for the elimination of hate speech and ethnic discrimination, establishing multi-cultural symbiosis department in all prefectures, implementing measures including multi-cultural education for the coexistence of the nation, and extending school support such as JSL education makes resource center for them.

(2) Revise the Law Concerning the Elimination of Hate Speech (the Law Concerning Promotion of Efforts aimed at Eliminating Unjustifiable Voting Behaviors From Outside Japan) and legislate "International Convention on the Elimination of All Forms of Racial Discrimination, this is what ICERD" is about.

(3) Excepting the Korean intermediate school (ethnic school which is a high school in Japan) from waiving high school tuition.

11-3-5

- a. To protect refugees and their applicants.
- b. Investigate the actual conditions of refugees and stateless children, and take measures to ensure their living, medical care and education.

11-3-6 The Government of Japan shall promote cooperation and coordination with citizen organizations such as residents, NPOs and NGOs, etc., in implementing various measures.

11-3-7 Establish independent professional organizations to ensure various human rights including children's rights.

11-3-8 Specifically, in accordance with Article 14 of the Declaration of the United Nations on the Rights of Aboriginal Peoples

(1) To establish an environment that children of Ainu can learn about their own history, culture and language, and establish an Ainu racial school (primary, secondary and higher education).

(2) For that purpose, the Ainu research framework such as teacher training, preparation of educational programs, language textbooks and teaching materials, and arrangement of four research institutions relate human culture to the establishment of the four universities.

(3) To expand the schooling aid system (complete and free of charge) for the children of the Ainu and to realize easy access to higher education.

(4) Promoting multicultural education and human rights education to resolve unprecedented discrimination and prejudice against the Ainu, setting public broadcasting to promote awareness of the Ainu racial relations.

## 12 CHILDREN'S POVERTY

12-1 Actual condition of poverty

12-1-1 The only advanced country that can not escape from

## poverty even if it works hard for a long time

Japan is the only developed country which the physical well-being does not increase even though the single-female parents work hard for a long time. The situation is remarkable for single-parent households, especially for mother and child households. In the analysis of UNICEF, the degree of physical well-being of children in Japan is largely behind compared to other countries, and it's lacking the balance with other indicators \*1.

The income of single-female parent households is gradually rising. And also the average of earned income is increasing with slight amount of around 2 to 30,000 yen per year on average \*7. However, the rise of "working" income itself is extremely small and it is far from being stated as "an improvement of economic affluence." Also in the survey conducted by the Ministry of Health, Labor and Welfare, the relative poverty rate of a single-parent family seems to be improving only in the last 10 years, but when comparing the span of a most 20 years, it cannot be said that it's been improved as the Children's Poverty Rate is also gradually rising \*6. The effect of government measures that promoted self-reliance by employment as a top priority is extremely insufficient.

### 12-1-2 The negative impact of poverty

In Japan, mother's working environment, such as long working hours and late time-to-home is increasingly becoming negative factor to child growth. In both cases of male and female single parents, their time-to-home has not been improved, and in single-female parent households, it gradually tends to be home at later time \*2-3.

From here it can be seen that the mother in single-female parent households scrapes herself with triple work etc. and is trying hard to raise income somehow at the expense of time to face the child. Nonetheless the college going rate of children of the single-parent households is as far below the average of all households ※ 5. On the other hand, looking at the number of delinquency, domestic violence and criminal offense of a child of a single-parent household \*4, it is not hard to imagine that the fact that parents can not afford materially or mentally to face to their children have an adverse effect on children's growth and development.

Regarding the relationship between poverty and juvenile delinquency, Shimonishi \*5, who investigated a certain juvenile training school, found that 70% of the households that had boys in juvenile classification centers and juvenile training schools were households with annual income less than 2 million yen, and It points out the negative

chain of poverty and delinquency as follows.

The number of boys who feel that they are "abandoned" in the form of parents who are chased by their lives, trying to rebel and try to make up for loneliness with delinquent friends accounts for a considerable number. Parents cannot afford to understand such feelings, rather they are recruited by police and family courts while taking work and are being touched by local people and conditions, and those who are merciful.

