

**THE CHILDHOOD IMPOVERISHMENT
IN JAPAN
UNDER THE NEO-LIBERAL AND
NEO-NATIONALISTIC MOMENTUM**

Final Version

Citizens and NGOs Association for
the Convention on the Rights of the Child, Japan

November 2017

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General Statement

The Japanese government submitted its fourth and fifth periodic report to the U. N. Committee on the Rights of the Child. In response to the government report, our NGO and citizens group completed "alternative report" and submit it today to your committee.

The government report explains in details the legislative, administrative and other measures to guarantee the rights of the child and says that the government has made sufficient efforts to realize those rights. Most of those measures however, end as mere slogans or contradict each other. Concrete data which show their effects can hardly be found.

Under the recent neo-liberal and neo-nationalistic policies, the government has been neglecting its responsibilities and duties for respecting children's views, improving conditions for their developments and protecting them from the harmful conducts, and we have seen development of privatization and corporatization in a lot of sectors of our society. As a result, private burden of educational expenses has been increasing and we can see poverty and inequality prevailing among students. Japanese society and schools have become very competitive and voices for self-responsibilities give much negative influence upon the environment for children's life and growth, giving serious infringement on children's rights.

The government report does not give any comments on the serious effects on children's play and study as well as on children's mind and body which were caused by the Great East Japan Earthquake and Fukushima nuclear disaster. They don't refer to the efforts made by the residents in seriously affected areas, either.

The reinforcement of military alliance between Japan and the US under the present Abe administration brings threat to the people's rights to live in peace and gives damages to peaceful and cultural environment needed keenly for children's growth and development. Culture of peace is now shifting to culture of violence. Just as H. Wallon wrote, "fascism goes on by depriving children of their rights." The returning of fascism is now to be feared. This can be another factor to deepen poverty on the part of children. It is no wonder that the government report does not refer to this point of view at all.

The Japanese society has become repressive as a whole. Children's

mental and physical development has been hampered under excessively competitive environment. Children have been nervous of their parents' move of eyes. Child daycare has become another kind of school education. In schools students are forced to be always conscious of the standardized tests all the time, caring about not only their own test ranking-results but also about those of their class and even their schools. They always mind if they are left out or not. By leading such school life, they tend to lose their self-directed and indispensable rights to learn and play. Repressive mental attitude arising from their everyday life gives influence at one time to their external life and at other times to their internal world, driving them to bully others and even kill themselves. They cannot have their own well-being in themselves and they are deprived of free space, free time, and human relationship. The children's poverty and the poverty in their relationship on which the U.N. Committee expressed its concerns has become more serious.

This tendency is represented in the data of bullying, corporal punishment, abuse, and school non-attendance. The government report does not give any data on these difficulties and it disregards the fact that children are put in poverty.

Not only that, we have no choice but to feel indignant about the fact that the Japanese government asked your Committee, "If you keep on worrying too much about 'the excessive competitive system in Japanese education' which you have repeatedly pointed out, we want you to show us its objective evidence." We think that the Japanese government underestimates the United Nations. We have furthermore to say that the fact shows their inability to recognize that children's rights are being infringed, their insensibility to clarify the cause, and their unreasonable shift of the burden of proof to the Committee. At the same time, we'd like to say that their remarks are their silent challenges to citizens and NGOs.

This also shows that the government policies bring about the infringements of children's rights and those infringements come from failure or distortion of the government's recognition of children's rights. Without recognizing facts properly, it is useless and sometimes dangerous.

We have tried to catch the concrete images of a series of infringements on children's rights. In order to do so, we used the basic reports which had been submitted from many areas through various jobs relating with children. Our expert committee analyzed those around 143 basic reports and

summarized them into this report after referring to the Committee's general comments and recommendations to the Japanese government. We understand the reality of infringements on children's rights in Japan "impoverished childhood." We wish those years of childhood would be much more improved and we also wish that demands of children's own and the best interests of the child would be respected and realized.

We think it's our generation's responsibility to protect the rights of the future generation. In that sense, we have given this report the title "THE CHILDHOOD IMPOVERISHMENT IN JAPAN, UNDER THE NEO-LIBERAL AND NEO-NATIONALISTIC MOMENTUM." We sincerely hope that this report will be useful for the Committee to understand the situations of the rights of Japanese children, and also to analyze the government report.

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Part I Overview

Chapter 1. Overview of Childhood Impoverishment in Japan under the Neo-liberal and Neo-nationalistic Momentum

1. The central challenge for the review of the fourth and fifth periodic report of Japan

The central challenge for the review of the fourth and fifth Japanese government report is to assess whether comprehensive reform of policies and laws on children carried out after 2012 under the influence of neo-liberalism and neo-nationalism are compatible with the Convention: whether they have exempted the government from its duties and responsibilities under the Convention and whether they have impoverished the childhoods the Convention promises to realize.

After the coalition between the Liberty Democratic Party (LDP) and the Komei Party returned to the government in 2012, the government restarted the neo-liberal structural reform, which aims at comprehensively reconstructing organizations and functions of the central and local governments as well as relationships between management and labor. The recent comprehensive reform of policies and laws on children has been carried out as an integral part of this neo-liberal structural reform.

This structural reform was started in 2001 under the coalition government of LDP and Komei Party. As negative impacts of the reform expanded, the coalition government lost support from people. In 2008, the Democratic Party (DP) promised to rebuild wealth redistribution and reregulate labor markets and won the general election. The DP government adopted new laws to provide universal provision of cash for child rearing for the first time in Japan and to waive tuition fees in upper secondary school. Furthermore, the DP government withdrew the reservation added to Article 13 (b) (c) of the International Covenant on Economic, Social and Cultural Rights. However, failing to respond to the serious incidents triggered by the East Japan Great Earthquakes on March 11, 2011, the DP lost support from people, and the coalition of the LDP and the Komei Party returned to the government again in 2012.

The period from 2001 to 2008 was the first term of the neo-liberal structural reform, the period from 2008 to 2012 was a period of intermission and the period from 2012 to present is the second term of the structural reform.

The last review of the third periodic report of Japan by the U.N. Committee on the Rights of the Child in 2010 was carried out in the middle of the term of intermission and nine months before 3.11. The current review of the fourth and fifth report is being carried out five years after the start of the second term of the structural reform and six years after 3.11.

In the last Concluding Observations after the review of the third periodic report of the government, the Committee expressed its concerns about the highly competitive nature of the educational system in Japan and about the fact that relationships of children with parents and adults working with and for children were deteriorated due to deregulated labor markets, privatization, and low standards on numbers and qualities of staff. During the second term of the structural reform, the highly competitive nature of the educational system has been reinforced by newly introduced national and local standardized testing, and, deregulation and privatization were restarted and have been extended more than ever.

In the review of the fourth and fifth periodic report of the government, it is hoped that the Committee will consider how difficulties faced by children have expanded and worsened under recent reform of policies and laws on children carried out as an integral part of the neo-liberal structural reform, will explore how laws and policies have exempted the government from its responsibilities and duties under the Convention, and will recommend measures to be taken to solve difficulties faced by children and change the ways in which the government fulfill its responsibilities and duties for the respect, protection and promotion of their rights.

2. Principles underlying the comprehensive reform of policies and laws on children

Synthesizing analysis shown in from Chapter 2 to Chapter 38, we argue that the following six principles underlie the government's neo-liberal structural reforms and their comprehensive reform of policies and laws on children leading to a violations of their rights.

The first principle we identify that they are applying is that the right to economic freedom shall be prioritized above any other human right and the state's supreme aim is to realize economic development through protection and promotion of economic freedom.

Second, that labor market regulations to protect health and lives of

laborers shall be abolished or eased on the ground that they infringe economic freedoms.

Third, that redistribution of wealth by the state from the rich to the poor through either service in cash or service in kind shall be forbidden in principle, and be allowed only if and when redistribution contributes to economic development and redistribution is conducted in a way to contribute to economic freedom.

Fourth, that redistribution of wealth by the state shall be in monetary form in principle, and if it is carried out in the form of service in kind, service in kind shall be provided through competition. With money transferred to them plus additional money of their own, people shall buy service from private organizations in markets. Services in kind shall be provided to people on the basis of performance in competitions organized by the state.

Fifth, that, to those who fail to adapt themselves to the society the government reorganized on these principles or rebel against it, the government shall not provide assistance to these people but impose punishment.

Sixth, that the state shall integrate people not only around traditions but also around competitive market. The state shall ensure that people show loyalty towards the history and traditions of the country, as well as to the state as a patron of international economic success of the country (the neo-nationalism or the integration of the people around both tradition and competitive market.)

3. Neo-liberal and neo-national principles exempt the government from the responsibilities and duties under the convention

It is clear that these principles exempt the government from responsibilities and duties it undertakes under the Convention.

First of all, we shall point out that the principles fundamentally contradict the Convention, which says the top priority of the state parties when it comes to children shall be to realize the full development and interests of children (Article 6 on the rights to survival and development and Article 3 on the best interest of the child), in that these principles exclude the aim of realizing the full development and best interests of children from the legitimate aims for the government to pursue.

The responsibilities and duties of the government identified under

these principles also contradict those stipulated in the Convention in many points.

Paragraph 5 of the preamble of the Convention says families should be “afforded the necessary protection and assistance” that enable them to be “natural environment for the growth and well-being” of children. Paragraph 2, Article 18 stipulates that state parties assume an obligations to “render appropriate assistance to parents ... in the performance of their child-rearing responsibilities.” The Convention does not detail forms of “appropriate assistance” to parents, but, it is beyond doubt that regulations on labor conditions is most important one. The state party should establish legal standards on labor conditions including wage and working hours and impose them on employers with a view to assure parents time and energy for child rearing.

In contrast, the neo-liberal principles argue for abolition or easing of labor regulations under the name of freedom of trade.

The Convention stipulates the ways in which such services as education (Articles 28 and 29), child day-care (Paragraph 3, Article 18), special care and assistance for disabled children (Article 23), medical care (Article 24), and other service to ensure the standard of living (Article 27) shall be provided. In education, the Convention imposes state parties to establish educational system by themselves (Paragraph 1, Article 28). In other areas, the Convention affords state parties discretions in deciding whether to assure children with those services through providing service by themselves or through providing cash to families and letting them buy services in markets. Needless to say both service in kind and service in cash should meet needs of children both qualitatively and quantitatively, because they are to realize their rights.

The Convention also stipulate principles on parents’ payments. When children receive educational service in kind, parents shall pay nothing for elementary and lower secondary schools and they can expect upper secondary school and higher education being gradually made free. (Section (a) (b) and (c), Paragraph 1, Article 29) Special assistance and care for disabled children, by whomever are provided, shall be “free of charge, whenever possible.”(Paragraph 3, Article 23) When children receive such services as day-care, medical care, and other services, by whomever are provided, parents shall pay “within their means.” (Paragraph 3, Article 27)

The neo-liberal principles insist on a different way of measuring quality and quantity of services, a way in which services are provided and a way to measure amount of money parent shall pay. They argue that a service shall be sufficient if it satisfies a limited aim of contributing to economic development and freedom of trade: there is no need for meeting such broader aim as the full development of the personality and best interests of children. They argue that, in principle, the state stops providing services in kind and shift to services in cash. The state shall then transfer cash it afford to pay and parents should add their own money to transferred cash and buy service which they judge fill needs of children. When the state provides service by itself, it shall provide it to each child according to performance he/she shows in competitions the state organizes.

The Convention stipulates that state parties shall provide educational and other assistance to children who engage in misconduct or crime. School discipline should be “administered in a manner consistent with the child's human dignity and in conformity with the present Convention.” (Paragraph 2, Article 28). Juvenile justice should be aimed at “promoting the child's reintegration and the child's assuming a constructive role in society.” (Paragraph 1, Article 40). The neo-liberal principles, in contrast, argue that the only response to those children shall be punishment, probably because they do not see providing education and assistance for reintegration of those children is not a legitimate function of the neo-liberalized state.

4. Neo-liberal and neo-nationalistic principles impoverish childhood by depriving children of basic social conditions for their development

We argue against comprehensive reform of policies and laws on children based upon the aforementioned neo-liberal and neo-nationalistic principles on the grounds that they impoverish childhood by depriving children of two basic social conditions of their development: accepting and responsive relationships and free time.

We understand that children themselves trigger process of their development by exercising their subjectivity and children develop through the agentic process where they express their wishes or demands, close adults respond to them, by internalizing responses from close adults, children enlarge and improve their subjectivity, based upon enlarged and improved subjectivity, they express new wishes and demands, and a new stage of

development begins. Based upon this view of the nature of child development, we understand the essence of children's rights is the right to have their own, independent and individual wishes and demands as an independent entity of existence, to express freely those requests to close adults and to have his/her "best interest" realized by having his/her views given due consideration.

In order to realize the nature of child development, children shall be assured of two basic conditions. First, relationship where children freely express their wishes and demands to close adults, and close adults accept and respond to them. Second, free time, when children can reflect back on what they experienced and studied, think what their wishes or demands are, try out what they want to do and learn by themselves. We call these two basic conditions as social condition for child development.

The neo-liberal and neo-nationalistic reform of policies and laws on children deprive children of this social condition for child development.

Under labor market deregulations, many parents have to work for longer hours to earn wages to make their living, and are deprived of time and energy for taking a role as parents at home. As working conditions have been worsened, teachers and day-care nurseries have become much busier than ever and are deprived of time and energy to listen to voices of each child and respond to them. This has an impact on the realization of Article 12

Under the policy to improve scholastic ability through competition, the number of class hour increases and more time are spent for preparation for standardized testing. Children are totally deprived of free time in school. Even after school, they spend time by going to cram schools as planned by their parents (See Chapter 35)

As the comprehensive reform of policies and laws on children has been promoted, children have become the object of the government's demands and lost their status as right holders, namely status as subjects who can express their wishes and demands.

Students are placed under stronger pressure from the earlier grades in elementary school, as the highly competitive nature of the educational system has been strengthened by national and local standardized testing. Due to this, the number of school non-attendance, bullying, school violence and suicide has been increasing rapidly. Even in child day-care centers and kindergartens is to be introduced performance based outcome assessment: children are to be assessed on how they achieve skills and abilities prescribed in the guidelines

on child day-care by the Welfare and Labor Minister and the National Course of Study by the Education Minister.

Furthermore, the government has strengthened political control on educational contents through school textbook authorization and selection system and “special subject on morality.” This hinders children from forming their conscience independently.

5. Structure of this report

Chapter 2 provides an overview on difficulties faced by children under the highly competitive educational system by looking at official data from the Education Ministry on the number of bullying, school non-attendance, school violence and suicide. This chapter shows that the Ministry recognizes the stress of competition is the cause of bullying and school non-attendance. This chapter concludes that, as the highly competitive nature of the educational system has been strengthened, the number of those negatively affected has been on the rapid increase.

Chapters from 3 to 38 provide information on problems or negative impacts of new policies and laws on children. Chapters are arranged according to the reporting guidelines, except for the chapter on nuclear plant explosions in Fukushima. All the information on the impacts of Fukushima nuclear plant explosions is gathered under Chapter 12 on survival and development.

In the following three sections, we provide summaries of problems and negative impacts of the neo-liberalistic and neo-nationalistic reform shown in Chapters from 3 to 38.

6. Summaries of problems in general measures of implementations

6-1. Problems in machineries for elaborating comprehensive plans of actions and coordinating policies and laws (see Chapter 3)

There is no machinery for elaborating comprehensive plans of actions or coordinating national policies and laws especially for implementing the Convention. Though it is not pointed out in the government report, elaboration of strategic plans and coordination of policies and laws for the neo-liberal and neo-nationalistic reform of child related policies and laws have been carried out by the Council on Economic and Fiscal Policy and the

Headquarter for Japan's Economy and Finance. These are top advisory bodies of the Prime Minister established under the Cabinet. They are responsible for drafting and coordinating plans for neo-liberal structural reform. Based upon plans of these bodies, the Council for Implementation of Education Rebuilding, an advisory body of the Prime Minister, has issued ten reports on neo-liberal and neo-nationalistic educational reform since its establishment in 2013. By these machineries, policies and laws on children have been subordinated to economic and financial policies.

6-2. New laws that emphasize the primary responsibility of parents (see Chapter 4)

Though the information is not provided in the government report, since 2003, the primary responsibility of parents as is stipulated in Article 18 of the Convention has been incorporated into seven national laws. These laws pick up only the primary responsibility of parents and are silent about such principles as the rights and duties of parents to give direction and guidance to children (Article 5), the state's responsibilities to take measures to assure care by parents (Article 3) and parents' limited economic responsibilities (Article 23, Article 27 and Article 28). Drafters and the government official were also silent about principles other than the primary responsibility of parents during examinations of draft laws in the Diet. The government arguably understands the primary responsibility of parents as the primary economic responsibility and uses this principle for justifying the neo-liberal policies and laws on children.

6-3. Problems in collection and allocation of resources (see Chapters 5 & 7)

Redistribution of wealth through service in cash and service in kind by the government is weak. The ratio of cash transfer to income of household with a child is less than 3%. The fiscal austerity in early childhood education and care and education has kept the ratios of public spending on these subjects to GDP lower than the averages of OECD countries and has caused higher ratios of private expenditures in these areas. Taxable resources are there in civil society: large companies hold huge internal reserves that amounts to the total annual expenditure by the central government.

Nevertheless, the government's tax system leaves this huge internal reserve untouched, in the interests of large companies.

7. Summaries of problems in general principles

7-1. Child poverty (see Chapter 7)

The child poverty rate in Japan remains higher than the average of OECD countries, even though it decreased in 2015 by around 3%. The causes of this high poverty rate are 1) the policy on labor market deregulation, which has increased the number of temporary workers and has lowered wages, 2) the weak redistribution of wealth by the government through cash transfer, and 3) the high private expenditures on social securities and such services as child day-care and education.

The Act on Promotion of Policy on Poverty among Children was enacted in 2014 and the government adopted an action plan. However, they are not expected to be effective on several reasons: they do not clarify the definition of "poverty" and "child poverty"; the survey by the Welfare and Labor Ministry captures only the child poverty rate. The Ministry has not measured child poverty by reference to "the material deprivation rate"; the plan neither establishes the numerical targets for the reduction nor specifies the end dates; the plan focuses on "educational assistance," which means the financial and other assistance which helps children getting higher degrees and better jobs, not on the financial assistance for their standard of living.

Poverty has had negative impacts also on the health of children. Recently, cases of "oral decay" (defined as having difficulty chewing due to having 10 or more dental cavities or several untreated teeth with only the roots remaining, etc.) caught strong attention of the public.

7-2. New discrimination by the government against Korean schools (see Chapter 8)

The government has taken no measures to eradicate the discrimination against Korean schools in Japan on which the Committee expressed its concerns in the last Concluding Observations. The government further discriminated against them by refusing to apply to them the new law to waiver tuition fees in upper secondary schools of 2010, though the

government applied it to international upper secondary schools. Several cases are left hanging in the courts where Koreans allege that they are illegally discriminated against.

7-3. Insufficient national minimum standards on facilities and equipment have been lowered (see Chapter 10)

In education, due to austerity and decentralization policies, the national minimum standards on allocation and scale of a school were lowered. This has increased school consolidations and makes schools larger. The government responded to increasing educational needs of intellectually disabled children not by building new special schools for them, but by accommodating them into existing special schools. The number of students special schools accommodate exceeds the maximum number decided by related laws. Special schools are crowded and, due to the lack of standards on the number of class rooms, there arises a shortage of rooms.

In child day-care services, the government lowered the low national minimum standards on facilities and equipment of a day-care center to cheaply meet the increasing needs for day-care services. This deregulation policy lowered the quality of centers and enhanced for-profit organization run centers. Many for-profit organizations' centers without playground or in shopping malls are certificated.

7-4. Insufficient national minimum standards on numbers and quality of staff have been lowered (see Chapter 11)

Under the government plan to reduce the number of local government employees, the number of public day-care center nurseries and public school teachers have been reduced. The number of police officers, however, has been raised because the plan exempted police officers from its reduction targets. Against this background, the policy to apply a Zero Tolerance Policy to school discipline and to mobilize police for issues of bullying in school has been extended.

The lowered standards on numbers and quality of day-care nursery has increased opportunities for-profit organization to establish and run day-care

centers. Due to low salaries of nursery staff, centers cannot collect sufficient number of nursery staff and shortage in nurseries are aggravated.

In school, teachers have been made overworked by a large class size, increasing hours of classes, extracurricular club activities, paper works and meetings. According to the survey published by the Education Ministry in 2017, on average, elementary and lower secondary school teachers engaged in overtime work for about three hours a day in 2016. These deteriorated working conditions of teachers deprived them of time and energy to lend their ears to each student.

7-5. Fukushima atomic power plants accident (see Chapter 12)

The policies of the government on the Fukushima atomic power plants accident gave priority to maintaining such interests as stable society and economy, prosperity of Tokyo Electric Power Company and other companies, and maintenance of local governments in Fukushima. To realize this priority, the government has insisted that youths and children, the present and future important workforce, must remain in the prefecture area. Thus, the government accepted the principle of ALARA (as low as reasonably achievable) instead of scientifically sufficient idea of the prevention first, and applied the current health-unfriendly highest level of possible exposure to radiation per year. Furthermore, to realize the aforementioned priority, the government has ignored the needs of people who left their home territory and hesitate to go back and of families living separately with their children outside their home territory with the fear that exposures to the radioactive would do harm to children's health.

8. Summaries of problems in specific measures and specific rights of the child

Under this section, summaries are arranged according to the principles underlying the neo-liberal and neo-nationalistic reform of policies and laws on children, which are listed in Section 2 of this chapter.

8-1. Labor Market Deregulation (See Chapters 5 & 7)

Labor market deregulation, which has increased the number of laborers engaging in unstable employment for longer hours with lower

payments, has been the main cause of the child poverty. It has deteriorated relationships between children and their parents in poor families. It has had the most negative impact on working single mothers. The child poverty rate nationwide is around 14% in 2015. The rate among single-parent family increases to 30% and that among single mother family 55%. Under the deregulated labor markets, the average annual income of a single mother with a temporary work is only \$12,500 in 2011.

8-2. Deregulation in child day-care and commercialization of after-school day-care for disabled children (See Chapters 3, 6, 24, 25 & 26)

The government has carried out deregulation in child day-care service as a measure to meet increasing needs for child day-care services in a cheaper way. It has also carried out commercialization of after-school day-care service for disabled children using the excuse of responding to the requirements of parents of disabled children. Both have increased the entry of pro-profit organization into these services. In contrast to the government's claim, it has been clarified that neither deregulation nor commercialization has not met these increasing or new needs qualitatively and quantitatively.

8-3. Education as workforce preparation (See chapters 7, 24, 28 & 29)

Since 2000, the government has narrowed down the aims of education to effective workforce preparation. To legally justify this narrowing of the aims of education and to establish new governance structure of education, the New Basic Act on Education was enacted in 2006. The neo-liberal principle to prioritize the economic development through economic freedom also affects the policy on child poverty. The national plan of actions for child poverty emphasizes not cash transfer to poor families to raise their standards of living but “educational assistance” to make children living in poverty get better scores in testing and higher degrees. In addition, the education of intellectually disabled children is now focused on raising them to be laborers who pay taxes.

8-4. Provision of educational service based upon competition and its negative effect (See Chapters 2 & 29)

Since 2013, the national standardized testing which all the sixth

graders and the ninth graders take has been carried out. In addition, local governments carry out their own standardized testing for graders lower than sixth. Education in elementary and lower secondary schools is organized around scholastic competition for better scores, and thus, the highly competitive nature of the educational system in Japan is strengthened. Expanding the use of standardized testing by the central and local governments opened them up as new markets for education industries.

The government's heavy reliance on standardized testing strengthens pressure on students and causes rapid increase in the numbers experiencing bullying, school non-attendance, school violence and suicide. This increase in numbers is remarkable among elementary school students. Without sincerely examining causes of these students' difficulties, the government utilizes them as an excuse to adopt policies and laws it prefers. The new law on countermeasures against bullying and the new law on providing care and educational to non-attendance students are examples. The new law on bullying says that, because the cause of bullying is lack of morality in bullies, strict discipline shall be inflicted on them. The new law on school non-attendance says the cause of non-attendance resides in personality of non-attending students. It enhances control by schools on non-attending students. Lack of appropriate assistance to non-attending students results in frequent use of drugs by those students.

8-5. Importing performance based outcome assessment to early childhood education and care (see Chapters 25 & 35)

The neo-liberal principle of competition has been extended to early childhood education and care. The revised Guidelines on Child Day-care Service of the Welfare and Labor Minister and the revised National Course of Study of the Education Minister stipulate skills and abilities for children to achieve until they become six years old, and order day-care centers and kindergartens to carry out performance based outcome assessment. There is an absence of focus on play.

8-6. Strengthened punitive approach (See Chapters 15, 16 & 36)

The Zero Tolerance Policy (ZTP) has been applied to school

discipline since 2007 based upon Article 6 of the New Basic Act on Education. ZTP applied to school discipline resulted in cases of suicide due to repeated punishment and pressure by teachers. The punitive approach to children in conflict with law has been strengthened. The government is now drafting a plan to lower the maximum age to whom the Act on Juveniles is applied from 19 to 17.

8-7. Neo-nationalistic influence on education (See Chapters 13, 27, 30 & 31)

The neo-nationalistic influence on education has been expanding so rapidly and deeply that it is making people wondering whether it undermines autonomous formation of conscience through education by children. By revising the school textbook authorization, the government has strengthened its control over contents of school textbooks. The Education Ministry issued its new notice on political education in school when the minimum age for voting was lowered from the age of 20 to the age of 18 in 2015, and put new limitations on teachers' teaching activities. In the old notice of 1969, the Ministry said teachers were allowed to express their own views on political issues when and if they expressed it in a balanced way, but, in the new notice, the Ministry says teachers shall refrain from expressing their own views.

From 2018 in elementary schools and from 2019 in lower secondary schools, "a special subject on morality" is to be carried out. Due to the fact that morality lack an academic base, teachers have no way to academically check contents the government requires them to convey to children and to teach them in a balanced way. Furthermore, the government requires teachers to pledge allegiance to the state by singing the national anthem of Japan in face of the national flag of Japan in school ceremonies without an exemption on the reason of teachers' conscience.

The neo-national influence has had a negative impact on sexuality education. Though the government report says the government provides students with scientific sex education, scientific sex education has been largely replaced with moralistic sex education. Teachers are not allowed to carry out comprehensive sexuality education as is proposed by UNESCO in the International Technical Guidance on Sexuality Education (2009), which

responds to confused feelings of teenagers who go through rapid changes in mind and bodies. Lack of comprehensive sexuality education is a reason student are easily caught in traps of sex industries.

8-8. Indirect negative impact on child guidance system and alternative family environments (See Chapters 18, 19 & 20)

The recent neo-liberalistic and neo-nationalistic reform of policies and laws on children has not reached systems of child guidance and alternative family environments. Still, the recent structural reform has had an indirect impact on these systems. Under the influence of the government's plan to reduce the number of public employees, the shortage of the number of staff at child guidance centers remains as ever. The same is also true to child welfare facilities and small group homes. Such proposals as that of establishing a new policy on suicide prevention on the principles of peer counselling and of cooperation among staff at child guidance centers, teachers and other experts has not been realized due to shortage in staff.

In this year, the government has just publicized its plan on alternative family environment reform. This plan proposes that the ratio of children placed in foster family to all the children needing alternative family environment shall be increased from 17% to 33%. To realize this numerical target, the government needs to strengthen financial, educational and other assistance to foster parents, but, the plan says nothing about these assistances, let alone increases in budget. It is suspected that a real aim of this plan is to cut the budget for child welfare facilities and small group homes, which consumes much of staff's salaries. This wave of neo-liberalism seems to begin to attack alternative family environments.

These are the summaries of contents and problems of laws and policies which are impoverishing the childhood in Japan. We hope that detailed information provided in the following Chapters from 2 to 38 will help the members of the Committee have constructive dialogue with delegations of the Japanese government.

Chapter 2. Overview on Difficulties of Children under the Highly Competitive Educational System

1. Difficulties of children confirmed in the last three concluding observations

In its last three Concluding Observations on Japanese government reports, the U.N. Committee on the Rights of the Child pointed out two major difficulties children in Japan have been facing. The first is the developmental disorders caused by the pressure the highly competitive public education system impose on children. The Committee pointed out that this nature of the educational system has caused such difficulties as bullying, school non-attendance, school violence, and suicide. The second is the deterioration of relationship of children with close adults, such as parents and teachers. The Committee said that this deteriorated relationship is the cause of low levels of emotional happiness in children. The Committee further pointed out that, in the background of this deteriorated relationship, there exists a set of measures that have constituted neoliberal structural reform, which have brought about lengthening of adult working hours through the relaxing of labor regulations.

Concerning the former of these two difficulties, the fourth and fifth government report says that upper secondary school and university entrance exams are undergoing reform, and go on to state that, if the Committee keeps the same concerns, the Committee should present “objective grounds” to the government (Paragraph 123). To the latter of two difficulties, the government reports does not provide a response. The government seems to acknowledge the competitive nature of the education system has been rectified by the reform of upper secondary school and university entrance exams, and as for the deteriorated relationships, the government seems not to recognize their existence.

However, the highly competitive nature of the educational system has been strengthened. Targeting sixth grade elementary school students and ninth grade lower secondary school students, the Government has restarted national exhaustive surveys on scholastic abilities in 2013. In addition, each local government now carries out an academic ability test. Therefore, the competitive nature of public education is not getting any better, but in fact expanding to areas beyond of school entrance examinations, and to lower graders of elementary school. Moreover, whilst it is true that that university

enrolment rates have been rising, and it has become easier to pass entrance exam of university, even after entering university there is a competition to win a job that provides the greatest level of security. The competitive-mindedness that had focused previously on 12 to 18 year olds and on entrance examinations and preparing for these, has now expanded to include ages 6 to 22. And as if to underpin this, the rates of bullying, school non-attendance, school violence and suicide have been increasing continually since 2013 — when the government restarted national exhaustive survey on scholastic ability.

As for the deteriorated relationships between children and adults, it has not been possible to conduct a comparison based on quantitative data. This is because there have been no investigations similar UNICEF investigations that the Committee used in the last review of the government report. Nevertheless, in objective standpoint, there is a high possibility that the destruction of relationships may worsen. Working conditions of parents and such adults working with and for children as teachers or nurseries have been ever worsening.

2. Statistical data on bullying, school non-attendance, school violence and suicide

2-1. Indicators to measure pressures on children

Since 1997 when we submitted our first alternative report to the Committee, in all the three alternative reports of ours, we have used four phenomena — bullying, school absence, school violence and suicide — as indicators for measuring the degree of pressure imposed on children. This is because they carry the following meanings: bullying is a transfer of pressures to others; school non-attendance is an evasion of pressures; school violence is an attack on pressures; and suicide, the destruction of the self who feels pressured.

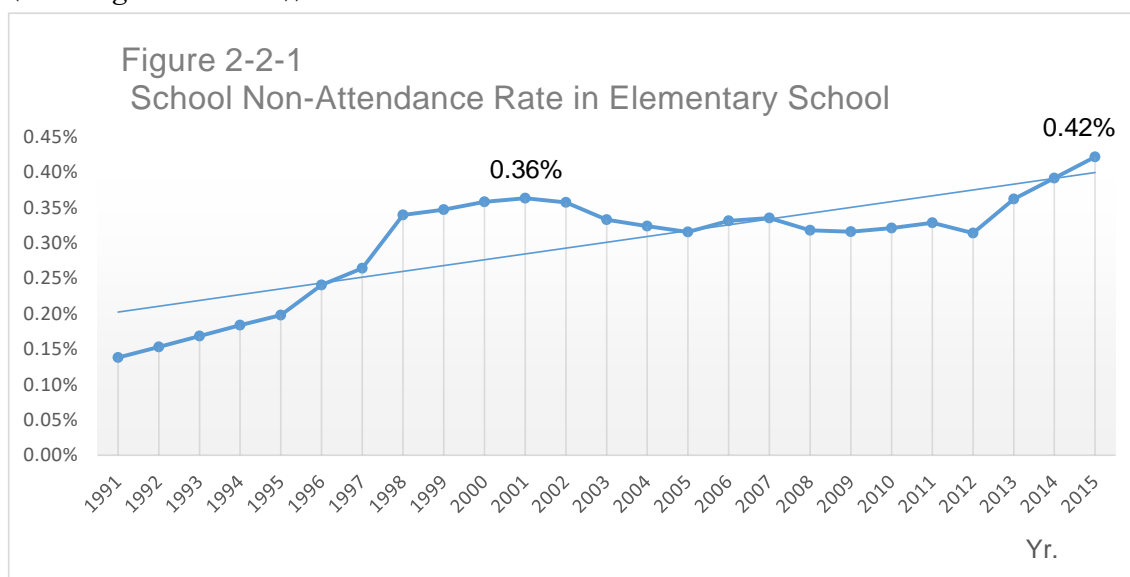
No objection has ever been raised by Japanese society that these four phenomena are a result of the pressure imposed on children by the public education system. The Research Center for Student and Career Guidance, part of the National Institute for Educational Policy Research, situated within the Education Ministry, has also stated that it “pays attention to the facts that there are causes (‘stressors’) behind bullying,” and “the strongest

factors inducing children to engage with bullying are ‘stress from their peers,’ ‘pro-competition values,’ and ‘stress caused by anger or bad temper.’” (Student Guidance Leaflet ‘Preventing bullying before it happens 1’ (partially revised version, March 2015)).

2-2. School non-attendance (See also Chapter 33)

The Education Ministry defines students of non-attendance as follows: “of those who have a non-attendance of over 30 days annually, students who do not, or cannot even if they wish to, attend school due to psychological, emotional, physical, or social reasons or backgrounds (but with the exception of those absent due to ‘illness’ or ‘economic reasons’)”

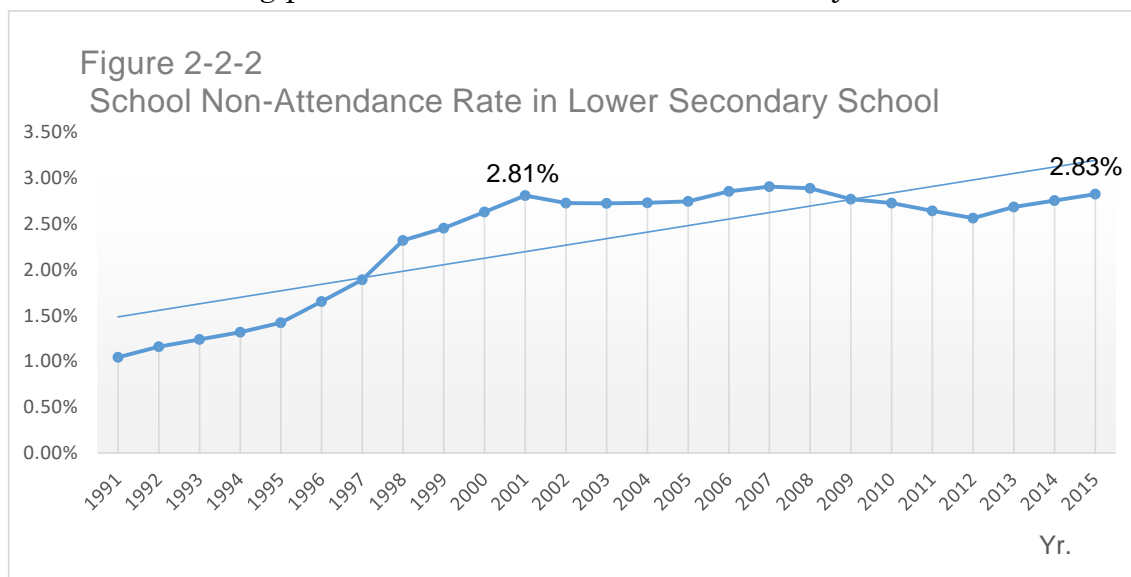
At the time of the previous review by the Committee, in elementary schools, despite it being at a high level compared with the highest findings in 2001, school non-attendance rates were showing a decline. However, the number began increasing in 2011, overtook the highest recorded figures from 2001 in 2014, and have since reached record highs every year (0.42% in 2015 (See Figure 2-1-1)).



Resource: Investigation regarding the various issues arising from instructing students, such as problematic behavior by juvenile students by MEXT.

In lower secondary schools, the number began increasing in 2012, and the gap has been narrowed towards the 2001 record high (2.91%) since then, with a 2.83% recorded in 2015(See Figure 2-1-2). As can be seen statistically from these numerical values, it is clear that the situation where Japanese

children are being placed in a situation that is extremely serious.



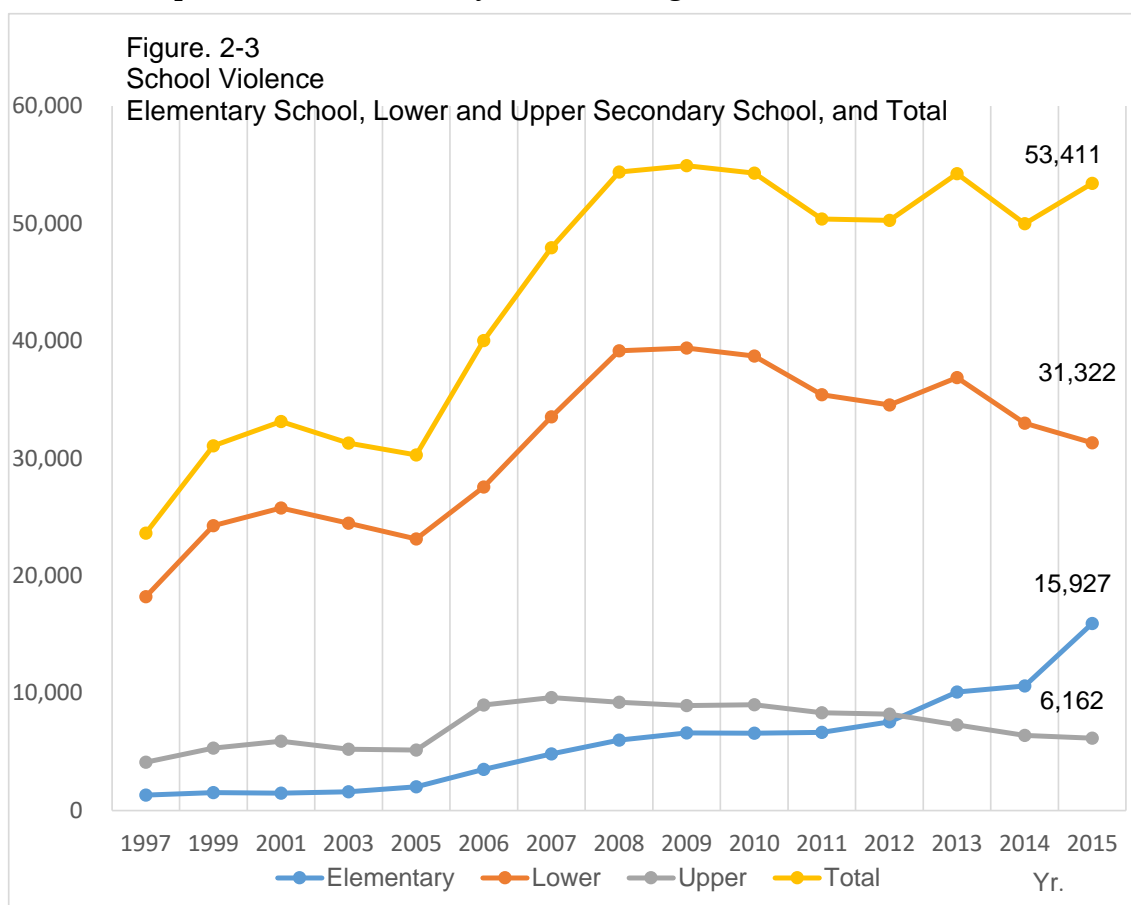
Resource: Investigation regarding the various issues arising from instructing students, such as problematic behavior by juvenile students by MEXT.

It is noted, as stated at the start of this passage, long term absence due to illness has not been included in the statistics on school non-attendance. However, bullying, corporal punishment and punitive styles of instruction damage children mentally. Among those counted as non-attendance because of illness are included not a few children whose real reason for non-attendance are bullying or corporal punishment. School non-attendance is often accompanied by physical symptoms such as headaches, stomach aches and nausea. Furthermore, in response to the psychological distress or physical symptoms that were due to school non-attendance, there are those who have consulted a doctor after a school counsellor or teacher, who suggested they visit a psychiatrist or specialist in psychosomatic medicine — it is thought that not a small proportion of these instances are determined to be a result of illness. Moreover, as the method of how to count the number of days of absence is entrusted to a school, there seem to be scattered examples of school non-attendance numbers reported as lower than in reality, by counting the number of absences in an unreasonably low manner. From the above, it is estimated that the actual number of children of non-attendance are considerably higher than the available statistics.

2-3. School violence

In elementary schools, school violence rates have risen, with a

starting point in 2010. Since the 2011 academic year, each year has reached a record high, and reached 15,927 incidents in 2015. Indeed, this number is eleven times that of 1997 when the first periodic review by the Committee took place. Lower secondary schools and upper secondary schools have seen a decline starting in the 2012 and 2013 academic years, respectively, but in 2015, there were 31,322 incidents in lower secondary schools and 6,162 incidents in upper secondary schools. Compared to 1997, these numbers are 1.7 and 1.5 times, respectively, and the problem of violence in schools has further deepened in the last 20 years (See Figure 2-3).



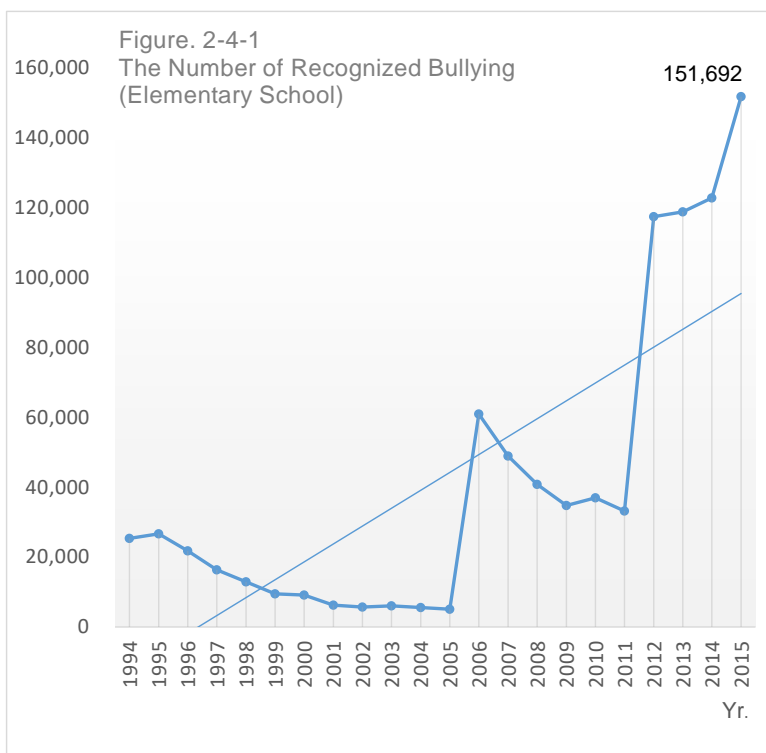
Resource: Investigation regarding the various issues arising from instructing students, such as problematic behaviour by juvenile students by MEXT.

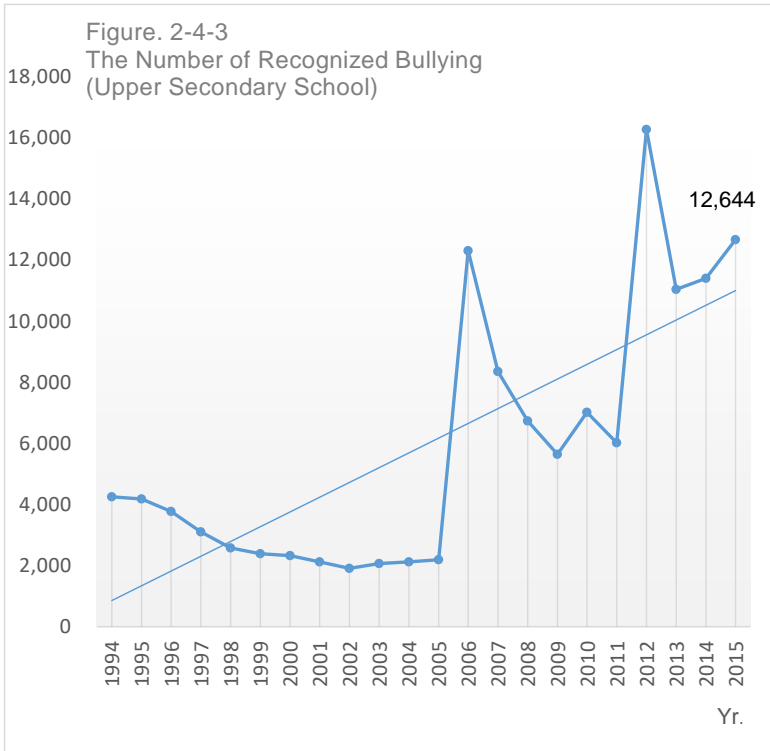
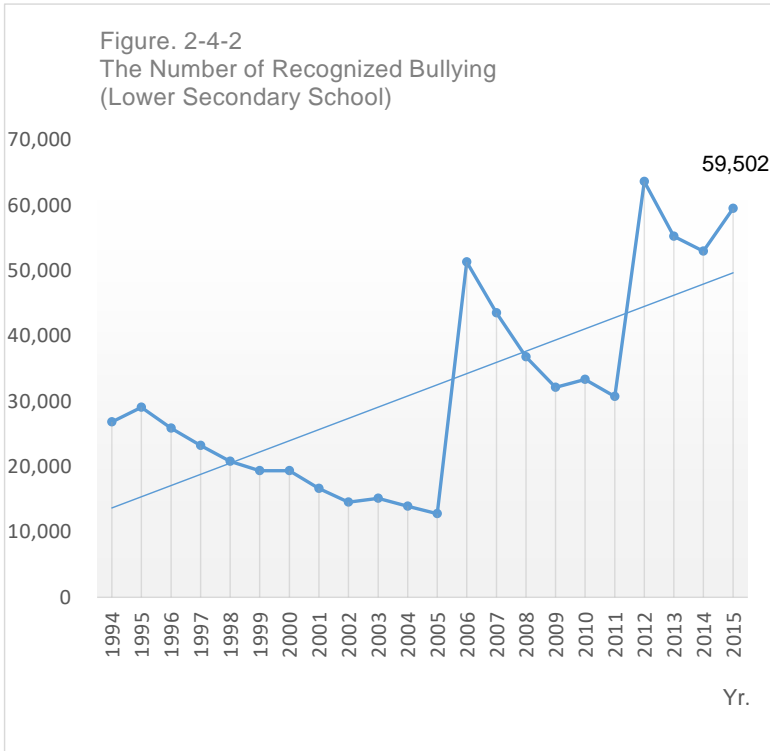
2-4. Bullying (See also Chapter 34)

Bullying rates have risen rapidly since 2011 — in elementary schools, each year has reached a record high, and in lower secondary schools and upper secondary schools, each year has shown an (almost) record high. In 2015, there has been 151,692 incidents recognized in elementary schools,

59,502 in lower secondary schools, and 12,664 in upper secondary schools (See Figure. 2-4-1, 2-4-2 & 2-4-3.).

A major characteristic of modern-day bullying is the fluidity of perpetrator and victim status — many children will have experience of “being bullied” and/or “bullying” during their time in school. According to “Bullying Follow-up Survey 2013-2015” by the National Institute for Education Policy Research, in the six-year period from fourth grade elementary school to ninth grade lower secondary school, 9.6% of the children had no experience of “being bullied” and 9.6% also had no experience of “bullying.” Since 2007-2009, during the past three surveys this number has stayed consistently around the 10% mark. But this means the reality is over 90% of children have experienced bullying, whether as victim or perpetrator. This suggests that many children are experiencing bullying while switching between victim and perpetrator. Hence it also suggests that bullying is not caused by a certain personality or disposition of an individual, but that the reason lies in the societal environment surrounding a child, starting with the school.

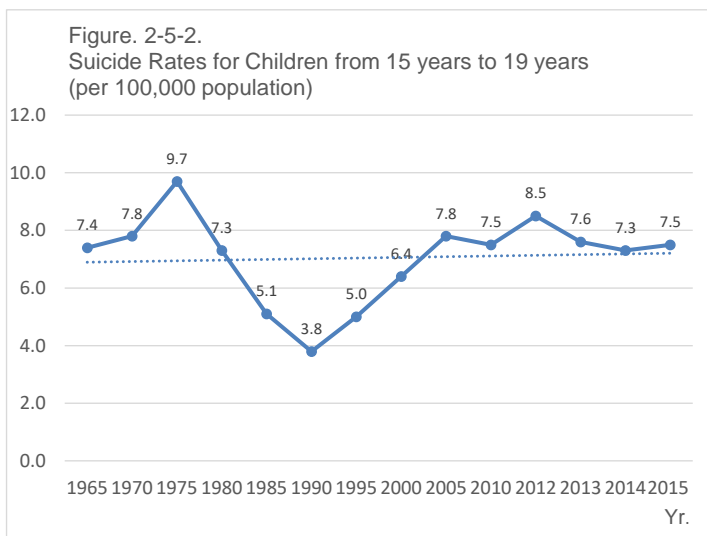
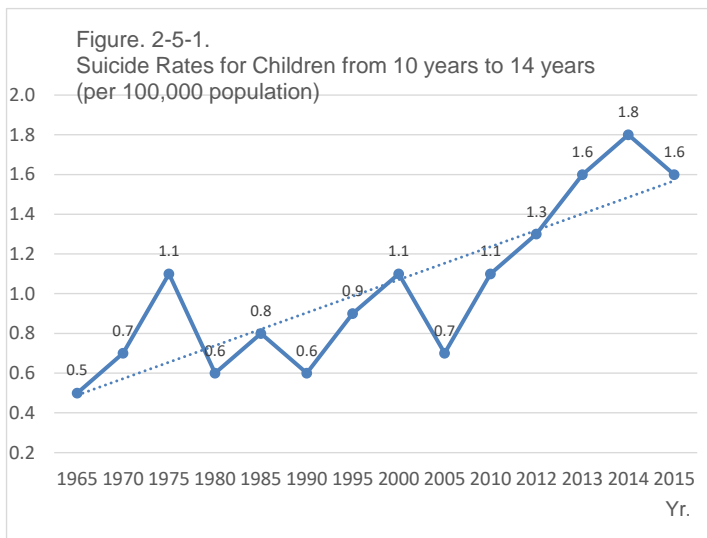




Resource: Investigation regarding the various issues arising from instructing students, such as problematic behaviour by juvenile students by MEXT.

2-5. Suicide (See also Chapter 21)

There is a surge in the rate of 10 to 14 year olds committing suicide. The suicide rate per 100,000 persons reached its lowest in 2005, going down to 0.7. But since then, it has swung back and there has been a surge, recording a record high of 1.8 in 2014 and a 1.6 in 2015. It compared with the fact that the number for 15 to 19 year old were relatively horizontal line, this radical increase is surely a noteworthy change (See Figure 2-5-1 & 2-5-2)



Resource: Vital Statistics in Japan

2-6. Two characteristics in four statistical data

Two points must be mentioned from the above data.

The first is that the pressure brought about by a competitive public

education system has continued to grow since the last periodic review by the Committee in 2010. All figures have been on the rise since 2012 or 2013.

What is thought to be the biggest influencer on this is as follows. In late 2012, the Liberal Democratic Party (LDP) won the general election and obtained the Administration from the Democratic Party. The LDP focused the purpose of public education on workforce preparation and the formulation of the model good Japanese citizen. They recommenced, after four years since they lost the Administration in 2008, a policy that intensified competitiveness. The Abe Administration has changed the national survey on scholastic ability to the exhaust survey from 2013, after the Democratic Party Administration made it the sampling survey. It is of considerable certainty that the increase in pressures resulting from this influence is what has caused the change in these four sets of data.

The second is the fact that the pressures have extended to include even elementary school. When compared with the data of 2010, when the third periodic review by the Committee was carried out, school non-attendance has increased 1.3 times, school violence 2.4 times, bullying 4.1 times, and suicide by 1.45 times in elementary schools.

3. New data indicating that children are in a state of vigilant alertness

The influence of an extremely competitive environment on a child does not only manifest itself as problematic behavior such as set out above. Humans are social animals, and as a result, the contradictions of society are etched on the human mind and body in a negative form.

With the great changes faced by Japanese society, surely great alterations are being brought about in the minds and bodies of the children. Adults in the field of education and childcare have been sharing practically amongst themselves about these modulations to the minds and bodies of children, but these changes can also be confirmed from a biological perspective, as a lack of sound development of the mind and body.

For example, in recent years, many restless children can be found in classrooms. This is thought to be caused by an underdevelopment of the cerebral neocortex. Namely, the insufficient development of the cerebral neocortex is thought to be the reason for this restlessness — both in terms of its stimulation, which is necessary for concentration, and its suppression, which is necessary for controlling one's feelings.

The number of such restless children have gradually increased. In the 2012 Review, this condition can be seen in a seventh of boys and a sixth of girls who have just entered elementary schools (See Figure 3-1-1 & 3-1-2).

Figure 3-1-1

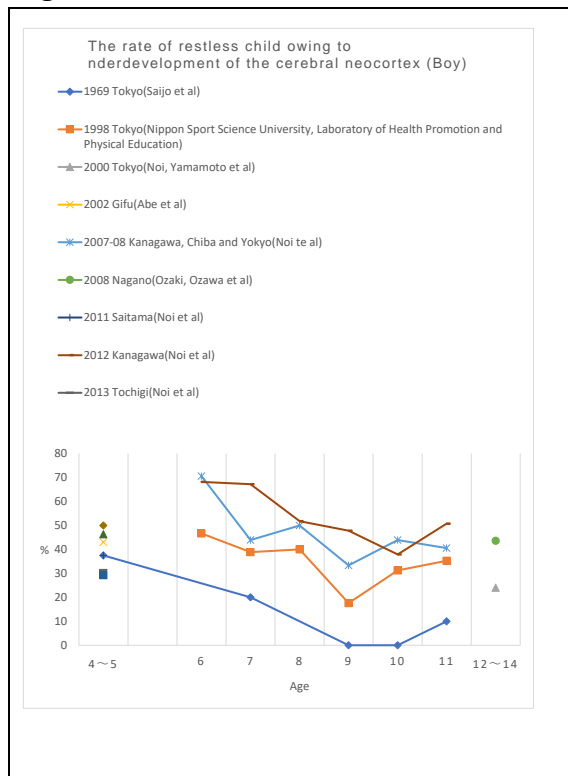
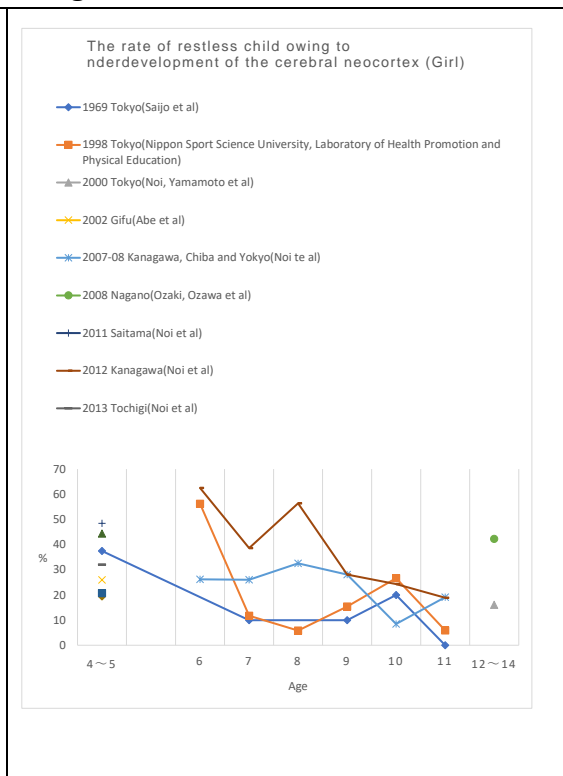


Figure 3-1-2



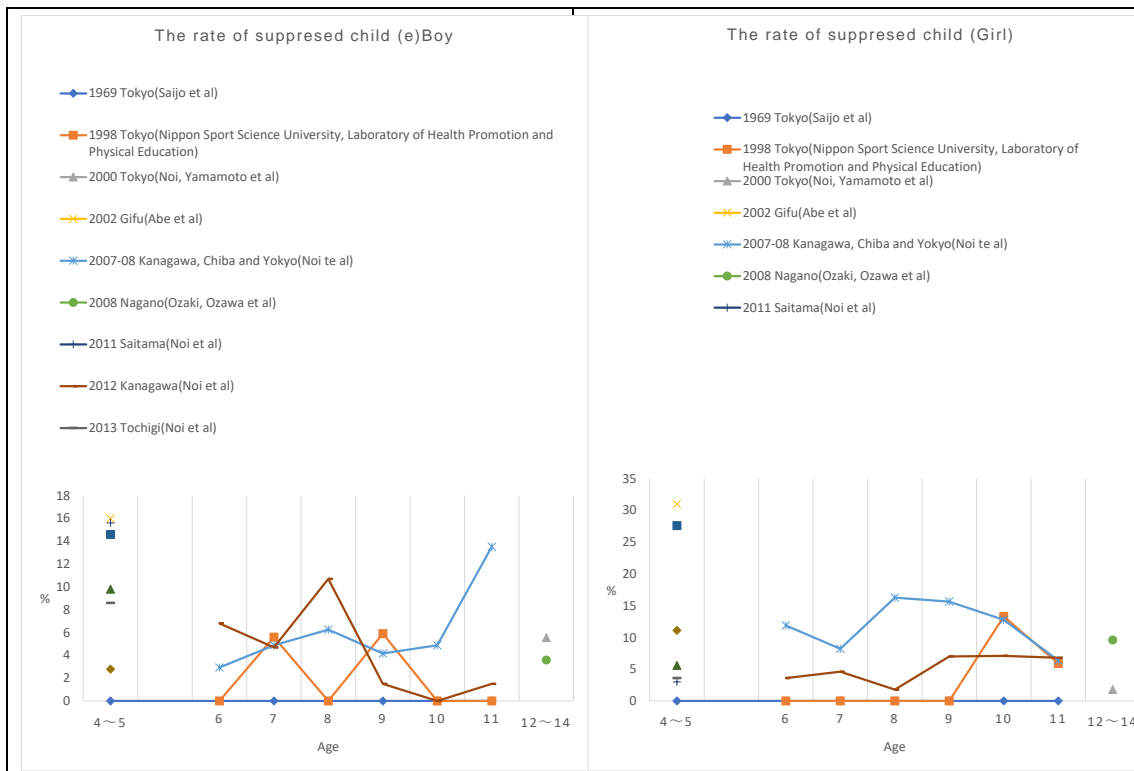
Resource: Annual Report of Physical and Mental Health among Children in 2016

It may follow that these issues are thought be behind certain current problems in Japanese school — these are the “breakdown of the classroom” and problems during the transition period between kindergarten, nursery, and elementary school, ie the “grade one problem.”

Another noticeable trend in recent years is the increasing number of children who are proficient at suppressing their cerebral neocortex. The numbers are certainly not large, but have been increasing in recent years (Figure 3-2-1 & 3-2-2).

Figure 3-2-1

Figure 3-2-2



Resource: Annual Report of Physical and Mental Health among Children in 2016

Such children find it difficult to express their feelings well and so end up suppressing them. Therefore, such child can easily give a favorable impression to those around them, such as being “an earnest, understanding and obedient child” or “a mild-mannered, well-behaved child.” However, unexpressed stress builds up, which drives children to display problematic behavior. This may underlie problematic behavior such as: sudden violence, namely behavior known as “to snap” in boys; and in girls, “dating for compensation,” among others.

Having a tendency of overreaction in the sympathetic nervous system has been revealed in the results of the “Cold Pressor Test” (Figure 3-3). In this experiment, the fingertips of one hand are submerged in cold water and changes in blood pressure are measured. Compared with children in Kunming, China, children in Japan showed excessive reaction in their sympathetic nervous system. An overreaction of the sympathetic nervous system shows that the subject is in a constant state of alertness and nervousness in response to external stimuli. This kind of alertness, which can even be termed “prepared-for-battle stance,” is also a cause of fatigue commonly seen among Japanese children.

Figure 3-3



Resource: Annual Report of Physical and Mental Health among Children in 2016

We can say that such psychological and emotional condition of the Japanese child is similar to what psychiatrist Judith Herman terms “constant alertness.” The concept describes the state of children subjected to abuse, while a Japanese child in this state would be forced to “be a good child” and would exhibit “a disordering of the regular cycles of sleep and awakening, meals and excretion.” Of course, many of the children in Japan are free from abuse. However, they are constantly forced to be tense, nervous on alert, so that what one could call a state of vigilant alertness may also apply. Children are living amid relationships where they are constantly nervous, and where they are in a state of vigilant alertness to act as a good child.

4. To build an “accepting and responsive” relationship that ensures the child’s

rights

The right of the child is not the right to be the passive recipient of with matters that adults determine to be their “best interests.” Nor is it the right to be able to self-determine in the same manner as adults with being cut off from relationships with adults. Instead, it is: for a child to have their own, independent and individual requests as an independent entity of existence; for him/her to be accepted that those requests can be submitted to adults and society; for him/her to have his/her “best interest” realized by having his/her wishes and demands given due consideration; and, indeed for the guarantee of a relationship with an adult that make these things possible — therein lies the core meaning of “children’s rights.”

This type of relationship must be guaranteed to a child — from relationships with parents, guardians, and adults close to the child, to the education and welfare facilities that are involved in a child’s growth and development, starting with schools, as well as society in general, which is made up of such environments. In our last alternative report, titled “Deprivation of Childhood in Neoliberal Society,” we conceptualized such a relationship as a “relationship that is accepting and responsive” and posed a new perspective to understand children’s rights.

Naturally, school should be a place where growth and development is realized through healthy, rich relationships with other children, as well as with adults, with the teacher being central. Regardless of this, from what has been indicated thus far, it has been made clear that the competitive environment within schools are strengthening more and more, and that the destruction of the very relationships that should be secured for the children are being destroyed. Some direct that stress towards their fellow friends (bullying and school violence), while others are pressured to the extent of rejecting the very place where those relationships should be (school non-attendance). And as an extension of this, past the rejection and attack of others, is the fundamental repudiation of self: suicide. Children who have committed suicide writing, “I wanted to live longer if it was not for the bullying” and “I wanted to take time off school” in their suicide notes are examples which show this. And it has been made clear that many children are in a constant state of vigilant alertness in their daily relationships.

What this suggests is that the daily human relationships themselves which should be guaranteeing them healthy, rich relationships are causing

children suffering. Children are not allowed to express themselves as they are. They are cultivating suffering and loneliness in relationships that are forcing nervousness and alertness. As will be detailed in the following chapters, since the third periodic review by the Committee, policy directly and indirectly relating to children have not been moving in the direction of mitigating that tension. In fact, it presents the government's image of an "ideal" child and/or human and tries to underscore it in the childcare, including early childhood education and care, and school settings. There is fear that the deterioration of the relationship between children and adults will progress more and more.

A place where they can be themselves, can always freely raise their requests, and where there is an adult who will lend an ear to those requests — directly securing a place like this for every child is what is desired. Even in Japan, forward-thinking, advanced municipalities have been putting into practice the securing of "accepting and responsive relationships" for children — through enacting "Children's Rights Ordinance," that put into practice "building towns and communities that are child-friendly," and providing teaching and caring for children in educational/ social welfare facilities. These practices have been built up to a certain extent, and are achieving and producing results. In conjunction with using these positive results, it is strongly requested that reform of the current competitive environment be carried out.

Part II General Measures of Implementations

Chapter 3. Problems of Policy Making and the Coordination by Cabinet / Cabinet Office

1. Absence of a comprehensive coordinating machinery for child related laws and policies from the viewpoint of children's rights

The fourth and fifth government report states in Paragraph 15, "The Cabinet Office is the organization with comprehensive coordination capabilities for juvenile measures."

The Cabinet Office is an administrative organ to assist the Cabinet in elaborating its policies on important agendas and to coordinate policies of the Ministries and the Agencies from the viewpoints of short, medium and long term economic management and financial and budgetary policies (Articles 3 and 4 of the Cabinet Office Establishment Act). Since its establishment in 2001, a number of councils to plan and coordinate child related policies and laws have been established under the Cabinet Office. Among them, for example, are the following:

- Council on Measures Regarding Declining Birthrate (2003~)
- Council on Promotion of Food Education (2005~)
- Council for Policy of Suicide Prevention (2006~/ transferred to the Ministry of Welfare and Labor in 2016)
- Headquarters on Promotion of Development and Support for Children and Young People(2010~)
- Council on Child Rearing (2013~)
- Council on Countermeasures for Children's Poverty (2014 ~)
- Headquarters for Child / Child Rearing (2015 ~), and others.

The government report provide the information on activities of the Headquarters on Promotion of Development and Support for Children and Young People (Paragraphs 12 and 13), the Council on Countermeasures for Children's Poverty (Paragraph 14) and the Council for Policy of Suicide Prevention (Paragraph 46). However, the plans of the Headquarters on Promotion of Development and Support for Children and Young People do not integrate children's rights into its bases. Furthermore, there is no council or headquarter which is responsible for coordinating the activities of these councils or headquarters from the viewpoint of children's rights.

2. Coordination of child related policies and laws under the Cabinet Office

from the viewpoints of economic management and financial and budgetary policies

Though the government report is also silent about how councils other than above listed under the Cabinet Office have been involved in coordinating child related policies and laws, some councils which handle economic and fiscal policies have taken the role of coordinating them and have utilized them to economic and fiscal policies.

Under the Cabinet Office, there are about forty councils other than those concerned with children. Among these, the Council on Economic and Fiscal Policy (CEFP) is at the highest rank. CEFP is “a council dealing with important policies” (Article 18 of the Cabinet Office Establishment Act). There are only four councils other than this council established to “deal with important policies”: the Council for Science, Technology and Innovation; the Council on National Strategic Special Zone; the Central Disaster Prevention Council; and the Council for Gender Equality. Moreover, only the CEFP and the Council for Science, Technology and Innovation are established by the Cabinet Office Establishment Act. These two councils are at the highest rank among all the councils.

The mission of the CEFP is to investigate and discuss, upon request of the Prime Minister, basic policy of economic management and fiscal administration and budgetary planning. The CEFP assumes a role of the headquarters of a national economic and financial policy. Its members are limited to 11 persons including the chairperson (the Prime Minister). It is legally required to have experts from private sectors with its numbers exceeding 40% of all members (Article 20-22 of the Cabinet Office Establishment Act). Among these experts, those representing business organizations such as president and vice president of the Japan Federation of Economic Organizations, the biggest business organization in Japan, are constantly nominated, making it possible to reflect business interest directly to national economic policies. The outcome of their deliberation is put together as the government’s basic policy on economic and fiscal management and structural reform. It is presented to the public as the “large-boned” policy, meaning bold, firm and robust, etc. It is approved by the Cabinet every June, forming part of a cycle of economic and financial policy making.

We are now ready to examine the contents of that policy of CEFP, by taking a look at its 2017 version. We examine the education policies of the

CEFP in this and next sections of this chapter and child day-care policy in Section 5. The prominent characteristic of CEFP's policies on education is that it regards education as an investment for labor force development. The large-boned policy of 2017 proposes "to achieve the top-level scholastic performance in the world and to improve basic academic competence in general," "to bring up self-supporting citizens, encouraging children to overcome constraints such as disabilities, bullying, school non-attendance, etc.," and to promote career education.

Another major characteristic is its focus on human investment with its emphasis on effective fiscal management. It proposes, for example, efficient budget spending, clarification of focal points of the budget, introduction of private funds, and implementation of an evidence-based PDCA cycle. As for education policy, it states that the government shall draw up a "Basic Plan for the Promotion of Education," which improves an effective investment on labor force development and develops effective PDCA cycle.

3. Strengthening the education policy as part of the cabinet's economic policy:

Education system suited to each student's ability and educational funding as an *investment*

Since its establishment in 2001, the CEFP has incorporated policies on children into the economic policy, and this trend has been strengthened after the inauguration of the second Abe administration in 2012. The second (2012~) and the third (2014~) Abe administration has held up the economic policy (Economic Revitalization) and the education policy (Education Rebuilding) as the two pillars of its major policies and has characterized the latter as means of the former. To begin with, the government established "the Headquarters of the Revitalization of Japanese Economy" and "the Council for the Implementation of Education Rebuilding" in the Cabinet Office. The former was established as a machinery to plan and to adjust the economic policy, in coordination with the CEFP. The outcome of its deliberation is put together as *the Growth Strategy* ("the Japan Revitalization Strategy" and the "Strategy of Investment for the Future") providing the outline of economic policy. It is approved by the Cabinet every June in the same way as the *large-boned policy*.

The economic growth strategy proposes, in the field of education, measures to nurture talented labor force required by industries to

substantiate the economic growth strategy.

Regarding higher education, it proposes an establishment of new institutions for practical vocational training, an establishment of *graduate schools of excellence* where several Japanese universities collaborate with top-level overseas universities and private sectors, as well as formation of the Business-Government-Academia Collaboration System to cultivate practical competence and skills and to produce top-level and professional talents in IT industries.

Regarding elementary and lower secondary school, the economic growth strategy proposes to develop talented individuals who can generate new values, to implement programming education, to enhance English education, to increase the number of the certified international Baccalaureate schools, and to establish schools aimed at bringing up global leaders (super global high schools).

The Council for the Implementation of Education Rebuilding, consisting of the Prime Minister, Chief Cabinet Secretary, the Minister of MEXT, and experts (heads of prefectural and municipal governments, business persons and academic experts), is an organization to promote education reform. It has issued ten reports on policy recommendations during four years from 2013 to 2017. It deals with overall education from preschool to higher education, covering both school education and education in communities and homes. The basic principle permeating those recommendations is to develop human resources to prepare for global competition as a national strategy, and therefore, they seek to establish an education system suited to *each student's ability* and an education finance system as an *investment*.

The education system suited to each student's ability is proposed concretely and comprehensively in the fifth proposal titled "Education System of the Future (July 3, 2014)" and the ninth proposal titled "Toward an Education which Develops Abilities of All Children to Their Full Bloom (May 20, 2016)." The fifth proposal, discussing the reorganization of the school system from early childhood to higher education, proposes 1) to establish unified elementary and lower secondary schools, 2) to diversify education according to student's ability and willingness, 3) to institutionalize early graduation from upper secondary schools, and 4) to provide educational opportunities for those outside the current education system (free school

students, etc.). The ninth proposal presents a basic idea of providing “education suited to each student’s ability,” such as school non-attendance children, children with disabilities, and gifted children. Specifically, it proposes the differentiation of curriculum according to each student’s ability by dividing students into small groups according to their levels of proficiency, as well as the introduction of programs for students with special talents and high motivation in mathematics and science in elementary and lower secondary schools. The diversification of elementary and lower secondary schools by establishing special schools to develop outstanding abilities and schools to accept non-attending students is also proposed.

As for the education finance system as an investment, the basic idea is set forth in its eighth proposal titled “Education Investment and Financial Resources for Building an Education-Based Nation (July 8, 2015).” It says that “education investment as the national strategy is ‘an upfront investment for the future,’” and urges the government to realize “creative reconstruction and economic revitalization of Japan” through educational reform. It proposes 1) to provide selective personal cash payment (expansion of financial assistance to upper secondary school tuition fees, and scholarship for university students), 2) to secure the educational opportunity of every child including those attending free schools, and 3) to strengthen the function of personnel training at higher education through industry-academia partnership. These proposals correspond with the proposals of the Headquarters of Revitalization of Japanese Economy.

As for the fiscal management, corresponding to proposals by the CFEP, the eighth proposal asserts “thorough enforcement of an evidence-based PDCA cycle,” which utilizes scores of the standardized testing by the MEXT and municipalities as the evidence for assessing whether the investment is effective or not. Corresponding to the fourth proposal of the Council for the Implementation of Education Rebuilding titled “Articulation of Upper Secondary Schools and Universities /the Selection of Students for University Enrollment (October 31, 2013),” the government is now planning to introduce two new national assessment tests for upper secondary school students: “basic level test,” which assesses whether student achieve abilities required to achieve until graduation of upper secondary schools, and “developed level,” which assesses their abilities to pursue studies in higher education. These new tests are also a part of reorganization of the school system suited to each

student's ability.

We should point out here that, although the Council advocates the enhancement of educational investment, its proposal to secure the budget is to "utilize private funds" such as soliciting donations. When it comes to public expenditures, it only proposes the "utilization of budget saved by scrapping of ineffective schools" (the fifth proposal). The only measure to reform public expenditures is to increase budget for elite education in barter with decrease in the budget for all.

4. Off-the-point arguments on the problems in education

Besides the above-mentioned basic policy visions, the Council for the Implementation of Education Rebuilding propose new policies for various current "problems" in education in Japan. "The problem" referred to are such long-standing issues as "bullying" and "school non-attendance children," "poverty of children" with its growing seriousness, and "low self-esteem in children," which is apparent in the cross-national comparative research.

Although the Council suggests some measures for these problems, most of them are questionable in its effectiveness. It is because it totally lacks an analysis of causes of those problems.

For example, any solution for the child poverty should come after analyzing the poverty of their parents: their working conditions including salaries and working hours, the amount of social security they receive, the amount tax they pay or tax refunded to them, and the amount of private expenditures for social securities, and such services as education and child day-care. However, the Council suggests proposes to tackle with the issue of child poverty mainly by providing selective personal cash payment such as financial assistance to upper secondary school tuition fees and university students scholarships, without any serious analysis of its causes. Under the current scholarship system, applicants are generally required to meet a certain academic achievement level. Considering the tendency of negative correlation between family income and academic achievement of the children, the effectiveness of such system is questionable.

Furthermore, not only are the suggested measures ineffective, the Council deliberately makes off-the point arguments on the causes of the problems and is trying to build a momentum in favor of the policies it would endorse.

As for bullying, the Council, viewing its cause as a lack of morality in children, proposes to strengthen moral education in schools (making moral studies a “special subject”), and to strengthen punitive approaches to bullying children by strictly inflicting disciplinary measures and enhancing cooperation between the schools and the police (the first proposal, "Coping the problems of bullying, February 26, 2013). Similarly for the problems of school non-attendance, there is no perspective that the school itself is a cause (its highly competitive nature as suggested by the Committee), and it proposes strengthening of the consultation function for school non-attendance children. Moreover, it proposes the establishment of special school for non-attendance students, as stated above, thus differentiating educational opportunities.

Similarly, for the low self-esteem of children, the council suggests, without analyzing the causes, to establish “division among roles of schools, homes and communities” and improve “educational functions of each.” It proposes such detailed plans as to enhance learning on the local history, and to solicit community volunteers to watch children on the way to and from schools (the tenth proposal, "Improvement of Educational Functions of Schools, Homes and Communities to Enhance Self-Esteem of Children and Bringing up Children who Open the Way to the Future by Themselves (June 1, 2017).” We have concerns here that this might lead to the government to intervene excessively into home and community education.

5. Economic background of child day-care policy

Now, we would like to examine the economic background of child day-care policy formulated by the Cabinet/Cabinet Office.

Like the educational policies examined above, the “Large-Boned Policy” by the CEFP, the “growth strategy” by the Headquarters of the Revitalization of Japanese Economy, and proposals by the Council for the Implementation of Education Rebuilding (especially the fifth on "the Education System of the Future," July 3, 2014) set the basic directions of the child day-care policy. What is different from the educational policies is that the Council on Promotion of Regulatory Reform (“the Council on Regulatory Reform” until August, 2016), established under the Cabinet Office, joins in its policymaking. This difference derives from the fact that deregulations of child day-care providers to allow for-profit organizations to get into childcare services was the essential component of the new policy – that is “the

commercialization of child day-care.” The deliberation of the Council on Promotion of Regulatory Reform is put together as “implementation plan of the regulation reform” and is incorporated into the Cabinet’s “Large-Boned Policy” and “Growth Strategy.”

The main three features of child day-care policies integrated into economic policies are as follow.

The first is the *commercialization of child day-care*. The essence is to authorize and enhance private enterprises to enter the child day-care market. The commercialization of child day-care is a part of the economic policy promoting “commercialization of public services,” which is “to utilize wisdom and resources of the private sectors effectively, together with promoting effectiveness of public services and improvement of its quality.” (“Large-Boned Policy” 2015) The child day-care is regarded as its main target, together with medical care and nursing care. It is also a target area of the “Growth Strategy,” calling for vitalization and productivity growth of service industries. Provision of childcare by for-profit enterprises has continuously expanded since for-profit organizations were allowed to establish and run certificated child day-care center in 2000. However, the government and business experts seem to think that marketization is not yet sufficient. The reorganization of the child day-care system (“New Child / Child Rearing Support System”) by three acts on child / child rearing of 2012 (enacted in 2015) aimed to open up the child day-care market to private enterprises.

The second is that child day-care policies are formulated as part of the labor policy “to secure and utilize women as labor power.” The CEFPP recognizes the reduction in labor supply and the recession of Japanese economy by a declining birthrate and an aging population as a structural problem of the nation’s economy. A policy of utilization of women as a work force was adopted with the slogan of “All the Japanese people shall be active in Society.” Taking a balance between out-of-home labor in which women are to engage and in-home labor of which women have long assumed, and ensuring the supply of child day-care service necessary for such balance, has become an important issue. However, the specific measures taken are the introduction of assistant nurseries (when persons with childrearing experience take only a few instruction courses, they are certified as assistant nurseries), the deregulation of the standards on qualification as nurseries, and the relaxation of childcare personnel placement requirements. Moreover,

standards of facilities requiring playground and emergency stairs outside the building and levels of daylighting were abolished. The idea is to lower the quality of child day-care in order to increase supply of child day-care services. The deregulation and commercialization are two sides of the same coin.

The third is the vision of free child day-care as “the investment for future labor force.” As is pointed out above, education policy is now subordinated to economic policy. Education is regarded as a means to train talented labor force necessary for economic growth, and educational funding is regarded as “investment.” Although the vision of making child day-care free was expressed by then Minister of MEXT, Hakubun Shimomura and other experts of the CEFP, it was not adopted in the “Large-Boned Policy” at first because the Ministry of Finance was hesitant to increase expenses. However, the Council for the Implementation of Education Rebuilding issued a proposal to gradually make early childhood education and care (3 to 5 years old) free of charge in its fifth report titled “On the Future Education System (July 3rd, 2014).” In the “Large-Boned Policy 2017 – Productivity Growth by Investment for Talented Manpower,” early realization of free early childhood education and care is advocated. The Cabinet acknowledged the economic effect of “education investment” from early childhood and made it the basic principle of the early childhood education and care policy.

6. Conclusions

We suggest the Committee to:

- (a) Ask the government to provide relevant information on how the Council on Economic and Fiscal Policy and other councils or headquarters under the Cabinet Office coordinate laws and policies for children from the viewpoint of economic and fiscal management.
- (b) Express concerns over the negative influence on children’s rights, brought by the coordination of child related policies and laws that are primarily aimed at economic growth, as it has resulted in reduction of budget for children, easing standards for personnel and facilities, and promotion of commercialization.
- (c) Recommend the government to establish an independent machinery under the Cabinet Office, which has the authority to coordinate child related policies and laws based upon the Convention freely from economic policies of the government.

Chapter 4. Legislative Measures to Implement the Convention

1. Introduction

In Japan, when the government ratifies international treaties, they become national laws automatically. International laws ratified by the government is inferior to the Constitution but superior to laws adopted by the Diet. When the government ratified the Convention on the Rights of the Child, it declared that revisions of national laws were not needed because no national law was incompatible with the Convention. After the government ratified the Convention, it declared that no comprehensive law on children's rights is needed because the Convention becomes a national law.

In the last Concluding Observations, the U.N. Committee on the Rights of the Child “strongly recommends that the State party consider adopting a comprehensive law on child rights and take steps to fully harmonize its legislation with the principles and provisions of the Convention” (Paragraph 12). In its fourth and fifth periodic report, the Japanese government, however, does not respond to this recommendation and only shows the promulgation and amendments of several pieces of legislation in the area of child rights.

We analyze the two problems in follows.

First, whether it is necessary for the government to adopt a comprehensive law on children's rights.

Second, how we should evaluate new laws and amendments added to existing laws in the area of child welfare and education after 2003 which stipulate the words of “on the base of the spirits of the Convention on the Rights of the Child” or incorporates “the primary responsibility” of parents. These new laws and amendments are so important that the information on them shall be provided to the Committee. Nevertheless, the government has not provided it neither in its third periodic report nor in its unified fourth and fifth report.

2. Need for a comprehensive law on child rights

The Convention became a national law when the government ratified it. Without a comprehensive national law on child rights, the Ministry of Foreign Affairs hold jurisdiction over the Convention. This creates two problems. First, Ministries other than the Ministry of Foreign Affairs don't

owe the responsibilities to take measures to realize the rights recognized in the Convention. Second, because Ministry of Foreign Affairs don't hold jurisdiction over the domestic affairs, they can't coordinate the domestic laws or policies. For example, in this time, the fourth and fifth periodic report of Japan was coordinated by Ministry of Foreign Affairs. However, because Ministry of Foreign Affairs are not well-acquainted with domestic laws and policies, Ministry of Foreign Affairs couldn't coordinate effectively.

The reason why a comprehensive law on child rights is needed even if the Convention became a national law by the ratification is to establish the new administrative organization in the Cabinet that holds jurisdiction over coordinating domestic laws and policies concerning the rights recognized in the Convention. We think that it is necessary to prepare domestic law whose name is the Basic Law on the Rights of the Child. This domestic law (1) stipulates the general principles of the Conventions and the rights recognized in the Convention, (2) obliges all the local and central governments to adopt the action plans and implement them, and (3) establishes the Committee on the Rights of the Child under the Cabinet, which is chaired by the Prime Minister and holds jurisdiction over the coordinating and monitoring domestic laws and policies, as well as the awareness raising activities.

We have had the analogical law, the Basic Act for Gender-Equal Society. The Act was enacted when the government ratified the Convention on the Elimination of All Forms of Discrimination against Women. The Act stipulates the general principle of realizing the gender equality society, obliges all local governments to adopt the gender equality action plans, and obliges the Gender Equality Committee chaired by the Prime Minister to adopt the gender equality national action plan. The Gender Equality Committee holds jurisdiction over the role of coordinating of the government report to the U.N. Committee on the Elimination of All Forms of Discrimination against Women and the coordinating and monitoring of domestic laws and policies for realizing the Convention. But the Gender Equality Basic Law lacks the explicit reference to the Convention on the Elimination of All Forms of Discrimination against Women. Our suggesting the Basic Law on the Rights of the Child overcomes this weakness of the Gender Equality Basic Law.

3. Promulgation and amendment of legislation that refer to “the spirit of the convention” or Incorporate “the primary responsibility” of parents

3-1. Names of new and revised laws and their contents

It was not shown in the third periodic report of Japan or in the fourth and fifth periodic report of Japan, the important promulgation and amendments of legislation have been carried out since 2003. Such words as “the spirit of the Convention on the rights of the child” and “the primary responsibility” of parents have been introduced in the letter of the laws. In the following, we show the names of laws and how they give mention to “the spirits of the Convention,” or, incorporate parts of the general principles of the Convention or “primary responsibility” of parents.

3-1-1. The Basic Act on Promoting countermeasures against declining Birthrate Society (2003) and the Act on Advancement of Measures to Support Raising Next-Generation Children (2003)

The Basic Act on Promoting Countermeasures against Declining Birthrate Society of 2003 provides, in Paragraph 1, Article 2, “**the primary responsibility**” of parents as basic idea. Act on Advancement of Measures to Support Raising Next-Generation Children of same year provides, in Paragraph Article 3, “Advancement of measures to support raising next-generation children shall be implemented under the fundamental recognition that mothers, fathers, and other guardians have **the primary responsibility for child-rearing.**” (Emphasis added) Sponsors of these bills and the government officers explained in the Diet that the meaning of “the primary responsibility” is same as Paragraph 1, Article 18 of the Convention.

3-1-2. The New Basic Act on Education (2006)

The New Basic Act on Education of 2006 stipulates, in Paragraph 1, Article 10, “Mothers, fathers, and other guardians, having **the primary responsibility for their children's education,** shall endeavor to teach them the habits necessary for life, encourage a spirit of independence, and nurture the balanced development of their bodies and minds.” (Emphasis added) The Education Ministry says that this article confirms that “family is the starting point and the foundation of all the educations.” The Ministry explains the reason why this paragraph is needed is that, nevertheless of the importance

of family, “as the school education has developed, family education functions have been undervalued.” Paragraph 2 of this article stipulates “The national and local governments shall endeavor to take necessary measures supporting education in the family, by providing guardians with opportunities to learn, relevant information, and other means, while respecting family autonomy in education.” The Ministry explains the meanings of this paragraph as obliging all local and state governments “to provide parents with the opportunities for cultivating and training their mind and body.” Giving this explanation, the Ministry refers to Paragraph 1, Article 18 of the Convention as related laws.

3-1-3. The Revised Act on the Prevention of Child Abuse (2007)

The Revised Act on the Prevention of Child Abuse of 2007 adds new paragraph, which clarifies responsibility of parents, to Article 4 on the responsibilities of the national and local governments. New Paragraph 6 reads “A person who exercises parental authority over his/her child shall be **primarily responsible for nurturing the child** in a sound manner mentally and physically, and shall endeavor to respect the interests of the child to the maximum extent possible in exercising parental authority.” (Emphasis added)

3-1-4. The Act on Promotion of Development and Support for Children and Young People (2009)

The Act on Promotion of Development and Support for Children and Young People of 2009 stipulates, in Article 1, that the support for children and young people are carried out “**on the basis of the ideal of the United Nations Convention on the Rights of the Child.**” (Emphasis added) It also stipulates in Article 2 such general principles of the Convention as “**to sufficiently respect his/her view and take the best interests of them into consideration.**” (Emphasis added)

3-1-5. The Act on Supporting Children and Child Rearing (2012)

Article 2 of the Act on Supporting Children and Child Rearing of 2012 stipulate “the support for children and child rearing shall be implemented under the fundamental recognition that mothers, fathers, and other guardians have **the primary responsibility for child-rearing.**” (Emphasis added) The government officers explained in the Diet that the meaning of “the

primary responsibility” is same as Article 10 of the new Basic Act on Education.