It is reported that there are many cases where little revenue disappears due to damage compensation.

In these negative interactions, abuse to children and violence from parents to parents may occur.

As you go through the above process, children will be involved in the negative spiral of low education (junior high school graduates), loss of employment opportunities, prolonged delinquency.

## **12-2 Causes that can not solve poverty**

### **12-2-1 Low density analysis by the government**

As the Japanese government itself acknowledges, structural analysis of children's poverty has not been deepened. Moreover, it is hard to say that the effectiveness of the measures taken by the government has been sufficiently verified. Evaluation has remained at a level of pleasing and happy reflecting to transient superficial changes and has not been reached to mention strategic initiatives.

### **12-2-2 Weak system of public cash benefit to "working" single-female parent households.**

Many of the single-female parents are working as non-regular employees \*9, but among non-regular workers there is a survey result of 25.4% who wish to work regularly in the future \*8, many of them wish and selected a non-regular employee. The reasons for this include difficulties in working under favorable conditions due to the academic background and age of single-female parents, and employment difficulties due to childcare constraints. This way most of single-female parents are at inferiority in the labor market, and it is nearly impossible to let them work with favorable conditions.

Therefore, the adequacy of cash benefits as public support for working single-female parent households is a key issue, but at present the level is too low. Even in terms of the Gini coefficient, there is an analysis that income redistribution through taxes and social security works in reverse and causes expansion of income disparities \*11.

### **12-2-3 Weak support for single-female parent households who are "difficult to work"**

According to the government survey \*12, due to the lack of nursing and childcare functions, approximately 20,000 mothers are prevented from working. Inability to work due to "There is no one who takes care of children," although the ratio has declined, the number of cases is flat.

As a more serious cause, there are mental and physical diseases of the mother herself. The number of unemployed single-female parents, despite of their wish to work, is increasing, and this fact is a new threat to children growing in the single-female parent households. However, for single-female parent households who are unable to work due to mental and physical diseases, the effect of a mere employment referral support is limited. Based on these circumstances, some expert opinion councils have asked for the establishment of a "one-stop support" framework for single parent families etc. \*13, but it can't be said that efforts to elucidate the cause of impeding smooth activities is sufficient. Regarding one-stop support, there are reports that functions and authorities between the national government and local governments are inconsistent and the situation is difficult to adjust and settle \*13. The structural problem is the flow of execution of administrative measures -- effect verification -- improvement, a failure of the so-called management cycle. Currently, monitoring which is necessary for the administrative staff who work at the field (feedback of the progress status of the execution process / response result) is not functioning and it might have fallen in the situation that each responsible work left unfinished.

### **12-2-4 Poor university scholarship system**

Originally the ratio of private universities and graduate schools is high \*15. In Japan, the tuition fee level also gets higher, so there is a tendency to avoid increasing the financial burden on benefit-oriented scholarships \*16. There are no benefit-type scholarships by the country \*17. In Japan, the proportion of children abandoning university going to poverty-mother-child households is likely to increase as a result of households.

### 12-3 The slogan alone can never overcome poverty

First of all, the government should take seriously the fact that "the relative poverty rate of a single parent family is almost the same and the poverty rate of children shows a gentle upward trend" throughout the entire process in which Japan's economic situation changes drastically for the past 20 years, i.e. the bubble period, the collapse of the bubble, the sweep of globalism, Lee Mansion Shock etc. This is a firm evidence that the government did not seriously address the measures to improve children's poverty.

In the 4th and 5th Government's Report it says that the "Headquarters for Promotion of Development and Support for Children and Young People," which is chaired by the Prime Minister and has a number of the Ministers as members, approved the "Outline for the Promotion of Development and Support for Children and Young People" in February 2016, which covers a wide range of areas, including education, welfare, health care, medical care, correction, rehabilitation, and employment and that the Government plans to continue to promote measures including budgets based on the new outline in accordance with the spirit of the Convention (paragraph 12, 13). When looking back at the above facts, however, it is greatly doubtful to what extent the grasp and analysis of the situation will be in line with the actual situation.