3-1-6. The Revised Act on Child Allowance (2012)

The Revised Act on Child Allowance of 2012 stipulates, in new Article 1, “The aim of the Act is, in order that the child and child care support prescribed in article 7 (1) of the Act on Supporting Children and Child Rearing shall be appropriately implemented, to contribute to ensuring a steady environment at home and other living environments and healthy upbringing of children who lead the next generation, by affording child allowance to those who rear a child, under the fundamental recognition that mothers, fathers, and other guardians have **the primary responsibility for child-rearing.**” (Emphasis added)

3-1-7. The Act on Promoting Countermeasures against Bullying (2013)

The Act on Promoting Countermeasures against Bullying of 2013, stipulates, in Paragraph 1, Article 9, “any parent or legal guardian, who has **the primary responsibility for the education of his child or children**, shall make efforts to give them guidance necessary to cultivate the sense of observing social norms so as not to bully others.” (Emphasis added) The Act also stipulates, in Paragraph 4 of this article, “Paragraph 1 of this article shall not be understood to alter the principle that the independence of family education shall be respected.”

3-1-8. The Revised Act on Child Welfare (2016)

The Revised Act on Child Welfare of 2016 comprehensively revised Article 1 on the aim of the Act and the new article reads “every child, **on the base of the spirit of the United Nations Convention on the Rights of the Child**, shall have the equal right to be appropriately brought up, be afforded the guaranteed level of life, be loved and protected, be developed in good mental and physical health, to be developed into independent person and to receive welfare.” (Emphasis added) It also added new Article 2, which stipulates, in Paragraph 1, “All of the people owe the obligations to make efforts that children shall be brought up **with their views respected and their best interests taken into consideration** in proportion to the developmental stages of children and their ages.” (Emphasis added) Paragraph 2 of this article also

stipulates “Parents or guardians shall be **primarily responsible for nurturing their children** in a sound manner mentally and physically.” (Emphasis added)

3-2. Replacement of primary responsibility of parents with primary responsibility for economic cost of child-rearing?

The promulgation and amendment of these legislation in the area of child welfare and education have problems as follows.

First, though the government officers and sponsors of the bills pointed with an emphasis that the primary responsibility of parents is stipulated in Article 18 of the Convention, they did not show the whole picture of the primary responsibility of parents and the responsibilities of the state parties drawn in the Convention. In the promulgation and amendment of all these legislations, there is no letters for respecting the rights and duties of parents as is stipulated in Paragraph 2, Article 3 of the Convention or respecting the responsibilities, rights and duties of parents to provide direction and guidance to the child as is stipulated in Article 5 and Paragraph 2, Article 14 of the Convention.

In the Diet deliberations, only Paragraph 1, Article 18 of the Convention was picked up and Paragraph 2 of this article, which stipulates the responsibility of the state parties to support parents and family was not picked up. Furthermore, Article 27 of the Convention which stipulates that the parent(s) owe the financial responsibility “within their abilities and financial capacities” has never been picked up.

Article 27 clarifies that the financial responsibility of parent(s) is limited and the government is responsible for providing material or financial assistance to parent(s) when they can’t get service necessary for their children by their own income. In the process of amending or making the laws, no government officials made mention to this.

In light of this, the primary responsibility of parents stipulated in the domestic laws could provide an excuse for the government to avoid its responsibility to provide material and financial assistance to parents. In other words, it is probable that the primary responsibility of parents as is stipulated in the Convention will be gradually replaced with the primary responsibility in the economic cost for child-rearing. This gradual replacement would increasingly justify the government recent policy to commercialize child-related services. (See also Chapters 3, 6 and 25) We suspect that the hidden

aim of incorporating the primary responsibility of parents into national laws is to justify this recent policy of the government.

3-3. The risk of intervention of by state into child-rearing

Second, the New Basic Act on Education of 2006 triggered the movement towards the government intervention into children-rearing in families. This movement is accelerated by the Act on Promoting Countermeasures against Bullying of 2013, which repeats the notion of the primary responsibility of parents as is stipulated in the New Basic Act on Education.

Paragraph 2, Article 3 of the Convention stipulates “States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.” This paragraph indicates that that “protection and care” of child itself shall be performed by “his or her parents, legal guardians, or other individuals legally responsible for him or her” and the role of state is limited to “take all appropriate legislative and administrative measures.” As the responsibility to take financial measures is shifted from the government to parents, the responsibility to ensure care and protection is shifted from parents to the government.

3-4. The responsibility and duty of the government is shifted to “all the people”

Third, as is shown in paragraph 1, Article 2 of the Revised Act on Child Welfare, when the general principles are incorporated into domestic laws, they are shifted from the norms that impose obligations or responsibilities to the government to the norms which impose obligations to “all the people.” We evaluate Article 1 of the Revised Child Welfare Act highly on the ground that it declares for the first time in national laws except for the Constitution that children are the subjects of rights and the Convention guides the operations and interpretations of the Act by stipulating the words of “on the base of the spirit of the Convention.” Nevertheless, we are afraid that the epoch-making meaning of Article 1 can be lessened by Paragraph 1, Article 2.

Furthermore, Paragraph 2, Article 3 are mistakenly understood as

imposing the government to provide material and financial assistance to parents. Sometimes, even researchers on this filed misunderstand the meaning of this paragraph.

Paragraph 2, Article 3 reads “The national and local governments shall support guardians so as for the child to be taken care of at his/her home in good mental and physical health; provided, however, that when the national and local governments, taking into the mental and physical conditions, environments and other conditions of said child and guardians, find difficult or inappropriate for the child to be fostered at home, the governments shall take necessary measures for the child to be continuously taken care of in the similar environment as at his/her home, and when inappropriate for the child to be fostered at his/her home and the similar environment, the government shall take necessary measures for the child to be taken care of in as good environment as possible.” In the Diet, the government officials explained repeatedly the meaning of this paragraph is to clarify the order of priority of measures to provide family environments to children: child shall be cared at home, if they cannot be, they shall be cared by foster parents, if they cannot be, they shall be cared in small group homes or in any other facilities. This paragraph does not mean to impose to the national and local governments the responsibility as is stipulated in Paragraph 2, Article 18 of the Convention.

4. Conclusions

We suggest the U.N. Committee on the Rights of the Child to require the government to:

- (a) Provide the information on whether Ministry of Foreign Affairs could coordinate the domestic laws and policies;
- (b) Provide the information on domestic laws which give mention to the spirit and the general principles of the Conventions or incorporates the primary responsibility of parents;

We also suggest the Committee to recommend the government

- (a) Enact a comprehensive law on child rights, which stipulates the general principles of the Convention and the rights recognized in the Convention and establishes the new administrative organization under the Cabinet, which hold jurisdiction to adopt action plans and to coordinate national laws and policies.

- (b) Review domestic laws which incorporates the primary responsibility of parents with the view to make laws fully reflect the spirits of Articles 3, 5, 18 and 27 of the Convention.

Chapter 5. Collection and Allocation of Resources

1. Introduction

Paragraph 16 of the fourth and fifth periodic report of Japan reads “Japan broadly arranges budgets for education, welfare, health care, medical care, correction, rehabilitation, and employment and secures sufficient resources to realize the rights of children.”

We, however, argue that the insufficient resources allocation results in the insufficient selective services in cash and the abolishment of the universal services in cash, as well as in the high private expenditures in receiving such services in kind as daycare and education. To expand or restart the services in cash and to decrease the private expenditures, the government shall comprehensively revise its tax programs, standard settings, and budget appropriations. The tax system which prioritizes the interests of large corporations shall be reviewed. The recent plans of under Liberty Democratic Party rule, to collect necessary resources for children from value added tax or social security shall be replaced with the plan to collect from progressive direct tax. The needs-based funding shall be strengthened.

In this chapter are provided the information on the redistribution through the services in cash, the public and private expenditures on child daycare and education, and the huge internal reserves of large corporations as available and taxable resources.

2. Ineffective redistribution through services in cash

2-1. Cash transfer accounting for only a small fraction of income

The data from National Livelihood Survey in 2016 (The Welfare and Labor Ministry) shows that the ratio of cash transfer from the government except for pensions to total income of households with children is only 2.5% (see Table 5-1). Compared with the ratio of wages, 91.4%, the cash transfer accounts for only a small fraction of income. The financial responsibility for child rearing largely falls on the shoulders of parents. Services in cash, selective or universal, work a little for lighting their financial burdens.

Table 5-1. Average annual incomes of households disaggregated by types of income in 2015

	Total income	Wages	Public pension	Property income	Cash transfer except pension	Others
All the households	\$54,580 (100.0%)	\$40,370 (74.0%)	\$10,430 (19.1%)	\$1,840 (3.4%)	\$630 (0.6%)	\$1,310 (2.4%)
Households with children	\$70,780 (100%)	\$65,650 (91.4%)	\$2,700 (3.8%)	\$970 (1.4%)	\$1,740 (2.5%)	\$670 (0.9%)
Households of single mothers	\$27,030 (100%)	\$21,380 (79.1%)	\$760 (2.8%)	\$50 (0.2%)	\$4,260 (15.7%)	\$580 (2.1%)

It is safe to say that the weakness of the cash transfer arguably originates in the ways of thinking by Japanese people. The cash transfer has been rarely taken seriously as a mean to narrow the income gaps, but has been considered to widen the gap. Selective services in cash has been considered to fix or worsen the poverty because they will spoil the poor parents and deprive them of the sense of self-responsibility.

2-2. Universal services in cash created but abolished

Under the rule of Democratic Party (DP) from 2008 to 2012, Japanese government took a new direction to establish the universal services in cash for child rearing and expand the selective services in cash for poor families. For the first time in the history of modern Japan, universal services in cash for child rearing were created. The Diet adopted the Act on Child Benefit in 2010. In the start the benefit was set small: parents receive \$130 per child every month. The DP government planned to increase the monthly benefit to \$260 in 2011. This plan was not realized due to the limited budget. The Act, together with the law waiving upper secondary school fees in 2009 (see Chapter 32), were epoch-making in that it made people aware that effective redistribution of the wealth is an important political agenda and rethink their ways of thinking of cash transfer.

However, after 2012 when the Liberty Democratic Party (LDP) took over the rule, the government changed the directions. The Diet abolished the Act in 2013. The part of budget allocated for child benefit was integrated into the budget for child allowance, means-tested allowance, provided under the Child Allowance Act. In 2017, parents who has the means-test, receive monthly \$150 for a child aged zero to three, \$100 for a child aged four to fifteen. The amount of child allowance is so small that it barely covers the private expenditures for school education at primary education and it covers only a half of those at secondary education: A parent of a child attending a public elementary school pay \$85.3 per month to a school, and a parent of a child attending public upper secondary school \$182 (data from Survey on Private Expenditure on Education in 2014 by The Education Ministry). The allowance is for covering the daily living cost, but is consumed up for covering the private expenditures for public schools.

2-3. Insufficient cash transfer to single mothers

The Child Rearing Allowance Law provides means-tested allowance to a poor single-parent. In 2015, a single-parent receives \$420 per month for the first child, \$50 for the second, and \$30 for the third. He/she receive the allowance until a child become the age of 18. This amount is insufficient to raise the standards of living of a single-parent family, especially a single-mother family. A single mother with a permanent job earn \$27,000 per year and a single mother with a temporary job \$12,500 in 2011. As is mentioned in Section 4 of Chapter 7 of this report, the main cause of the high poverty rate of a single-mother family, which is 54.6% in 2012, is the working conditions especially hard for single-mothers. The child rearing allowance is not sufficient enough to fill the gap between the income necessary to assure child development and the low wages of single-mothers.

3. High private expenditures on child daycare and education

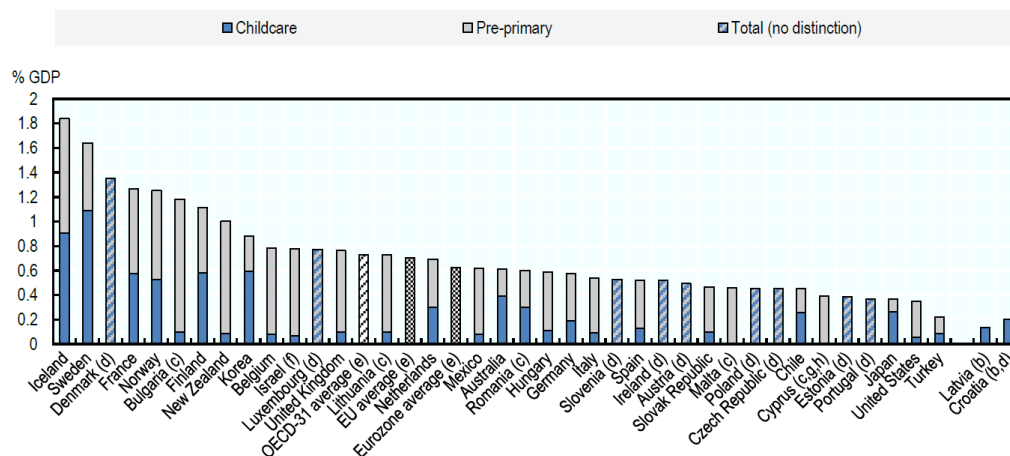
3-1. Child daycare

According to the data from OECD Family Data Base, in 2013, Japanese government spent 0.27% of GDP for child daycare and 0.01% for pre-primary education. Japan was ranked 37th among 41 developed countries (see Figure 5-1). In Japan a two-earner two-child (aged 2 and 3) couple family with full-time earnings works out 21% of average incomes. Japan ranked 12th

among 38 developed countries (see Figure 5-2). The low public expenditure for social security underlies the low public expenditures and high private expenditures for child daycare.

Figure 5-1. Public spending on early childhood education and care

Public expenditure on childcare and pre-primary education and total public expenditure on early childhood education and care, as a % of GDP, 2013 and latest available^a

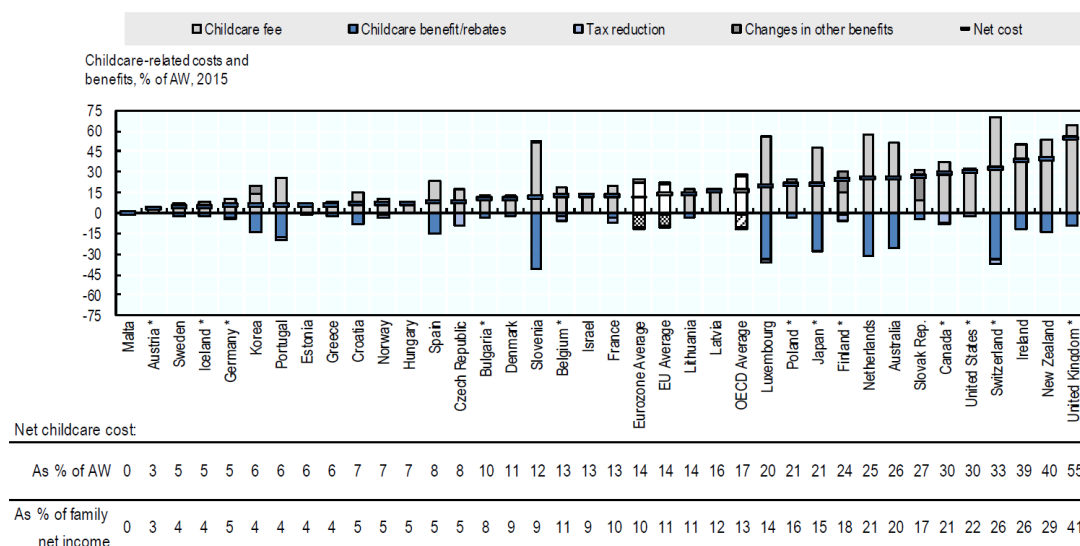


Source: OECD Family Database, available at

http://www.oecd.org/els/soc/PF3_1_Public_spending_on_childcare_and_early_education.pdf

Figure 5-2. Out-of-pocket childcare costs for a two-earner couple family

Net childcare costs for a two-earner two-child (aged 2 and 3) couple family with full-time earnings at 100+67% of average earnings, as a % of average earnings (AW), 2015



Source: OECD Family Database, available at

http://www.oecd.org/els/soc/PF3_4_Childcare_support.pdf

According to OECD Social Expenditure Update 2016, Japanese government spent around 24% of GDP (\$1.18 trillion) for social securities in 2013. This ratio is above the average of OECD (21%). Still, Japan ranked behind western European countries. Japanese government has sufficient fiscal space to raise the public expenditures for child daycare and pre-primary education to the average of OECD countries (from 0.28% to 0.7% of GDP, by 0.42%).

3-2. Education

According to OECD, Education at Glance 2017, the expenditure on education from primary to tertiary ranked 27th among 33 member states whose data are available (See Table 5-2). The expenditure on education is 4.4% of GDP, 3.2% from public source and 1.2% from private source. The rate of private source as of GDP is the 8th highest and the ratio of the private source to the total is 27.7%, the fifth highest (35.1% in Chile, 33.1% in the U.S., 32.0% in Australia and 28.2% in the U.K.).

Table 5-2. Expenditure on primary to tertiary educational institutions as a percentage of GDP, by source of funding and level of education (2014)

	Public	Private	Total	The ratio of private to the total
United Kingdom	4.8	1.9	6.6	28.2%
Denmark	6.3	0.2	6.5	3.2%
New Zealand	4.7	1.7	6.4	26.1%
Korea	4.6	1.7	6.3	27.3%
United States	4.2	2.1	6.2	33.0%
Norway	6.1	0.1	6.2	1.0%
Canada	4.5	1.6	6.2	26.7%
Iceland	5.7	0.3	6.0	4.9%
Israel	4.7	1.1	5.8	19.2%

Portugal	4.9	0.9	5.8	16.1%
Australia	3.9	1.8	5.8	32.0%
Belgium	5.6	0.2	5.8	3.3%
Finland	5.6	0.1	5.7	1.5%
Netherlands	4.5	0.9	5.4	16.0%
Sweden	5.2	0.2	5.4	3.2%
Mexico	4.4	1.0	5.4	18.6%
France	4.8	0.5	5.3	10.0%
Chile	3.4	1.8	5.2	35.1%
OECD average	4.4	0.8	5.2	15.0%
Estonia	4.7	0.3	5.0	6.2%
Turkey	3.9	1.0	4.9	21.3%
Austria	4.7	0.2	4.9	3.7%
Ireland	4.4	0.5	4.8	9.4%
Latvia	4.4	0.3	4.7	7.4%
Poland	4.3	0.4	4.7	8.1%
Slovenia	4.1	0.5	4.6	10.3%
Japan	3.2	1.2	4.4	27.7%
Germany	3.7	0.6	4.3	13.1%
Spain	3.5	0.7	4.3	17.1%
Italy	3.6	0.4	4.0	10.6%
Czech Republic	3.4	0.5	3.9	12.4%
Slovak Republic	3.4	0.4	3.9	11.0%
Hungary	3.4	0.4	3.8	11.0%
Luxembourg	3.5	0.1	3.6	2.8%
Switzerland	4.7			
Greece				

Source: OECD, Education at Glance 2017

Still, the data from OECD fails to grasp the whole picture of the high private expenditure in Japan: the data does not cover the private expenditures on out-of-school education. For preparation for the entrance

examinations, most of parents send their children to cram schools. They also send their children to swimming schools or music schools. According to Survey on Private Expenditure on Education (The Education Ministry), in 2014, on average, a parent of a child in a public elementary school, paid \$3,220 in total for education: \$ 1,024 for school education (including school lunch fees) and \$2,193 for out-of-school education. In a public lower secondary school, \$4,818 in total, \$513 for school education, \$3,145 for out-of-school education. In a public upper secondary school, \$4,010 in total, \$ 2,427 for school education, \$1,673 for out-of-school education. The need for increasing the public expenditure on education is stronger than that indicated by OECD data.

4. Increasing internal reserves of large corporations under regressive tax

According to Census on Business Corporations (The Finance Ministry), the total of internal reserves of business corporations except for banks and insurance business amount \$2.8 trillion in December, 2011 and \$3.0 trillion in 2012. After Shinzo Abe started his second term for the Prime Minister in December 2012, the number continues to increase steadily: \$3.3 trillion in 2013, \$3.5 trillion in 2014, \$3.8 trillion in 2015, and \$4.1 trillion in 2016. From 2012 to 2016, the total increased by \$1.1 trillion, that exceeded the annual budget of the national government (\$1.0 trillion).

Business corporations reserved huge internal resources, thanks to the tax reduction for large business corporations. Prime Minister Abe reduced tax collected from corporations with capital amount more than three million dollars and with more than 300 employees by \$0.4 trillion. On average, corporations with capital amount less than three million dollars and with less than 300 employees were taxed 19% of their business income. Corporations with capital amount more than ten million dollars were 11.8%. The regressive tax allows large corporations to increase their internal reserves

Though larger business corporations succeeded in reducing tax payments, they did not use de-taxed money for increasing laborers' salaries. Corporations even decreased salaries. Average contracted monthly earnings (which do not include earnings for overtime work) of laborers were are \$2,450 in 2010. They were reduced by \$48 to \$2,403 in 2016. The raise of consumption tax rate from 5% to 8% in 2014 was another pressure on household budgets of families with less income.

5. Appropriate way to collect financial resources for children

Paragraph 2 of Article 27 stipulate “The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.” This paragraph is important in that it set limits on the financial responsibility of parents: parent shall be financially responsible within their financial capacities. When receiving the public services for children, parents shall pay in accordance with the principle of “payment by merit” at most. To this principle of merit to pay, the Convention adding the principle of free of charge in some areas: compulsory education shall be free and secondary and higher education shall be made available or accessible for all by gradually making them free (Article 28) and services for disabled children shall be “provided free of charge, whenever possible.” (Article 23).

The state parties can observe the principle of merit to pay plus the principle of free of charge recognized in the Convention only through collecting resources from the civil society by progressive taxation. Otherwise, the state parties are unable to provide services or to carry out cash transfer that fill the needs of children, because financial resources collected by regressive taxation or other means cannot be sufficient to fulfill the needs of children.

The reports by the special rapporteur on the right to education indicated that the regressive tax or the fees that has the same effect are not compatible with the right to education recognized in the international human rights law and that the general tax shall be the way to collect financial resources from the civil society¹. We argue that this indication shall be made into clearer statements and be expanded to all the rights covered by the Convention.

Collecting financial resources through regressive taxation, charging fees in shape of tuition or insurance premium shall not be considered to be appropriate unless the state parties prove that services funded by financial resources collected through regressive taxation or others actually fulfill the needs of every child. The situations in Japan show that the government cannot prove this and thus the measures for collecting resources taken by the

¹ UN Doc. E/CN.4/1999/49, para.35; E/CN.4/2000/6,para.52, and UN Doc. E/CN.4/2004/45, para.25.

government shall be considered as inappropriate. The government shall shift the regressive taxation to the progressive to collect sufficient financial resources and thus tax the huge internal reserves of large corporation, seeing them as “available resources” for realizing children’s rights.

The recent plans of the government and LDP, however, are moving in the direction just opposite to this argument. Program on Promotion of Assistance to Children and Adolescents adopted by the Cabinet in 2016 aimed at expanding “educational assistance,” stating the government will take measures to “reduce the financial burden of people from pre-primary to tertiary education.” The ruling parties are planning to take VAT as a measure to collect financial resources as they did in carrying out the plan to reduce the number of children waiting for child daycare services and to improve the working conditions of nurseries.

LDP is taking one more step in the opposite direction: LDP’s committee on new economic and financial system for 2020 published its plan to establish “the child rearing insurance.” (March 28, 2017). Under insurances, insurance agencies pay benefits to the insured, who pay premiums in accordance with contracts, when their risks are materialized. The idea of child rearing insurance see the needs of children are the risks to be prevented. But, for example, receiving higher education is not the risk materialized by child’s development but their needs. Furthermore, when parents do not contract with insurance agencies, they do not receive benefits for child rearing. Because premiums are regressive for parents with less income, it is more probable for them to decide not to be insured. Children of the working poor will face risk of being excluded from insurance.

6. Conclusions

We suggest the U.N. Committee on the Rights of the Child to recommend the government to:

- (a) Respond to the last recommendation to “Define strategic budget lines which reflect child rights priorities” (para. 20 (b)) by shifting the ways to collect financial resources from the regressive taxation to the progressive and by levying tax on the internal reserves of large corporations.
- (b) Respond to the last recommendation to “Protect priority budget lines for children against changes in levels of resources” by setting up

objective standards for services in cash and in kind in laws into which the needs of children are broken into and adopting laws which oblige the government to appropriate budgets which are necessary for carry out those standards.

Chapter 6. Negative Impacts of Commercialization on Corresponding Upper Secondary School and After-school Day-care for Disabled Children

1. Characteristics of services by business corporations

Since the third Concluding Observations of the U.N. Committee on the Rights of the Child on June 11, 2010, public services in the field of child education and welfare in Japan have been made more open to business corporations. We deal in this chapter, as typical cases, with the problems of correspondence upper secondary schools and after-school day-care for children with disabilities. Common characteristics of the problems with services by corporations are as follows:

- (a) Public support to the children had been insufficient before the corporation began to provide services.
- (b) Public support is in the form of service in cash
- (c) National standards are low not only for qualification and placement of the staff but also for facilities and equipment.
- (d) Children who receive the services are socially weak. They often do not go to school, do leave school, or are with disabilities. They have little choice of schools and services, and find it hard to cry out for themselves.

Because national standards are low, business corporations establish schools and institutions with low level to make profits. The socially weak children cannot check the quality of services nor refuse the services. There are a few corporations which provide better services than national standards with only a little reward, and have a hard time managing them including the staff's wages.

2. The influence of commercialization in education – the case of correspondence upper secondary schools

Commercialization of education started with Act on Special Zones for Structural Reform of 2002. Utilizing the special zones system, this act deregulated the rules on who can establish schools. Those who are allowed to establish schools had been limited to the national and municipal governments and legally incorporated educational institutions. The rules were deregulated so as to allow business corporations and the non-profit organizations to establish schools. When a company establishes a school, the requirement to have a campus and buildings on their own is waived. No examination by

the council for private school is required. The schools established by companies, however, are not eligible for the private school subsidies. As of now, most schools established by companies are correspondence upper secondary school; two elementary schools and 18 wide area correspondence upper secondary schools.

The correspondence upper secondary school system was legalized in 1961 by the revision of the School Education Act, and originally began as a system for the work-study students who could neither go to the full-time school system nor to the part-time school. But recently, students at correspondence upper secondary schools are increasing because of the reduction of the number of seats in part-time schools arising from closers of part-time schools under the public education austerity. Correspondence upper secondary schools have come to accept the increasing number of students who cannot attend conventional schools or who drop out of them. According to the statistics of May, 2016, the number of the wide-area correspondence upper secondary schools which recruit students from more than three prefectures was 106; 86 established by school juridical organizations, and 19 by companies, and one public school.

Students at correspondence upper secondary schools in the conventional system teach themselves at home, write reports and have schooling of the prescribed number of hours, and take examinations to get credits to graduate. However, many “correspondence upper secondary schools of attending type” were newly established in late 1990s and has been increasing ever since. This type of correspondence upper secondary schools adopt the teaching style similar to the regular schools. Among them, especially the wide-area correspondence upper secondary schools have “supporting schools” for the students living in distant areas. There are various kinds of supporting schools from small facilities for several students, often managed by the NPOs and support children who had hard time attending regular schools, to those with several hundred students in large-scale school buildings operated in cooperation with a cram school or a cramming school. Supporting schools in themselves, however, are not legally authorized by the School Education Act.

The standards on correspondence upper secondary school is prescribed by the School Education Act, the Upper Secondary School Correspondence Course Official Regulations (ministerial ordinance), and the

Correspondence Upper Second School Establishment Standards adopted by prefectures. According to the national standards, a correspondence upper secondary school must have more than 240 accommodation capacity with five or more teachers including vice-principal, a deputy head teacher, a main teacher, an instruction teacher and a teacher. Teachers can be substituted with assistant instructors or lecturers.

The education of correspondence course is provided by the method of correction instruction, interview instruction and examinations. In addition, methods such as instructions using broadcast or other various media are allowed. It is allowed for correspondence upper secondary schools to have upper secondary schools to cooperate with them (cooperation schools) with interview instructions and examinations.

In case of establishing private correspondence upper secondary schools, the authorization by the prefectural government is required, but only less than half of the prefectures have standards for such schools. Even they do, while some local governments have numerical criteria, others only have standards with abstract terms.

The content of instructions is prescribed by the relevant parts of the Course of Study, which determines the number of times for correction instruction and unit hours of interview instruction for each subject. For example, 1 credit of “National Language,” consists of three times of correction instruction and one unit of interview instruction (50 minutes). If some kind of media instruction is included, the hours of interview instruction can be reduced by 80 % as its upper limit.

MEXT conducted a field survey to investigate the effect of the special zone education reform in the autumn of 2011. It turned out that the schools established by companies were 5 universities, 21 upper secondary schools, 0 lower secondary school, 1 elementary school in the year of 2011, and all of those upper secondary schools were wide area correspondence upper secondary schools. MEXT found out that the examinations for credit were carried out at more than 200 supporting schools out of the special zones, which MEXT judged was a violation of Special Zone Act because it was the instructional activity out of the specified special zones. MEXT also pointed out some problems of the correspondence upper secondary schools established by companies as follow:

- (a) they are apt to have severe business conditions,

- (b) they tend to hold down teaching personnel expenses extremely for a cost cut; the annual salary of teachers is half of that for the private schools teachers;
- (c) the cost is greatly reduced for management efficiency and, as a result, several schools substantially almost omit carrying out correction instruction;
- (d) the reduction of the interview instruction by using the media is carried out in 90 % of those schools,
- (e) 50% of them do not check whether the students actually watched and listened to the media instruction, and do not evaluate the learning results.

MEXT concluded on these findings that “we think that the nationalization of this special measures would give negative impacts on stability and continuity of the education, and on its quality.” As a result, three upper secondary schools transferred themselves from the company-established schools to normal private schools.

In 2016 it was reported widely in the media that Witz Aoyama Correspondence Upper Secondary School Co., Ltd. had committed the fraud on the Upper Secondary School Enrollment Support Fund and that it had an inappropriate administration. The prosecution were that they had applied for and received supporting money for 14 students who were not eligible, because they were not enrolled at that school or had already graduated from another upper secondary school, thus cheated 2,510,000 yen out of the national fund in total. In addition, according to MEXT, they pretended that the students had studied mathematics when they calculated a change when buying a souvenir in a theme park. And also, they regarded the night viewing in Kobe as a class of Art, eating at a restaurant as a Home Economics class, walking 2 km from the nearest railroad station within the Iga City to the school as a P.E. class. And according to the press, there was a case that a supporting school received the whole supporting money from national fund and gave only two times of schooling in a year. After the case of Witz Aoyama Correspondence upper secondary School became manifest, MEXT urgently checked 102 wide area correspondence upper secondary schools all over the country in 2016, and announced its results in March of the year. In September of the same year, MEXT devised the guidelines for securing and improving the quality on upper secondary school correspondence course.

In January, 2017, the government made a cabinet decision to revise a part of the Act on Special Zones for Structural Reform in order to strengthen the instruction supervision system of schools established by companies. It prescribes that a council which the municipal governments establish is expected to play the main role of instructional supervision of the school-establishing companies and demanded to add experts of education and accounting as its members.

It cannot be denied that the recent wide area correspondence upper secondary school system has played, by its flexible structure, an important role of providing education to children whose educational needs cannot be met in the conventional school system. On the other hand, the above-mentioned facts suggest that there are some structural problems in this system where similar problems would occur when a questionable company which assumes profits as their primary motivation would come into the field.

3. Impact of privatization on disabled children – a case of after-school day-care centers

The negative impact of privatization on the policies for disabled children is most apparent in after-school day-care centers. The policies for disabled children since 2010 can be characterized by establishment and privatization of welfare services for them. Examples include a shift from in-kind benefits to cash benefits when providing the services, and new requirements of contract between the users and the service providers in conjunction with the shift just mentioned, and easing of regulations on facilities and operations to facilitate entries of new providers. The national government's low standard for establishment is closely tied to fees the service providers get. Therefore, decent providers who place staffs on their own, with higher standards to provide better care must operate on austere budgets.

3-1. Basic information on after-school day-care centers

Business for providing day-care services after school (hereinafter referred to as “after-school day-care centers”) is a new type of business operation defined in the Child Welfare Act. Conventionally, after-school activities for children with disabilities have been provided by for-profit and non-profit organizations using subsidy systems of municipal governments, or provided as day-care services for children (Type II) under the Services and

Supports for Persons with Disabilities Act. However, the parties concerned desired a system that emphasized the importance of after-school activities for children with disabilities, and lobbied the Diet and the national government. Among their many great efforts was the “petition to the Diet calling for institutionalization of after-school activities for disabled children,” which was adopted in both houses of Representatives and Councilors on December 24, 2008. These movements and drives became the foundation for the institutionalization of after-school day-care centers in 2012.

The primary legal base for after-school day-care centers is the Child Welfare Act (as amended in 2016). This act stipulates that the purposes of after-school day-care centers are to “provide (to disabled children) necessary training for improving the ability to take care of oneself, encourage interactions with the society, and offer a range of benefits” (Article 6-2-2-4 of the Child Welfare Act).

The civil movement seeking after-school activities for disabled children was demanding “a system that can enrich (these children’s) daily lives after school and during long-term academic holidays and help building a foundation for shaping their character.” However, the amended provisions emphasize “improvement of the ability to take care of oneself” and “training.” In contrast, the aim of day-care centers for school-age children in general (Project of After-school measures for Healthy Growth of Children) is to “provide an appropriate place for daily life and play in order to foster sound development of children.” (Article 6-3-2 of the Child Welfare Act) The comparison of these two types of day-care centers makes clear how the government perceives children with disabilities. In addition, after-school day-care centers for disabled children are defined as Type II social welfare services (Article 2-3-2 of the Social Welfare Act), and any form of corporate body, for-profit or non-profit, can establish such facilities.

3-2. Current situation - Rapid increase in the number of facilities and users

Since the system was implemented in April 2014, the numbers of facilities and users are both growing rapidly. The number of establishments increased from 2,540 in April 2014 to 10,613 as of April 2017. And a half of them are run by for-profit organizations, mainly stock corporations.

In addition, the number of school-age disabled children using these day-care services is 162,160 nationwide as of May 2017. This number also

hiked from 51,678 in April 2012.

Behind the scenes of this rapid growth and expansion of after-school day-care centers for disabled children, reported degradation in the quality of support is also increasing. The Ministry of Health, Labor and Welfare (MHLW) announced that it has received some reports pointing out that “an increasing number of facilities are providing low quality service or inappropriate support (ex: only showing TV or having children play video games), while pursuing profits.”

Since April 2016, MHLW took two measures against rapid expansion of business and degradation in the quality of support: (1) strict compliance to the guidelines for after-school day-care services, and (2) restriction on the number of days of use (the upper limit was set to a value obtained by subtracting 8 from the number of days in respective months). In addition, they adopted a policy to place staffs with experiences in childcare, disabled children’s care and welfare services for persons with disabilities. However, these measures and policies barely helped improving the quality of support in a direct manner, but ended up as indirect approaches that only reviewed the standards of facilities pro forma.

3-3. Problems of after-school day care centers for disabled children

3-3-1. Problems of in proportion of profit to revenue

MHLW investigated the revenues and profits of after-school day-care centers, and announced that the resultant proportion of profit to revenue was 14.5. On the other hand, when the National Association for Assuring Quality of After-School Activities conducted a similar research, the average annual revenue per center was 26,784,693 yen and the average expenses accounted for 24,274,645 yen, thus the profit was 2,607,745, and the proportion of profit to revenue was only 9.7%. MHLW and the Ministry of Finance are trying to reduce the fees for centers on the grounds that “profitability of 14.5% is too high,” but the research above shows that evidence presented by the government lacks rational foundation. Moreover, with a closer look at the profit of each facility, the number of facilities making a profit of less than 1 million yen (the proportion of profit to revenue being less than 3.7%) was the highest, followed by facilities making a profit of 3-4 million yen (the proportion of profit to revenue being 11-15%). Therefore, the average value of 9.7% was located between these two peaks. This data made it clear that there

was a gap in profitability among facilities. It also suggests that the average value does not necessarily represent the reality. If the fees for centers is reduced based on such a false sense of reality, those facilities making a profit of less than 1 million yen will be unable to continue their operation.

3-3-2. Problem of the national standard on the staff placement

The national standard on the staff placement of an after-school day-care center for disabled children stipulates that two child-care workers shall be placed for ten children. But it is the minimum standard required in applying to local governments for establishing an after-school day-care center for disabled children. If an organization intends to make a larger profit, it will be the most efficient way to run a center at this lowest standard.

But the results of the survey above show that the average number of children who came to the centers on a weekday (as of October 5, 2016) was 9.5. On the other hand, the average number of the child-care worker placed at the centers was 3.2 full-time workers, 2.7 part-time, and 0.2 volunteers (the average of the total workers is 6.1). The rate of the national minimum standard (10: 2) itself has to be called into question. And also, it is clear that there is a serious problem that the worker's wages which is based on the lowest standard (10:2) have to be divided by 6 workers.

3-3-3. Problem of the working conditions

As mentioned above, the basic wage of a child-care worker of an after-school day-care center for disabled children is counted by the national minimum standard (10: 2). Though there is a system of additional subsidy for the additional placement of workers, a subsidy is allowed to count only for one child-care worker now. If a center places child-care workers above the standard, such as four workers and more for ten children, it will not get additional subsidies for additional workers. A center that places additional workers to give good care to children has to split the whole wages counted by the national standard with all the workers. On the other hand, "for-profit organizations" will try to make a profit by holding down the staff placement and cutting off the personal expenses. Such day-care centers run by the companies are now increasing.

3-3-4. Problem of increasing incidents of child- abuse

According to the investigation by MHLW, the ratio of abusing in the after-school day-care centers for disabled children to that in the whole welfare institution for the disabled is 10.3% (35 in 339 cases). This shows that the number of the abuse in after-school day-care centers is much bigger than that in the whole child development support institution for disabled children (2 cases=0.6%). The problem of the child-abuse is deeply related with the “quality of support” and needs to be dealt with immediately.

All the facts mentioned above show that the commercialization seriously affects the quality of education and welfare service for disabled children. Even the government promoting the current deregulation policy cannot ignore the present condition and has issued the guideline on the methods of education and supporting the disabled-children.

But as long as it promotes the policy of deregulation, the negative effects upon the quality of education and welfare service caused by the commercialization will be reproduced.

4. Conclusions

We suggest that the Committee to:

- (a) Express its concerns about the negative impacts of commercialization of after-school day-care for children with disabilities and correspondence upper secondary schools.
- (b) Recommend the government to make thorough review of the impact of privatization on education and welfare for children.
- (c) Recommend the government to start the dialogue with the civil society with a view to comprehensively revise the minimum standards on the placement of the staffs and facilities so as to make them compatible with the principle of the best interest of the child.

Part III GENERAL PRINCIPLES

Chapter 7. Poverty

1. Introduction

According to the survey by the Welfare and Labor Ministry, since the late 1980s, the child poverty rate (the ratio of children who live in families whose income is less than 50% of the median income) has been increasing: the rate was 10.9% in 1985, increased to 16.3% in 2012, marking the worst on record, and decreased to 13.9% in 2015 (See Table 7-1). In 2016, UNICEF reported that Japan ranked 34th among 41 developed countries in addressing “the relative income gaps.” The relative income gaps show how far the poorest children are being allowed to fall behind the “average” child, by comparing the household income of the child at the 50th percentile (the median) with the household income of the child at the 10th percentile (i.e. poorer than 90 per cent of children). The relative income gaps of Japan was 60.21 (UNICEF, Innocenti Report Card 13, “Fairness for Children: A League Table of Inequality in Child Well-being in Rich Countries.”)

Table7-1. Relative Poverty Rate and Child Poverty Rate, 1985 – 2015

	1985	1988	1991	1994	1997	2000	2003	2006	2009	2012	2015
Relative poverty rate	12.0 %	13.2 %	13.5%	13.7%	14.6%	15.3 %	14.9 %	15.7%	16.0 %	16.1 %	15.6 %
Child poverty rate	10.9 %	12.9 %	12.8 %	12.1 %	13.4 %	14.5 %	13.7 %	14.2 %	15.7 %	16.3 %	13.9 %
Median annual income (\$)	21,600	22,700	27,000	28,900	29,700	27,400	26,000	25,400	25,000	24,400	24,500
Poverty line (\$)	10,800	11,400	13,500	14,400	14,900	13,700	13,000	12,700	12,500	12,200	12,200

Source: Data from Overviews on Basic Survey on People’s Living (The Welfare and Labor Ministry in 2014)

The child poverty causes the poverty in relationship of children with parents, and the poverty in relationship causes the poverty in development. The child poverty robs children of the opportunities for education and good jobs. When they bear children, it is more probable that their incomes fall below the poverty line. The child poverty causes the cycle of the poverty. The child poverty is the deprivation of development not only from children in the present day, but also from those in the future.

2. Problems with the government’s laws and policies

In paragraph 14 of its fourth and fifth report, Japanese government

reported the measures for reducing the child poverty: the enactment of The Act on Promotion of Policy on Poverty among Children in 2014, the adoption of the comprehensive program, named “General Principles of Policy on Poverty among Children,” in 2014, and carrying out of the survey. However, with the following problems, the Act and the program are expected to be ineffective in reducing the child poverty.

First, the Act or the program does not clarify the definition of “the poverty” and “the child poverty.”

Second, the survey by the Welfare and Labor Ministry conducted every three years captures only the child poverty rate. The child poverty is not measured by “the material deprivation rate” (the percentage of children who lack two or more item among 14 because the households in which they live cannot afford to provide them.).

Third, the Act or the program does not establish the numerical targets for the reduction which specify end dates.

Fourth, the program does not specify measures for children in early childhood, though the rights of children in early childhood constitutes the starting rights.

Fifth, the measures stipulated in the program do not fulfill the immediate needs of the poor children, namely cash transfer for their living. At the base of the program lies the “educational assistance,” which means the financial and other assistance which will help children getting higher degrees and better jobs (see section 7 of Chapter 29).

Sixth, the Act or the program does not establish the numerical target for the budget increase.

Seventh, the Act or the program does not plan to establish offices especially responsible for the child poverty either in the central government or in the local governments.

3. Difficulties imposed to children

The poverty impose many difficulties to children. The report in 2017, titled “Survey on Living Situations of Children in Hokkaido” by the prefectural government of Hokkaido, the northern island of Japan, shows how widely the child poverty spread in Hokkaido and what kind of difficulties the poverty imposes on children. The survey collected answers to questionnaires

from around 8,400 parents and 6,200 children at the fifth grade, eighth grade and 11th grade living in all over Hokkaido.

20.5% of parents answered that they had an experience of being unable to buy foods. 8.7% of them answered that they had an experience of being unable to buy fuel for heating. 24.1% of them answered that their family budget fell into red, and 43.3% answered that their family budgets were barely balanced. 17.8% of them answered that they have an experience of not sending children to hospitals though they thought treatments were needed. About one fourth of these parents answered that the reason was they could not afford to pay doctor's fees.

18.4% of all the 11th graders students answered that they engage in part-time jobs, and 13.5% of these students answered that the reason is "for paying tuition fees," 24.2% "for paying my own living cost," and 35.5% "for financially assisting my family." 22.8% of all the 11th graders students answered that they "will not continue education after upper secondary schools," and 45% of these students answered that the reason is they "worry about money."

In Chapter 23 of this report are reported the cases of "oral decay" of children of poor families. Poor parents who cannot afford to pay for dentists leave children without dental therapies. As teeth decays progress and spread to other teeth, children have difficulties in mastication. The group who drafted Chapter 23 received from many nursery teachers the reports that there are not a few students who lost weight over one month summer vacation, because they were not provided with school lunches during summer vacation. In extreme cases, students lost ten kilos. Also reported were the cases where parents use money their children got from student loans for their house loans.

4. Deregulation of labor market as the main cause of the child poverty

4-1. Working poor

The causes of the relatively high child poverty rate in Japan are the increase in the number of working poor due to the labor market deregulations, the small amount of cash transfer through the government, the burden of direct tax whose rate become higher for the poorer, high premiums for health and other coverages, and high private expenditures in receiving such service in kind as child daycare and education. The information on the cash transfer is provided in Chapter 5 of this report, and the information on the private

expenditures in Chapter 5. This section focus on the working poor, the burden of direct tax and the premiums for health and other coverages.

Table 7-2 shows that the median income has been decreasing since 1997: it was \$29,700 in 1997 and decrease to \$24,500 in 2015. This trend is paralleled by the increasing trend in the number of temporary laborers enhanced by labor market deregulations. The revised law of 1996 concerning “dispatched labor”² eased the regulations on industry types which could accept dispatched laborers and the revision in 1999 abolished these regulations. In 1995, the number of permanent workers was 38 million and those of temporary workers were 10 million. In 2015, the number of permanent workers was 33 million and those of temporary workers were 20 million. The number of temporary workers doubled in twenty years. According to Basic Survey on Wage Structure in 2015 by the Welfare and Labor Ministry, the average annual income of permanent workers was \$32,100 and that of temporary workers was \$20,500. The increase in temporary workers surely caused the expansion of poverty.

Table 7-2. Monthly Income, Cash Transfer (excluding public pensions), Direct Tax and Premiums for Health and Other Coverages of Working Families with two and more members, 2000 – 2015 (\$)

	2000	2004	2008	2012	2014	2016
Income of a householder	4463.3	4215.4	4182.3	3950.8	3984.6	3956.8
Income of a partners	543.1	559.2	553.0	589.7	59,646	643.8
Cash Transfer (excluding public pensions)	24.9	25.4	30.8	80.5	79.6	80.0
Direct Tax	401.9	369.7	419.6	402.3	414.6	419.3
Premiums for Health and Other Coverages	480.2	482.8	493.9	531.7	546.9	562.7

Source: Data from Survey on the Family Income and Expenditure Survey (the Welfare and Labor Ministry)

According to the Family Income and Expenditure Survey by the Welfare and Labor Ministry, the monthly income of householders has been decreasing: it decreased by \$507 from 2000 to 2016 (see Table 7-2). As the

² Dispatched labor refers to an atypical employment relationship. Dispatched work agencies receive customer ("Users enterprise") requests for workers to fulfill particular tasks. The workers have employment contracts with the Dispatched work agency, rather than the customer. By mutual consent, dispatched laborers work for and are supervised by the customer. There is no direct contract between dispatched laborers and the customer.

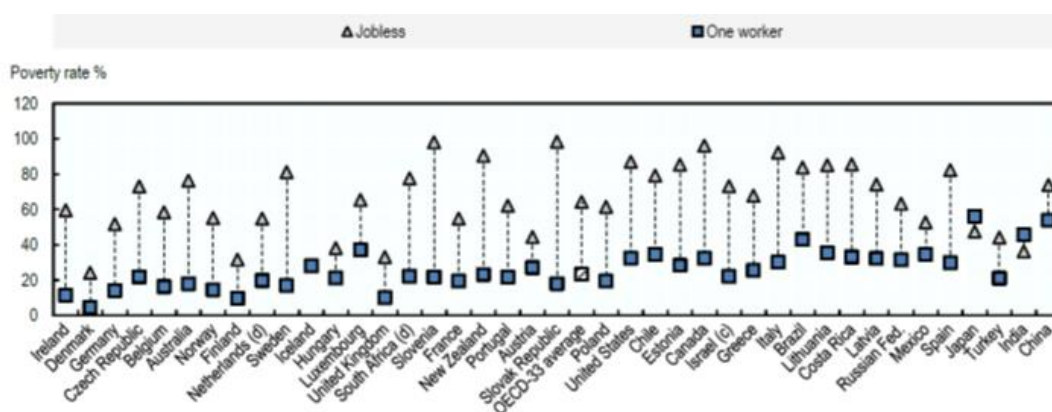
income of householders decrease, the income of partners increase. This means partners work more for family budget. Nevertheless, only one fifth of the decrease in householder's income is covered by the increase in partner's income. With the increase in direct tax and premiums for health and other coverages, family budgets are under more serious situations.

4-2. Working (single-) mothers

The average annual income disaggregated by gender shows the gap between male and female. The average annual income of female permanent workers was \$25,900 and that of female temporary workers was \$18,100 in 2015. These incomes do not allow women to live independently.

80.6% of single-mothers engage in work. 39.4% of these working single mothers got permanent jobs and 47.4% temporary jobs. A single mother with a permanent job earn \$27,000 and a single mother with a temporary work \$12,500 in 2011. These hard working conditions for women, especially for single-mothers with a temporary works, are surely the main cause of the high poverty rate of single mothers, which was 54.6% in 2012. OECD data shows that the poverty rate of single-mothers with jobs is higher than that of jobless single mothers (see Figure 7-1). This indicates that single-mothers with temporary works are facing the most difficult situations.

Figure 9-1. Poverty rate in households with a single adult and at least one child



Source: OECD Family Database CO_2_2_Child_Poverty, 2017

As is mentioned in section 2 of Chapter 5, the child rearing allowance, means-tested allowance for a single-parent, is not sufficient enough to fill the

gap between the income necessary to assure child development and the low wages of single-mothers.

5. Conclusions

We urge that the laws and policies on the child poverty in Japan be comprehensively reorganized. We suggest the U.C. Committee on the Rights of the Child to recommend Japanese government to:

- (a) Clarify the definitions of the child poverty and stipulate numerical targets with end dates for the reduction of the child poverty in the Act on Promotion of Policy on Poverty among Children and the Cabinet's programs.
- (b) Conduct survey on the child poverty through multiplied methods including the material deprivation rate.
- (c) Adopt the roadmap for the reduction of child poverty. This is required also for municipalities.
- (d) Review the deregulation of labor markets.
- (e) Expand selective cash transfers to families with children whose incomes are the below the poverty line and establish the universal cash transfer to families with children.
- (f) Station permanent experts on the child poverty in child daycare center, kindergartens, normal schools, and special support education schools. The government is now stationing part-time school social workers in schools whose incomes are near or below the poverty line. Permanent experts are needed.
- (g) Strengthen the budgetary measures.
- (h) Establish offices specialized in the child poverty both in the central and local governments.
- (i) Establish systematic cooperation with NGOs working for children in poverty.

Chapter 8. Discrimination against Korean Residents in Japan

1. Introduction

This section deals with discrimination against Korean residents in Japan, Especially we shall focus on the problem of ethnic education for them which shows various developments recently. We shall examine the problems in sequence: 1 Relevant provisions in the Convention on the Rights of the Child (CRC), 2 Recent response of the Japanese government and its problems, 3 Recent main court judgements.

2. Relevant provisions in the CRC

The most important provision relating to the ethnic education for Korean residents in Japan is Article 2 (Non-discrimination), which stipulates the non-discrimination principle as the right guaranteed to the child. The para. 1 of the article stipulates that any state party should respect and assure the rights of the child under the Convention “without discrimination of any kind” “irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” This non-discrimination principle should naturally be applied to the right to ethnic education.

Next, Article 29, which lays down “the aims of education” can be listed as a regulation relevant to ethnic education. The para. 1 (C) of the article lists as one of the aims of education “the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.”

This provision requests that the education to a certain ethnic group should cultivate respect for the cultural identity of the child and for the national values of both countries in which he or she lives and from which he or she originates. Thus, it is supposed to be the ground provision of the Convention under which they have the right to enjoy ethnic education.

Moreover this right is reinforced with Article 30 which stipulates “the rights of the child of minorities and indigenous origin.” The article guarantees the child who belongs to an ethnic group the right to have his or her own culture, religion, and language in order to maintain his or her

cultural identity, and it goes without saying that the right involves that of enjoying ethnic education.

To guarantee the child's right to enjoy ethnic education, naturally the right to freely establish educational institutions, or ethnic schools to give such education must be accepted. The para. 2 of Article 29 guarantees this right stipulating as follows: "no part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State."

As for this provision, the question is how we interpret the two requirements attached to the establishment of ethnic educational institutions: 1) observance of the principle of Article 29, paras.1 and 2) conformity to minimum standards as may be laid down by the State. The argument against the right to ethnic education of Korean residents in Japan lists as one of the reasons that the education given at the ethnic schools (North Korean Schools) can't fit easily to the public education in Japan which is carried out according to the Course of Study.

As to this argument, we should think as follows. First, as for the requirement 2), we should interpret "minimum standards" mentioned here as the requirements for the very fundamentals of external conditions of education and curriculum, such as facilities, school size (size of schools and classes, the number of teachers), organization of schools (admission and graduation qualifications, credit system), and the subjects to teach. In other words, they are not the standards for detailed items which are written in the Course of Study. Next, as for requirement 1), we should not overlook the fact that Article 29 (para.1) itself guarantees education for maintaining identity of the ethnic group. It is absurd to interpret the Convention as not supporting ethnic schools for its ethnic character and non-conformity to the public education.

As will be discussed later, the biggest issue at present concerning the education of Korean residents is the constitutionality of excluding the students of Korean upper secondary schools from the measures of tuition exemption with school expenses subsidies, which was introduced to realize an equal opportunity for upper secondary school education.

Relevant to this issue, let us examine Article 28 (para. 1), which stipulates about tuition free education. It makes requests to states parties to achieve the right of the child to education “progressively and on the basis of equal opportunity,” and as for “secondary education,” to make it available and accessible to every child, and for that purpose to take “appropriate measures” such as “introduction of free education” and “offering financial assistance.” Here, the duty to “achieve the right to education progressively” and the duty to “introduce free education” to “secondary education” are clearly stated. And at the same time, we should pay attention to the fact that these duties also involve non-discrimination principle at each stage and each level of “progressive achievement” as we can see it in the expression “on the basis of equal opportunity.”

3. Ethnic education of resident Koreans ---recent measures of the government and its problems

In order to maintain public order, the Japanese Government has been hostile and oppressive to ethnic education of resident Koreans, which started soon after the end of the Asian, Pacific War. Instead of going into details of the history, we shall examine some characteristic events and tendencies of the government’s measures and its problems.

The first is that the government which had not approved North Korean schools as “regular schools” (as defined by the article 1 of the School Education Act), nor even as “miscellaneous schools” (the article 134) until 1960s through 1970s, now justifies refusing the graduates of North Korean schools to apply for universities, and excluding those schools from a tuition waiver program, on the ground that they are classified as “miscellaneous schools.”

The second is the repressive interference by the central government which refuses to provide school subsidies to such schools, to those local governments which has voluntarily provided subsidies. The case in point is the notice issued by the Minister of Education on March 29th in 2016 to prefectural governors entitled “Points to note on subsidies to pro-Pyongyang Korean schools.”

It was based on a blatant political intention of demanding local governments to “reconsider” providing subsidies to Korean schools, as a part of the “sanctions” against Democratic People's Republic of Korea (North

Korea), which has developed nuclear weapons and missiles. An appeal by researchers against the notices states: the government's recent measures on Korean schools are a form of racism (racial, ethnic discrimination) which is prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination, unjustly violating the rights to equality and learning which are stipulated by all kinds of international human rights treaty and the Constitution of Japan. ("Appeal by researchers against the government's unjust interference with subsidies for Korean resident schools by local governments," May 26th 2017)

The third problem is that, as mentioned above, that North Korean schools have been excluded from a upper secondary school expense subsidy program. Lawsuits on constitutionality of this measure, which call for "withdrawal of non-designation" and "obligation of designation" are now filed in Tokyo, Nagoya, Osaka, Hiroshima and Fukuoka. Among many issues disputed here, we shall pick up two issues to be examine in the following sections.

4. The first issue of the suits: "Unjust control"

The first issue concerns the claim of the government (defendant) that it excluded North Korean schools from the upper secondary school expenses subsidy program on the ground that the curriculum of North Korean schools is "unjustly controlled" by North Korea and General Association of Korean Residents. This allegation notices the Education Minister's Prescript which states schools eligible for subsidy "must properly administer school under the law by sound allocation to refund the debt concerning an upper secondary school expense subsidy (article 13)." The defendant asserts that "unjust control" in the schools substantially hinders designation of subsidies on the ground that it is prohibited in the Basic Education Act (article 16, section 1).

This claim contains many problems. Firstly, the prescript was established as a standard for judging whether the school is eligible for subsidy when the schools apply for it, and the standard should be concerned with objective conditions such as facilities and the basic principles of curriculum. However, it is clear that the article 13 refers to how the school should be managed after it is designated. The article, which lacks a function of setting a standard, doesn't proscribe any requirements for designation but gives instructions to designated schools. Secondly, even if it is permissible to

require managing schools “under the law” for designation standards, the extent of the application of the law should naturally be limited. Judging from the context of the prescript, it is proper to interpret it as concerning with financial accounting of schools, and it is too arbitrary to apply to this case the article 16, section 1 of the Basic Education Act. Thirdly, the “facts” provided by the defendant to support their allegation that North Korea and General Association of Korean Residents unjustly control Korean schools, are not ascertained on the basis of reliable evidence.

5. The second issue of the suits: Deletion of prescript concerning the designation of eligible schools for subsidy

The second issue of the suits is whether it is justified constitutionally or legally for the education ministry to revise the ministerial order while in the process of reviewing application for subsidy (February 20th in 2013), deleting the relevant clause from its regulations, and decided not to designate North Korean schools based on the revised prescript. On the very same day, the defendant issued a notice of non-designation to all the North Korean schools which applied for subsidy. The ground for that decision was “the deletion of the relevant clause” and “the incongruence with the article 13”.

This is a surprising administrative legislation. If the non-designation can be justified on account of “the incongruence with the article 13”, there is no need to have the relevant clause deleted. Nevertheless, the government deleted the clause itself and made the ground for their review of applicants collapse. This fact suggests that the defendant didn’t have a strong conviction to decide non-designation based on “the incongruence with the article 13.” It seems that this is the very reason why they deleted the relevant clause cancelling off the necessity of reviewing itself all together. In any event, this measure has many problems, including the violation of equality principle with respect to other foreigners’ schools which had already been designated on the deleted clause, and the violation of due process of law in administrative actions.

6. Recent main judicial rulings

In this section, recent main judicial rulings on the ethnic education of Korean residents will be discussed, focusing on two quite contrasting rulings of the district courts on the school subsidy cases.

The first is the ruling issued by the Hiroshima district Court on July 19, 2017, rejecting totally an appeal of the plaintiff; that is, to oblige the government to designate their schools, and to cancel their non-designation.

The characteristics of this ruling is its admission of the defendant' arguments on almost all issues. For example, it states on the issue of "unjust rule" as follows:

The facts the defendant presents as the grounds for their claims ... can be recognized as evidence. These facts are numerous,even if the school enrollment subsidy is provided, a concern remains whether it will be properly allotted to credit related to the tuition fee, and the judgement of the Education Minister not to admit that the "secure allotment to settlement of credit" prescribed by article 13 of this rule be performed properly is acceptable. Thus, no deviation and abuse in the discretion is observed here.

The next is the ruling issued by the Osaka District Court on July 28, 2017, in which the plaintiff won the case completely. On deleting the prescript which is a basis of reviewing the appropriateness of subsidy, it ruled that:

“The Act on Free Tuition at Public Upper Secondary Schools and the Upper Secondary School Enrollment Support Fund” mandates the Ministry of Education to establish the scope of various schools appropriate for providing subsidies with the state funding from the viewpoint of ensuring equal opportunities for education in upper secondary education stage. Minister of Education, Shimomura, however, has enacted the [new] ordinance and removed the previous provision based on the diplomatic and political judgement irrelevant to consideration of guaranteeing equal educational opportunities, deviating from the scope of mandate. Thus the decision of the defendant should be understood illegal and invalid.

And on the issue of “unjust control,” the Osaka decision ruled that it does not apply stating as follows:

Since it is not special for a certain group to make donations to private

schools in favor of their policy and content of education, it is not possible to make a categorical decision that it is unnatural for ethnic associations such as the Association of Korean residents in Japan to subsidize ethnic education in North Korean schools. Thus it cannot be said that the relation between such associations and the North Korean Schools is inappropriate based on the fact of donation of the said amount.

As we have observed above, the Hiroshima District Court ruling confirms and surmises the standpoint of the defendant which perceives the issue of subsidies to North Korean schools solely from a diplomatic and political speculation, and there is no consideration to the ethnic education of the Korean residents in Japan which face crisis of survival. Although the response of the Japanese government violates the principle of non-discrimination in the rights of ethnic education and constitutes obvious violation of the Convention on the Rights of the Child, there is no such viewpoint in the Hiroshima ruling. Osaka District Court ruling, on the other hand, admitted the rights of ethnic education of Korean residents and gave a purely legal decision cutting off any political consideration. In particular, it is commendable that it gave a historical consideration to the relation between North Korean schools and the ethnic associations. However, even in the Hiroshima ruling, it did not make any judgement as to the violation of the international treaties such as the International Human Rights Convention as alleged by the plaintiff. We can observe here the indifference of the court in Japan to the protection of human rights in the international context.

7. Conclusions

Therefore, we suggest the Committee to ask the Japanese government to present the views on:

- (a) what evaluation is made to the policy of the ethnic education of Korean residents in Japan,
- (b) what the government thinks of the right to enjoy the ethnic education for children of Korean residents,
- (c) the reason why the Korean upper secondary schools were excluded from the tuition-free measures.

We suggest the CRC to express Concerns that:

- (a) exclusion of Korean Schools from the tuition-free measures violates

- the right to enjoy their ethnic education (by refusing to maintain conditions), violating Articles 29 and 30 of the Convention,
- (b) the policies of the Japanese government to suppress the ethnic education of Korean residents may be generating the breeding ground of hate speech to the Korean residents in Japan (It is called "hate speech from the top").

We suggest the CRC to recommend that:

- (a) the Rights of the Child specified in the Convention should not be swayed by the political and diplomatic circumstances caused by the actions of the People's Democratic Republic of Korea (on this point, the students enrolled in the Korean schools may be considered to include those of Korean families with Japanese nationality),
- (b) judicial institutions should eliminate the political and diplomatic viewpoints described above, and present the judicial judgements on how to guarantee the rights of the Child in conformity with the Constitution, national laws and regulations.

Chapter 9. Gender Discrimination

1. Japan is a gender-unequal nation

In its Concluding Observations to the seventh and eighth combined periodic report of Japan, Committee on Elimination of All Forms of Discrimination against Women (CEDAW) recommend the government to adopt a comprehensive definition of discrimination against women in its national legislation in line with Article 1 of the Convention (Paragraph 11). CEDAW recommended the government to disseminate the Convention, its Optional Protocol, and its recommendations to relevant state institutions at all levels and all stakeholders concerned, such as NGOs, educational institutions, and media, so as to achieve full implementation of the Convention (Paragraph 53). According to official data, in 2016, 36.1% of the population of Japan had heard of the term “Convention on the Elimination of All Forms of Discrimination against Women” compared to 35.1% in 2009, denoting that little has changed. Nevertheless, the government is taking a half-hearted approach toward this issue, as is laid bare in its Fourth Basic Plan for Gender Equality, which outlines the unambitious target of having the term “Convention on the Elimination of All Forms of Discrimination against Women” known by “50% or more” of the population by 2020. Furthermore, with a gender gap index of 0.660, Japan is ranked 111th among the 144 countries.

There are two key factors behind this situation: first, flagrant commodification of women’s sexuality, and second, women’s low social status.

Regarding flagrant commodification of women, there are cases involving administration-attributed environmental sexual harassment (as seen in government PR campaigns) and advertising that encourages occupational gender segregation. In such cases, women’s bodies, depicted as objects for consumption, are used as a means to draw attention, and are callously treated as sources of titillation. Such cases send out the message that it is acceptable to treat women in such a degrading way. Also, children witness all around them the existence of a market that places high value on youthful and sexy female bodies. This message gets internalized unquestioningly, and in turn steers person toward actions that reinforce and affirm such a message.

The low status of women in society is illustrated by the fact that 60%

of women drop out of full-time employment due to childbirth, women make up 56.3%³ of non-full-time workers, and that 80% of unpaid work is performed by women (women spend their time in uncompensated work 4.9 times more than men; as of 2011).

To make matters worse, the rights of sexual minorities are not adequately guaranteed.

We wish to emphasize first and foremost that an underlying cause of gender and sexual discrimination among children is the gender inequality that exists in the Japanese state and its society.

2. General discrimination

We wish to highlight four examples of legal discrimination and how they should be rectified.

- (a) The age for marriage differs between men and women. Women are allowed to enter into marriage earlier.
- (b) The age of consent for sexual activities of child 13, is far too low.
- (c) On the birth certificate, you can only state the sex of a child as male or female.
- (d) Married couples use the same surname. Under Japan's family register system, married couples must use only one surname. When a child's parents divorce, and the child wants to change his or her surname to that of the custodial parent, the process for doing so is complicated.

3. Inequality in education

3-1. Co-education

The government report stated that the provision on co-education in Article 5 of the 1947 Basic Act on Education had completed its historical purpose, and that the concerns expressed in CEDAW's Concluding Observations deviated the "historical backgrounds and facts" that led to the removal of Article 5 (Paragraph 31). However, Article 5 did not merely provide for equality of opportunity; in enshrining this principle, it provided an institutional guarantee that still holds encouragement of a gender-equal

³ Non-full-time employees account for 37.5% of the total workforce. Of these non-full-time employees, 21.9% are men and 56.3% are women. Regarding the age breakdown, between ages 15 to 24, 25.3% of men and 34.3% of women are non-full-time employees (non-full-time employee rates [2017 White Paper on Children and Young People 10: Various Data, 5-4]).

education. The Japanese government has deliberately ignored the significance of Article 5.

To this day, the Japanese government is unwilling to provide an institutional guarantee by taking the legal measures in compliance with CEDAW's recommendation to reintroduce an article promoting gender equality into Basic Act on Education revised in 2006. Instead, the government appears to have turned its back on the promotion of gender-equal education, adding only a cursory mention of "importance of respect and cooperation between men and women" to the objectives of education outlined in Article 2 of the 2006 Basic Act on Education.

Co-education has now become the norm in Japan, with 98.5% (2013) of public upper secondary schools being co-ed schools. However, as a result of the post-war Education Ministry's policy to "reflect the particular circumstances of local communities," there are still 39 single-sex public upper secondary schools in the three Kanto prefectures (Gunma, Tochigi, and Saitama) and 12 in other prefectures, including Kagoshima, Wakayama, Shimane, Fukuoka, Chiba, and Miyagi. Thirty-two of these schools are girls' schools, and 19 are boys' schools. Many are the elite schools in their areas and are steeped in heritage and tradition, which may explain why many still believe in retaining sex-segregation as an option. Amid the development of a neoliberalist education strategy, elite boys schools place value on global competitiveness, and it is clear from surveys and researches that students in these schools have few opportunities to learn about gender equality. The lackadaisical approach to co-education in public upper secondary schools is holding back the promotion of gender equality and restricting opportunities for sexual diversity in education.

An important point to bear in mind is that co-education is not the final goal. Turning schools into co-ed schools does not in itself achieve gender-equal education. What is needed in schools, including in today's co-ed schools, is a form of education that nurtures in young people the capacity to live their life free from prejudice of any stereotyped concepts of the roles of men and women. To achieve the institutional guarantee necessary for this purpose, there needs to be a law for promoting gender-equal education.

3-2. Cases of sexual discrimination in education opportunities

There are other examples of sexual discrimination in education, such as

the following:

- The gender breakdown of students who complete undergraduate education is 54.9% men and 45.1% women (2013), indicating a sex disparity in advancing to higher education.
- Sexual minorities are deprived of educational opportunities due to bullying and other factors. In one survey, 51% of respondents reported experiencing bullying during elementary or lower secondary school, and 21% said that they did not go to school. Notably, as many as 67% said that their teacher did not help resolve the problem (Lifenet Insurance Company survey conducted in March 2017).
- Teenagers who become pregnant typically leave school prematurely, which deprives them of educational opportunities. In many cases, the exact reason for leaving school is unclear due to the absence of precise data, but a Cabinet survey reported that 4% of premature school leavers cited pregnancy as the reason for leaving (2010 Cabinet Office survey). This issue came to public attention this year through an article in the Mainichi Newspaper (July 14, 2017), which reported that 49,000 teenagers withdrew prematurely from upper secondary school in 2015 and that in 2016, around 11,095 children were born to teenage mothers.

3-3. Gender gap in opportunities for play and exercise

There is a gender gap in opportunities for play and exercise. Among elementary schools, 87.0% of girls and 93.4% of boys have 60 minutes or more of general exercise time a week, whereas the equivalent rates for lower secondary schools are 79.0% (girls) and 92.9% (boys), indicating a gender gap (2015, Fourth Basic Plan for Gender Equality). As to why exercise opportunities decline particularly for lower secondary school girls, some attribute this to female sexuality, arguing that girls want to avoid getting sunburn or developing muscular bodies.

4. A school culture built on sexual segregation with sexual minority youth

Today's school culture is problematic; it has incubated a stubborn sexual segregation and separate environments for men and women. In April 2015, the Education Ministry issued a directive to schools across the country on "measures for students with gender identity disorder." In 2016, the Ministry issued another directive to the schools titled "implementing

measures, etc. for students with gender identity disorder or sexual orientation or gender identity issues (for teachers and staff).” However, in both directives, the context is “measures for” sexuality minorities; there is scarce concern about the school environment itself and how hostile it is to sexual minority children. Japan’s school culture treats sexual segregation as absolute, including in school uniform policy, and is intolerant toward diversity; it is this very culture that requires urgent reform.

5. Gender gap in educational content, especially for subjects taken

The government has offered no leadership for overcoming the harmful gender stereotypes that prevail in society. Consequently, women account for only a meager proportion of STEM students. At the undergraduate level, only 27.0% of science students and 14.0% of engineering students are women (2016). This finding suggests that, at upper secondary school, there is separate career guidance for women and men.

Efforts to ensure gender equality are inadequate when it comes to daily life guidance. Currently, young men are much more likely to experience bullying and commit suicide, while young women are disproportionately the victims of “crimes that cause harm to the welfare of youth.” However, there is no social care or support to deal with these circumstances.

6. Sexual bullying among boys

There are many cases of sexual bullying. Among men, value is placed on chutzpah and machismo, which can often overspill into dominant-dominated behaviors. Sometimes, to foster male bonding and camaraderie, young men will feel pressured to strip off or participate in salacious “locker room” banter. In such situations, “unmanly” young men can face exclusion or hostility, a demotion in their peer group status, and they sometimes get the cold shoulder. The psychological structure here tends to be bleed into ridicule of gay people and sexual minority discrimination. Sexual bullying and other forms of sexual violence are, in many cases, acts of violence in which the perpetrator – who often fails to recognize that he is indeed a perpetrator – leverages an overwhelming power advantage over the victim. “Gender-sensitive” education, education that sensitizes young men and women to inequality between the sexes and injustice in society, teaches young men not to be such perpetrators.

7. Influence of female teachers' workstyle

Another matter that must not be overlooked is the fact that the way in which female teachers work has an impact on children.

In a survey by the youth division of the All Japan Teachers and Staffs Union (Zenkyo), teachers reported cases where managers said to them regarding pregnancy, such as, "if you're going to be pregnant, it would be better if you do so this year or next" and "if you teach grade six students who are final year students in primary school, you should avoid becoming pregnant." In a survey by the women's division of the National Confederation of Trade Unions (Zenronen), of 422 teachers who became pregnant or gave birth in 2011 or later, 23.8% experienced a miscarriage and 25.1% had an abnormal delivery. In Kyoto Prefecture, more than 50% of teachers who became pregnant took special leave for gynecological disorders for a month or longer before taking maternity leave. Those who are temporary teachers are, in many cases, "encouraged" to resign, and those who are non-regular teachers do not even have a maternity leave system.

Since teachers are expected to inculcate in young people awareness for human rights and aesthetic sensibility, they urgently require an occupational environment that does not violate their own human rights such as through harassment.

Though the proportion of school managerial staff who are women has increased year by year, the percentage of women declines with each successive tier of education (elementary school, lower secondary school, upper secondary school), and the number of women in managerial roles remains small. This trend serves to transmit prejudicial attitudes to young people, including the notion that women are suited to looking after small children and that men are better in positions of responsibility.

8. Issues concerning the government's strategy for young people

The government efforts to eliminate the occupational inequality that exists between men and women from the teenage years onward are insufficient. Although it pertains to adults, there is Cabinet Office data showing that women are less likely than men to be in employment and more likely to be in unstable forms of employment. The employment rate among 20 to 34 year olds is 82.0% for men and 69.9% for women, and 990,000 women

are “freeters” (in low-skilled or unstable employment) compared to 800,000 men (Cabinet Office, Fourth Basic Plan for Gender Equality).

The government, in its strategy of Development and Support For Children and Young people, is passionate about helping NEETs, but it does not provide support for young people who are “housework assistants” and, despite not being in education or employment, are not included in the NEET concept. A survey on daily life by the Yokohama Association for the Promotion of Gender Equality, which focused on women without official employment between the ages of 15 and 30 (those who were not in education or employment), found that many of the women go back and forth between non-regular work and unemployment. Because these women miss opportunities to accumulate career skills, they are unable to plan out a future. The survey also revealed that many of the women have multiple issues stemming from childhood, such as bullying, truancy, violence or abuse by a family member, and many have experienced harassment in the workplace. The government does not provide any support to address these multilayered and compound problems.

9. Gender segregation and inequality between the sexes in relation to childrearing

In its report, the government mentions that it has adopted a strategy for raising children generation (Paragraph 10); yet none of the targets related to this strategy that are outlined in the Basic Plan for Gender Equality have been met. There is a particular lack of progress in addressing sexual segregation in housework and childcare. The Fourth Basic Plan for Gender Equality includes numerical targets for 2020; namely, 13% of men taking childcare leave, and fathers of children aged under 6 spending 2 and a half hours a day engaging in childcare or housework. However, on average, only 2.65% of men employed in a private firm take childcare leave (2015) – a modest improvement from the 2009 figure of 1.72%, but nowhere near the target figure. Also, fathers spend 67 minutes per day (2011) engaging in childcare or housework, which is scarcely better than the 2006 figure of 60 minutes per day, and far short of the target figure for 2020. Since the time of the previous report, there continues to be a resounding demand for housekeeping support for single fathers and financial support for single mothers.

10. Deeply rooted prejudice toward women and homosexuality

The examples of inequality discussed above stem from prejudice and hostility to women, sexual behavior, and homosexuality, which has become deeply entrenched in modern Japan.

Violence against and harassment of women appears to be on the increase. In 2008, 13.6% of women and 4.3% of men said they sustained damage from their partner during their teens or twenties (Cabinet Office, “Survey on Violence between Men and Women”). In 2014, this increased to 19.1% among women and 10.6% among men. Of the 396 applications for conflict resolution assistance accepted by heads of the Prefectural Labor Bureau in 2014, the most prevalent type of case (191 applications) involved women who were treated disadvantageously because of pregnancy or childbirth, and the second most prevalent type of case (182 applications) involved sexual harassment. These two types of cases accounted for around 90% of the applications (2016 Report on Working Women). Disadvantageous treatment attributed to pregnancy or childbirth includes “maternity harassment,” a term describing discrimination or harassment that some women receive in the workplace after announcing they are pregnant.

There are also flagrant cases of discriminatory language against gay people and other sexual minorities. One reason behind this is the media, which often portrays sexual minorities as figures of fun. Asked if they had heard discriminatory remarks against sexual minorities in the workplace or school, as many as 72% of respondents said they had. By age group, 77% of teens and 75% of those in their twenties answered in the affirmative, indicating that younger people were even more likely to have heard such remarks. Asked about information on homosexuality that they acquired in school life, 68% responded that they learned absolutely nothing and 5% said they learned only that gay people are “abnormal.” Also, 17% said they acquired “negative information,” which outnumbered the 7% who acquired “positive information” (example from the aforementioned Lifenet Insurance Company source).

11. Need to strengthen sex education

Between birth and the age of schooling, children are constantly exposed to a culture of sexual commodification and deprived of proper sexual education. This situation stunts the development of healthy sexual attitudes

in children, leaving them vulnerable to sexual exploitation. The adults lack the necessary knowledge to protect children from sexual exploitation, as they too did not receive sex education. Consequently, both children and adults lose opportunities to rectify the prejudicial attitudes toward sexual and homosexuality that took root inside them. To address this situation, it is essential to implement sex education that includes students' parents from the elementary school stage.

12. Conclusions

We suggest the U.N. Committee on the Rights of the Child to recommend the government:

- (a) Revise related laws so as to raise the minimum marriage age for women to 18, and to raise the age of consent to sexual activities of child at least to 16.
- (b) Make it easier for transsexual persons to change gender descriptions on family register and other records and allow transsexual and bisexual persons to register gender descriptions other than male or female.
- (c) Make it easier to change the surname of a child to accord with the surname of the custodial parent and parental authority following a divorce.
- (d) Re-introduce the article on gender-equal education into the Basic Act on Education.
- (e) Provide support to young people who are “housework assistants.”
- (f) Take measures to eliminate sexual segregation and gender inequality in raising children.
- (g) Take educational measures to prejudice against women and sexual minorities, particularly gay people, prevailing in the society.

Chapter 10. National Minimum Standards on Facilities in Education and Child Day Care

1. Introduction

In Paragraph 40 of Concluding Observations to the third periodic report from Japanese government, the U.N. Committee on the Rights of the Child recommend Japanese government to “(a) Take effective steps to develop and define standards of service covering the quality and quantity of services provided by such institutions and applicable to both the public and private sectors” and “(b) Consistently enforce adherence to such standards in both the public and private sectors.”

Japanese government, especially the Council on Economic and Financial Policy (Keizai Zaisei Shimon Kaigi) established under the Cabinet and the Finance Ministry, has not taken these recommendations seriously. The Council on Economic and Financial Policy and the Finance Ministry have proposed to reduce public expenditures on education and lower the standards on educational facilities on the ground that the number of children is decreasing. They have also proposed that, in order to respond to the increasing need for the child day care services in a cheaper way, the national minimum standards on day care facilities be lowered and the industrialization of services be enhanced.

In the face of the strong opposition from the civil society, these proposal were not broken down into laws or policies as they were. But, still, in education, in order to enhance the school consolidation, the national minimum standards on school size and school deployment. In child day care, such important standards on playground and toilets, were abolished. In both education and child day care, privatization has been enhanced to let for-profit and non-profit organization provide services. This combination of lowering the national minimum standards and privatization results in the negative impact to the development of children.

This chapter focuses on the national minimum standards on facilities and equipment. Please see Chapter 11 for the national minimum standards on the qualities and the number of staff directly working for and with children and Chapter 6, 24 and 25 for the negative impacts of privatization on children.

2. National minimum standards on school size and school deployment

Japanese government has enhanced the school consolidation from elementary to upper secondary with the aim to educational expenditures. From 2008 to 2017, the number of public elementary schools decreases from 22,197 to 19,794 (-11%). The number of public upper secondary schools decreases from 10,014 to 9,479 (-5.3%). The number of normal and night upper secondary schools decreases from 3,906 to 3,571 (-8.6%). (See Table 10-1)

Table 10-1. The number of schools

	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2017:FY2008
Elementary School (National, Public and Private)	22,476	22,258	22,000	21,721	21,460	21,131	20,852	20,601	20,313	20,095	89.4%
Elementary School (Public)	22,197	21,975	21,713	21,431	21,166	20,836	20,558	20,302	20,011	19,794	89.2%
Lower Secondary School (National, Public and Private)	10,915	10,864	10,815	10,751	10,699	10,628	10,557	10,484	10,404	10,325	94.6%
Lower Secondary School (Public)	10,014	10,044	9,982	9,915	9,860	9,784	9,707	9,637	9,555	9,479	94.7%
Public Upper Secondary School	3,906	3,854	3,780	3,724	3,688	3,646	3,628	3,604	3,589	3,571	91.4%
Public Normal Upper Secondary School	3,187	3,148	3,109	3,073	3,037	3,007	2,994	2,978	2,969	2,955	92.7%
Public Night Upper Secondary School and That with Normal & Night Courses	719	698	671	651	651	639	634	626	620	616	85.7%
Public Night Upper Secondary School	183	185	178	173	168	169	173	169	166	165	90.2%
Public Upper Secondary School with Normal & Night Courses	536	513	493	478	483	470	461	457	454	451	84.1%
Correspondence Upper Secondary School	80	87	88	89	91	93	98	100	104	107	133.8%
Public	8	8	7	7	8	8	8	7	7	7	87.5%
Private	72	79	81	82	83	85	90	93	97	100	138.9%
Correspondence Upper Secondary School with Normal Course	117	118	121	121	126	128	133	137	140	143	122.2%
Public	63	63	65	66	68	69	69	70	70	71	112.7%
Private	54	55	56	55	58	59	64	67	70	72	133.3%
Correspondence Upper Secondary School and That with Normal Course	197	205	209	210	217	221	231	237	244	250	126.9%
Public	71	71	72	73	76	77	77	77	77	78	109.9%
Private	126	134	137	137	141	144	154	160	167	172	136.5%

The government has adopted three ways to enhance school consolidations.

The first is school closure and consolidation through school choice: when a school fails to have the minimum number of student choose her, a school shall be closed and consolidated. This way was used in Tokyo from 2002 to 2007 for elementary and lower secondary school closure and consolidation. This way heated up the competition among schools and increased the number of non-attendance students. This way doomed communities whose school were closed to wither and die. Facing the strong opposition from the civil society this way has been withdrawn.

Though the closure and consolidation of elementary and lower secondary schools through school choice was withdrawn, this way is now being used for night upper secondary school closure and consolidations. In Osaka prefecture, 22 night upper secondary schools were closed and the number of night upper secondary schools decreased from 42 in 2001 to 20 in

2012. This way is now being adopted by many prefectures around Japan. In 2008, the number of night upper secondary schools and upper secondary schools which have both the normal and the night courses was 719. In 2017, the number of these upper secondary schools was reduced by 103. In contrast with the decreasing number of night upper secondary schools, the number of correspondence upper secondary schools is increasing. In 2008, the number of correspondence upper secondary schools and upper secondary schools which have both the normal and correspondence courses was 197. In 2017, the number increases by 57 and amounts to 250. Out of 57 new correspondence upper secondary schools, 46 are run by private organization including for-profit companies. This means that students with low scholastic scores are caught in the wave of privatization.

The second way to close and consolidate public school is to establish “compulsory education school.” Compulsory education school is a new type of schools created by revised School Education Act of 2015. Compulsory education school integrates an elementary and lower secondary level and provides nine years of education through 1st to 9th grade. When a city, a town or a village establishes a compulsory education school, she tends to close several elementary schools and a lower secondary school and consolidate them into a compulsory education school.

In 2016, twenty two compulsory education schools were established. Eight were established by rural municipalities with small population. The others were established by urban municipalities with large population. The compulsory education schools in rural areas tend to be small. The total number of students from 1st grader to 9th in each of eight school in rural area is less than 200. Those in urban areas tend to be large. Out of nine compulsory education schools in greater Tokyo area, six accommodate more than 900 students and four accommodate more than 1,000. In these huge schools, it is difficult for teachers even to memorize names of teachers and it is impossible for them to realize the collegiality. It is also difficult for them to have close relationship with students. It has been reported that in these huge compulsory education schools, the number of students who cannot go into classroom and spend time in school nurses office and the number of non-attendance students are increasing. Some young teachers working in these schools call their schools as “Titanic.”

The third way is to lower the national minimum standards on school

size and school deployment. In “Basic Policies for the Economic and Fiscal Management and Reform 2014” published in June, 2014, the Cabinet proposed to “review the guidelines on the consolidation of schools, which is based on the commuting distance and so on, with view to optimizing the sizes of schools--.” In July, in its fifth proposal, Education Rebuilding Council proposed to adopt “guidelines for optimizing the sizes of schools.” In January, 2015, the Education Ministry published “Guidelines on Optimal Size and Deployment of Public Elementary and Lower Secondary Schools.” These guidelines revised the former standards on school size and deployment adopted in 1956.

The former guidelines of 1956 said that the sizes of public elementary and lower secondary schools are optimal when they have twelve to eighteen classes in total (in an elementary school two or three classes per one grade and, in a lower secondary, four to six classes per one grade). The government established this standard with the aim to enhancing the school consolidation policy at that time. As a high-ranked officer of the Education Ministry answered during discussion in the Education Committee of the Lower House in 1973, this standard was without substantial educational reasons: the Education Ministry had no evidence that proved twelve to eighteen classes were optimal for the education for students. In lieu of making efforts to clarify the optimal school size from the educational perspectives, the Education Ministry keep this standard untouched. In the new Guidelines of 2105, the Education ministry succeeds this untouched standard and also set the new standard on school consolidation. The new Guidelines say that when a public elementary school has six or less classes and a public lower secondary school has three or less classes, municipalities are recommended to close a school and consolidate it to another school with the aim to realize the optimal size of school as is shown in the former Guidelines.

According to the statistic of the Education Ministry, the ratios of public elementary and lower secondary schools recommended to be closed to all the elementary and lower secondary schools has been decreasing since 2008 (from 25.1% in 2008 to 17.3% in 2016, -7.8% in elementary, from 12.9% to 9.8%, -3.1% in lower secondary). The ratios of elementary and lower secondary schools smaller than the optimal school size are also decreasing (from 48.9% to 45.1%, -3.9% in elementary, from 55.1% to 52.0%, -3.1% in lower secondary). In elementary schools, an increase in the ratio of optimal

school size (from 29.2% to 30.6%, +1.4%) is smaller than an increase in the ratio of schools larger than the optimal size (from 21.9% to 24.5%, +2.5%). In lower secondary schools, the ratio of schools of optimal schools size is decreasing (from 32.7% to 32.3%, -0.4%) and the ratio of schools larger than the optimal size is increasing (from 12.2% to 15.7%, +3.5%). When compared by actual numbers, only the number of school larger than the optimal school size is increasing. (See Table 10-1, 10-2) This shows that standards on optimal school size are used not for making larger schools smaller but only for school consolidation.