In paragraph 14 the report says, "the Cabinet approved the "General Principles of Policy on Poverty among Children" in August 2014. Based on the General Principles, the Government is taking initiatives to improve educational support, livelihood support, employment support for their guardians, and financial support as priority measures."

However, how the government can respond to lack of scarce education expenses among the OECD countries, welfare-protected households that continue to increase, the increase in young people who are panting for repayment of scholarships is quite doubtful as explained in detail in chapter 5 ("family area") of this report.

In addition, the report says, "The Government is also currently conducting survey research to understand and analyze the state of child poverty as pointed out in Concluding Observations Paragraphs 21, 22" (paragraph 14), but "Toyo newspaper" reports that Oinawa Prefecture only studied children's poverty but other 65 prefectures and 94% of government ordinance cities that responded have no specific plans for survey at all (May 17, 2016). The "Citizen's Future Supporting National Movement" (15 years) started with the Cabinet Office is only focusing on (1) opening the homepage in big companies wanting to support funds and individuals wanting to

receive financial support and (2) the creation of the Future Supporting Fund for children seeing donation, and the content is surprisingly negative. Large companies holding huge internal reserves as "cooperating enterprises" on the homepage also have names, but only 20 million yen (as of February 2016) gathered in the funds called with taxes of 200 million yen or more.

Even if laws and ordinances were made, this is just a rice cake drawn in a picture. First and foremost, the country should refrain from adopting the past anti-poverty measures that are totally ineffective on top with the slogan. In addition, the Government should analyze the current situation and cause from the standpoint of the parties. Then, by raising the education budget to the level of the OECD countries, studying the measures of countries with high economic power and children's poverty countermeasures (for example, the Netherlands, France, Germany, etc.) it has to promote to make effective measures. It is necessary to promote

In particular, we should review the circumstances where support menus for working female households with the most remarkable poverty are biased towards "employment support" focusing on "increasing opportunities to earn" and hasten the general expansion of cash benefits.

## **13 MENTAL HEALTH**

### **13-1 The main case where children are connected to mental health care**

In the past about 15 years, the number of cases in which children are connected to mental health care is rapidly increasing in Japanese society.

The main cases are problems of "Adolescence," "developmental disorder", school refusal / withdrawal " and "social nursing".

### **13-2 Actual situation of children and mental health care**

Currently there are cases in mental health care being done to children in Japan, which violates Article 33 of the Convention on the Rights of the Child guaranteeing to "protect children from illegal use of narcotics and psychotropic medicines"

### **13-2-1 Actual situation that the number of children receiving psychiatric examinations increases**

The number of consultations due to underage mental illness in Japan increased from 95,000 in 2002 to 148,000 in 2008. Along with that, the number of psychotropic prescribing cases to children has also increased rapidly (Document 1).

### **13-2-2 Actual condition of the decrease of the age at which medication is started**

When survey conducted to the psychiatrists and pediatricians all over the country, the most starting age of the medicine was 39% before preschool, and 36% by elementary school lower grade follows, which means up to elementary school lower grades were over 70%. Some doctors had given medicines to children from 3 to 4 years old to suppress excitement, and some gave drug for sleep disorder to infants aged 1 to 2 years old. (Document 2, 3)

### **13-2-3 Actual status of increase of out-of-treatment prescription and of multi drug combination**

Medicines prescribed as above are not only ADHD therapeutic drugs for which children's clinic trials are being conducted, but also large-scale clinic trials for children, such as anti psychotic drugs, antidepressants, anxiolytics, sleeping pills, etc. Drugs whose examination is not done in Japan are also prescribed, and prescription for combination is also done. There is a situation in which a large amount of tranquilizer and sleeping pills etc. are prescribed for children who see psychiatry without safety standard prescription for children. It is inevitable that these medication actions are "clinic trials" named "treatment."

Regarding the out-of-treatment prescription and multi drug combination use, the actual condition and its reason should be investigated and elucidated.