Table 10-2

Elementary School		FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	Comparison 2008-2016	
Recommended to Close and Consolidate	with 6 classes and less	25.1%	24.0%	23.0%	22.2%	21.3%	20.0%	19.2%	18.4%	17.3%	%	Real Number
Under the Optimal Standard	with 7 to 11 classes	48.9%	48.7%	48.3%	47.8%	47.4%	46.7%	46.3%	45.8%	45.1%	-3.9%	-1842
On the Optimal Standard	with 12 to 18 classes	29.2%	29.0%	29.2%	29.4%	29.6%	29.9%	30.3%	30.5%	30.6%	1.4%	-343
Over the Optimal Standard	with 19 classes and more	21.9%	22.3%	22.5%	22.8%	23.0%	23.3%	23.4%	23.7%	24.4%	2.4%	22

Table 10-3

Lower Secondary School		FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	Comparison 2008-2016	
Recommended to Close and Consolidate	with 3 classes and less	12.9%	12.6%	12.2%	11.7%	11.6%	11.0%	10.4%	9.9%	9.8%	%	Real Number
Under the Optimal Standard	with 4 to 11 classes	55.1%	54.2%	54.1%	53.4%	53.1%	52.6%	52.0%	51.9%	52.0%	-3.1%	-603
On the Optimal Standard	with 2 to 18 classes	32.7%	32.5%	32.6%	32.0%	32.0%	32.1%	32.4%	32.2%	32.3%	-0.4%	-208
Over the Optimal Standard	with 19 and more classes	12.2%	13.3%	13.3%	14.6%	14.9%	15.3%	15.6%	15.9%	15.7%	3.5%	300

The new Guidelines of 2015 adds new standard on optimal deployment of schools. The former Guidelines said that at least one elementary school shall be placed within 16 km² and one lower secondary school within 36 km² on the premise that students walk to schools. The new Guidelines changed this standard: an elementary school and a lower secondary school shall be placed within one hour ride on the premise that students come to schools by school buses or their parents' cars. It is reported that the transportation by school buses frequently cause the increase in the number of non-attendance students. When bullies on school buses, the bullied cannot go into buses. Students who do not go into classroom but spend time in schools nurse's offices tend to refuse to go into buses.

3. National minimum standards concerning special support schools

In April, 2007, as the special education for disabled children was shifted to "special support education," special schools for disabled children were reorganized. Under the special education system, as a matter of rule, special schools accommodated children with only one type of disabilities: special school for the blind, that for the deaf, that for the mentally retarded, and that for physically handicapped were established and run separately.

Under the new system of special support education, schools for disabled children accommodate children with different types of disabilities. As is shown in Chapter 24, this makes special support education schools larger and crowded.

This section will show that at the bottom of these issues there lie the lacks of national minimum standards on school size, the number of classrooms, as well as set-up and an area of a playground and a gym for special support education. Though normal elementary, lower secondary, and upper secondary schools have their own national minimum standards on school size, the number of classroom, and size of playground and gymnastics, there is no such minimum standards for special support education schools. As is shown in the section 2 of this chapter, the optimal school size of a normal elementary and a lower secondary is defined as twelve to eighteen classes per school. There decided no such standards for special support education schools.

For a normal elementary and lower secondary school, when municipalities does not provide the number of classrooms that fill the national minimum standards, municipalities can receive financial assistance from national treasury: the national treasury owes the half of expenses for expanding buildings to fill the gap between the number of classrooms the national minimum standards require and the actual number of classrooms. For a special support education school, there is no regulation on the number of classrooms. This is because in a special support school, as was in a special school for children with disabilities, teachers are not expected to teach all the classmates sitting on chairs in a classroom at one time. Meaning of a classroom for children with disabilities is different from that for normal students. The Education Ministry has been required to identify a special meaning of a classroom for children with disabilities and to articulate the national minimum standard on the number of classrooms for them. The Ministry, however, has never responded to this requirement. As a result, there is no laws which requires national treasury to financially assist municipalities which need to increase the number of classrooms for children with disabilities.

For a normal elementary and lower secondary school there is national minimum standards on the size of a playground and a gym: the more spacious playground and gymnastic are required as a school have more classes. For a special support school, there in only one standard: when a school organizes a

class, it shall have certain size of a playground and a gym. Whether a special support education school organizes more than one class does not matter for the size of these facilities.

Because there is a lack in the national minimum standards on school size for a special support education school, municipalities can accommodate students without any limit. As a result, more and more special support education schools become larger and more crowded without having their building expanded. When more classrooms are needed, special support education schools use curtain to separate a classroom, use special classrooms provided for special use for such subjects as music, home economics and natural sciences as normal classrooms, or build a narrow classrooms. When playgrounds or gyms become relatively smaller as the number of students increase, there is no law which allows municipalities to appeal to the national treasury for the financial support to expand these facilities.

Exceptional to the lacks in the national minimum national standards on important facilities of special support education schools, there is a national standard which set a higher requirement for special support education school than for normal schools: the size of school building. The national law requires the space of school building both for a normal and a special support education school and requires more space for a special support education school. However, according to the research by the Ministry, on average, a space of a special support education school building is 67.6% of that required by the law. On average, a space of a normal school is around 90% of that required by the law. Though the requirement is higher for a special support education school, it does not help her to respond to the increasing number of students.

4. National minimum standards on child day care facilities

Facing increasing needs for child day care services, Japanese government planned to change the way in which she fulfill her responsibility to satisfy the need for child day care services. Since 1947 when Child Welfare Law was adopted, the government and municipalities owe the responsibility to provide child day care services by themselves. Since the end of the last century, the government has tried to throw way this responsibility and to introduce the new system: the government and municipalities are responsible for providing parents with cash as a financial support. Under this new system, parents are responsible to buy child day care services by themselves with the

money provided by municipalities plus their own in a market from private for-profit or non-profit organizations. To accomplish this shift from child day care provided as services in kind to that as services in cash, the government planned to abolish Article 24 of Child Welfare Law, which stipulates that municipalities owe the responsibility to provide day care service to children who lack care.

The civil society strongly argued against this plan on the ground that the need for day care services will not be satisfied through markets both quantitatively and qualitatively. The government failed to comprehensively carry out this plan. Still, the government tried to lighten her financial burden and to introduce the system of services in cash in some way or another. She succeeded in exclude some matters from the subjects of the legally binding national minimum standards on child day care facilities. She also succeeded in adding the system of services in cash to that of services in kind.

This section shows how the national minimum standards on child day care facilities have been revised since 2010.

The national minimum standards on child day care facilities are not established by laws adopted by the Diet but by Minimum Standards on Child Welfare Institutions, the by-law decided by the Minister of Welfare and Labor. By continual revisions of this by-law, the standards have been raised slowly but gradually. For example, in 1948 the by-law required that one caretaker shall take care of ten or less babies under the age of two. In 1988, being revised three times, it requires that one caretaker shall take care of three or less.

The deregulation of the by-law started in 1998. Since then, the Minister has gradually deregulated it. Before 1998, the by-law required that municipalities shall employ and allocate cooks to child day care centers. Centers were required to serve meals to children which were cooked in their facilities. The revision of the by-law in 1998 allowed municipalities to contract-out the employment of cooks. The revision in 2010 abolishes the requirement to employ and allocate cooks and allows municipalities to buy meals cooked by private organizations.

The most drastic deregulation was realized under Act of 2011 on Revisions of Related Laws to Promote the Reform for Strengthening the Autonomy and Independence of Local Communities. This Act establishes procedures for abolishing or revising national laws and by-laws which impose

obligations to municipalities. Municipalities are allowed to identify laws or by-laws which they would like to abolish or revise. When the national government judges that the demand from municipalities are strong, they propose to revise or abolish laws or by-laws. When the Diet revise or abolish the laws, or the Ministers decided to revise or abolish by-laws, municipalities are free to set regulations by their own preference.

Minimum Standards on Child Welfare Institutions was proposed to be abolished. Facing the strong opposition from the civil society, the Minister decided not to abolish the by-law but to classify the standards which were formerly legally binding into two types: the one is “a standard to obey,” which are legally binding and the other is “a standard to consider,” which are not legally binding. Municipalities are allowed to set standards different from “standards to consider” with the conditions that they fully take into account both the standards to consider and situations of communities. The Minister revised the by-law in 2011 and changed the names of this by-law to “Standards on Facilities and Operation of Child Welfare Institutions.”

The matters which are the subjects of “standards to obey” are as follows.

- (a) Set-up of a sleeping room and a playroom for babies, a nursery room and playroom for children above the age of one. Allocation of a cooking room when municipalities decide to serve meals cooked in a center.
- (b) Areas of a sleeping room and a playroom for babies, as well as a nursery room and playroom for children above the age of one.
- (c) Set-up and equipment of a catering room when municipalities decide to buy meals from private companies.
- (d) Allocation of staff, including a nursery. Allocation of cookers when municipalities decide to serve meals cooked in a center.

Contents of child care activities.

The matters which are the subjects of “standards to consider” are as follows.

- (a) Set-up and area of a playground.
- (b) Set-up of a clinic room and a toilet.
- (c) Provision of emergency stairs specially designed for children and fireproof equipment to a nursery room in the second floor and above.

Owing to this revision of 2011, there appear child day care centers without playgrounds. Centers are allowed to be in the second floor and above in normal apartments, because it is unnecessary to have emergency stairs

specially designed for children. Centers are allowed to be in shopping malls with public toilets, because it is unnecessary to set up their own private toilets.

The government uses the need to respond to the increasing need for child day care service to justify the degradation of quality. Furthermore, the government even hampers the efforts of municipalities to raise the national minimum standards. In 2016, she requested the municipalities which set the standards higher than the national minimum standards to lower them to the minimum to meet the increasing need for child day care (According to a newspaper report, no municipalities responded affirmatively to this request from the government.).

5. Impacts of guidelines on general management plan on community facilities of 2014

We have explained the issues surrounding the national minimum standards in normal education, special support education and child day care. In the last section of this chapter we provide the information on the recent policy of the Ministry of General Affairs on the management of community facilities, which gives negative impact on the community facilities for children in a cross-sectional way.

In 2014, the Ministry of General Affairs adopted “Guidelines on General Management Plan on Community Facilities.” The Guidelines require municipalities to set the numerical target to reduce an area of community facilities and outsource the operation of those facilities through “Public Private Partnership” or “Private Finance Initiatives” with the aim to reduce the budget deficits or to respond to the decrease in tax revenue due to the falling number of population. The Guidelines cover all the community facilities including such facilities for children as schools, libraries, child-halls, playparks, and child day care centers. The Guidelines enhance municipalities to close child-halls, libraries and playparks, to consolidate schools, to privatize libraries and child day care centers, and to build child day care centers in play parks.

In last August, the Cabinet Office published the report on the effective way to realize the Guidelines. The report, pointing out the fact that an area of public schools constitutes around 50% of the total area of community facilities, concludes the consolidation of schools is the most effective way to reduce expenditures and an area of community facilities. The report

estimates that, if municipalities reduce an area for public schools to the national average, the nationwide total expenditure for public school facilities will be reduced by \$1,130 billion at least and by \$2,890 billion at most. The report also recommend the privatization not only because it will reduce the expenditure but also wide the space for private corporations.

6. Conclusions

The deregulation of the national minimum standards in normal education, special support education, and child day care result in the degradation of the quality of services in these fields. At the same time, as is shown in Chapter 6, the deregulation induces the privatization or industrialization of these services. The vicious circle of deregulations, degradation, privatizations and deregulations is nearing completion.

We suggest the U.N. Committee on the Rights of the Child to:

- (a) Consider the issue of deregulation of the national minimum standards in connection with the issue of privatization and industrialization.
- (b) Remind Japanese government that to establish and keep the national minimum standards that are conducive to the rights of the children is her obligation under the Convention.
- (c) Recommend Japanese government to suspend the deregulation and the privatization, to review their negative impacts in the cooperation with the civil society, and to start dialogue with the civil society with a view to reconstruct the national minimum standards.

Chapter 11. National Minimum Standards on Numbers and Working Conditions of Staff

1. Introduction

Paragraph 3, Article 3 of the Convention on the Rights of the Child obliges the State Parties to ensure “that the institutions, services and facilities” for children “shall conform with the standards established by competent authorities...in the number and suitability of their staff...” In its last Concluding Observations to the Japanese government report, the U.N. Committee on the Rights of the Child expressed its concerns that the number and qualification of the staffs “do not fit the proper standards” and recommended to “take effective measures” to overcome this issue.

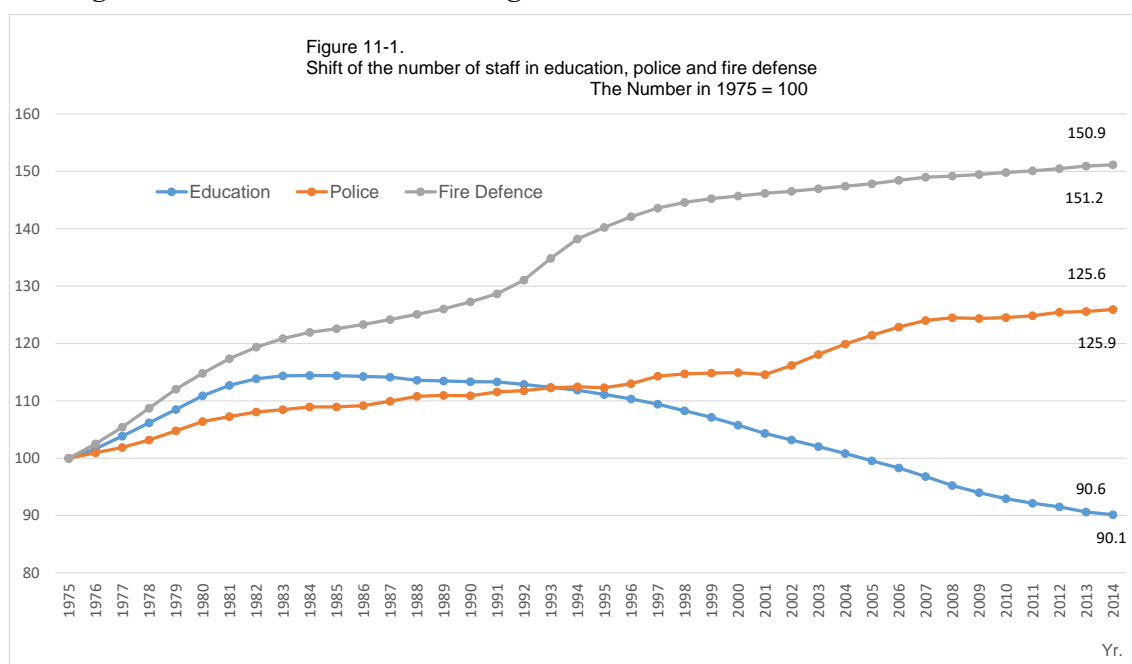
The Japanese government responds to these concerns and recommendations in Paragraph 35 of its fourth and fifth report: it only states that the deployment of staffs at orphanages and other institutions for children has been improved. In Paragraph 16 of the report, the government also says the budget related to “support for development of children and young people” amounts to about 5.1043 trillion yen and that the budget covers very broadly “education, welfare, health-care, medical care, correction, rehabilitation, and employment.” These figures are presented as the reason to conclude that sufficient resources are secured and human resources are also “sufficiently secured” by the budget.

But the actual situation in schools, day-care centers, and other institutions is wrapped up in difficulties. While large corporations are given favorable treatment and the budget for self-defense forces is enlarged with the aim to win the global economic competition, the decrease of budget is typically conspicuous in early childhood education and care, school education and after-school day-care.

The harsh conditions of facilities and equipment caused by financial limitation coupled with an intensification of control over staff and management have deprived staffs of their independence and creativity, and making them busier. This results in inadequacy of their professional education and care, as well as in the insufficiency in realizing the best interest of the child and its development.

2. Decreasing number of teachers and increasing number of police officers

As for the number of staff, the government under the then Prime Minister Koizumi carried out the cutback of public servants and personnel expense under the 2004 Cabinet decision called “the Policy of Administrative Reform.” The purpose of this policy was to decrease the number of public servants engaged in education and care of children and to increase police officers and fire-fighters; that is, more emphasis is put on the control of people and security management than on the public service such as education and welfare. According to the Survey on the Number of Local Government Employees in 2014 by the Ministry of Public Management, the top 5 fields undergoing decrease in staffs compared with the previous year is as follows: No.1 elementary school teachers, No.2 staff in hospitals, No.3 child day-care nurseries, No.4 lower secondary school teachers, No.5 upper secondary school teachers; showing that a lot of public servants engaged in child-related work were severely cut back. On the other hand, the number of police officers and fire-fighters is on the rise. (See Figure 11-1.)



Resource: The survey on the seize management of local government officers, 2014

(Ministry of Internal Affairs and Communications)

The fourth and fifth periodic report of the government states that the police takes necessary measures against bully when it constitutes crimes and gives support to bully victims for mental recovery (Paragraph. 120). It further states that retired police officers are put to work at police stations to deal with

juvenile problems at school including bullying, and that the officers are dispatched to schools upon requests (Paragraph 59 of Annex 2). Behind this active involvement of the police with school problems, there exists the fact that the number of teachers in local governments is decreasing while that of police officers is increasing.

3. Childcare

3-1. Decreasing number of public child day-care centers and commercialization of day-care service

In 1983, there were 13,809 public child day-care centers nationwide backed by the movement demanding “as many child day-care centers as mailboxes” in 1970s. But in 2000s, the government went ahead with the policy to abolish the state subsidies to public day-care centers, insisting on “self-responsibility” concerning welfare and education. This policy accelerated local governments to cut back the budget for child day-care centers, and spurred commercial enterprises to go into childcare business. As the result, the number of public nursery schools in 2016 has decreased to 9,778.

3-2. Shortage of staff in day-care centers

The Standards on Child Welfare Facilities and Their Managements by the Ministry of Health, Labor and Welfare (MHLW) prescribe the necessary numbers of nurseries as follows: 1 nursery per 3 babies under the age of one, 1 nursery per 6 children at the ages of 1 and 2, 1 nursery per 20 children at the age of 3, and 1 nursery per 30 children at the age of 4 and above. Based on this standard, local governments prescribe their own local standards. In many cases, they place more nursery than the national standard as it is set at very low level compared to the international standards, and insufficient to enable nurseries to take good care of children.

As more and more day-care centers open for longer hours to respond to the needs of parents who work until evening or from early in the morning, a new problem is arising. When centers place more nurseries to cope with the increasing workloads, they lower the salary for one nursery below the government-prescribed official level.

Furthermore, under the government’s policy to decrease the number of

public servants, the number of permanent nurseries in public centers has been decreased, and that of temporary nurseries has been increased. In 2012, the number of temporary nurseries was larger than permanents. At present, about 60 % of nurseries are temporary.

Under these circumstances, the average monthly income of a nursery is \$1,200, below the average monthly salary of all the other jobs in Japan. As nurseries are always busy and overworked, it is difficult for centers to employ nurseries on the stable basis.

3-3. Increase in the number of children on waiting-list for day-care service and deregulation of facilities and personnel qualifications

According to the survey by MHLW, the number of children under the age of 3 who are on the waiting list for day-care service is 20,681 as of April 2017, and decreases from 28,481 in 1995 by around 6,000. These figures seem to show that the government's endeavors are succeeding in meeting quantitatively the increasing needs. But, these figures come from tricky changes in the ways to count the number of children on the waiting list.

In 2001, the Welfare and Labor Ministry changed the ways to count the number of children on the waiting list. In the former, the Ministry counted the number of children who were eligible for day-care-service but were not accommodated in certificated day-care centers. In the new, the Ministry does not count the number of eligible children who are accommodated in non-certificated centers and apply for certificated centers. If we count the number of children on the waiting list in the former way (counting both eligible children accommodated neither in certificated nor non-certificated centers and those accommodated in non-certificated centers), around 100,000 are estimated as on the waiting list as of April 2017. This problem stems from the fact that the local governments have not established sufficient number of certificated day-care centers which could satisfy the increasing need for day-care service.

The central and local governments have invited private corporations into the business of child day-care: they have allowed them to establish and run day care centers which do not satisfy the national minimum standards on facilities and staff: non-certificated centers. As a result, problems have emerged such as squeezing children into a small room, building day-care centers under a noisy girder bridge, or establishing some facilities with no

playground (see Chapter 10). The government has also deregulated childcare personnel qualifications, introducing the childcare for infants called “day-care mothers,” and allowing kindergarten and elementary school teachers to become substitute nurseries.

Under such a poor childcare environment, accidents of children, resulting even in death have often taken place (see Section 1, Chapter 23). In spite of this, the number of non-certificated centers is increasing responding to the growing needs for daycare services.

3-4. Problems of After-school Day-care

The government adopted “After-school Child Rearing Project,” which aims at providing more after-school day-care services to elementary school students. Under this projects, each of the central government, the prefectural government and city or town shares one third of running costs of after-school day-care centers established by cities or towns. But, due to the fact that total cost is calculated by the low national minimum standards, parents add much cash of their own.

The Standards on Child Welfare Facilities and Their Managements prescribe that the maximum number of students an after-school day-care center can accommodate is 40. But as the number of children applying to after-school day-care service has increased, many of centers accommodated more than the maximum number and have become overcrowded. Children do not have a comfortable room there, being unable to play freely or to study in quiet and calm environment.

The Standards also prescribe that each after-school day-care center has 2 or more qualified personnel, but, due to the lack of money, many of them are temporary workers. As is the case with child day-care centers, private businesses are invited, and some of them provide after-school day-care in private houses or in apartment rooms.

The government is now planning to abolish or relax the qualification standards of staffs of after-school day-care and the standard of staffing. But what parents and children want is to improve the quality of after-school day-care service with public responsibility, with more safety and security, to staff them with more expert staffs and to provide them with more stable salary.

4. School education

4-1. Insufficient number of teaching staffs

The governmental periodic report states “a total of 12,790 teachers were improved at public elementary and lower secondary schools during the 10 years leading up to FY2015,” even after the last of the plans to increase the number of public elementary and lower secondary school teachers was completed in 2006. (Paragraph 122) This statement seems to show that total number of these teachers increased by 12,790, but it is not. This statement does not refer to the decrease by attrition due to the decrease in the number of students. The number of decrease stemming from attrition due to the decrease in the number of students is 25,900. Counting both the increase by the government’s efforts and the decrease by attrition, the total number was decreased by around 13,000 (see Table 11-1).

Table 11-1. Increase and decrease in the number of public elementary and lower secondary school teachers

	The number of increase or decrease by the government’s efforts	The number of attrition stemming from the decrease in the number of students	Total
FY2006	329	-1,000	-671
FY2007	331	-900	-569
FY2008	1,195	-1,300	-105
FY2009	800	-1,900	-1,100
FY2010	4,200	-3,900	300
FY2011	2,300	-2,000	300
FY2012	2,800	-4,900	-2,100
FY2013	800	-3,200	-2,400
FY2014	-10	-3,800	-3,810
FY2015	-100	-3,000	-3,100
from FY2006 to FY2015	12645	-25,900	-13,255

Source: Data from annual budget plans from FY2006 to FY2015
(The Finance Ministry)

Before 2006, the government adopted the plan to increase the number of public elementary and lower secondary school teachers to offset the number of attrition stemming from the decrease in the number of students. Through this plan, the government had reduced the class size from 50 students to 40. In 2005, the government changed its policies and required the Education Ministry to decrease the number of public elementary and lower secondary school teachers larger than the attrition stemming from the decrease in number of students. The Japanese government, based on the Basic Guidelines for a Reform of Personnel Costs to Reduce Total Government Spending issued in 2005 by the Council on Economic and Financial Policy, enacted the Act on the Promotion of Administrative Reform to Realize the Simple and Effective Government. Paragraph 3, Article 55 of the Act states, “concerning the total number of teachers and other staffs at public schools, necessary measures will be taken to decrease it by a larger number than the number of attrition due to the decrease in the number of students.”

The increase by “12,790” referred in the government report were the results of the government’s efforts: the reduction of class size of the first graders of elementary schools and that of second graders from 40 students to 35 students under the Democratic Party (DP) administration from 2008 to 2012, and of the placement of teachers who are assigned special tasks as supporting regular classes or are appointed as “executive teachers” under the Liberal Democratic Party (LDP) administration from 2012 to present.

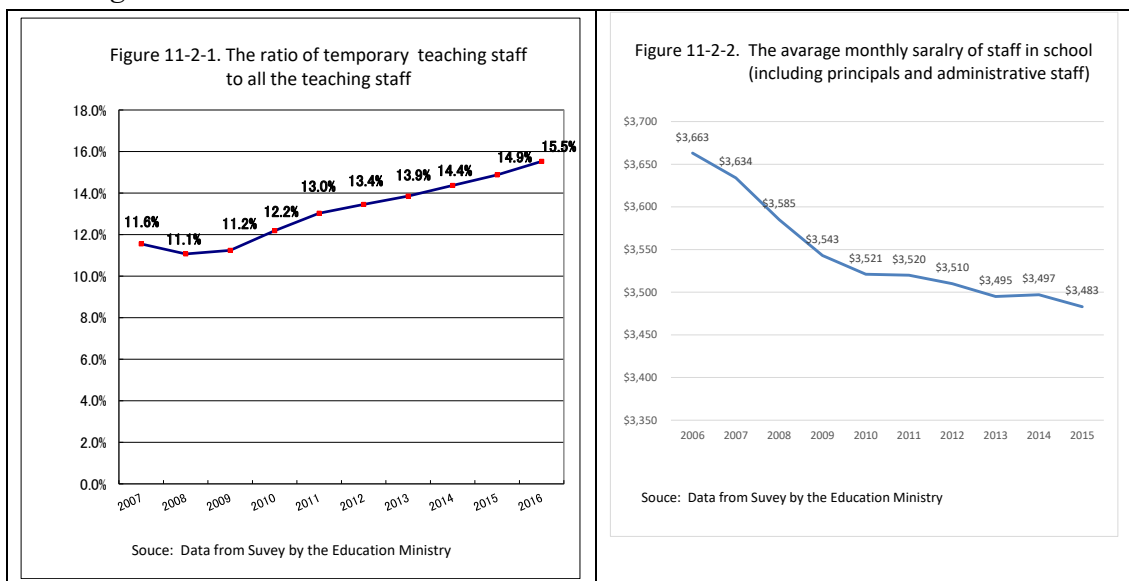
But if it were not for the changes in policies in 2005, the government would have succeeded in reducing class size of all graders from first in elementary to ninth in lower secondary.

4-2. A reform of personnel costs to reduce total government spending

In February, 2001, the Act on Legal Standards for Class Size and Staffing Levels of Teachers and Other Personnel at Public Compulsory-Education Schools (Compulsory School Standard Act) was revised, making it possible for local governments to replace permanent teachers with temporary teachers on their own discretion. In 2004, the Act was revised so as to abolish the national minimum standards on teachers’ salary. In 2005, the Act on the Compulsory Education Cost was revised so as to lower the central government’s share of the budget for salaries of public school teachers from

one second to one third.

These changes has resulted in the increasing number of temporary teachers and the lowering salary of staff in school. The ratio of temporary teaching staff to the all the teaching staff increased from 10.4% in 2007 to 15.5% in 2016 by 4.3% (See Figure 11-2-1). The average monthly salary of permanent staff in school decreased from \$3,663 in 2006 to \$3,483 in 2015 (See Figure 11-2-2).



4-3. Class size

Small class sizes is an indispensable condition of high quality education. To increase the number of teachers and staff has been the challenge for the government. For 28 years, teachers, parents and citizens have demanded government to make class sizes smaller, collecting signatures of petition amounting to 450 million. Reflecting this movement, the staffing level of teachers was increased under the administration of the DP. It reduced the class size of first graders in elementary school from 45 to 35 students in 2011, and the class size for second graders in the same way in 2012. But, after the LDP returned to the government in late 2012, the class room reduction plan was postponed.

Local governments have made their efforts to reduce class sizes with their own budget. At present, all the 47 prefectures are working to reduce class sizes in some way or other. But, with all these efforts, about 20% of elementary school students and about 40% of lower secondary school students

are still enrolled in classes with 35 students or more. As financial resources of local governments are limited, necessary measures are expected to be taken by the central government.

4-4. Increased class hours

Through the revisions of the National Courses of Study, the government has increased the number of class hours per year as is shown in Table 11-2. But staffing levels of teachers has not been increased enough to meet this increase in class hours, the number of class hours taught by one teacher has increased.

Take as an example a teacher who teaches social studies in a lower secondary school in Metropolitan Tokyo. He has 20 social studies class hours, 4 class hours for classroom activities, ethics and general study class pre weak: 24 class hours per week. He has only 1 school hour per week in average he can use for preparing classes and doing other administrative work. This is not a rare case. Ordinary elementary school teachers who takes care of homerooms usually have no school hour for preparatory works. This makes the busy condition of teachers all the more serious.

Table. 11-2. Change of Class Hours to Teach per Week

Revised year	1 st grade	2 nd grade	3 rd grade	4 th grade	5 th grade	6 th grade	Lower secondary school
1998	23	24	26	27	27	27	28
2008	25	26	27	28	28	28	29
2017	26	26	28	29	29	29	29

(One Class Hour is 45 min. in elementary schools, and 50 min. in lower secondary schools)

4-5. Long overtime work

The Survey on Working Hours of Elementary and Lower Secondary School Teachers publicized by the MEXT in April, 2017 (survey was done in October, 2016) shows that the average working hours at school is far longer than the legal working hours a day (7 hrs. 45 min.). Elementary school

teachers work for 10 hours 46 min. a day. (Equivalent to the work of 1.4 teachers' legal working hours) and lower secondary school teachers work 10 hours 26 min. a day. (Equivalent to the work of 1.35 teachers' legal working hours)

Besides that, such a high rate of 33.5% of elementary school teachers and 57.6 % of lower secondary teachers work 80 hours longer than the legal monthly working hours. This is above the *KAROSHI* (death due to the stress of working too long) line, set out by the Ministry of Health and Labor as the threshold of triggering sickness or even death.

In order to solve this issue of long overtime work of teachers, the number of educational staffs must be increased by 40%. Although MEXT acknowledges this issue, it does not yet takes adequate measures of substantially increasing the staffing level of teachers.

4-6. Deprivation of Time and Energy from Teachers

According to Survey on Teachers' Working Conditions by Tokyo Metropolitan Teachers Union (publicized in February 2017), teachers ranked "responding to questionnaires from the Board of Education," and "writing reports" high as an answer to the question "what kind of works should be reduced in order to solve the problem of long working hours?" All answers which ranked high on the list were those having no direct connection with children.

In response to open-ended questions, teachers freely expressed their feelings and opinions as follows: "I'm wrapped up in works to complete every day," "Increasing paper works leave desperately little time to prepare classes and write class newsletters for children and parents," "As long as I am at school, we have classes and meeting after meeting. I don't remember taking any rest at school," "I stay at school and work after regular work hours until 9:00 PM every day, and yet I can't start the work of preparation for classes next day."

These voices vividly illustrate serious conditions of teachers who are bound with paper works demanded by the boards, principals and vice-principals, and can't find time to prepare for classes.

In these years, drastic changes are taking place at schools due to the introduction of such new policies as the personnel performance evaluation

system, standardized testing, standardization of teaching and learning activities, and curriculum management.

The resulting change is serious. Teachers are forced to submit their outcome targets for a year and report how they achieved their targets periodically, to engage in teaching to testing, to check whether what they teach in each class fills requirements of the National Course of Study, and to check whether children follow learning standards. Before the new policies were introduced, teachers attached importance to preparation of classes, writing weekly newsletter to parents informing them of how children spent their school life, and talking with students. But now their activities are bureaucratically organized and managed under the hierarchy of principals, vice-principals, chief teachers and guidance teachers.

Although teachers used to express their opinions concerning school activities and curriculum making at staff meetings and discuss the matters to reach agreements democratically, recently almost everything is decided by principals and vice-principals.

These conditions deprives teachers not only of their professional autonomy but also of their energy and time. Teaching staffs are always running about, being wrapped up in their work, and responding to orders from above. It is quite difficult for teaching staffs to have time and energy to face their children, to understand what children feel and think, and to guide and lead them in a way appropriate for each student. Even under these conditions, teachers in Japan are striving to generate time to talk with and about children, to share their difficulties with colleagues, to establish collegiality among teachers, hoping to promote such education as to respond to children's wishes.

5. Conclusions

It goes without saying that children need environments where they can be agentive: they can freely express their wishes and demands, have their wishes and demands listened to by nurseries and teachers, and have their views given due weight when nurseries and teachers plan and carry out care and/or education. The status and working conditions of nurseries and teachers are keys in realizing this environment.

The government is required to raise the national minimum standards on number of staff and their working conditions, as well as to establish more

facilities which meet the raised national minimum standards.

We suggest the Committee to recommend the government:

- (a) Comprehensively review its policies to reduce the number of staff working with and for children and to deregulate the national minimum standards on number and quality of staff.
- (b) Start survey on environments where children can be agentive in child day-care, after-school day-care and school education with a view to raise the minimum standards on number and quality of staff working with and for children and their working conditions.

Chapter 12. The Nuclear Accident in Fukushima

1. The crises first experienced in history by children in Japan and the Japanese governments' attitude

On March 11, 2011, a great earthquake struck wide areas of eastern Japan.

While the devastating tragedy of terrible quakes, enormous tsunamis and casualties, including children, were repeatedly reported to the world in detail, the earthquake-caused nuclear accident in Fukushima Daiichi (First) Nuclear Power Station, reported less and less, has gradually slipped out of people's memory. In actual fact, the destroyed nuclear reactors still emit radioactive substances of ten-million Bq per hour, affecting many people, including children. The most serious problem nuclear radiation causes is molecule cutting by ionization. Nuclear radiation, no matter how little, brings about the result of damage. DNA, composed of molecules crucial in receiving and passing various types of heredity information, is also affected. In successive generations serious diseases such as cancer and hereditary illnesses might result in many nuclear-radiation-affected people.

So far there is no technology and no prospect of the development of getting rid of radioactivity. Exposure to radioactivity ceases only after it decreases, after a long time, to almost nothing. Cesium 137, the most serious substance causing exposure, is active as long as 300 years. Children, much more sensitive than adults to radioactivity, might have to face life crisis in generations to come.

In this almost unprecedented situation, on December 16, less than a year after the incident, the then Prime Minister of Japan declared that the nuclear accident had been under control, based upon the report by the Tokyo Electric Power Co. (TEPCO) that the nuclear reactors in Fukushima Daiichi Nuclear Power Station had achieved "cold shutdown condition", and the subsequent governments approved of the resumption of other nuclear power plants. Thinking poorly of the sufferers who continued to be evacuated, the governments have not taken into serious consideration dangers of nuclear accidents and exposure to radioactivity. Lack of responsible attitude is revealed in the governmental report in which no mention is made of an exposure-to-radiation-caused infringement of right to children, present and

future.

2. A huge gap between governmental policies and sufferers' predicament

As of August, 2017, 840,000 sufferers, most of them from Fukushima, are scattered in Japan, the Reconstruction Agency reports (September 29th, 2017). There are some others whose families, remaining in Fukushima, are forced to live separately. There are also sufferers who had their livelihood means, such as factories and stores, destroyed and not yet reconstructed. About 12,000 of them, in 20 groups nationwide, have sued the government and TEPCO for compensations.

Judgments for each suit are supposed to be given in September and October, 2017. (The Fukushima District Court decided, like the one in the neighboring prefecture, that TEPCO and the government are responsible.) In the situation of conflicting assessments among researchers of radiation's effects on life and health, among the major complaints is the one concerning the infringement to the children vulnerable to exposure to radioactivity. Refusing to be persuaded by the government's and some researchers' statement of "safety", the accusers cannot take the children back to their homes, and they call for the government and TEPCO to make effective policies in which the children can live their healthy life in their respective evacuated communities. Such is the sufferers' predicament that some of them took the time and trouble to file a lawsuit. Their complaints are deeply related to Articles 3 and 24 of Convention on the Rights of the Child.

3. Six and a half years after the Fukushima nuclear accident: predicament of children and their parents

3-1. Continual disconnection

Immediately after the accident, many people either were ordered or chose to leave their homeland to be evacuated for avoiding exposure to radioactivity. The separation gave rise to a harsh reality, especially to children, who had to be separated from their friends and teachers, grandparents too old to move, and fathers who had to remain there for livelihood. Some of the children even had to move from place to place.

Days in displacement, fresh from the terrible earthquake, caused the children anxiety and stress. More children behaved like infants, got

frustrated, and showed rude language and manners. The facts were reported from time to time by mass media. (A detailed report was published last year.) They must have been recognized by the Japanese government.

Steady development of children, mental and physical, is only made possible in some fixed community in which they are surrounded by adults and their elders. The children in Fukushima have experienced continual disconnection from those people, and have been deprived of “the rights of the child” emphasized in the General Comment No7 and No12.

3-2. Forced exposure to radiation and damage to health

According to the announcement by the authorities in Fukushima prefecture, 25,000 people chose to leave their homeland, and many of them starting moving in May, 2011, to where the annual exposure to radiation amounts to less than 20mSv per year, following the guidelines (April 19th) by the Ministry of Education and Science in which 20mSv per year was indicated to be the largest amount of exposure to radiation in classrooms and school yards. The policy, however, is based on unacceptable ideas and will probably cause inexcusable consequences.

First, the numerical value of 20mSv per year applies to those who work in a nuclear power plant, ignoring the fact that children are far more vulnerable to radiation.

Second, the value was set, before the accident, to be 1mSv for adults. Twenty times larger now.

Third, when the total effective doses from external radiation and radiation-producing substances in the air are likely to go over 1.3mSv per three months, the affected area is designated as one in which radiation must be controlled. (Article 3.1 of the Regulations Preventing Ionization and Radiation Disorder) Four times larger in radiation than in the controlled areas.

Fourth, the value refers only to external radiation doses in the air, ignoring internal exposure to radiation through absorbing, contacting and eating or drinking.

Fifth, the guidelines only show the value, and do not mention how to cope with the situation in which the value goes over the accepted one, or suggest how to decrease exposure, how to evacuate children in case of emergency, etc. Consequently, many parents had no alternative but to move

to other places. The guideline still remain the same, and no regulations apply to homes for children which take care of children after school.

In these circumstances, Fukushima Prefecture decided that children stay most of the time indoors, with the result that they are less competent in physical exercise and are grown fatter.

3-3. Thyroid gland cancer

As of June the 5th, 2017, 191 children are or are likely to be suffering from thyroid gland cancer, according to the announcement of Fukushima Prefecture. The rate in Fukushima is far higher than what has been estimated: a few out of one million children suffer. It has not been settle among researchers whether the rate in Fukushima has been brought about by the radiation accident. A relevant fact is that the injection of iodine, needed for prevention of exposure to radiation, was not given to children soon after the accident. In Japan 100mSv is where injection is obligatory, which is far higher than in Europe and the U.S, and no detailed rules for injection are stipulated. The situation has not been improved, although a broken nuclear power plant might give off radiation due to a large earthquake or tsunami.

There are only two ways of avoiding radioactivity-caused external radiation: to live surrounded thick walls of lead, which is impossible, or to live in where there exists no radiation produced in a nuclear power plant accident. Children living in devastated areas in Fukushima Prefecture and its surrounding areas are exposed to further exposure to radiation. They are obliged to take exercise and play in places where soils have been “cleaned” or parks equipped with an instrument to show the numerical value of radiation. Six years after the accident, the then children, now adolescents, have started screaming: how long can I live; can I be married and bear a child; is this where I can live in safety?

Water sources in Fukushima has been found to be contaminated. Drinking water and water for life, accordingly, are not safely available. Rice and vegetables produced in the prefecture have their safety regularly checked and reported. The numerical value shown there does not prove that the rice and vegetables are truly trustworthy; it only shows the limit and insufficiency of the instrument measuring radiation. To protect farmers there, the prefecture, together with some researchers and journalists, emphasize the

safety of the products, which, in turn, go into market. Children of those parents in doubt of the safety are forced at school to eat, being exposed to possible internal radiation. Obviously against the Article 6 of Convention on the Rights of the Child.

Worse situation. The government and Fukushima Prefecture decided in June, 2015, that, for speeding up reconstruction, those who had chosen to move out of the prefecture would not be given financial aid for a temporary apartment on April 1, 2017, on. The decision was implemented. Approximately 9,000 families with 25,000 people had to choose whether to continue to live outside of the prefecture, with no financial aid, or to be back home, when the prefecture would pay for removal and two-year partial rent of an apartment. Some people came back against their will. The policy by the prefecture gave rise to more possible sufferers of internal radiation.

The prefecture also decided to give a medical check to the whole population. It will be important for children who want desperately to know their physical condition. Still some people are reluctant to accept the attitude of the prefecture, which virtually forced them to be back home in a suspicious radiation-related situation.

Some NPOs, local and nationwide, have been trying their best to give those children radiation-free time and space; they are invited to activities outside of the prefecture. They are effective, but do not give a solution. The solution requires involvement of the government. The government needs more to be conscious of life and rights of the child.

4. Problems in policies

The government and Fukushima Prefecture have serious problems they need to face earnestly and seriously.

4-1. They fail to give priority to the “life and rights first” policy

The basic principal ideas for the governments have been to think, first of all, about how to maintain social interests, i.e. how to keep economy stable, with the result that sustenance and, hopefully, prosperity of TEPCO and other companies, and local governments have been given first priority. In order for this first-of-all priority to be realized, youths and children, the present and future important workforce, must be IN the prefecture, and policies have accordingly been made.

It is, however, youths and children and their life and health that have to be given the very first priority. Remember what the Ukraine government did after Chernobyl: the government tried did their best to save the life and health of the sufferers. Laws were made in which the sufferers were obliged or given the right to move. Failure by the Japanese government have given rise to other serious consequences.

4-2. Failure to consider prevention first

The policy of prevention is not given the first priority, with the result that not scientifically sufficient ideas for prevention are not included in policies and that the principle of ALARA (as low as reasonably achievable), instead, is given importance. Thus, the current health-unfriendly utmost value of possible exposure to radiation per year is applied.

Let us give a typical example. The government has started to let people get back to the areas which have been designated as ones for inhabitants to be evacuated from, on condition, obviously, that the annual accumulative doses in radiation be within 20mSv, 20 times as large as those set before the accident happened. Suspicious of the 20-times high value, some people sued. Here is a relevant fact: 10mSv exposure to radiation led to a court decision that nuclear-power-plant workers' be compensated.

The majority of radiation-prevention researchers in the Science Council of Japan accept the theory of LNT (Linear Non-Threshold) : the increase of radiation doses implies that of resulting risks. (Report: Exposure to radiation and its effects on children --- for applying the current scientific achievement to solving problems in Fukushima, September 1, 2017) However, the governmental policies, which obviously go against the views of the researchers, have been left unrestricted.

Not following the status quo in politics, some NGOs, NPOs and researchers have pursued the preventive policy in which 1mSv, not 20, will be the utmost numerical value of exposure to radiation, including external and internal exposures.

4-3. 1mSv per year is set to be the utmost amount that can be contained in food

The government had adopted the guidelines in which food for sale can contain radioactive substances up to a certain amount, but in April, 2012,

made a stricter rule. For food for infants and milk, the utmost exposure to radiation was set to be 50Bg/kg, half as large as the amount set for other foods. For foods in general 5mSv per year had been the utmost amount, but the amount was reduced to the fifth of that: 1mSv. This is an improvement, but it is not sufficient; internal exposure to radiation from food alone could lead to more than 1mSv.

4-4. No prevention measures have been taken specifically for children

The report mentioned above by a group of researchers in the Science Council of Japan points out correctly that a child is not a small grown-up, implying that a child is twice to three times more vulnerable to exposure, and that the governmental policies without reference to children-specific prevention system might cause grave consequences.

The 1mSv, mentioned above, is intended to apply to adults; for children half or one-third of it should be pursued, but the government has so far never considered that.

Children cannot judge what has been happening or choose where to live. It is adults who need to provide them with the favorable, affection-filled environment in which to grow and develop their abilities. The government, national and local, however, have worked exactly in the opposite direction. The children have been left in extremely unfavorable circumstances.

4-5. The law intended to support suffering children and adults has not been working properly

On June 12th, 2012, a law to support radiation-suffering children and adults was enacted unanimously. The basic concept of the law is that all sufferers be allowed to stay, or move (and return) in their own will. For the law to be implemented in the best way, the government decided to make the basic policy, including the definition of support-needing areas, areas where radiation doses go over the fixed utmost doses. The basic policy was finally determined in spite of some criticism that it does not reflect sufferers' complaints.

The basic policy has significant contradictions:

First, support-needing areas were determined --- 33 cities and towns in the right- and middle-side parts of Fukushima Prefecture, without mentioning the utmost radiation doses based on which the areas should be

spotted. Consequently, no areas outside of Fukushima were included, although there are many radiation-affected children outside of Fukushima who have been suffering as much.

Second, many parts of the policy were more or less the same as those issued nine months before; little mention was made of those who sought refuge and, in contrast, there were many messages urging evacuated sufferers to return. Obviously this went against the basic principle of the law that sufferers can choose to stay or move (and return), and many NGOs and NPOs protested against the government.

The government and Fukushima Prefecture, in preparation for sufferers to return, spent a huge amount of money to get rid of polluted soil. In the fiscal year of 2014, the third year after the accident, the budget amounted to 200 billion yen. The problem, however, is that removing the polluted soil does not imply no radiation substances or radiation itself. It only means that the soil was removed by washing or burying. Those in charge of the task might be exposed to much radiation, and nuclear species might be flown to pollute. The endless vicious circle has brought about criticism.

Those who seek refuge sincerely hope, according to public-opinion polls and surveys by researchers, that the wealth and land, etc. they have lost will be compensated for, they will be provided with the fund, land or employment needed for their new livelihood, and that their families and communities will not be disconnected. The government and Fukushima Prefecture flatly reject the demand; they claim that the demands would cost too much. The sufferers and researchers, in turn, complain that the governments, national and local, could stop spending funds for removing the polluted soil, and spend them for what the sufferers desperately need. The problem is that children who could avoid exposure to radiation continue to be exposed. In Japan, the right of seeking refuge as a means of avoiding exposure to radiation is not given. This is obviously a violation of a basic human right.

4-6. Does “risk communication” or “not-knowing” help overcome anxiety?

In spite of various efforts by the government and Fukushima Prefecture, sufferers have been in anxiety and despair; they cannot have an optimistic prospect for their future in the unfavorable reality like the growing number of thyroid-gland-cancer-suffering children and seemingly meaningless, endless removal of radiation-polluted soil. In order to get over

the unfavorable situation, the above-mentioned report by the Science Council of Japan emphasizes the importance of being sensitive to what the sufferers need and want and practicing sincere risk communication. Risk communication is an effort to reduce risks by communication among sufferers, those in charge in companies and administration, supporters, etc. They share and discuss merits, demerits and other kinds of information. That is what was practiced after the tragedy in Chernobyl.

The report by the Science Council of Japan, however, states that risk communication is also consensus building as to how far risk can be accepted. In other words, risk communication tries to produce accepted balance between risks and benefits. Sufferers are encouraged to accept a certain amount of risks in remaining in polluted Fukushima in exchange for some rewarding benefits. The report also mentions respect for the right not to know what is related to sufferers' life. The report, issued by the Science Council of Japan, might well be accepted as a part of a governmental policy. However, it is very difficult to define what causes anxiety and what does not, and those who do feel anxiety should not unreasonably be ignored.

As is evident from what has been pointed out, sufferers' anxiety and frustration come from the following situation: 1) effects of radiation have still not been made clear; 2) decent life has been lost, and new livelihood has not been successful; 3) families and communities have been disconnected; 4) seeking refuge or moving to another place has not been freely chosen. Solving those factors leads to overcoming the sufferers' anxiety and frustration. The situation of not knowing the physical state might prove fatal; the sufferer might be too late in coping. NGOs and NPOs point out that it is not a serious problem in Japan whether or not a sufferer knows how serious his or her physical condition is; what is most serious is that there is no support system for a sufferer in treatment, finance, etc.

4-7. Insufficient survey on health and judgment of effects

The report by the Science Council of Japan refers to effects on cognition functions, cataract, thyroid gland cancer, and various types of cancer. Surveys so far, however, are restricted to thyroid gland cancer in children in Fukushima. Parents and researchers want to have internal radiation checked, including blood and urination tests, and the results shown and explained to the patients.

There is criticism among sufferers against the judgment of “seen from the sufferers’ average radiation doses”, because there might be suffering children exposed to much higher radiation. It is also pointed out that the government should be more considerate of individuals.

4-8. Insufficient measures taken by the government of supporting sufferers and preventing exposure

Radiation pollution was not actually limited to Fukushima; it spread to a wide range of eastern Japan, including the southern areas of Ibaragi and Chiba Prefectures. There are also places, far away from Fukushima Daiichi Nuclear Power Plant, where a large amount of radiation was recorded. In Tokyo and its surrounding areas a large number of children live, but no treatment or assurance is made of the children there, and survey on exposure was made only by those concerned about possible exposure. Many parents sought refuge just in case there is much exposure in Tokyo.

The government has tried to make the effects of the nuclear accident not serious; it declared that the radiation had already been put in control; only cities and towns in Fukushima were designated as affected places which needed governmental support. Radiation pollution is a national, even international man-made tragedy, but the government in Japan is not serious enough to consider the whole population. Some NGOs, NPOs and researchers have called for Japan again and again to make a nationwide survey of health and give support to all sufferers, including possible sufferers, but so far with no success.

4-9. The Japanese government’s failure to cooperate with the United Nations in efforts to respect human rights

Anando Grover, who wrote about the rights concerning health issued by the UN Human Rights’ Committee, interviewed sufferers, governmental officials, etc. during his stay in Japan from November 15th to 26th, 2012. He surveyed and assessed the government’s commitment to maintaining sufferers’ health in four stages: the accident’s outbreak, emergent action, repairing and settling down. The report, Report of Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, was submitted to the UN Human Rights’ Committee on May 27th, 2013, and, based on the report,

recommendations were made to the Japanese government.

Much of our report was also pointed out by Mr. Grover. The Japanese government made a lot of negative comments on that; it is not ready to accept the messages by Mr. Grover. Some NGOs, NPOs and researchers sharply criticized the government's attitude.

The Japanese government obviously is reluctant to cooperate with the United Nations in efforts to respect human rights. The United Nations, hopefully, will persuade the government to change its policies.

5. Required theoretical issues

The above-mentioned report by the Science Council of Japan argue child-related issues on condition that a child is divided into two categories: a fetus and a zero-to-eighteen child. The prerequisite for discussion is two-fold:

First, life lies in its continuity through reproduction. What makes a central role in reproduction is genes. Radiation harms genes, put life's continuity in jeopardy. Is it sufficient only for a child and child to be born shortly to live a safe life? From these children will be born another, and, due to radiation-affected genes, it might be impossible for some children to give birth to a baby, or children in the future might suffer a lot in their life and days. Will the future children be included as a part of the Convention for the Rights of the Child? There is no answer, which makes the relevant discussion difficult.

If the future children are also included, the children today will inevitably have to be kept against radiation pollution. The only way to safely protect them is to keep them aloof from the radiation-polluted areas. The right to move or relocate oneself must be defended as a universal right for children.

Second, is it reasonably accepted to let a child decide whether to remain where he or she is, or move to a definitely safer place? No, since the issue of the decision is difficult even for adults, and it is not possible at all for a child, especially a smaller child, to decide. Though such an unreasonable idea has repeatedly been submitted, it might well contradict with the article 5 of the Convention on the Rights of the Child.

In situations where fact-ignoring judgements crash with each other, or political and economical interests, on the one hand, and ethical morals, on the other, conflict with each other, close adults have to assume responsibility

as to how to keep children safe, and such a responsibility of adults needs to be included as a part of the child's rights.

6. Conclusions

We suggest the Committee on the Rights of the Child to recommend the government

- (a) Establish policies to protect people from radioactive doses based upon the theory of linear non-threshold and the prevention first principle.
- (b) Take the higher vulnerability of children to radioactive doses into consideration and adopt policies specially tailored to protect children from both external and internal exposures.
- (c) Make the best use of Report of Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- (d) Recognize the right of people living in pollutes areas to refuge and take effective measures to realize this rights based upon wishes of those who choose to refuge and taking into consideration the importance of keeping connection of children with parents and communities.
- (e) Adopt and implement policies to protect children living in polluted areas outside Fukushima prefecture.

We also suggest the Committee to start study on the rights of the future children.

Chapter 13. Respect for Views of Children

1. Introduction

Report of the Japanese Government indicates “the formulation of school rules, determination of curricula and other related matters at schools are not considered items related to individual children and do not come under the scope of rights for expressing opinions described in Article 12(1).” (para. 38)

However, Article 12 of the Convention on the Rights of the Child guarantees “the right to indicate opinions freely on almost all the matters which will affect children.” Also “the Right of the Child to be Listened to Their Opinions” (advice) in “Committee on the Rights of the Child • General Commentary 12”, adopted in 2009, points out that “we encourage teachers to have positive consultation with children on the decision and evaluation of school curricula including the development of teaching methods. It is because the magnification of children’s participation would contribute to promote their participation in the learning process.” (para. 22)

The view of the Japanese Government is against these indications, and it is the clear failure of recognition towards children’s rights and their right to education. What lies at the bottom of this failure is its “view of schools” as organizations placed at the last end of the executive authority. And in such a view, schools should educate children along with the policy of the state, with the child being the object expected to be obedient to its policy and rules. The point is that the Japanese Government doesn’t have the view of schools that children themselves have the subjective right for their development and schools as the organization to support them.

By the right of children to express their views freely, a child is regarded from birth as an active social agent that can propose demands. The Government and MEXT must have the view of schools as the place where children grow and develop themselves through the agentic process of presenting demands and have the teachers responding to them.

We can cite a series of policy concerning the political activities of upper secondary school students as a striking example which reveals the views of the Government.

2. The right of the child to be listened to in politics— On the lowering of the

voting age to 18 year olds.

2-1. Negative view of the MEXT on children's participation in social activities.

The right to vote is given to over 18 year olds in about 90 percent of all the countries around the world, and in Japan, the voting age was lowered from 20 to 18 in June 2016, making about 2.4 million young people aged 18 and 19 including upper secondary school students new voters.

However, on November 29, 2015, the same day of the enforcement of 18 year-olds' suffrage, the MEXTs issued a notice titled "On the education of politics in upper secondary schools and political activities by upper secondary school students" to all the governors and the prefectural boards of education, thus setting forth a policy which minutely restrict or forbid political activities of upper secondary school students.

Until then, the MEXT had entirely prohibited political activities of upper secondary school students since the old notice, issued in 1969. This time, though the entire prohibition was revised, it has set forth the following restrictions with "the necessity to insure the political neutrality" as its reason

As has already stated, MEXT has a view of denying children's right for collective participation for school activities, and also, it makes light of the fact that the child is an active social agent with the right to express his/her own demands in the democratic political process.

2-2. Restrictions on children's political activities shown in the notice

According to the new notice, children's political activities are not allowed not only in classes but also in autonomous students' council activities and club activities. After school and even on holidays, their political activities are restricted or prohibited.

The notice states that their political activities outside schools can also be restricted or prohibited by school administrators if they judge their activities as "leading to violence" or "unduly influencing their school life or home life." MEXT permits a notification system in which the students have to report to school administrators that they will participate in political assemblies or political demonstrations. In Ehime Prefecture, all prefectural upper secondary schools followed the instructions from the board of education and employed the notification system by changing their school rules. But other prefectural boards of education made comments on the notification system as "unnecessary" or "will leave the decision to schools."

Student's autonomous activities, setting the illegal activities aside as out of the question, such as petitioning to municipal councilors and Diet members to make upper secondary schools tuition-free, might be restricted as political activities even if there are some students who cannot afford to pay tuition fees and have to leave schools because of that. But contradictorily, the notice states that teachers should teach their students the present political phenomena concretely and practically so that they may exercise their rights as a sovereign.

The Convention on the Rights of the Child allows children under 18 'freedom of expression', 'the right to express an opinion', 'freedom of thought, conscience, and religion', and 'freedom of association' and so on. Therefore, the Japanese government, which ratified the Convention, has the obligation to implement them. Nevertheless, the government imposes such restrictions on youth over 18 as well as children under 18, which is obviously against not only the Convention on the Rights of the Child but also the Constitution of Japan.

2-3. Restrictions on teachers' educational activities shown in the notice

The notice also claims that it is possible to restrict teachers' educational activities in order to maintain political neutrality.

The notice states that even when teachers are asked by students for their opinions concerning political issues, they should refrain from expressing their own views. The old notice issued by the Ministry of Education in 1969 stated that "teachers should recognize that their views are one of many, and that they should be careful not to influence their students partially when expressing their own views." In other words, the former notice of 1969 did not deny teachers' expression of their opinions in the classroom. But the new notice suppresses teachers to express their beliefs and opinions.

It is a basic educational principle for teachers not to force their own views of political issues. They should teach students, in accordance with children's stage of development, that there are a lot of different political opinions and views among citizens or even among experts, and develop in children an ability to think and judge by themselves.

But in the classrooms where teachers must not express their opinions on political issues when asked by students, it is provable that students would not trust their teachers. It is very important for teachers and their students

to discuss political or social issues freely as it would motivate students to have active interest in political issues.

The restrictions could put pressure on teachers and might intimidate them when they plan and teach their lessons based on their professionalism. The notice is also against recommendation concerning the status of teachers by UNESCO issued in 1966 which guarantees the freedom and authority of choosing textbooks, teaching materials and teaching method.

2-4. Politics of distrust toward teachers and students

The ruling Liberal Democratic Party opened a homepage called ‘the research on the actual situation about political neutrality in school education’ during the upper house election in 2016. That was the first year for 18-year old students to exercise their rights to vote in Japan. The party solicited the information of the specific irrelevant cases deemed as violating the political neutrality, asking net viewers to send report (of when, where, who, what and how) of such cases.

What lies at the basis of such attitudes of the government and MEXT is the distrust in children and teachers and the intention to control them by administrative orders and to manage education at will. Making “teachers who cannot express their opinions and children who don’t express their opinions” in the name of “political neutrality” leads to bringing up obedient citizens who don’t oppose the government policies, and thus shakes the basis of democracy and the possibility of building peaceful society. So in all educational institutions like nursery schools, elementary schools, lower and upper secondary schools and colleges, it is very important to teach knowledge about politics and awareness of being the sovereign according to children’s development without any interference and oppression by the political power.

3. Guaranteeing children to participate collectively in school activities

There are many cases in all over Japan in which making peers and autonomous activities are encouraged at schools and students’ councils working on revising school rules to make schools better. Furthermore, at some schools tripartite meetings are held by children, teachers, parents (and local residents) to exchange their opinions frankly. And at other schools, students, teachers, and local residents are trying together to maintain local railroad services in depopulated districts and activate local communities. In

devastated areas hit hardly by Great East Japan earthquake, students are working together trying to rebuild their schools and their communities, overcoming their sorrow brought by the earthquake. On this point, para.37 of the government report also states they have given opportunities for children to comment on planning future towns in the process of restoration.

These activities are supported by the deliberate efforts of teachers. An ex- upper secondary school teacher from Nagano Prefecture (now, teaching at a university) has been working on tripartite meetings in which students, teachers, and parents discuss many issues such as school rules, school festivals, and school lessons. He says it is important for teachers to practice sovereign education in three layers including “activities of self-government,” “education for peace, human rights, and democracy,” and “political education”. He writes in his book as follows:

Teaching of politics and the Constitution is pursued mainly through building knowledge, but the experience of self-government as the basis of sovereign education is brought by taking part in the activities for making better schools or more active communities. Getting the feeling that “the school has changed” and “the community has changed” through their active participation generate their assurance that “the society can be changed.”

As he makes the point here, it is decisively important for teachers to have a view of children as agents to change environments through presenting their demands in order to realize rights of collective participation at schools.

To listen to the opinions of children, the sovereign rulers, and to make use of them for our daily social life and politics, make the child’s and youth’s sociality and ability of participation in politics grow, and make the base which supports the democratic nation taking full account of human rights.

4. On “Respect of children’s opinions” in Domestic Relations Case Procedure Act

In the revision of the Civil Code on May, 2011, and the accompanying enactment of the Domestic Relations Case Procedure Act on January, 2013, children’s opinions and ideas came to be respected, and the system of nominating lawyers as representatives of children was established. “Children’s Investigations” in domestic affairs by which children are affected, such as divorce, appointment of parental authority and supervising right and

visitations are now deemed important, and improvement of investigations and judicial procedures which takes full account of children's age, ability and developmental level is in progress.

However, the number of cases actually worked out in children's agent system is quite limited. It is because the provision of legal fee for the lawyers performing the duties as children's agents and the places for interviewing children are not sufficient. In order to investigate the case, respecting the children's opinions and ideas, an improvement of physical environment such as the places where children can be interviewed safe and sound, is indispensable. It is essential not only to provide children's rooms in the court, but also to establish, maintain, and secure such rooms in public facilities such as schools, kindergartens, nursery homes and children's halls. It is strongly required for the government to maintain and improve the training system covering the issues concerning the Convention on the Rights of the Child, and to enlarge the budget for court-appointed lawyer system.

As to the reasons why the number of children's agent system actually worked out is still limited, we should point out the insufficiency of the training system concerning the Convention for judicial personnel in courts, bar associations and in the relevant institutions. As a result, the importance of the "investigation for the protection of the rights of the child" has not thoroughly penetrated yet.

It should be added here that the report of all ministries written in the annex of the government report, although they have an obligation to make the rights contained in this Convention widely known to adults, children, and all educational institution, it refers only to human rights education in general, revealing that publication of the Convention and staff training based on it is insufficient.

5. Conclusions

We suggest the Committee to require the government to present the reasons why students do not have the rights to express their views on school management, school rules and arrangement of curricula and so on.

We suggest the Committee to recommend the government to:

- (a) Take away the restriction on political activities of upper secondary school students

- (b) Promote educational administration that trust children's agentive development and teachers' sincere educational practice.
- (c) Improve the training system of judicial personnel to raise their awareness to the importance of the Convention, especially that of rights for children to be listened to, and to have their opinions respected.
- (d) Enhance the education on children's rights and human rights in school curriculum and collect and disseminate the information on initiative for students' participation in school management.

Part IV Civil Liberties

**Chapter 14. Issues surrounding Lowering the Minimum Age for Voting from
20 to 18**

Refer to Chapter 13.

Chapter 15. Corporal Punishments and Discipline

1. In 2013, the government withdrew a part of the notice of 2007 on active use of physical force

In the last Concluding Observations of 2010, the Committee expressed concerns to the ambiguous judgment by Tokyo High Court in 1983⁴ on corporal punishments in schools and to the national laws which do not explicitly prohibit corporal punishments in family (Paragraph. 47). The Committee recommended the government to “effectively implement the ban on corporal punishment” in schools, and “prohibit corporal punishment and all forms of degrading treatment of children in all settings,” as well as to launch a campaign on “alternative, non-violent forms of discipline.” (Paragraph 48 (a) and (b)).

In 2007 the Government was at a turning point in its policies on school discipline. The Education Ministry issued the notice which recommended local school boards to apply the zero tolerance policy (ZTP) to school discipline (please refer to Chapter 16) and to actively use physical force which are interpreted to be not banned by the Tokyo High Court in 1983. The Ministry issued this notice upon the request from the Education Rebuilding Council (As to this Council please refer to Chapter 3). In its first report of 2007, the Council required the Ministry to review its notice on corporal punishment of 1948 in order to enhance teachers to give strict guidance to students. The notice of 1948 said that corporal punishment banned under Article 11 of School Education Act is so broad that the article bans not only such physical force as punching and kicking but also guidance or directions which give physical pains (for example, directing students to stand for long minutes is banned because standing for long minutes gives pains.)

The notice of 2007 cited the ambiguous decision by the Tokyo High Court and said “all forms of physical force are not banned as corporal punishment.” It recommended to use legal forms of physical force without hesitation. The notice of 2007 narrows the broad understanding of banned corporal punishment expressed in the notice of 1948. Still, the notice of 2007 does not clarify a line between legal and illegal physical force. This ambiguity

⁴ In Paragraph 47 of the last Concluding Observations, this decision is referred as “the ambiguous ruling of the Tokyo High Court in 1981.” But, the correction is needed because the decision was handed down in 1983.

enhanced the use of physical force such as punching in schools. In 2012, upper secondary school students, a talented basketball player, committed suicide due to corporal punishments repeated by a coach who was a teacher at the upper secondary school. In 2013, seeing this case caught severely critical eyes of the public, the Education Ministry issued a new notice and withdrew a part on the use of physical force from the notice of 2007: it stopped depending on the ambiguous judgement by the Tokyo High Court.

2. Challenge to change a traditional view on child development

We welcome this withdrawal of a part on the use of physical force from the notice of 2007, but, there still remain two challenges.

First is to make the Ministry withdraw a part on ZTP from the notice of 2007 and issue a new notice that requires local school boards to abandon ZTP (See Chapter 16).

Second is to make the Ministry to take a step toward abandoning a traditional view on child development underlying the concept of “discipline.” The government report says “MEXT provides notifications with examples to show that discipline and corporal punishment are different.” However, giving such information is insufficient because the information does not touch upon the root cause of ambiguous line between discipline and corporal punishment: a traditional view on child development.

A traditional view on child development sees development of a child as a replacement of irrational mind with which children are born with rational one by authoritative adult figures. As far as this view remains, there is a room for some types of physical force to be justified as a mean to kick irrational mind out from children. With this traditional view and the concept of “discipline,” debates on definitions of corporal punishment and on types of physical force that are allowed would continue. In other words, this traditional view is the root cause of the ambiguous definitions of corporal punishment.

In its judgment in 1983, the Tokyo High Court said “if a teacher considers that verbal direction and guidance as a form of discipline is too gentle to be effective for a student, a teacher is allowed to use necessary physical force to a certain degree in addition to verbal direction and guidance.” It concluded “External stimuli (physical force) which is somewhat stronger than mere physical contact” is not banned as corporal punishment. These

readings of the Court indicates the root cause of the ambiguous definition of corporal punishment: a view that children are not rational enough to understand what is wrong with their conducts by verbal direction and guidance, and in some case, verbal direction and guidance plus physical force is needed.

On April 28, 2009, the Supreme Court handed down its judgement on the case where an elementary school teacher scolded a second grader in a loud voice shouting “Don’t do that anymore,” with grabbing him by the collar and pressing him against the wall. The Court concluded that the physical force used in this case was not banned corporal punishment on the reason that the physical force “was used as direction and guidance to make a student understand he shall not play pranks on a teacher again. It was not used as a punishment to give him physical pains.” The Court said “though the physical force used in this case is not moderate, it can be understood as educational direction and guidance legally allowed for a teacher. The physical force used by the teacher was not banned corporal punishment.” Reading between lines, we can find out the logic that verbal direction and guidance plus physical force is educationally necessary for irrational children.

To eliminate corporal punishment in school, this logic arising from the traditional view on children is to be replaced with child centered logic of direction and guidance. This is also true for corporal punishment in family and other settings.

3. Conclusions

We suggest the Committee to express concerns on the Supreme Court judgement in 2009 and recommend the government to:

- (a) Withdraw totally the notice of 2007 and issue a new notice to require school boards to abandon ZTP.
- (b) Launch research on child centered direction and guidance alternative to “discipline” built up on a traditional view on children with a view to adopt new laws explicitly ban corporal punishment in all the settings.
- (c) Establish child-friendly complaint procedures easily accessible for children in cases of corporal punishment or unreasonable and excessive direction and guidance.

Chapter 16. School Discipline Based on ZTP

1. Introduction

In February, 2007, two months after the enactment of the new Basic Act on Education, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) issued an official notice titled “On Discipline for Students Who Repeatedly Cause Problems” undersigned by the head of the Elementary and Secondary Education Bureau Student Affairs Division. That notice introduced how the Paragraph 2, Article 6 of the new Basic Act on Education explicated that those who receive education must respect rules necessary for undergoing school life in order to achieve the goals of education and demanded all the superintendents of prefectural boards of education that “each school...define rules and codes of discipline...and the entire faculty provides coherent and persistent discipline accordingly.”

As will be explained later, the notice demanded that the zero tolerance policies (ZTP) within US schools be also adopted by schools in Japan using different words. Since then, ZTP has been applied to school discipline, and many children have been deprived of their freedom under the name of “in-school suspension,” or routine application of penalties, which disregards the specific situation of each child, has been pushing children mentally on the verge.

The following explains the how ZTP was introduced and later expanded, introduces how in some cases ZTP hindered children’s developmental process, and argues how ZTP impinges on children’s rights on so many layers.

2. Implementation of ZTP by MEXT and their expansion

ZTP in the United States is defined as “philosophy or policy that demands automatic application of predetermined penalties, in most cases grave and disciplinary penalties, regardless of severity of the problem, without room for leniency or consideration of circumstances.” Given the fact that Gun-Free School Act (1994), the federal law that triggered the nationalization of ZTP application to school discipline in the US, aimed for maintaining safe school order and later integrated the “broken windows” theory, it could be defined more broadly as follows:

ZTP is a philosophy or policy that aims for the maintenance of school

safety, prescribes rules for illegal and deviant behaviors, elevates minor misconducts to illegal/deviant behaviors subject to penalties, and demands application of severe penalties and rules such as suspension/expulsion or in-school suspension without exception.

The first mention of ZTP in Japanese education policy goes back to September 2005, when “MEXT Project Team on Undesirable Behavior of Children” issued the “Interim Report on New Priority Program for Combating Undesirable Behavior of Children”, where it proposed to start research and discussion of ZTP in the US.

In May 2006, National Institute for Educational Policy Research Guidance and Counseling Research Center issued a report on “Research Studies of a System for Student Guidance: To Foster Normative Consciousness” (NIER Report) introduced “zero tolerance” as “prevalently practiced within the United States.”

NIER Report introduces ZTP in a column titled “Progressive Discipline.” It provides a literal translation of “zero tolerance” and introduces it as “a principle that schools, under the clear purpose of ensuring ‘safe and orderly study environment,’ respond resolutely to even minor behavioral problems among children according to their guidance standards.” And it picks up “progressive discipline” as “highly relevant” to ZTP and explains it as “a method of phased discipline that does not tolerate even minor undesirable behaviors to prevent them from developing into major behavioral problems.” Based on such introduction and explanation, NIER Report states that, even in Japan, “schools need to be resolute in providing persistent guidance in order to have students observe minimum rules and manners such as “behaviors that cause troubles for others,” “attitude expected in class,” and “being punctual” from the standpoint of “Ensuring Safe and Orderly Study Environment.” And, as a “resolute and persistent guidance,” it recommends the “progressive discipline” and refers to the previously mentioned column in the NIER Report to provide a layout of the development of disciplinary practice from “calling attention, scolding, detaining after-school, having students stand up, extra homework...sending disciplinary letters to parents, separating students in time-out rooms, providing a reprimand” to suspension and expulsion from school.

One month after the publication of NIER Report, the head of the Elementary and Secondary Education Bureau Student Affairs Division of

MEXT issued an official notice titled “Enriching Student Guidance That Fosters Normative Consciousness Among Students” (June 5, 2006) to corresponding section managers of prefectural boards of education, and demanded that they “commit to further fulfillment of student guidance initiatives...while utilizing the fruit of this report.”

The Basic Act on Education was revised only at the end of 2006, and in February 2007, the official notice introduced in the beginning of this report was issued.

What this sequence of events reveals is that MEXT, upon a precise understanding of what ZTP meant, tried to translate ZTP into Japanese in order to implement it in the Japanese setting without using the term “zero tolerance” in laws or official notices. To preserve competitive school order, which was the purpose of ZTP, was changed to “ensure safe and orderly study environment,” application of penalties without exception regardless of particularities of which each child is situated, which was the method of ZTP, was changed to “respond resolutely,” and the “broken windows theory” embedded in ZTP was changed into “progressive discipline.” This shows how MEXT has come to argue that schools should apply prescribed penalties without exception and apply grave penalties such as putting students in time-out rooms in addition to providing extra homework and sending disciplinary letters to parents.

3. The case of Fukuyama City

3-1. Student Guidance Standard

One of the municipalities that implements an extensive application of ZTP is Fukuyama City of Hiroshima. Fukuyama City Board of Education, with the support from Hiroshima Prefectural Board of Education, mandates each public school principal the development of “Student Guidance Standard” (SGS). Fukuyama City Board of Education has explained how it is based on ZTP and “Enriching Student Guidance That Fosters Normative Consciousness Among Students” at the city council.

As follows, the standards developed by each school are quite similar. Under the purpose of ensuring a safe and orderly study environment, they regulate when to come to and leave school; how to place a request to the school regarding absence, lateness, and early dismissal (there are cases where the school regulates how often and for how long students can visit the school

nurse to prevent tardiness); how students should behave during class; what to wear or how to wear their school uniforms (there are schools that allow only white shoes, prohibit makeup or hairstyle “inappropriate for lower secondary and elementary school students,” require permission to wear outerwear to school, regulate the colors of female students’ underwear or hairstyles); how to deal with situations in which students bring cellphones or other unnecessary goods to school; and what the school considers as “problematic or delinquent behavior” (wrongdoing such as bullying, violence or vocal abuse, and property destruction).

The Standard also regulates “special discipline” to be provided by the school when students fail to comply with these regulations. The discipline is provided progressively. In the beginning, the discipline involves “providing a vocal admonition, requiring a written reflection from the student, and reporting to the parent,” and “having the student correct oneself at the spot in case of a severe violation of school uniform or hairstyle standards. Without doing so, the student cannot return to the classroom; the school will report to the student’s parents, have the student correct him/herself, and then return to the school.” This reveals that the opportunity to learn is being taken away from the student at this stage. At the next stage, “the school asks their parent to come to the school immediately and provides an admonition to both the student and parent. Depending on the situation, the school will ask the parent to take the student home or collaborate with police or other relevant organizations.” This reveals the possibility that the school may call the police to have the student arrested.

“Time-out room guidance” is placed within this “special discipline,” and the length of this, too, extends progressively such as 1 day, 3 days, and other duration. The Standard prescribes activities such as “(1) reflection and resolution, (2) consultation, (3) learning activities (1 hour: practicing 1,200 Chinese characters, copying textbooks, and other instructed learning activities),” but does not state how the lost learning opportunity will be compensated. Moreover, the Standard requires that “time-out room guidance” must be based on the following rules: “(1) the student must go to a designated classroom during time-out room guidance and cannot go elsewhere, (2) during this period of special discipline, the student’s parent must accompany the student when commuting between home and school, (3) the student must obey the instructions of the teacher, (4) the student must be seated and engage in

the given task in a serious manner and without saying a single word, (5) the student is prohibited from communicating with students outside the time-out room, (6) the student cannot go to the bathroom without the teacher's permission, (7) the student is prohibited from participating in club activities during the period of time-out room guidance, (8) the period of time-out room guidance will be extended if the teacher judges that the student has not observed these rules nor learned from his/her own wrongdoing. There are schools that provide this discipline in an isolated room or in a classroom divided by plywood into multiple cells as small as 120cm by 280cm.

3-2. What happened in Fukuyama City

There is a case of in Fukuyama City which reveals how ZTP impinges on the rights of the child to grow and develop, by leaving a deep wound on the students' character.

Student A told the teacher that the reason for his classmate's absence might be bullying at school. However, the school accused A of being the bully and moved A into a time-out room guidance. Student A told the teacher that he was not the bully but his appeal was ignored by the teacher. Instead, A was told to practice writing Chinese characters and do drill work during the time-out room guidance, which eventually led him think that 'Whatever I say, it will make no difference.'" When he returned to the regular classroom after the time-out room guidance period, he found himself unable to catch up with others in math. The school provided no compensatory lessons for what he missed during the time-out room guidance. A's distrust against the school grew and finally A could no longer go to school.

Student B was arrested by the police for violence against a teacher, in a case where B was reported to have grabbed the teacher by the lapel. In reality, B grabbed back the teacher's lapels when the teacher grabbed B's lapels to forcibly bring B to the student guidance room. Nevertheless, B's claim went unheard by the school or police. "Time-out room guidance" began when B was released by the police. The teacher had B read aloud a letter of reflection and apology in front of the classmates after B finished the time-out room guidance. B's distrust toward the school grew, and B began to spend time in a park although B left home each morning, pretending to go to school.

Student C was reported to the police and arrested for property destruction in an incident where C "broke a window." C claimed that the glass

fell to the floor when C kicked the wall. Upon returning to school, C's "time-out room guidance" began. The school did not bother having a hearing of how the window was broken. C was tasked to practice writing Chinese characters and do drill work. C refused to go to school soon after the "time-out room guidance" began. After a few months, C decided to go to school. However, the school put C back into the "time-out room guidance" because the time-out period had not finished according to the Standard. C refused to go to school again.

4. How ZTP impinges on the rights of the child

These cases violate the Convention on the Rights of the Child in various ways. First of all, the fact that there is no room for oppositions or opinions for school regulations based on ZTP and that there are no careful examinations of what qualifies as "problematic or delinquent behavior" by the school or sufficient hearings of students indicates that Committee on the Rights of the Child ignores the concern expressed in the paragraph 43 of its third Concluding Observations on the government report.

Next, the implementation of "time-out room guidance" or police reporting by the school also violates Article 37 (b)-(d). The school's unilateral recognition of "problematic or delinquent behavior," implementation of "time-out room guidance," or police reporting as previously mentioned conflict with the article that says "The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time" and violates the rights of the child to "be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age." "Time-out room guidance" or detention at the police causes further conflict when it deprives the child of the "right to prompt access to legal and other appropriate assistance."

Lastly, taking away the child from class and other learning activities by the implementation of "time-out room guidance" while keeping the child within school or by police reporting and arrest while keeping the child away from school comes into conflict with Article 29 of the Convention on the Rights of the Child, which pursues "the development of the child's personality, talents and mental and physical abilities to their fullest potential."

5. Cases of child suicides provoked by ZTP

This suggests a violation of the Committee on the Rights of the Child General Comment No. 13. General Comment No. 13 points out that ZTP is “highly destructive as it is a punitive approach victimizing children by reacting to violence with more violence.”

Here it is important to report that, in Japan, there was a case in Niigata in which the Third Party Investigation Committee found that a child’s suicide was due to the school discipline based on ZTP, as well as a damages lawsuit over a suicide of a child triggered by ZTP.

The “Investigative Report” published in July, 2016, by Third Party Investigation Committee on July, 2012 Niigata Prefectural Upper Secondary School Student Suicide installed by Niigata Prefectural Board of Education has found that the upper secondary school student’s suicide was caused by repeated penalties under ZTP. It points out the danger of ZTP as follows: the child, who often cannot distinguish clearly between personality and action, tends to confuse penalty, which is a condemnation toward a certain action, with a broader assault on personality and, without any educational measures to protect the child’s personality, condemnations against the child’s action given repeatedly under ZTP will destroy the child’s personality itself. It emphasizes the importance of educational measures as follows:

“In order to enhance the effectiveness of condemnation as well as to prevent damage of the student, it is essential not to have the student receives it as a denial of the child’s personality when criticizing one’s misbehavior. More specifically, it is necessary for the school to have sufficient hearings of the particularities and background of each case, to accompany the child in the process of coming to a judgment of one’s own action and thoughtfully making it right. This will give the student the comfort that his or her personality is respected and also gives him or her an opportunity to foster it in a new way.”

6. Conclusions

We suggest the U.N. Committee on the Rights of the Child to recommend the Japanese Government to reconsider Article 6 of the new Basic Act on Education that justified the introduction of ZTP, to retract the notice of 2007 that demanded the introduction of ZTP, and to elaborate school discipline policies that honors the child’s dignity as a human being.

Part V Family Environment and Alternative Care

Chapter 17. Assistance for Families

Refer to Chapters 5 and 7.

Chapter 18. Child Abuse

1. Introduction

Child abuse is a social phenomenon, and coping with it in Japan is reportedly later 30 years or so than that in Europe and the U.S. The huge gap still remains the same as before. Those in charge of the issue in Japan should take the fact seriously.

The child abuse in Japan is deeply rooted in its culture: in the last Concluding Observations, the U.N. Committee on the Rights of the Child expressed its concern that the child abuse in Japan happens chiefly because parents are given, in one of its civil laws, “comprehensive control over their child” as their parental authority. Instead of arguing against this concern, the Japanese government referred to the newly introduced system of suspension of the parental authority. However, suspension of the parental authority, which is ruled by Family Court after a parent abused a child, do not set a limit to the parental authority itself.

2. The current child abuse and its treatment

2-1. Statistical data

It is reported that child abuse has been increasing steadily: in 2016 more than 120,000 abuses were caused. The number, however, is the one reported to the nation-wide official child guidance centers, and the actual number of the abuse could be much larger. For example, since the revision of Child Abuse Prevention Act in 2005, which defines a husband's physical violence against his wife a psychological as child abuse, the number of psychological child abuses nationwide has accordingly grown dramatically larger. For another example, the number of neglect differs largely depending on areas. This difference implies that each area has its own idea of how to raise a child, and that child guidance centers do not share a basic notion of “neglect.”

Sexual abuse has been estimated to be very low in Japan, and is believed to be much lower than in Europe and the U.S. However there is no any statistical evidence, and in Europe and the U.S. the number was believed to be very low some tens of years ago. It could imply that the actual number of sexual abuses in Japan may well be much larger, several times larger at least.

Judging from those data, though they are not comprehensive, it is justifiable to estimate that child abuse in Japan has been steadily growing.

In the last three Concluding Observations, the Committee has pointed out that the government has not given sufficient survey, involvement or publication.

Independently of the data mentioned above, the Ministry of Welfare and Labor has, for the last 13 years, publicized its surveys and analyses of child deaths from abuse. Death is obviously the worst tragedy. Close examination of the cases, we believe, will prove the most efficient in identify problems in the system.

Japan is unique in its tradition of “*shinju*,” a forced suicide in which a parent first kills the child and then kills her- or him-self. It has not been concluded whether or not to include this in child abuse.

The data issued by the Ministry of Welfare and Labor are insufficient both in excluding the above-mentioned forced suicide deaths and in not giving comprehensive survey of other deaths which might have been caused in abuse. Researchers of child-abuse death insist that the government play the leading role in establishing the system in which suspicious child deaths will be comprehensively surveyed and examined in detail.

2-2. Official measures to be taken against the abuses that have been caused

As of April, 2015, Japan has 208 prefecture-run child guidance centers which cope with child abuse. Among the most serious problems is that the centers do not deal with child abuse alone; they have to be faced with various child-related issues. There are only less than 3,000 qualified social workers. The relevant rule stipulates that for the population of 40,000 there be one qualified social worker coping with various child-related issues, and each social worker, it is reported, has to take care of as many as more than 100 cases. What is worse, most prefectures do not require such social workers to be qualified in child-related knowledge or skills, and qualified and experienced workers may well be transferred to not-child-related offices, which frequently happens in Japanese official system.

The third Concluding Observations regrettably does not mention lack of qualified workers in relevant offices, though the second did, and the government remains silent.

2-3. How to take care of abused children and abusers

Attention has not been paid to the situation and environment in which a parent or parents end in abusing their child. Few prefectures have the systematic program of taking care of abusing parents and a court does not order the parents to take relevant programs. The poor situation comes from failing to view an abuser as one who should also be taken care of.

The last three Concluding Observations have emphasized strict punishment of abusing parents. The last mention this with less emphasis, but seems to lack the viewpoint of the need for giving heed to abusing parents. The governmental report also regards abusing parents as those who should be punished exactly like all the others who worked violence against children.

3. Measures for preventing child abuse

3-1. Policies for child-abuse prevention

The principal law against child abuse, the Child Abuse Prevention Act, was enacted in 2000. The child abuse related legal system has a short history with much room for development. The Act was comprehensively revised in 2016 in line with the spirit and principles of the Convention. Still, there is room for further development.

The current laws on child abuse primarily aims to take systematic and timely measures against abuses that did happen. The Act does mention the need for citizens' interest and attention toward preventing child abuse, but it does not show how to prevent. Thus, national, prefectural, municipal and town or village offices are not actively involved.

The last Concluding Observations referred to the need for preventive programs, but the governmental report gives no mention at all.

3-2. Mother-child mental health as a prevention of child abuse

A plausible program for child-abuse prevention will be the services provided by a mental and physical health-care worker in the health centers placed nation-wide.

The government has started a program of making centers supporting child-rearing parents which are expected to play an important role for preventing child abuse. The program, however, is still in the pre-budding stage, and there is no predicting its future activity.

Neither the last Concluding Observations nor the governmental

report has a viewpoint of requiring the regional health centers to play the central role in child-abuse prevention.

3-3. Non-governmental and academic associations for child-abuse prevention

Preventive measures against child abuse have so far been taken by active non-governmental organizations. The organizations take into consideration the regional situations and needs, but, unfortunately, most of them do not work systematically.

Academic associations also work for the same goal; they aim to include governmental and non-governmental activities, but so far they cannot play a crucial role.

The last Concluding Observations calls for the government to co-work with citizens for preventing violation and abuse against children, but the governmental report simply ignores the suggestion.

4. What is done after abusing has happened

4-1. Alternative family environments for abused children

Those abused children who, it is decided by the child-care offices, cannot be looked after at their families will, together with children who suffer due to other reasons, be sent to child welfare facilities, family homes or foster parents. There are around 40,000 children placed in alternative family environments, with more than 60% of them abused children. In spite of the rapidly increasing number of abused children, there is little change in the number of children placed in alternative family environments.

No psychologically professional understanding regarding child care is required of staff in child welfare institutions and foster parents. This problem has partially been solved by employing psychological professionals and holding relevant seminars.

The last Concluding Observations pointed out that child welfare institutions accept and take much more children than in Europe and the U.S., and accordingly cannot afford to offer warm, family environment. In consideration of this, the governmental report has declared that the government will “promote more foster parent consignments” and “pursue initiatives to achieve ratios of roughly one third each for children in main facilities, children in group homes, and children consigned to foster parents and family homes during the 15-year period covering fiscal 2015-29.”