### **13-2-4 Actual status of increased administration to children with social care**

Regarding the actual situation that the administration of psychiatric medicine to children has increased, there is also concern about an increase in administration at social care facilities (child guidance centers and child care centers).

The psychological burden of children living apart from their parents is immeasurable. However, administering psychotropic drugs or sleeping pills with a high incidence of adverse reactions in order to alleviate or eliminate their psychological burden never conforms to the best interests of children. Children's burden confronted in the institution must be solved through such receptive and



responsive human relation between child and staff as the Preamble of the Convention describes "a family environment, an atmosphere of happiness, love and understanding". It clearly violates not only the child's right to grow and develop, but also the most fundamental spirit of the Convention. Medication is not administered for the well-being of the child but just for the convenience of staff and institution. It also clearly violates the Convention requirements in Article 3 "The standards established by competent authorities shall be comforted, particularly in relation to the field of safety and health and the number and qualification of these staff and proper supervision."

(Document 10, 11, 12)

### **13-3 Factors of increase in consultation · prescription**

#### **13-3-1 "Early Intervention" and Route to Psychiatric Medicine**

Mr. Kenzo Denda of Child Psychiatrist at Hokkaido University published a book insisting that drug therapy for children with antidepressant medicine should be promoted more ("Child's depression, Heart cry" (Kodansha in 2004)). His idea was accepted by many psychiatrists, so that it seems that the doctors' hesitation against the administration of antidepressants to children seems to be diminished.

Through such a background the facility which actually carries out pediatric outpatient increased from 523 in 2001 to 1746 in 2009, and medication treatment to children increased proportionately.

#### **13-3-2 The concept of 'developmental disorder' walking alone**

The cause of the developmental disorder and the diagnosis method have not been elucidated and confirmed at present. In spite of this the number of children diagnosed with ADHD is increasing.

Mr. Nishiki Ishikawa of psychiatrist in NHK point out the reason in his program as follows:

- 1) Parents, teachers, and physicians are also strongly aware that "they should not miss".
- 2) The view of the society watching the child changed from personality to problem behavior.

(Document 4, 5)

In fact, the Ministry of Education, Culture, Sports, Science and Technology actually conducted a screening survey for children and students in elementary and junior high schools in 2012, leading to the result that 6.5% of the total has some developmental disability. Such a survey is an act of sorting children and it is worried that environments likely to lead to medical care are being created. (Document 6, 7, 8)

#### **13-3-3 Establishment of developmental disability support law and connection with psychiatric medical and pharmaceutical companies**

Another factor that increased psychotropic drug administration to children was resulted by the establishment of the developmental disability support law in 2004.

At the time, when the bill was submitted to the Diet, some of the members were concerned that

the causes of developmental disorders are under study and that the over diagnosis of children and the accompanying excessive medication will spread, but no deliberations were made.

In addition, in 2016, it turned out during the tax investigation process that a prominent leader of the association for mental developmental medicine and the most influential person for the national development support policy in Japan received rewards and donations from pharmaceutical companies. It can be said that this deep relationship between doctors and pharmaceutical companies is sure evidence that the research on developmental disorders is still carried out under the great influence of pharmaceutical companies. (Document 12, 13)

#### 13-4 Voice of the truth of mental health care

Next, we will consider what actually brought about "early intervention" and "developmental disorder." (The voices of children and the related families and persons are shown in Document 3, 4, 5)

What is the effect that 'early intervention' is originally aiming at. Examples are showing the sample of the UK and Japan introduced in the report "Early support (April 23, 2009)" compiled by the Ministry of Health, Labor and Welfare on the differences between the efforts of other countries and Japan. (Document 7)

In this example, Britain is a comprehensive effort, while in Japan it can be seen that "treatment with psychoactive drugs" is a primary involvement. However, if this interpretation is not a way of approaching which Japan is eager to follow the early intervention, Japan is required to make concrete the meaning, significance, structure, etc. of early intervention. And it should be promoted by prioritizing the sociological approach, not by biological approaches priority, in light of the previous 2010 UN Recommendation.