(Paragraph 92 (e)). To realize this, the government would be required of a much stronger program and determination, including program to develop staff with professional knowledge on child abuse and place them in facilities and group homes, as well as to provide professional knowledge and considerable financial assistance to foster parents. (See also Chapter 20 Alternative Family Environments and Social Child-Rearing)

4-2. Care for parents who has abused

The fact that, in spite of the rapid increase of reported abuses, children placed in alternative family environments are not growing in number indicates that many abused children remain under the care of abusing parents with the supervision by child guidance centers. In such situations, prevention of further child abuse cannot be expected, for the child guidance centers inevitably have to cope with much more children than they can afford, and that there are very few programs for parents who had abused.

In order to overcome the unfavorable situation, the government has made public its vision for child welfare, the vision for new social child-rearing, emphasizing the need for social rearing and regional support. The vision has not yet been given national consensus, and its feasibility cannot be assured, but the basic idea of co-rearing with the help of citizens can be promising. For the realization of the idea of co-rearing, support by the regional people of suffering families is essential. We also have to keep in mind that no idea or ideal can be realized when paternalistic culture in Japanese society is ignored.

5. Conclusions

To improve measures for child abuse, much remains to be done. If we are asked what is the most essential, we answer that the priority is to develop as many professionals ready to stand on the side of children.

We suggest the Committee to recommend the government to develop and place staff with professional knowledge on child abuse in child guidance centers and child welfare institutions including small group homes, as well as to provide professional knowledge and considerable financial assistance to foster parents.

Chapter 19. Child Guidance System

1. Introduction

When child abuse has occurred or when it is at high risk of occurring, municipalities receive primary consultation and reporting, and then they provide assistance according to the needs of children and guardians including parents. In cases of high urgency where child's life is in danger and highly specialized assistance is required, child guidance centers located in each prefecture arrange to provide consultation and assistance. Though the government report provide no information, this system has problems as follows.

2. Budget shortage in local governments

Many municipalities are having difficulty securing the necessary budget alone for providing primary support due to the insufficient national subsidies. Especially, the municipalities are faced with challenges in arranging staffs with high degree of expertise capable of conducting the care which meets the increasing or deepening needs. In background of this lie the financial difficulties and budgetary policies of local governments. The government has not responded to the recommendation to "Protect priority budget lines for children against changes in levels of resources" recommended by the "Allocation of resources." (Paragraph 20 (c) of the last Concluding observations)

3. Lack of staffs

The Act on Child Welfare obliges the local governments to place child welfare officers and stipulate the national minimum standard on their numbers. The Act, however, is silent about placement of child psychologists and their numbers. The local governments place child psychologists by their own discretions.

The number of staff is critically deficient in order to cope with increasing child abuse. The Headquarter for Child Abuse Prevention of the Welfare and Labor Ministry set a goal to increase the number of child welfare officers from 2,930 in FY2015 to 3,480 in FY2019 and the number of child psychologists from 1,290 to 1,740. However, the number of child abuse cases child guidance centers received was 122,578 in 2016, and the average number

of child abuse cases each officers handled was about 40. The number of child abuse cases each officer handles is increasing every year. These burden of the child welfare officers and child psychologists are beyond the limit of their expertise.

The government was required to make more efforts to increase the number of staff in child guidance centers by revising the Act so as to oblige the local governments to place child phycologists and to raise the national minimum standards on numbers of staff as is recommended in Paragraph 40 of the last Concluding Observations.

4. Lack of professionals

General administrative staffs are frequently assigned as child welfare officers due to periodic transfer and do not necessarily have expertise to deal with difficult cases. Neither supervisions nor training systems is provided. As a result, it is difficult to accumulate and improve expertise to respond to child abuse.

5. Lack of coordination in relevant organizations

Under the revised Act on Child Welfare of 2016, different roles are allocated to office of city, town and villages and to a prefectural child guidance center: offices of cities, towns, and villages take a role of primary response and prefectural guidance centers take a role of treating difficult cases and providing assistance to offices of cities, towns, and villages. However, due to the aforementioned three problems concerning the number and qualification of staff, coordination between offices of cities, towns, or villages and a prefectural child guidance center has not been established yet.

In addition, in cities, towns and villages, collaborations among schools, hospitals, police and related organizations are not sufficient enough to protect abused children. When there arises a case of death due to child abuse, cities, towns and villages establish third party investigation committees. Many of reports issued by these third party committee pointed out insufficiency of collaboration.

The government report gives mention to an active role of police in cases of child abuse in several paragraphs. However, depending much on police has given rise to some problems, because the role of police to arrest criminals and investigate crime with force contradicts the role of child

guidance centers to provide continuous support through building trusting relationships with children and guardians. A role of police in child abuse shall be examined more carefully.

6. Quantitative shortage and qualitative problems of temporary child protection facilities

Temporary child protection facilities operated by child guidance centers accommodate abused children and provide temporary protection to them after they are separated from abusing parents. Children live in these facilities until child guidance centers handle down their decision. Facilities cannot respond to the increasing number of cases of child abuse due to the shortage in space and rooms. Not a few of abused children are placed temporarily in children's home or foster families in lieu of facilities. Quantitative expansion of these facilities and placement of professional staff are urgently needed.

There are some problems in temporary child protection facilities. Though they accommodate children facing various difficulties, they do not have sufficient number of staff which can respond to various need of accommodated children. Though these facilities are for temporary stay, in some cases, children stayed there more than two months, because alternative care facilities cannot be found. In these cases, children had their right to education violated. In addition, the number of night staffs is insufficient and it is impossible to ensure the safety of children.

The revision of the Child Welfare Act in 2017 strengthened judicial involvement, including the court's approval for extension of temporary protection. However, the number of staff of both the courts and child guidance center are insufficient to handle increasing number of child abuse cases. Judicial involvement would not be effective.

7. Conclusions

We suggest the Committee to recommend the government to:

- (a) Improve the national minimum standards on staffs at child guidance centers.
- (b) Take measures to ensure the accumulation and improvement of the professional abilities of the child guidance staffs.
- (c) Strengthen financial support to offices of cities, towns and villages that

take the role of primary response.

- (d) Formulate operational management standards for temporary child protection facilities.

Chapter 20. Alternative Family Environments

1. Challenge to move towards “environment similar to home”

In its third Concluding Observations, the U.N. Committee on the Rights of the Child recommended the Japanese government to “Provide care for children in family-like settings, such as foster families or small group settings in residential care.” (Paragraph 53 (a)). The government has made efforts to respond to this recommendation. However, we argue that the government shall make more efforts to solve the following three problems in current measures.

First, the government has neither specified measures required to achieve transition from residential care to alternative care of family-like nor elaborated budget plans. Although reduction of living unit in residential care and transition to family homes are currently making their way, standards on number of staffs has not been established. Furthermore, resources for alternative family-like settings including foster parents are crucially scarce to cope with the increasing number of child abuse cases. Therefore, moving towards family-like settings without detailed financial and other measures carries risk of lowering the quality of alternative family environment.

Second, the government is attempting to expand foster parent placement despite the fact that support for foster parents is insufficient. According to “reasons for foster parents’ cancellation of placement” (from 2013 to 2015) reported in the Ministry of Health, Labor and Welfare’s Report on Social Welfare Administration and Services, 30% of cancellation is due to reintegration to family, 20% is adoption and the remaining 50% is cancellation during placement and change of measures. On the other hand, for children under residential care, 50% of cancellation is due to reintegration to family, 30% is employment/further education after staying in the facilities until upper secondary school graduation and the remaining 20% is cancellation during placement and change of measures. Moreover, according to the research conducted by Ministry of Health, Labor and Welfare, the rate of incidence of child abuse under child alternative care is higher in foster parents’ homes than in facilities. This shows that residential facilities provides children with more stable and safe human relations than foster care. Support for foster parents must be radically strengthened when shifting the base of child alternative care from residential facilities to foster parents,

otherwise the quality of alternative family care will retrograde.

In Japan, the proportion of relative foster parents among all foster parents is extremely small. According to the Report on Social Welfare Administration and Services (as of the end of March 2016), among the registered 10,679 foster parents households and entrusted 3,817 foster parents households, the number of relative foster parents households are 505 and 495. There are only 712 children (1.5%) who have been entrusted to relative foster parents as against 45,000 children in need of alternative care. Since there may be undetected cases which have been privately taken care of among relatives, the government must enhance relative foster parents as alternative care.

Third, regardless of the insufficient budget and the low standards, child welfare administrators and staffs working in residential facilities have been making their best efforts. However, the government's measures are not taking such efforts into consideration. Since 1970s, after finishing meeting the needs of war orphans aftermath of the Second World War 2, staff of residential care have accumulated experiences in coping with children and families with new and various problems. Today, using this stock of knowledge and experience, they are making efforts to rebuild living unit and space to create a family-like environment.

Reform of child alternative care system should be based upon the experience and knowledge accumulated by residential care staffs. The Ministry of Health, Labor and Welfare, however, is currently beginning to make its way to drastic reforms and is proposing to stop accommodation of babies and little children into residential care, based on the report "New vision of social child nursing" (Aug 2, 2017) by an investigative commission newly established by the Ministry to consider about the future of social child nursing.

2. Effective practice measures of prohibition of corporal punishment = unified security of the rights of the child and staffs' rights

In its last Concluding Observations, the Committee recommended the government to legally ban corporal punishment in all settings and to develop programs on discipline alternative to corporal punishment. The government,

however, has not taken any measure.

In the background of corporal punishment, there is deep-rooted traditional views on children and childrearing which approve violence as “guidance.” Believers of such custom are not limited to residential care staffs; some school teachers still believe that corporal punishment is effective, neglecting the fact that corporal punishment hurts children’s hearts and bodies and could result in a serious incident. The government should have carried out campaign to raise awareness on alternative ways of discipline with a view to change this traditional views.

Residential care staffs received technical education in a training course at universities, learning the illegality of corporal punishment and its negative effects on children’s development as well as how it threatens the rights of the child. Nevertheless, corporal punishment happens to be repeated in alternative care institutions. Not only the government but also those involved in child alternative care need to unravel background causes and take measures to eradicate these causes.

Here, we point out three background causes.

First, low status and poor working conditions of staff. Residential care staffs’ wages and working conditions including numbers of staff are provided by the minimum standard of residential care set forth by the government. They are not appropriate for staffs’ expertness and do not satisfy conditions that allow them to maximize their expertise. This produces various types of stress and gives arise to staffs’ early resignation and inappropriate treatment (violence etc.) of children. To make matters worse, staffs’ mistreatment of children brings about a relationship between the dominating and the dominated and creates a hotbed of violence among children. The measures to eliminate corporal punishment in alternative care institutions should be accompanied by the measures to improve the status and working conditions of staff.

Second, insufficiency in training. Residential care staffs are required to train themselves continuously to improve their ability and skills and to obtain new knowledge and support techniques necessary for appropriate treatment of children with various needs. Acknowledging the need for continuous trainings, some NGOs provide various forms of training course. Among those NGOs are included National Council of Child Residential Care Institution, professional organizations such as Society for the Studies of Child

Residential Care Problems, Children's Rainbow Center, and the Association for the Prevention of Child Abuse & Neglect of each region, as well as related founding organizations as Shiseido Social Welfare Foundation. To enhance staffs to participate in such training, the government should take such measures as increasing the number of staff to facilities with a view to afford them time for training.

Third, insufficiency in child participation in management of facilities. Respecting the rights of the child so that they can express their own views, guaranteeing staff rights and activities such as problem solving and decision making through discussions where all participants talk on an equal footing are the shortcut for eradicating corporal punishment. Those who are involved in child alternative care are required to play an active role in and share such activities and the government must support them.

Currently, almost all the municipalities distribute children placed in alternative care institutions or to foster parents "Handbook on Children's Rights." However, how to use this handbook is up to each child guidance center and facility and research on how they are being used has not been conducted yet.

3. Issues over aftercare

In principle, child alternative care system treats children under the age of 18. Care after they left home at the age of 18 has been an issue. With the recent amendment of the systems, measures to extend treatment to the age of 22 were taken. However, support systems for those who left foster homes and residential care at the age of 22 are still insufficient and there are many unsolved problems.

First, though children with various traumata including PTSD need continuous support after they left institutions, there is no legal framework for providing this kind of support.

Second, while the rate of enrolment in higher education is higher than 50%, that of those who receive alternative care is around 27%.

Third, although establishment of self-reliance support facility, which provide support for youth including those above the age of 18, is expanding, some facilities have no choice but to close down due to lack of enough support for operating funds. Establishment of institutional/financial bases are essential for stable operation.

4. Conclusions

We suggest the Committee to recommends the government to:

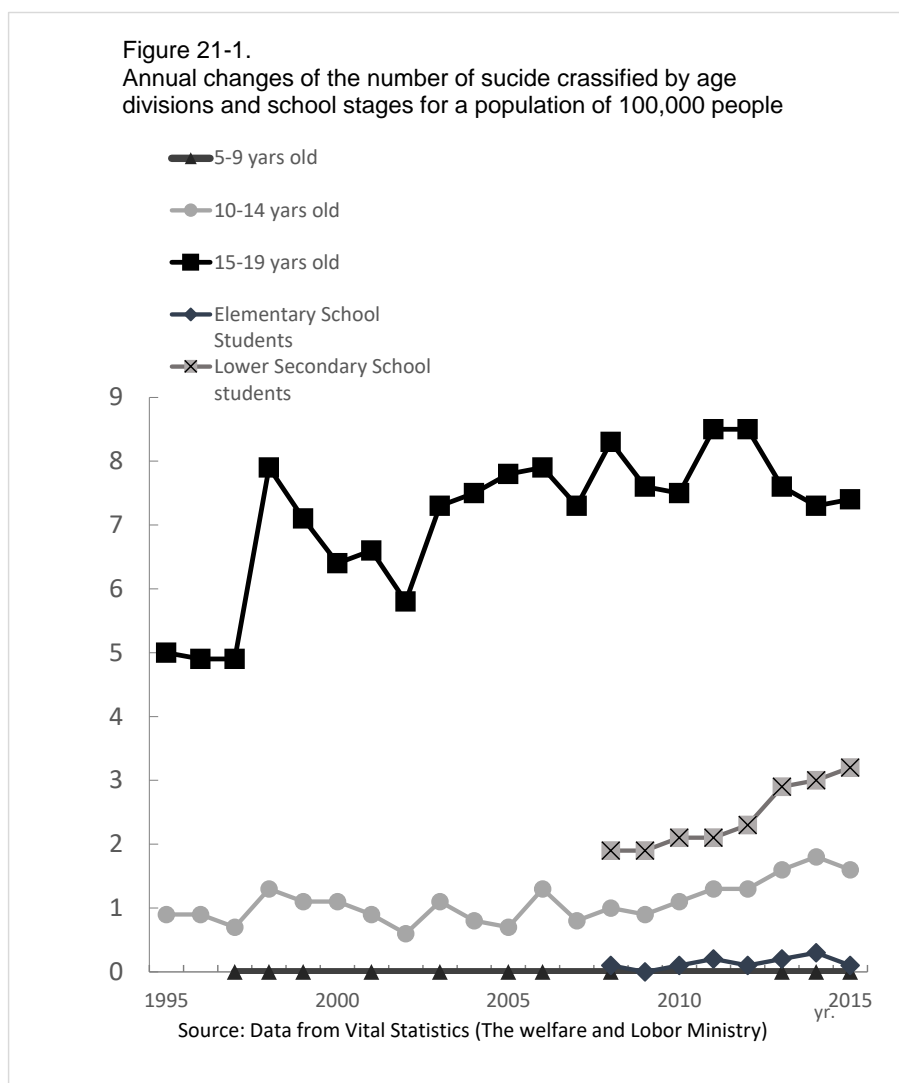
- (a) Observe the U.N. Guidelines for the Alternative Care of Children (2009), increase budget for child alternative care and radically improve standards on numbers of staff in residential care institutions and group homes.
- (b) Make the best of the knowledge and experiences accumulated by staff at residential care and group homes in moving towards family-like settings.
- (c) In order to eradicate corporal punishment in residential care, legally prohibit various forms of violence, improve the status and the working conditions of staff, as well as to assure them sufficient opportunities of training.
- (d) Enhance aftercare for those who left alternative family environment.

Part VI Basic Health Care and Welfare

Chapter 21. Suicide

1. Suicide in childhood and in adolescence

Since 1998 the rate of child suicide at the age of between 10 and 14, and between 15 and 19, keeps increasing as a whole, in spite of its occasional falls (see figure 21-1). In the last Concluding Observations, the U.N. Committee on the Rights of the Child expressed its concerns on the increasing number of suicide and also for the lack of investigations (Paragraph 41). The Committee recommended the government to research the critical factors of child suicide, to carry out the prevention measures, to provide the services of school social workers and the services of psychological consultation, and also to make sure that those children in severe difficulties are protected from further stresses (Paragraph 42).



Indeed, there are annual reports on child suicide made by National Police Agency (NPA) and the Ministry of Health, Labor and Welfare, but the number of attempted suicides is not ascertained, in spite of the fact that attempted suicides are the most dangerous factors of suicides. Psychiatry clinicians have reported that frequency of attempted suicide is seven times higher than that of actual suicide, and it is also said that attempted suicides are committed mostly by school non-attendant children and social withdrawal children / adolescents, but the actual situation hasn't been clearly identified.

Suicides by young children are said to reflect the social circumstances, and could be the barometer of the social changes. In this sense, therefore, the present state of affairs which threatens the safety of children's lives and their nerves is quite serious, and the multi sided analysis are required not only from the point of psychiatry but also from the points of psychology, sociology and cultural studies. Nevertheless, the collaboration among various areas is not sufficient.

1-1. The number of suicides

As to the number of suicides, there is a difference between the reports of National Police Agency and the Ministry of Health, Labor and Welfare. Differences in the ways in which to record a cause of death as suicide cause the differences. When the police find a dead body, they only make a document of autopsy or a record of dead body examination. When they identify the cause of death as suicide through their investigations, they record it as such. The Ministry of Health, Labor and Welfare records the cause of death as "non-suicide" when a doctor issues death certificate that reports the cause is not identifiable as either suicide, homicide or an accident. Unless this doctor submits correction, the record of "non-suicide" is kept.

Actually, it is the guardians who are supposed to report the case. In some cases, they request local school boards to set up "third party investigation committee on suicide by bullying" long time after the suicide was denied, and this sometimes exposes the causal relationship between bullying and suicide. However, there are also guardians who, for fear of prejudice against themselves, want to conceal the fact and ask a doctor to write a medical certificate of death due to illness, often under a tacit understanding of the police. The number of bullying suicide is believed to be bigger than the number accounted by NPA and MHLW. Therefore, there is

still room for reconsideration whether some cases of suicide are involved in the number of deaths by unexpected accidents.

1-2. Risk factors of suicide

The common motivation of suicides is unbearable mental pain (distress). In case of child suicide, an isolation in school or domestic troubles can possibly be the factor. Though attempted suicide is believed to have the highest possibility to be the risk factor, its actual number is unknown.

It is said that a child up to the age of nine holds a fantasy that he can come to life again after the death. Speaking from the clinical point of view, suicides which should be comprehended as grave as those of adults tend to start around the age of 12. When a child reaches the late teens, the risk factor gets entangled with the mental ailments which are similar to those of adults, and sometimes that can cause the risk of suicide.

According to NPA “Survey on Suicide in 2015,” in the cases of suicide by lower secondary school students, the most highest cause was “School problems,” the second highest “Discord between parent and child,” the third “Academic slump,” the fourth “Discord with friends.” In cases of upper secondary school students, the highest was “Academic slump,” the second “Anxiety for health, depression,” third “Anxiety for future course and career,” and the fourth “Troubles in school”.

As to “Discord with parent” of lower secondary school students, the details are not clear, but this comment may contain the child abuse and the discord derived from family collapse etc.

On one hand, we find long notes left behind in the case of bullying suicide, but on the other, when we find no notes, or only some notes like “Good-bye, Mother and Father.” In the latter case we cannot analyze the will, and so we are obliged to conclude the case is “not classifiable.” When psychiatric clinicians, psychological clinicians, and welfare clinicians actually observe and communicate with children who have risk factors of suicide, they can identify the causes of suicide of their own clients; otherwise, it is natural that those cases are classified as “cause unknown.”

1-3. Child suicide and bullying violence cannot be discussed separately.

As shown in Figure 21-2 and 21-3, during the period when the number of suicide kept increasing, both bullying and school non-attendance are

increasing sharply. It is imperative that we should observe child suicide in relation with child bullying and school non-attendance. The phenomenon prevailing now is: children torment others in a sly, underhand manner. Suicide caused by mental and physical bullying in a group consisting of dozens of children, suicide by the sly bullying in one-to-one relationship, suicide caused by threatening words like “You’ll be killed at school” or suicide by the act of violence such as beating, and kicking ---- there are too many cases of this nature to enumerate.

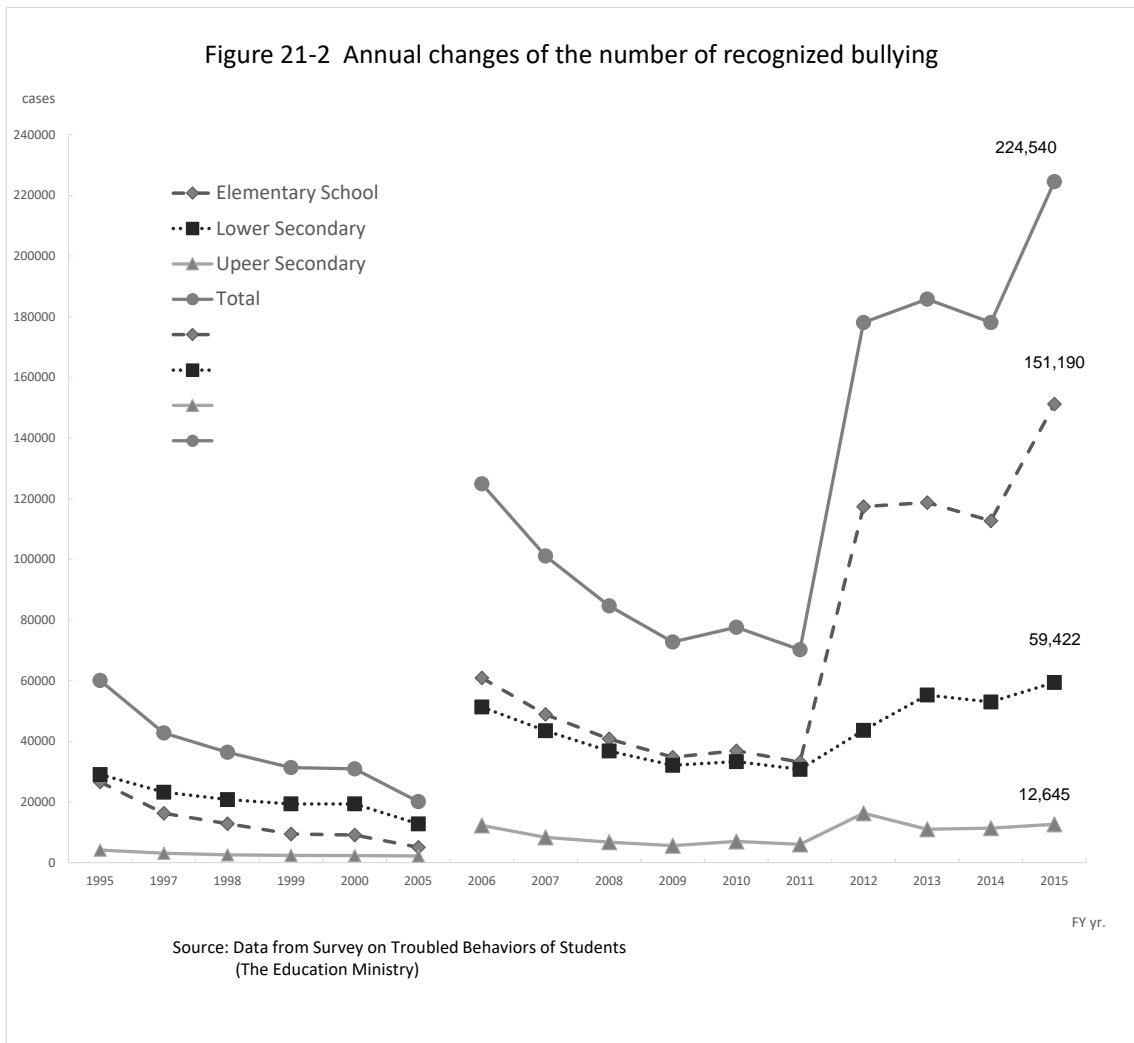
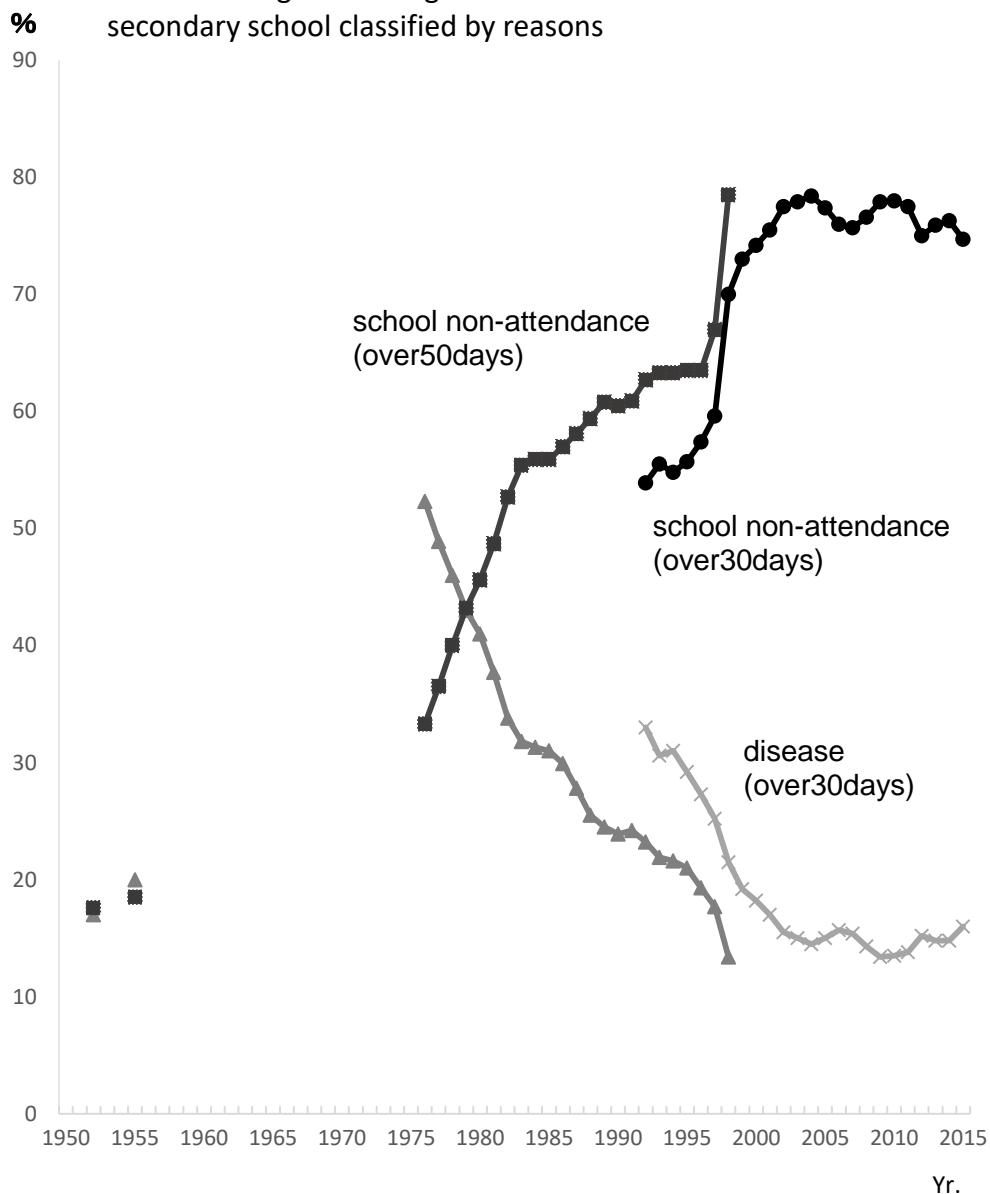


Figure 21-3

Annual changes of a long school non-attendance in lower secondary school classified by reasons



Source: Data from Survey on Troubled Behaviors of Students
(The Education Ministry)

Although in 2013, the Act for Promoting Bullying Prevention Measures took effect, and many schools and the boards of education in question have come to organize “investigation committee of suicide by bullying,” schools and school boards kept their negative attitude towards accountability. In the present circumstances, the bereaved families demand

that “the third party investigation committee” be organized.

1-4. Teachers’ guidance which drives a child to suicide

The death of a student who was mentally and physically driven to suicide by the teacher’s excessive guidance is called “guided death” by the “parents’ committee on death caused by teacher’s guidance”, and there occurred 61 cases of this ‘death’ between 1989 and 2016.⁵

There occurred suicide caused by not only one teacher’s excessively dominant and oppressive guidance but also by the school-wide excessive guidance, and now the situation is becoming more critical. There is a boy in the third grade of a lower secondary school who committed suicide in the process of successive “in-school suspensions.” He received individual instructions for reflection” stiffening its level from the first, the second and to the third. This instruction was taken place in a room isolated from other students. School carried out excessive guidance following the notice issued by Education Ministry in 2007, which requires to carry out school discipline based upon Zero Tolerance Policy (See Chapter 16 on Zero Tolerance Policy Applied to School Discipline and Chapter 15 on Corporal Punishments and Discipline). In a word: the death of the student was the result of this notice.

1-5. Busy condition teachers hinders children’s desire and teachers’ ardent hope

In the hearing by “the third party investigation committee on bullying suicide,” the students mentioned their distrust of teachers who could not prevent suicide, and at the same time, they pleaded with the teachers, “Come down to us!” and the teachers also wrote down, “We want to be with the students!” on the questionnaire. What prevents children’s desire and teachers’ ardent wish is not any other than the busy condition of teachers: Their clerical work, such as to report in writing, occupies their time, and deprived them of the chance to know the actual circumstances of their students, and the chances to extend the helping hand.

2. Need to keep close touch and cooperation among teachers and the experts

The core of education at school are teachers, and the supporting ring

⁵ ONUKI, Takashi: “Guided Death”, Koubunken 2013.

around it consists of nursing teachers and school counselors. A school doctor is supposed to be an important part of this ring.

In consideration of the grave situation affecting children's mind, involving such problems as the worsening cases of bullying, and growing number of non-attendant children, psychiatric clinicians began to be sent as school counselors throughout Japan since 1955 till up to today.

They sent school counselors because it was necessary to utilize the expertise and experience of the specialists outside school in order to respond to the stress of children and their guardians, and also to let the school counseling function. It has been long since its establishment, but the school counselors are part-time members, and they work only 8 hours for a week. This working condition limits what they can do, and so it is nearly impossible to respond to the required need.

Some of the school counselors belong to the special support committee, and they accept only those students who need special support. In this case, school counselors have neither the chance of finding a student who has suicide factor nor of communicating and counseling with them. Despite the various, gushing troubles, they have no connection with other institutions, in which they can introduce the critical student, and no time and no possibility to collaborate with them. What we can ask for is: to station one or two school counselors, either full-time or part-time, every day and whole day.

School social workers will also be needed. Municipalities in some areas introduced it as countermeasures against the school violence which frequently happened in 1980s. But the Ministry of Education says: "Even if the time comes to introduce social workers in the future, it would be necessary to consider cautiously to do it as a system, unless we make the difference clear between existing social workers and school counselors, especially in their role and function.

3. Conclusions

There remains much room for the government to improve measures to tackle with suicide in childhood and in adolescence. Counting the number of suicide attempts is needed. The ways to investigate child suicide cases, especially those due to bullying shall be improved. In addition to these, we would like propose to establish child suicide prevention policy built up upon the following two principles.

First, children shall not only be protected, but also they themselves should be given chance to recognize the difficult circumstances and should join in the endeavor at solving the problems of the situation. We have to have a program to enable it, for example, “peer counseling” or “peer helping” which some counties in Europe have. Some groups in Japan are trying to explore such a program, but it is still uncultivated in public.

Second, the prevention of child suicide won't be realized until all the professionals in the areas such as medicine, health care, welfare, psychology and educations join to work together. In this sense the collaboration is necessary among psychiatrists, pediatrician, nurses, social workers, school counselors, nurse-teachers and teachers.

We suggest the Committee to recommend the government to establish child suicide prevention policy built up upon the principles of child participation and of cooperation among teachers and the experts on various field.

Chapter 22. Child Development, Their Mind, and Medicine: Developmental Disorders

1. Current situation regarding developmental disorders

Since “Act on Support for Persons with Development Disabilities” was enacted in 2005, an increasing number of children have got diagnosed with Developmental Disorders. Currently, in regular health check-ups (for 1.5-year-olds and 3-year-olds), those children who used to be regarded as active and “child-like” have fallen under the risk of being suspected as ADHD. And those children who get interested in cars and trains, get focused on manipulating and sorting them out, tend to be suspected as Asperger or on the Autism Spectrum and be put on the path for referral to child psychiatrists or child support centers.

Training on Developmental Disorders have been organized for nursery and kindergarten staff by the public administration. The training programs tend to be brief and do not offer opportunities to develop and expert understanding of the topic. This has led to a tendency whereas the trained staff end up making simplistic judgements over the diverse characteristics of children based on the manual, without thorough assessment.

Rapid expansion of SNS and Internet lends also to this phenomenon. More and more parents get influenced by the information on Developmental Disorders on the internet and suspect the possibility of Developmental Disorders with their children. With the above, the rate of intakes in psychiatry under 18 years old has been increasing, to the extent that professional associations in psychiatry term this phenomenon as “Developmental Disorders bubble”.

Based on the research “Trends of Psychotropic Medication Use among Children and Adolescents in Japan” conducted by Institute of Health Economics and Policy (IHEP) in 2015, intakes for psychiatry under 18 years has increased from 95,000 in 2002 to 148,000 in 2008. Accordingly, prescription of psycho-pharm has increased, notably psychopharm for ADHD: 1.84 times for 6-12-year olds, 2.49 times for 13-18-year-olds. Over 50 % of children between 13-18-year olds, who are prescribed with psychopharm receive multiple medications. Historically in Japan, child growth tended to be observed based on a concept of “If you crawl, you eventually stand, if you stand, you eventually walk” which is a proverb depicting parents’ looking

forward to the gradual growth of children, parents tended to be more relaxed over their children's growth. However, due to the aforementioned social changes, more and more parents suspect their children's growth and become anxious about the possible diagnosis of Developmental Disorders. This has made them feel unconfident in parenting.

In the past in Japan, Developmental disorders could be regarded as induced by parents' styles of disciplining, and thus parenting was regarded as the key to coping. Later there has been a growing recognition that Developmental Disorders is a disorder in child's brain and innate. Parents obtain indulgences from reactions of the society who tended to penalize parents as being the cause of problematic behaviors of children. Parents who are unconfident due to lack of appropriate information on parenting find relief in the view that Developmental Disorders as disorders in brain, as they have struggled to catch up with diverse and dynamic path of development in their children.

2. Difficulties in the parents' generation

Japan has been witnessing continued decline in child birth rate and increase in the number of those seeking higher education. Rate of men seeking paternal leave remains at 4%. This indicates that overwhelmingly more women are take major roles in parenting than men. Currently enrollment rate for women into upper secondary school is 97% and that for universities is over 47%. In Japanese society, surely children's school lives tend to very much focus on how to ensure passing entrance exams. Children enter kindergarten at the age of 2-3. Until they graduate from upper secondary school or universities, they spend time within the same age group. Many Japanese women work after graduation until maternity leave. Due to this, they are not so exposed to various life experiences and most women get in touch with children for the first time when they deliver their own children. Local communities got disbanded and parents who would become their coach in parenting are also occupied with work or taking care of their aging parents. This makes it difficult for them to support their daughters in parenting. In this lonely situation, many mothers initiate their first-time parenting experience.

One of the diagnostic criteria for developmental disorders is "a child being challenging for parents." In a lonely environment without close support

systems, parents can develop negative views over their challenging children and thus this diagnostic criterion fits in their perspective.

Parenting becomes difficult if one does not know the daily changing process of children's growth. Health check-ups by the public administration aim at identifying children who have problems in development. However, the level of the staff's knowledge in developmental disorders may not be correct. Specialists in the field are also the results of the competitive education. They may have the textbook based knowledge of developmental disorders but may not have a good grasp of diverse characteristics of child development. Thus, we see increasing case of misperceiving developmental disorders.

3. Diagnosis, health services from infancy and dangerous prescription

When parents struggle in parenting challenging children, often social support including resource provision and coaching help them develop understanding their children's developmental paths. This type of support can often stabilize both parents and children.

However, as supports/experts' focus shift to early identification of developmental disorders and early interventions, they tend to make diagnostic judgments in haste on developmental disorders. Parents may lack in the experience and understanding in children's course of development. Based on such parents' claims, diagnosis is made by pediatricians and child psychiatrists, who initiate prescriptions. In urban areas, children center and parks are disappearing and there is no vacant land to play. This puts parents and children into spending longer time at home. In a contained environment like in house, children, full of energy, run around and get naughty to release stress. This induces parents' "don'ts" and prohibitions, which worsen parent-child relationship. There are cases such as Concerta is prescribed in response to a parent's claim to a child younger than 3-year old being restless and hyperactive at home. Lyspadal and sleeping pills are prescribed for children who have difficulty getting to sleep at night because they lack in play activities during the day.

Dosage instructions of Concerta which is prescribed for children with ADHD indicate that safety is not validated about dosage of children under 6-year-old. They also indicate that incidence of side-effects for children is more than 80%. Main side-effects include: decrease in appetite, insomnia, weight loss, headache, stomachache, nausea and fever etc. In spite of these various

side-effects, 73% of doctors prescribe psychopharm. 39% of children are prescribed from preschool age, 36% of children are prescribed from early years in elementary school (Data from E.Nakagawa, National Center for Neurology and Psychiatry 2011). It is difficult to distinguish between developmental disorders which is regarded as functional disorders of brain and behavioral challenges induced by living environment and parenting. Thus, it is duly important to draw attention on the risk of misdiagnosis, misprescription and simplistic application of psychopharm treatment without the above differentiation.

4. Social life of pre-school children

Japanese culture characteristically can make parents worry more than necessary about their children being nuisance toward other children. Developmental disorders become problematic in the following 3 dimensions:

- a) Children cause trouble with other children in taking part in group activities;
- b) Children may cause hindrance in group activities; and,
- c) Children with developmental disorders themselves feel troubled.

Starting age of Japanese children in social group activities is at the age of 0 when they join child day-care and at the age of 3 when they enter kindergarten. Many children of working mothers use day-care service. Recently maternal leave can extend to 1-3 years which contributed to the improvement in parenting environment. But for children's perspectives, they would feel strong resistance about being separated from mothers so rapidly in the period when mother-child attachment is greatly nurtured. Parents wish to return to workforce in haste and thus try to shorten the transition period and short-cut time needed for children to feel secure and reassured.

The more mothers and nursery staff pressure children to push for separation, more resistant they become against separation. Basic life activities such as eating, sleep and toilet get out of balance and more and more problematic behaviors arise.

These behaviors, by phenomena, overlap with characteristics of developmental disorders. Thus, they are regarded as inadaptations to social life due to developmental disorders and parent are recommended to consult medical institutions or specialists, where they get the diagnosis of "Developmental Disorders NOS," or "in the Gray Zone." In many such cases,

children get prescription for similar medication with those for developmental disorders. There are children who refuse to go to kindergarten as they get separation anxiety due to rapid environmental changes. 3-year old who already learn how to assert themselves can resist with all their might, thus they may resist against all concerns on eating, changing cloths, taking baths and sleep. Physical symptoms may also appear such as fever, stomach, refusal to eat and pain in the legs. Once they get enough break from kindergarten, they get stabilized. But if parents and nursery staff do not understand the background of their refusal, these children can often get diagnosed with developmental disorders. Kindergarten staff tend to perceive that once the break is permitted, children get used to it and that it would create further difficulties in adaptations to the social/group activities in elementary schools. Thus, they tend to recommend parents to get the children to kindergarten without absences and consult specialists with suspicion of developmental disorders. Many parents and kindergarten staff do not understand psychology and behaviors of children who refuse to go to kindergarten.

5. Developmental Disorders after entering elemental schools.

In recent years, administrative work of teachers has been on the increase. Realistically, teachers in elementary and lower secondary schools are too busy to have sufficient time to be in touch with the children. Depression and death due to overwork has become a social issue.

6-year-olds, when they enter elementary school are asked to sit for one class which is 45 minutes. Their classes last 4-5 hours per day. Breaks are 5-10 minutes and they need to eat lunch in 15-20 minutes. What makes worse for children who are already traumatized by being forced to go to kindergartens get tense in the new environment. If they get strict instructions by teachers or get bullied, this might lead to school non-attendance.

In elementary and lower secondary schools, many children get stressed and irritated, as they are limited in their play time with lots of homework and afterschool activities. Even in elementary schools, classes can become a chaos and bullies become frequent. In this environment, those children who take the lead in creating this chaos get suspected with ADHD and homeroom teachers and school counselors recommend consultations with the medical institutions. More children get prescribed with psychopharm for developmental disorders, but school nurses are concerned about side-effects.

There are children who visit the health offices in schools claiming lack of appetite, headache and stomachache, nausea and those losing weight rapidly upon stating the dosage.

In learning support classes, one third to half of the children are reported to be taking medication. Percentage of children regarded as with developmental disorders has increased in the past 10 years or so from a few times to 10 times and this tendency continues. Teachers would say, "Take the meds and come to school." Parents would say, "Without medication, daily lives are difficult." However, whether the situation is difficult to the extent that children are forced to take medication has not been thoroughly examined. It is alarming to see children are exposed to unnecessary prescriptions.

6. Conclusions

Since "Act on Support for Persons with Development Disabilities" was enacted in 2005, an increasing number of children have got diagnosed with Developmental Disorders. There is a certain percentage of children who require support. However, there is an increasing number of misdiagnosis in an environment where early identification and interventions are strongly encouraged. Improvement of intervention programs stands as the primary alternative, but has been insufficient to date. Instead, psychopharm treatment precedes and continues to expand.

In the third Concluding Observations to Japan, the U.N. Committee on the Rights of the Child expressed its concerns that ADHD "is regarded mainly as a physiological disorder to be cured by drugs" and recommended the government to "monitor the trends in the number of ADHD diagnoses and ensure that research in this area is conducted independently of the pharmaceutical industry." (Paragraphs 60 & 61) Pharmaceutical companies state warning in their dosage instruction about "Risk of dependency of this medication (Concerta)." Reactions to this of adults who are involved in treatment and education has been too dull. If current situation is left to continue further, this might lead to mass production of drug dependencies in the future. It is of urgent importance that an international community stays alert on this situation and engage in ensuring children's healthy development and growth.

We suggest the Committee to express its concerns that the government did not taken measures to respond to the concerns and recommendations in

the last Concluding Observations and to recommend the government to:

- (a) Start dialogue with the civil society to identify social factors that cause so called phenomenon of “ADHD bubbles” and take all appropriate measures to get rid of those social factors.
- (b) Take measures to raise awareness among adults working with and for children on risks of drug used for ADHD.