#### 13-5 UN Recommendation 2010

The last UN Recommendation on Mental Health in 2010 is shown in the following paragraphs 60 and 61 and the report from the Japanese government issued in July 2017 mentions in No.107 in the report. (Document 9)

There are two main points to be watched in the 2010 recommendation: 1) one is the worry that social determinants are not properly considered, and 2) the other is the recommendation that studies in this field be carried out independently of the pharmaceutical industry.

On the other hand, in the report of the Japanese government, nothing is written about the social determinant, on which we can easily assume that no research has been done.

The government's report lists "the number of patients" and says they began "preparation of guidelines for medicinal treatment", but it is not understandable how they could do these kinds of work without accurate knowledge, method and standards how to diagnose the developmental

disabilities of children. There is still doubt about the method of investigation of the number of patients and the basis thereof. Furthermore, on relating to the research the report uses the phrase "in a form that is independent of the pharmaceutical industry", but it was the officials of psychiatrists and pharmaceutical companies that were largely involved in the establishment of the developmental disability support law. Thus the contents of the report remain big questions and doubts.

Regarding to school teachers, parents' working and living conditions, please refer to the details of this report in Chapter 5, Home, and Chapter 7, Education (7-1-6 at ).

### **13-6 Messages from psychiatrists who give alerts to the actual status**

Also, several physicians are giving alerts about the actual status that children are easily connected to mental health care like this. Mr. Naohi Takeuchi, director of Child Psychiatry department hospital former Yokohama City University Hospital, has serialized five articles on children and psychiatric medicine at a medical Web media site operated by an active doctor named Medical Note, and he is despatching the following message. "The priority is given to the diagnosis, the interest to children as a whole or to the whole area of children's living sphere in the area is diminished, which can also lead to a result that the interest go off from the meaning of existence of children before." A label called a diagnosis once attached has a risk of going around as a reputation with no authority to a child rich in plasticity. In addition, when a child diagnosed easily as having developmental disorder, it could be the qualification to receive a mental disability pension. There is also the possibility that it will be the basis to get it." Document 16

We hope that in the future like doctors Takeuchi will increase the number of doctors caring for cherishing community-oriented connections rather than medical care.

## **14 JUVENILE JUSTICE SYSTEM**

### **14-1 Current issues on juvenile justice in Japan**

The characteristics of the Japanese juvenile justice over the past 10 years are as follows:

- 1) the total number of juvenile delinquency (crime) is drastically decreasing,
- 2) the major reforms of the juvenile judiciary, which began from 2000, have pushed

severe punishment to juvenile offenders and introduced some characteristics of criminal justice procedures into juvenile trial proceedings,

3) the ruling Liberal Democratic Party currently aims to lower the applicable age of juvenile law.

In this report, after briefly touching 1) and 2) above, we shall discuss about the attempt to lower the applicable age of juvenile law in ③ from the point of views that it clearly violates the Convention on the Rights of the Child, not only jeopardizes the most important core part of juvenile justice system brought up in Japan for a long time after World War II, severely impedes the growth and development of juveniles aged 18 and 19, and finally results in highly inappropriate reform as a measure against crime.

## 14-2 Sharp decrease of juvenile offenses

Penal offenses committed by juveniles at present are the lowest since the history. Even with the past 10 years, the total number of cases cleared for juvenile cases has declined from 155,051 in 2004 to 46,680 in 2015. Murder is 64 in 2015 but has remained almost constant for the last ten years and theft has been drastically reduced from 90,347 in 2004 to 29,662 in 2015. Just robbery was 437 in 2015, but it has been somewhat increasing over the past 10 years. There is no fixed theory as to why the number of juvenile offenders in recent years in Japan has been drastically reduced in this way. Because the proportion of delinquent juveniles to minors has also decreased, it can not be said that the decrease in the number of minors in general is the cause. In the term of the past 10 year, the number of adult offenders also decreased from 3125,216 in 2005 to 1,616,442 in 2017 to be reduced about half. Crimes by both boys/girls and adults are decreasing as well. Therefore, we can say that the reduction of juvenile offenses in the past ten years has been caused rather by social factors of the whole Japanese society than individual factors of each offender.

## 14-3 Heavy punishment and Criminalization of juvenile justice

A number of amendments that began in 2000 have changed the Japanese juvenile justice from the system intended for the purpose of sound development of juveniles who committed crimes (delinquency) so far to the one where they are controlled and crushed by the police, subjected to severe punishment by criminal trials, and finally left at the periphery of society. A major reform of countermeasures against delinquent juveniles started from 2000 just at the same time as the major reform of the educational system to promote the neo-liberal economic nation. Juvenile justice has

been reborn as a dish for the boys/girls who lost in competition, evaluation and performance-based education which is a feature of neo-liberal education, and who have fallen out of the general society. In the past, children who had fallen aso were able to receive support to step back towards growth and development again under protectionism. However, under the neo-liberal economy, there is no money to use for the support of juvenile delinquents who fell to the bottom of society. They are connected to prison for a long time in the form of heavy punishment, and finally they will be released again at the periphery of society.

The revision of the Juvenile Justice Law are designed to impose tougher punishment upon juvenile offenders. It can be said that minors are at a times placed under surveillance and control by police, and imposed tougher punishment if they commit misconduct.

The summary of the juvenile law amendment from 2000 is as follows:

- 1) The Juvenile Justice Law was partially amended in December 2000 to make minors' offenses tougher punished as criminal cases (it came into force in April 2001). Under the amended law, the age of minors who would come under criminal punishment were lowered from 16 to 14, and as regards serious cases in which victims are injured by minors, the offending minors would face criminal charge.
- 2) The 2007 revision expands the police's power to investigate to the cases where juvenile offenders are under 14 years of age. It lowers the age of minors to be taken into a juvenile reformatory from 14 to 12. It obliges prosecutors as a rule to send juvenile offender who committed serious crimes to family courts. It prescribes that, in case on-probation-minors violate the conditions for probation, they should be sent to reformatory. Above all, noteworthy is expansion of police authorities. The revision was based on the thought that minors should be detained and isolated from society if they behave wrongly.
- 3) The 2008 revision made it possible for the victims to commit to the juvenile referee greatly, such as listening, viewing and copying of the case records including social survey records of juvenile boys, and even to express their opinions about crime including sentencing at the trial.
- 4) The lay judge system for criminal cases which was started in May 2009 rose new issues as the increasing cases of juvenile minors are judged at criminal courts. It is not only imperative that offending minors' privacy should be protected more strictly than adults, but also their rearing history, family background, and personal quality should be fully comprehended by lay judges. Proper considerations should be taken in

regard to these points. But it was expected to the day judge who are representing the voices of society in general, "De inquent children have become more atrocious," and "Local security has worsened."

5) In 2014, the upper limit of irregular sentences was raised from 15 years to 20 years, and the fundamental structure of juvenile court system was changed from the protectionist structure centered on judges and probation officers of family courts to support the recovery of juvenile delinquents, to the structure similar to the criminal proceedings in which prosecutors and lawyers play a central role.

6) Nowadays the National Police Agency is playing important roles to control the children at schools on the daily basis through the agreements with educational bodies. Originally it started in 2004, and almost all the prefectural boards of education around the country have made an agreement with each prefectural police headquarters with a view to sharing information on pre-delinquent minors. Police and school meets on the daily basis and exchange information including children's pictures and private affairs. Thus local police has expanded their powers to school education.

The series of revision of the Juvenile Justice Law undermine the idea of probation, and intensify police-led surveillance upon children and lead to lengthy detention and harsh punishment. Throwing away a spirit of rehabilitation of delinquent minors, and a notion of taking them into a juvenile reformatory or a juvenile prison will only lead to children's inability to cherish a mind of interpersonal relationship and social adjustment.

#### **14-4 Urgent issue : Lowering the applicable age of juvenile law**

The ruling Liberal Democratic Party is trying to lower the age applicable to juvenile law from the current 20 years old to 17 years old. However, as juvenile offenses are drastically decreasing, is it really necessary and justifiable to withdraw it?

On June 17, 2017, the election law revision bill to lower the voting rights age to under 18 years passed by the House of Councilors and was established. The supplementary provision of the revision bill of the law is supposed to reconsider the age of application of the juvenile law etc. along with the adult age of the civil law and to take necessary legal measures. In response to this, the ruling Liberal Democratic Party has set up a "special committee on age of adulthood" and has begun to consider reducing the applicable age of juvenile law to under 18 years of age. In the near future there is no doubt that it will be a big argument as the most important task of juvenile law in Japan.

The points we want to assert are as follows.

(1) In the first place, the applicability of the law should be examined individually and concretely for each objective and legislative purpose of each law.

(2) Since juvenile offenses have recently been decreasing drastically and have not become heinous as a ready mentioned in the above 2, there is no reason to make the Juvenile Law even more severe.

(3) Over 70 to 80% of opinion polls agree to lower the applicability of juvenile law (Sansei News 2015.3.30). The following two main causes are considered.

① One is that accurate information on juvenile crime is not transmitted to the public. As a proof we can show a public opinion poll of the Cabinet Office in July 2015, according to which about 79% still think that "juvenile crimes are increasing." As stated in the above 2, this is clearly an error.

The wrong trend of this public opinion is thought to be the influence of sensational correspondence of the media against a heinous juvenile crime that happens by chance and the dissemination of false information through smartphones by some people with malicious intent, but it can be said the most significant factor is the fact that the government, the police and the mass media are not trying to accurately convey the trend of juvenile crime.

② Another one is that the retaliative feeling is getting stronger in society generally that even delinquent juveniles should be punished according to the weight of the offense he committed. However, even in the current law, it is possible to send serious cases of 18 and 19 year old juveniles to the public prosecutor and they receive the same criminal trials as adults. Many of the juveniles who committed serious crimes are subject to criminal trials including even lay Judge court. It can be said that the increased retaliative feeling to juvenile offenders appeared actually as a result of the major reform of the educational system and the juvenile justice system (see above 3) that the government has been conducting and strengthening as a child measure for the transition to a neoliberal state regime since 2000. In the neoliberal regime it is accepted as a matter of course the idea that children who lost their competition and caused antisocial consequences should also be strictly pursued in accordance with the principle of "self-determination + self-responsibility." The government has actually promoted the early independence and early selection of children so far, without considering inequality and the collapse of the family environment at a , and has cut down a variety of weak people who are burdened by society. As part of further strengthening such a society with neoliberal system, we are now confronted to lower

the applicable age of juvenile law.

(4) The reduction of applicable age causes serious adverse effects.

① If we lower the applicable age of juvenile law to under 18 years old, senior juveniles of 18 years old and 19 years old, accounting for about 43% of all juvenile suspects, delinquent juveniles including many minor and first offenders of the ages 18-19 would be returned to society without receiving any disposition or treatment now provided by juvenile justice system. It will be impossible for them to receive discrimination, social survey, nor enjoy environment adjustment and educational intervention etc. Eventually, there must be a greater risk of such offenders becoming even worse as a result. The deprivation of the opportunities of proper rehabilitation violates the basic principles and specific provision of Article 39 and 40.

② As a result, in the early part of the life, the juveniles committed felony are labeled "predecessors" or "criminals" and those who committed the first offense or a minor crime were deprived of the opportunity to receive the support for social reintegration. They will be deprived of the opportunity to grow and develop "towards harmonious adults" because the environment for "happiness, love and understanding" are not guaranteed. This means destroying the essence of the Convention highly expressed in the preamble, and also infringing the right to grow and develop in Article 6 of the Convention.

③ As a result of the above ① and ②, the risk of recidivism of juveniles increases, and in turn leads to adverse effects on the safety of society. Thus the attempt to reduce the age can not be admitted also as a crime prevention measure aimed at protecting society from crime.

As mentioned above, there is no need to lower the applicable age of juvenile law, and serious harms caused by reduction are surely anticipated, so CRC Japan strongly oppose the attempt to lower the applicable age of juvenile law.