Chapter 23. Children's Health

1. Introduction

In Japan, many professionals on children's health have expressed their strong concerns that health conditions of children in Japan are similar to physically abused children: they share somatic symptoms of restlessness, so-called "good child" condition, hyperarousal of autonomic nerves, disturbed sleeping, waking, eating, and excretion cycles, as well as general malaise.⁶ Obviously, abused children and non-abused children are different. Still, non-abused children in Japan lead very busy lives, with cram school, lessons, and extracurricular activities. This not only presents them with a constant pressure to compete but also might make them have difficulty even entertaining hopes for the future. It is no wonder that this situation can have the same effects on a child's body as abuse. On this point, please refer to Chapter 2 of this report, where we elaborate on these conditions. In the same way, other issues among children, such as school non-attendance (Chapter 33), bullying (Chapter 34), poverty and disparities (Chapter 7), developmental disorders (Chapter 22), corporal punishment (Chapter 15), abuse (Chapter 18), sex (Chapter 37), prescription of drugs for ADHD (Chapter 32) and HIV/AIDS (Chapter 27), cannot be ignored from the point of view of children's health, but please refer to the other chapters for information on those topics. Here, we will take up more peripheral health problems.

2. Accidental deaths at childcare facilities

Paragraph 41 (Right to life, survival and development) of the third Concluding Observations of the U.N. Committee on the Rights of the Child states that "There are concerns about information that accidents at childcare facilities are related to non-compliance with minimal safety standards." In response to this, Paragraph 51 of the Fourth and Fifth Japanese Government Report states the following: "The Ministry of Health, Labor and Welfare (MHLW) prepared operational guidelines for child-rearing facilities in March 2012, and created an accident response manual to ensure the safety of the child at the time of accidents or other emergencies. It also strives to make employees aware of the manual and periodically updates its content. The MHLW also collects examples of threats to child safety as an organization, and conducts factor analysis and researches countermeasures for use as

⁶ Basic Report 14.

guidelines.” Thus, serious accidents at childcare and educational facilities are certainly expected to be prevented.

However, according to the MHLW’s Childcare Facility Accident Report Totals,⁷ there were 163 accidental deaths at childcare facilities in the 11 years from 2004 to 2014. After sorting these by whether the facility was certificated or non-certificated, excluding the number of enrolled kindergarteners, and calculating the annual mortality rate, we found that for children under one year old, the rate was 0.58 deaths per year at certificated childcare facilities and 32.55 per year at non-certificated facilities. In other words, the mortality rate at non-certificated facilities was 56 times the rate at certificated facilities. In the same way, for children aged one to two years, the rate was 9 times higher (certificated: 0.38 deaths per year, non-certificated: 3.39 per year), while for children ages three and up, the rate was 6 times higher (certificated: 0.09 deaths per year, non-certificated: 0.56 per year). Thus, there is a high mortality rate at non-certificated childcare facilities. It has been pointed out that this disparity is caused by differences in institutional standards such as facility space, number of staff, meal facilities, and disaster prevention management. In other words, it is conceivable that institutional differences are causing the disparities in the risks of child death.

It is clear that these circumstances violate the rights of Articles 6 and 24 of the Convention on the Rights of the Child. For that reason, the government needs to immediately conduct a system review that includes human services, rather than focusing solely on “manuals” and “guidelines.”

3. Allergies

On December 20, 2012, a female fifth grade student died in a tragic accident, suffering anaphylactic shock after eating a school lunch at an elementary school in Chofu City, Tokyo.

The “School Initiative Guidelines for Allergic Diseases” was published by the Ministry of Education, Culture, Sports, Science and Technology (MEXT) and the Japan Society of School Health. The “Food Guidance Manual” was revised in 2010, and states that “it is expected that school lunch provision will take into account consultation advice as much as possible, to allow children and students with food allergies to get the nutrition appropriate for

⁷ Annual Report of Physical and Mental Health among the Children in 2016, pp.17–19.

their growth and have enjoyable meals, without concerns about health hazards.” This accident occurred during the height of schools working toward addressing food allergies in accordance with these revisions and was a massive shock to school officials across the country.

Since then, food allergy support has become an urgent issue at schools. For example, at one elementary school (consisting of 219 children), there are 25 children with food allergies, of which 13 require special arrangements or individual support from the school; four have experienced anaphylaxis (three of which were administered an EpiPen); and one brings a full bento box due to food allergies, two bring partial bento boxes, two need to have food removed from their school lunches, one needs a detailed menu list, and three must not have cow’s milk as part of their meals.⁸ Such support is not confined to this one school. In truth, it is difficult to say whether there are enough personnel to handle allergies at childcare and educational facilities.

In this way, the issue of not only food allergies, but also children’s allergies in particular is intensifying and diversifying, and the path toward addressing this issue has not yet been discovered. However, because there are not enough medical specialists for infant and child allergy issues, some reports have said these children are not receiving appropriate treatment.⁹ Accordingly, there needs to be an urgent effort to secure personnel on site at childcare and educational facilities, promote education of infant and child allergy specialists, and advance related research.

4. Tooth decay (Oral decay)

Regarding the “dental and oral” conditions of children in Japan, which once was referred to as a country with “third-world dentistry,” the school health examination results (MEXT’s Annual Report of Statistical Survey on School Health Conditions)^{10 11} have shown that all age groups are showing a yearly downward trend in the “tooth decay concern rate.” Nevertheless, the “tooth decay index (‘decayed, missing and filled’ [DMF] rate) for children aged 12” shows that, by prefecture, the lowest rate is 0.4 teeth (Niigata) and the highest rate was 2.1 teeth (Okinawa); this latter rate is thus about five times

⁸ Basic Report 40.

⁹ Basic Report 61–4.

¹⁰ Basic Report 14.

¹¹ Annual Report of Physical and Mental health among the Children in 2016, p.85.

the former rate.¹² This situation shows that although the whole country is tending to show improvement, the reality for Japan is that there are quite a lot of children being left behind in oral health policy.

Furthermore, according to the Osaka Dental Practitioner's Association Study,¹³ which targeted public and private elementary, lower and upper secondary schools in Osaka Prefecture, the proportion of *yogo teachers* (school nurse) responding with "yes" to the question that their school had children with "oral decay" (defined as having difficulty chewing due to having 10 or more dental cavities or several untreated teeth with only the roots remaining, etc.) was 50.2% at public elementary schools, 36.2% at public lower secondary schools, 56.1% at public upper secondary schools, 12.5% at private elementary schools, 7.7% at private lower secondary schools, and 60.9% at private upper secondary schools; altogether, an estimated 2,700 students were suffering from oral decay. Of these, some children could not even properly chew and were unable to eat normally. Naturally, reasons for this situation are expected to include economic needs, child abuse (neglect), and parents' busy schedules.

Expansion of child medical expense subsidization programs and drastic anti-poverty measures are needed to protect children from oral decay, and the government needs to take these steps.

5. Reduced visual acuity

The result of school health examinations shows that "uncorrected visual acuity less than 1.0"¹⁴ ¹⁵ is on upward trend. We see a lot of children fixated on not only television and video games, but also portable games, smartphones, and tablets. It is perfectly reasonable that eyesight has become a major health issue for children in Japan. There is also a report indicating that numerous children "have visual acuity of 0.06 in both eyes on an eyesight test, cannot read the letters on a blackboard, and are losing the will to learn."¹⁶ Nevertheless, this situation is expected to become even worse.¹⁷ This is because the eyesight examination and tallying methods have changed

¹² Annual Report of Physical and Mental health among the Children in 2016, p.87.

¹³ Basic Report 68.

¹⁴ Basic Report 14.

¹⁵ Annual Report of Physical and Mental health among the Children in 2016, p.85.

¹⁶ Basic Report 40.

¹⁷ Basic Report 14.

over the course of numerous school health examinations since FY1992, and the decline in children's eyesight has become difficult to comprehend.

Before FY1992, each child's visual acuity was measured in increments of 0.1 in school health examinations. However, this was changed in that year, and began being measured using so called "the ABCD system" (A: 1.0 and greater, B: 0.7 up to 1.0, C: 0.3 up to 0.7, D: less than 0.3). Therefore, children were no longer able to grasp their own eyesight condition correctly. School health examinations are not carried out only to collect data. They are also an important opportunity for health education, to allow children to "know, feel, and think about" their own bodies. For that reason, with the current eyesight tests that evaluate their eyesight as an "A, B, C, or D," there are concerns that we are raising children who do not have any interest in the topic. However, at this point in time, by observing the proportion of children scoring anything other than "A," we could still verify the change in "uncorrected visual acuity less than 1.0" in the usual way.

Unfortunately, starting in FY1995, schools were allowed to "omit uncorrected visual acuity examinations for those who habitually use glasses or contact lenses." Therefore, children who regularly wore glasses or contact lenses were excluded from the total number of children with "uncorrected visual acuity less than 1.0." Because of this, it became difficult to accurately make comparisons with existing data. The change in the number of "uncorrected visual acuity less than 1.0" children has levelled off since FY1995 for this reason. Incidentally, in the Tokyo metropolitan area, the rate of "individuals with corrected eyesight (using glasses or contact lenses)" is tallied and officially announced. Therefore, by adding the rate of "individuals with corrected eyesight" to the rate of "those with uncorrected visual acuity less than 1.0," we are able to calculate a rate that can be compared to other data in the usual way. According to those calculations, the rate is still on an upward trend—that is, the rate of those with visual acuity less than 1.0 is in fact steadily increasing. Anyone can see that the recent reduced visual acuity is not a phenomenon limited to the children of Tokyo, and that the same type of change is occurring across the country.

The changes in the eye examination methods disappointed those who saw children's eyesight as an important problem and exhaustive surveys as indispensable. Surprisingly enough, the method was changed further in FY2006: it was decided that "for classes with students who are exempted from

the uncorrected visual acuity examination, all students in that class (both boys and girls) would be exempt from the examination (i.e., would not be given the exam).” Thus, depending on age, there are now many prefectures that do not have data. When it gets to this point, we have to wonder “for whom” and “why” these changes were made. For those who were concerned about children’s eyesight, this change was incomprehensive.

In the last three Concluding Observations, the necessity of “collecting data on children” was made clear. Despite this, the government has not made its efforts to improve systems of data collecting in such areas as children living in poverty, children with disabilities, and children who do not have Japanese citizenship. Furthermore, the government has deteriorated existing data collecting system. There are other, similar issues that should be noted. Since FY1998, two measurement items have been eliminated: “back strength”¹⁸ and “standing flexion” (both are in the MEXT “Physical Fitness and Motor Ability Examination”). “Chest measurement (since FY1995)”¹⁹ and “sitting height (since FY2016)”²⁰ have been removed from the required items list of the school health examination (MEXT School Health Statistical Survey). “Long-term school non-attendance (50 days or more)”²¹ can no longer be compared with past data due to changes in statistical standards (starting in FY1999, MEXT “Basic School Survey”).

Children’s “reduced visual acuity” is a serious problem that cannot be ignored—from the perspective of not only health rights, but also securing the right to learn. Collection of data that allow us to accurately comprehend and mitigate this reality is therefore an urgent issue.

6. Sleep issues

In Japan, both adults and children are going to bed increasingly later, and as a result, sleep times are getting increasingly shorter. This is a reality that has been shown in numerous test results. For example, according to the Japanese Society of School Health’s Child and Student Health Condition Surveillance Program Report,²² the sleep times for children in 1981 were as

¹⁸ Annual Report of Physical and Mental health among the Children in 2016, p.129.

¹⁹ Annual Report of Physical and Mental health among the Children in 2016, p.120.

²⁰ Annual Report of Physical and Mental health among the Children in 2016, p.120.

²¹ Annual Report of Physical and Mental health among the Children in 2016, pp.110-111.

²² Annual Report of Physical and Mental health among the Children in 2016, p.139.

follows: elementary third and fourth grade boys, 9 hours 20 minutes; girls, 9 hours 26 minutes; elementary fifth and sixth grade boys, 8 hours 56 minutes; girls, 8 hours 55 minutes; lower secondary school boys, 8 hours 10 minutes; and girls, 7 hours 52 minutes. In 2014, those sleep times were as follows: elementary third and fourth grade boys 9 hours; girls, 8 hours 56 minutes; elementary fifth and sixth grade boys, 8 hours 43 minutes; girls, 8 hours 36 minutes; lower secondary school boys, 7 hours 25 minutes; and girls, 7 hours 10 minutes. Over the course of some 30 years, average sleep times have gotten about 13 to 15 minutes shorter. This is how Japan has come to be called the country that “sleeps the least in the world.”

This later bed times and shorter sleep times interferes with a variety of bodily functions. According to the Japanese Society of School Health survey mentioned above,²³ the following percentages of children answered “Yes” to the question “Do you feel you are not getting enough sleep?”: elementary third and fourth grade boys, 22.7%; girls, 23.7%; elementary fifth and sixth grade boys, 25.7%; girls, 33.3%; lower secondary school boys, 46.6%; and girls, 58.8%. Furthermore, in the Japan Youth Research Institute (2010) Survey Report on Upper Secondary School Students’ Education, the proportions of upper secondary school students who “fall asleep during class” in China (boys: 6.1%, girls: 3.4%), the US (boys: 26.3%, girls: 14.7%), and South Korea (boys: 31.6%, girls: 33.1%) were much lower than Japan’s rate (boys: 48.9%, girls: 41.7%). Yet another survey reports that 60% responded that they are “tired,” and 40% that they “are not getting enough sleep or breaks.”²⁴ This reality is not unrelated to concerns²⁵ about children in childcare and education facilities who “yawn starting in the morning”; “have drowsy eyes, fall asleep, or slouch during childcare or class”; “are quick to say they are tired”; “don’t feel well when they come back from a break”; “don’t catch themselves when they fall down”; “get hit in the eyes or face with a ball during games”; and “often trip and fall.”

These sleep-related issues vividly depict Japan’s current state, and indicate that it is not upholding either Article 24 (the right to health and medical care) or Article 31 (the rights to participate in rest and leisure, play and recreation, culture and the arts). This situation must be urgently

²³ Annual Report of Physical and Mental health among the Children in 2016, p.140.

²⁴ Basic Report 76.

²⁵ Annual Report of Physical and Mental health among the Children in 2016, pp.58-59.

addressed.

7. Internet addiction

In 2013, Ohida et al. (2013) published their survey results: “520,000 lower and upper secondary school students were addicted to the internet.” Surprisingly, this mean that about 8.1% of lower and upper secondary school students were experiencing “abnormal use” of the Internet. If one includes the number of students experiencing “maladaptive use” (16.8%), this is an unfathomable number. Furthermore, in a survey of all lower secondary school students in the Setagaya district of Tokyo, conducted about two years later and using the same survey items, almost the exact same results were shown.²⁶

This issue of internet addiction among children are complexly intertwined with such issues as poverty and school non-attendance. Some reports have stated that such children “[are] cast out from real human relationships, [so] they find support in their smartphones,” “they have not constructed stable relationships with their parents or friends,” and “they are so engrossed in video games or their smartphones that even eating meals is a chore.”^{27 28} It is easy to expect that this is causing various health problems, including the above-mentioned “reduced visual acuity” and “sleep issues.” Of these, a major concern is the negative effects that Internet addiction might have on the brain.²⁹ Of course, not all children who are engrossed in the Internet are addicted to it. Furthermore, it is not necessarily the case that using a smartphone will immediately lead to brain abnormalities. However, we are seriously concerned with risks in this excessively chaotic use of smartphones. Japan is currently vastly unprepared to deal with this issue.

8. Chemical sensitivity, electromagnetic hypersensitivity

There are reportedly over 1 million (estimated) people suffering from multiple chemical sensitivity in Japan. Indeed, news articles such as “Hypersensitivity-Causing Components in School Floor Wax” (Asahi Shimbun, January 8th, 2011) and “Inhaled Insecticide? Six Elementary School

²⁶ Annual Report of Physical and Mental health among the Children in 2016, pp.32–34.

²⁷ Basic Report 14.

²⁸ Basic Report 16.

²⁹ Basic Report 1.

Students Hospitalized in Kazo, Saitama” (Asahi Shimbun, September 14th, 2017) have suggested that some chemical substances are surreptitious health hazards for children.

In this context, the Japan Science and Technology Agency CREST Research Project “Effects of Endocrine-Disturbing Substances on Cranial Nerve Function Development and Their Toxicity Mechanisms” indicated that environmental chemical substance factors have played a large role in the rapid increase of developmental disorders. In that study, the countries with the greatest amounts of agricultural chemicals used per unit area were South Korea, Japan, the UK, and the US, in that order; interestingly, the prevalence rates for autism and pervasive developmental disorder were in this same order. Of course, not all developmental disorders are determined by environmental factors, but Japan has too little research expertise in this area.

There are similar concerns about the health hazards presented by electromagnetic waves. In recent years, the promotion of information and communication technology (ICT) education has been loudly proclaimed. In MEXT’s “Second Period Education Promotion Master Plan” (June 14, 2013 cabinet decision), a goal was set for 100% outfitting of ultrahigh speed internet connections and wireless LAN services to advance the promotion of ICT education. However, it is not easy to approve of this when considering the above-mentioned “reduced visual acuity,” “sleep issues,” and “tendency toward depression,” as well as the health hazards brought about by excessive smartphone and PC use, such as shoulder pain, headaches, smartphone-related farsightedness, neck issues, and other problems. There is actually a report that states “at a preschool located in between two cellular telephone base stations, an average of three children per day break out with a rushing nosebleed. As such, they have no choice but to spend their days with restricted playgrounds and restricted playing.”³⁰

Despite this, Japan’s Ministry of Internal Affairs and Communications has asserted that “there are no health hazards associated with electromagnetic waves from cellular telephone base stations.” With regards to the above wireless LAN issue, the Council of Europe (CE) advises its member states to prioritize wired connections rather than wireless LAN for schools. ICT education promotion in Japan is indefensible and confused. We demand that the government take a sincere stance, based on

³⁰ Basic Report 3.

precautionary principles, toward the health hazards of chemical substances and electromagnetic waves, from the perspective of securing rights of health, development, and education.

9. Conclusions

Paragraph 16 of the fourth and fifth report of the government states that “Japan broadly arranges budgets for education, welfare, health care, medical care, correction, rehabilitation, and employment and secures sufficient resources to realize the rights of children shown in the Convention.” However, we strongly argue against this statement on the bases of the data we provide in Chapter 2 on children’s state of vigilant alertness and other data we provide in this chapter.

We suggest the Committee to recommend the government to:

- (a) Review the national minimum standards on numbers and quality of staff working with and for children and those on facilities and equipment of schools and child day-care centers with a view to prevent accidents in childcare and educational facilities.
- (b) Train infant allergy specialists and place them in childcare and educational facilities, and promote related research to stop the diversification and intensification of child allergies.
- (c) Expand the child medical expenses subsidy program and work on drastic anti-poverty measures to resolve various health issues including oral decay and reduced visual acuity.
- (d) Improve system to collect data on child poverty, children with disabilities, and children without Japanese citizenship, and collect data in a way that allows for an accurate and long term understanding of the circumstances.
- (e) Take a hard look at children suffering from sleep issues, internet addiction, and sensitivities to chemical substances and electromagnetic waves, and take steps to solve these problems based on precautionary principles.

Chapter 24. Children with Disabilities

1. Introduction

The fourth and fifth government report covers the period from April 2006 to October 2016. The most important development during this period was the ratification of Convention on the Rights of Persons with Disabilities. For the ratification, the government revised related laws and adopted new laws. The government report says that those revised laws and new laws are in adherence with the spirit of the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child. Such new laws and revised laws as the Basic Act on Education, Services and Supports for Persons with Disabilities Act and Child Welfare Act, which are the basis for children's livelihood and education, shall be reviewed to see if the rights of children with disabilities have promoted.

The government report does not clarify its evaluations of the impacts of these laws on the rights of children with disabilities. We, however, argue that the realizations of right to education (Act 28 and Act 29) have not progressed owing to the inadequacy of the provision of educational material conditions. Also, the rights of children who are in need of "special care" have not progressed due to the contract system and the principle of "benefits to pay," which were newly introduced. This Chapter focuses on education and welfare for disabled children except for the issues of national minimum standards and privatization or commercialization. Please refer to Chapter 10 for the flawed standard setting which underlies the delay in meeting the educational needs for children with disabilities. Also refer to Chapter 6 for the privatization welfare services for children with disabilities.

2. Basic problems in education for disabled children

The government report says it built inclusive educational system in accordance with the principle of the prohibition on discrimination as is described in the Convention of the Rights of the Persons with Disabilities. Paragraph 32 says that the government "offers diverse and continuous learning settings that include ordinary classes, special guidance, special needs classes, and special needs schools."

The Act to Advance the Elimination of Discrimination Based on Handicap bans discrimination of children with disabilities in public schools

but not in private schools. The Act stipulates that private schools only have to make efforts to eliminate discrimination. Article 4 (equal opportunity in education) of the Basic Act on Education does not list disability as the prohibited cause for discrimination.

The revision of the School Education Act in 2007 shifted the education for disabled children from “special education” to “special needs education.” Formerly “special education” was offered according to the types and degrees of children’s disabilities in special education school which are organized with the line of type and degree of disabilities. The government says that under the “special needs education,” the education that responds to the individual educational needs of each disabled child is provided in such various settings as “ordinary classes,” “special guidance,” “special needs classes,” and “special needs schools.” However, no changes are made to providing education according to the type and degree of the disabilities. Furthermore, the educational conditions for disabled children are worsening both in ordinary schools and in special needs schools. We will next describe the problems in ordinary schools and special needs schools.

3. Problems in ordinary schools

Although the government is calling to create an inclusive educational system, it has taken only a little legislative, administrative, financial and other measures to improve support and environment for children with disabilities in ordinary schools. The measures taken are hiring part-time unofficial teachers’ helpers for each school and sending teachers of special needs schools to ordinary schools for consultation and meeting with ordinary school teachers. These measures are carried out with a small budget. In order for the government to accept disabled children in ordinary schools, it should reform the mainstream education. The government, however, has not yet carried out such fundamental reform as reducing class sizes of ordinary classes and reconstructing the educational contents, which are designed on the idea that scholastic ability formation shall be centered on competition.

The government newly establishes special guidance rooms for disabled children who are placed in ordinary classes. Some of those disabled children are released from a part of ordinary curriculum and spend time in these rooms for receiving special guidance from teachers. The number of disabled children placed in ordinary classes and provided with special

guidance increased by 140% and the number of teachers allocated in special guidance rooms by 110% since 2007. There is no legal regulation on the number of disabled children per a teacher in a special guidance room. It is not unusual for a teacher of a special guidance room to take care of 20 to 30 students. More than half of the students visiting special guidance rooms receive support only for 45 to 50 minutes per week.

The educational environment of special needs classes in ordinary schools has also deteriorated. The number of students in special needs classes increased by 110% from 2006 to 2016, but the number of classes increased only by 60%. This implies that many of special needs classes accommodate the maximum number of students stipulated in the law, namely eight. This also implies that there are special needs classes that accommodate students from three different grades and more. (In ordinary schools, laws prohibits accommodating students from three different grades and more in an ordinary class, but, there is no regulation on a special needs class.).

4. Problems in special needs schools

4-1. "Special needs schools" restraining the increase in the number of schools

Before 2007, special schools were organized and establish in the line with the type of disabilities: there were schools specifically for visual impaired children, for hearing impaired children and for disabled children (physical, mental and sick). In 2007, the laws were revised to accommodate children with different disabilities in "special needs schools."

The number of special needs schools has increased by 112 from 1,013 in 2007 to 1,125 in 2016. Newly established special needs schools are those specifically for the intellectually disabled and those for two types of disabilities or more. The number of school specifically for the intellectually disabled increased by 35 from 505 to 540. The number of school for two types disabilities or more increased by 151 from 98 to 249. 221 out of 249 schools for the intellectually disabled and another or other type(s) of disabilities. The number of schools for the intellectually disabled and another or other type(s) of disabilities increased by 134 from 87 in 2007 to 221 in 2016. These shows that, with the increase in the need for special needs education for the intellectually disabled, more and more intellectually disabled children have been accommodated in special needs schools. To meet this increasing need, much more schools for the intellectually disabled and another or other type(s)

of disabilities were established than schools specifically for the intellectually disabled.

The shift in the central governmental policies from the special education in line with the types of disabilities to the individual educational needs allows the local governments to meet the increasing need of the intellectually disabled in cheaper way. Or, it would be safe to say that the real aim of the shift is to escaping from the cost to establish new schools specifically for the intellectually disabled.

4-2. Oversized and overcrowded special needs schools

The number of students in special needs schools has increased by approximately 35,000 (30%) from 2006 to 2016, but the number of schools has increased by only 119 (20%). The number of children with intellectual disability accommodated in special need schools is as twice as large as those originally planned to be accommodated when schools were built. Shortage of classrooms becomes the serious problem. The Education Ministry admits that there is a shortage of classrooms in special needs schools. In 2016, the shortage of classroom is estimated 3,430.

The followings are examples of the deterioration of the educational conditions of special needs schools. Because of classroom shortages, the classrooms for music, science and cooking are converted to ordinary classroom. Classes like music, cooking and science have become difficult to carry out. The physical education classes are not done regularly because there is only one gym. The teachers often use strange expressions when explaining classes like “Music classes without sounds,” “Physical education without physical exercises,” “Cooking classes without cooking.” The children cannot study in quiet and calm atmosphere because the classrooms are often divided by a thin curtain that will not prevent voice and noise of the other side of the curtain. There are also dangerous situations where a child with medical needs and who cannot move are in a same classroom with a very active child who likes to move around. The shortage of toilets causes a long line during recess and some children have accidents not being able to use toilets in time. Some classes are converted from material storage rooms. In such a case there will be only one entrance and no windows. These converted classrooms are pointed out to be bad for health and safety.

Parents and teachers are campaigning to set an upper limit on the

size of special needs schools. But the Education Ministry rejects this demand on the reason that the Ministry respects the different situations in different communities. The Education Ministry reported that only two thirds of the schools satisfies the national minimum standards on facilities of special needs schools. Special needs schools have crammed more children than expected into small school premise.

4-3. Shortage of teachers and other staff

According to the research by a local teachers union, 31 out of 47 prefectures allocate the number of teachers to special needs school less than those required by laws. The ratio of part-time teachers to all the teachers in special needs schools was 18.4%, which is larger than that in ordinary elementary and lower secondary schools. In some prefectures the ratio of part-time teachers in special needs schools is as high as 40%. Part-time teachers work for a limited period of time and are often transferred to other schools just when they start good relationship with disabled children. There are not a few part-time teachers who are in charge of the classroom, though their teaching capabilities are in question. Recently the government carries out the program to send external agencies and professionals to special needs schools with the aim to cut costs.

When there are students with medical needs, the government should allocate a nurse and staffs specialized in medical care. However, the laws requires the local governments to allocate those medical staff only to special needs schools specifically for children with physical difficulties. As a result, children with medical needs but without physical disabilities tend to go to special needs school specifically for children with physical disabilities. When parents send children with medical needs to special needs schools other than those specifically for children with physical disabilities, parents have to accompany their children during they are in schools. Otherwise, they cannot have their children accepted in special needs schools.

When a school accept a permanent nurse, it has to reduce a permanent teachers because a permanent nurse counted as a permanent teacher under the rule which set limits on the number of permanent teachers. To prevent the decrease in the number of permanent teachers, many of nurses are hired as part-time workers. The part-time nurses are set limits on the ways in which they work for children: part-time nurses cannot accompany

field trips or overnight school trips. Parents are asked to accompany their child on field trips or overnight school trips. In many areas in Japan, children with medical needs are not allowed to ride school buses. In such areas, if parents cannot send them to school, children are not accepted to special needs schools.

5. The government control of special needs education

5-1. National course of study demanding standardized education

“The efforts of government agencies” listed in Annex 2 of the government report gives the information on the content of education for children with different disabilities. The information, however, is not comprehensive and silent about the changes in the government policy on education for disabled children: the government has strengthened its control over educational activities in special needs schools and shifted the focal point to the behavioral managements and acquisition of labor skills. Parents and professionals working with and for disabled children have expressed serious concerns on the strengthened control and this shift.

The government has expanded its inclination to the strict control on educational activities in ordinary school to special needs schools. The government has emphasized that complying with National Course of Study is indispensable also in special need education. This makes special need teachers think that they cannot teach what is not prescribed in National Course of Study. New teachers are told strictly to follow National Course of Study by their supervisors. However, whomever they teach, teachers should plan their educational activities based on discussion with colleagues, parents and children with the view to identify the demands and interests of children, and carry out educational activities that fulfill their demands and interests and respond to their developmental stage and ages. This is all the more true for the education for disabled children.

The government shifted the focal points of education for disabled children from the development of their capabilities by accumulating experience and enjoyment through classroom activities to the acquisitions of labor skills through behavioral management. Special needs schools for children with intellectual disabilities have put their emphasis on vocational training like learning how to use computers or how to mop floors. Schools are made to compete with each other for the employment rates of their graduates.

5-2. Purging sex education and imposing “*Hinomaru*” and “*Kimigayo*”

The strengthened government control on the contents of education in general gave rise to special difficulties also in special needs education. Two examples are worth giving.

First, the general political backlash against sex education referred in Chapter 27 of this report triggered the political attack on the leading sex education programs for disabled children. In 2003, some of the conservative members of the Tokyo Metropolitan Assembly, the Tokyo Met. School Board and the media attacked the sex education programs developed by teachers at Nanao Special needs education School. Their programs were designed to help disabled children controlling their sexual desires through the profound understanding of cultural meanings of love cultivated by human beings and the scientific understanding of biological functions of human bodies. Their programs were highly evaluated in that they showed answers to the difficult question of how education can lead disabled children to control their sexual desires. Tokyo Met. School Board, however, banned the programs and imposed administrative disciplines on teachers on the ground that they violated the National Course of Study by carrying out educational activities what were not explicitly allowed.

Teachers and parents in Nanao brought the case to the court, alleging they had their right to sex education violated. A decision validating their sex education was handed out in 2013. Many of parents demand sex education for their disabled children and many teachers agree that disabled children needs sex education. But, being afraid of getting involved in troubles under the general backlash against sex education, special needs education teachers hesitate to carry out sex education for disabled children.

Second, the pledge of allegiance imposed by the Education Ministry referred in Chapter 31 on “the autonomous development of conscience of the child” gave rise to what is nothing but absurd in graduation ceremonies in special needs schools. In 2003, Tokyo Met. School Board ordered to carry out the pledge of allegiance in graduation ceremonies: principal shall require participants on the floor to sing the national anthem, *Kimigayo*, in face of the national flag, *Hinomaru*, which is displayed on the wall of the stage. The Board also ordered principals to order teachers to take part in it. The basic ideas of teachers at that time was that the graduation ceremonies should not

be the nation-centered but child-centered: the ceremonies were not for pledging allegiance to the nation state but for celebrating students' developments and graduations.

Following are the absurd cases reported to us. In one special needs school, teachers made a plan for students to receive their diplomas on the center of the floor and to be celebrated from others on the floor. A principal opposed this plan and insisted that students were to go up to the stage by stairs and receive diplomas on the stage on the ground that the School Board ordered so. He also proposed that teachers shall set a long slope from the floor to the stage for students with wheel chairs. He threw away the original plan and ordered teachers to carry out his plan. In another school, when a nurse was bending down to help the child having breathing problems during the singing of the national anthem, she was ordered to stand and to sing the national anthem.

6. Withdrawal of public responsibility and strengthening of individual responsibility in social care for disabled children

6-1. System of contract

The government report says that it has made improvement in support for children with disabilities by unifying the facilities and services for different disabilities and building consultation support system that will make easy access to various services. Behind the re-organization of services and making new consultation support, the system of welfare for disabled children has been reformed drastically for the worse: the contract system is brought into. Parents are required to make contracts with service providers and pay fees to them in receiving services including such support services as home helpers, day facilities, and provision of adaptive equipment. Under this system, parents owe the whole responsibilities to choose appropriate services at the right moments. However, it is impossible for them to carry out these responsibilities without the systematic and periodic assistance from professionals, because needs of disabled children are so various and changeable from time to time. The contract system is inherently inappropriate for providing welfare services to disabled children.

6-2. Benefits to pay principle and payment by result

The contract system raises problems to both parents who pay fees and service providers who receive fees.

Parents shall pay according to the principle of benefits to pay. The problems arising from the principle of benefits to pay are eased because 90% of the market price is covered by public expenditure and caps are put according to parents' income. The benefits to pay system combined with the heavy financial burden by the government and the income related caps would barely escape from being considered as incompatible with Paragraph 3 of Article 23, which stipulates that special care to disabled children "shall be provided free of charge, whenever possible." However, the problems would be brought to the fore when the government lessens its financial burden or raise the caps.

The service providers receive fees through the government on the principle of payment by results. When a child does not come to a center due to sickness, a service provider loses money that they could receive as fees for providing services to this child. When a center is forced to close due to bad weather or flue outbreaks, a service provider lose more money. A manager of a daycare center for disabled children confided "I know that child daycare services are not commodities, but I feel they became commodities. I know that children are not money, but, when they do not come, money will not come. I always worry whether children come to this center for fear that I cannot pay my staff payroll. "

6-3. Privatization of consultation service

A consultation center where families receive consultation services and submit application for special care for their disabled children is newly established. Formerly, the local governments ran child counseling centers, the local governments' welfare division for child welfare or division for welfare service for disabled people carried out the assessments, and the local government provided services to children by themselves: the local governments comprehensively carried out counseling, assessment and provision of special cares for disabled children. Recently, counseling, assessment, provision of special cares are carried out by different bodies. The laws allow the local governments to outsource assessment and counseling to for-profit or non-profit organizations. Private organizations consigned as

counseling and assessment providers receive \$160 per case from the local government with the condition that children start receiving special cares planned by providers. Table 32-1 shows there are few centers directly run by the local governments and many by non-profit or for-profit corporations. In the latter cases, the local government's role is limited to decide the payment from public expenditure for the support service.

Table 24-1 Constituent ratio of management and operation bodies of consultation service for children with disabilities

National, independent government corporations, or local public entity	6.3%
Social Welfare Corporation	57.1%
Business Corporation	15.6%
Other Corporation	18.7%
Others	2.3%
(Total)	4,329

Source: Data from Survey on Social Welfare Facilities in 2015 (The Welfare and Labor Ministry)

The local governments are to adopt “Welfare Plan for Children with Disabilities.” The local governments can adopt the effective plans only when they have the comprehensive data on whereabouts of disabled children and their families and their various needs. But, when they outsource counseling and assessment centers, it is hard for them to get the comprehensive data. Even if they get the data from services providers, officers who do not go through daily contacts with families with disabled children cannot read real needs behind those data. For the plans to be effective, the outsourcing of the centers should be reconsidered

7. Conclusions

We suggest the U.N. Committee on the Rights of the Child to recommend the government to:

- (a) Reform the mainstream education in terms of contents of education and material conditions to enroll disabled children in ordinary classes and take financial and other measures to improve special guidance.

- (b) Improve such material conditions of special needs schools as the number of permanent teachers and medical staff, the number of classrooms, class size, and school size through raising the national minimum standards and strengthening financial measures.
- (c) Respect the professional freedom of special needs education teachers and withdraw the government improper controls of their educational activities.
- (d) Reconsider the contract system and the principle of benefits to pay in welfare for disabled children and the outsourcing of counseling and assessment for disabled children.

Chapter 25. Child Day-care

1. Introduction

In Japan, early childhood education and care (ECEC) have been provided through two separated systems. One is “*Yochien*” (Kindergarten), which provides part-time ECEC for children at the age of 3 and above. Kindertartens are under the control of the Education Ministry and regarded as educational facilities. The other is “*Hoikusho*” (Child day-care center), which provides ECEC for children who need full-time service because they lack care by parents during day time. Child-day-care centers are under the control of the Welfare and Labor Ministry and regarded as child welfare facilities. The reason why ECEC is separated into two system is that day-care centers have been regarded as facilities to provide day-care to children from lower classes both of whose parents are out of home during day time for their work, and kindertartens as those to provide education to children from upper classes rich enough for their mothers to stay with them during day time.

Integration of separated systems has been a significant political agenda for the last several decades. Nevertheless, the integration has not been realized yet. In 2006, related law were revised so as to establish a new type of ECEC facilities, “*Nintei-Kodomo-En*,” which provide both full-time and part-time ECEC. However, the separation of two systems were left untouched.

The Act on Child Welfare obliges local governments to provide child day-care services for all the children who lack care by their parents during day time. Still, the Act limits children eligible for day-care to those whose parents are out of home during day time for their work. When a mother does not work but has difficulties caring her heavily disabled child, her child is not eligible for service.

The most fundamental challenge of ECEC in Japan is to integrate two separated systems and to have all the children in need of education and care receive quality ECEC. To realize this challenge, much is left to be done. First of all, we have to get rid of difficulties imposed by the recent government’s policies based upon the neo-liberalism and neo-nationalism.

We show how the government adopted the policy to commercialize child day-care services in Chapter 3, how the government has lowered the national minimum standards of day-care service in Chapter 10 and 11. In this

Chapter we provide two pieces of information.

2. Deregulations and commercialization fails in meeting the increasing needs

Though child population have been decreasing for several decades, children in need of ECEC have been increasing. The causes of increasing needs are that, one the one hand, more mothers of wealthier families go into the labor market as the position of women has been improved, and, on the other hand, more poor mothers have to work for their living wages as the poverty has spread in Japan. With slow increase in the number of day-care centers, huge number of children eligible for child day-care service are not accommodated in centers and on a waiting list.

During 1995-2017, the number of children accommodated in centers has increased from 1,679,000 to 2,547,000. According to the Welfare and Labor Ministry, the number of children under the age of 3 who are on the waiting list is 20,681 as of April 2017, and decreases from 28,481 in 1995 by around 6,000. These figures seem to show that the government's endeavors are succeeding in meeting quantitatively the increasing needs. But, these figures come from tricky changes in the ways to count the number of children on the waiting list.

In 2001, the Welfare and Labor Ministry changed the ways to count the number of children on the waiting list. In the former, the Ministry counted the number of children who were eligible for day-care service but were not accommodated in certificated day-care centers. In the new, the Ministry does not count the number of eligible children who are accommodated in **non**-certificated centers and apply for certificated centers. If we count the number of children on the waiting list in the former way, around 100,000 are estimated as on the waiting list as of April 2017. The issue of shortage of centers becomes more serious than ever.

The cause of this huge number of children on the waiting list is that the government has not accompanied its policy to expand women's employments with the policy to drastically increase budget for day-care service sufficiently enough for meeting anticipated increase in the needs for child day-care.

In lieu of drastic increase of the budget of child day-care, the government adopted deregulation and commercialization as a cheaper way to meet the increasing needs. The government has encourage certificated

centers to accommodate the number of children that exceeds the maximum number they are allowed to accommodate under related laws. The aforementioned change in the ways to count the number of children on the waiting list has enhanced local governments to outsource the service to private organizations including for-profit ones. The local government establish their own standards on service providers and center's facilities which are much lower than the national minimum standards, certificate centers established by private organizations under these much lower standards, and accommodate children into them.

Furthermore, during 2000's, the national government abolished all the financial transfers dog-eared for local governments' day-care centers. Before the abolishment, local governments were eligible to receive financial assistance from the central which covered one third or half of building and running costs. As the local established more centers, the central was to transfer more money to the local. After the financial transfer from the central was abolished, all the financial burden for day-care centers was shifted to the local. Though the local realize that the best way to meet the increasing needs both qualitatively and quantitatively is to establish new centers which satisfy the national minimum standards, facing with heavier financial burden, they could not take this way. Only measure available for the local is commercialization of day-care service.

As is mentioned about, however, the deregulation and commercialization of day-care services have not solved the issue of huge shortage of quality child day-care centers.

3. Outcome control of ECEC in day-care center and kindergarten

In 2017, the Welfare and Labor Ministry revised the National Guidelines on Child Day-care (the Guidelines) and the Education Ministry revised the National Course of Study for Kindergarten (the National Course of Study). These documents, issued as by-laws, are to be enacted in 2018. The contents of the Guidelines and the National Course of Study are same with an exception that the Guidelines lacks mentions to the Articles 1 and 2 on the aims and objectives of education of the New Basic Act on Education (as to issues surrounding the aims and objectives stipulated in the New Basic Act on Education, see Chapter 28).

In this revision, the Ministries provide, for the first time, paragraphs

that clarify “an image on what children become at the end of early childhood.” In these paragraphs are listed ten skills and abilities children are expected to achieve until they leave day-care centers or graduate kindergartens at the age of 6. In the list are included “basic moral consciousness” to make or observe rules, or “basic thinking ability” to enjoy searching new ideas and make their ideas better. These documents require centers and kindergartens to adopt action plans for having children get these skills and abilities, evaluate how effective plans are, and improve them. Actually, these new paragraphs intend to introduce performance based outcome evaluation into day-care centers and kindergartens. Ten abilities and skills are described as performance goal that should be acquired by every child.

This performance based outcome evaluation would surely give negative impacts both on children and day-care nurseries and kindergarten teachers.

What is the worst in these documents is that they see children as objects for the Ministries to impose their demands, and never see children as subjects with their own needs and wishes and human beings who develop their personality through expressing their desires and receiving responses from adults close to them.

Under the heading of “Independency,” these documents say that a “child are to be conscious of what they shall do or endeavor by himself through thinking or devising, and accomplish them without giving up.” Because it is very difficult for young children to understand that no assessment can be free from deviation or partiality, they would adhere rigidly to follow instructions and to get good assessments. When they receive low evaluation, they would be deeply damaged. Exposed to homogeneous or standardized assessments from the beginning of their life, children would become scared in developing their sound and unique identity. Assessment of skill and abilities of children put pressures on children so heavily that they would come to control or restraint their feelings or behaviors. Children would do anything evaluated as “good,” and, in the end, children lose feelings and abilities to be independent.

If nurseries and teachers are evaluated according to what extent they have children get ten skills and abilities, it might injure their sensitivity and responsiveness for children. For example, when a child doesn’t follow their instructions, nurseries or teachers suspect that there must be some reasons

on the side of children and try to identify them. Having their views respected activates children and develop their subjectivity. If nurseries and teachers are required to see children mainly from the viewpoint that to what extent they get skills and abilities, their ability to understand children's feelings and to listen to their hidden voices might be diminished.

In sum, performance based outcome evaluation will vaporize the receptive and responsive relationship between children and nurseries or teachers, even though this relationship is essential for children to develop their personalities.

In addition to these ten abilities and skills, these documents require day-care centers and kindergartens to have children at the age of three and above "get familiar with" the national flag and anthem. To require children who cannot understand even the meanings of the nation is nothing to respect the national flag and anthem is nothing but to require children to take conducts whose meanings they cannot understand. Children would learn to play a required role nevertheless they neither understand its meanings nor want to play it. Training children to be obedient people starts from early childhood.

4. Conclusions

We suggest the Committee on the Rights of Child to recommend the government to:

- (a) Review deregulation and commercialization policy on child day-care centers and take financial and other measures to enhance the local government to build centers certificated under strengthened national minimum standards with the view to meet qualitatively and quantitatively increasing needs.
- (b) Review the revised Guidelines on Day-care and National Course of Study on Kindergarten from the viewpoint that children are "active social agents, who seek protection, nurturance and understanding from parents or other caregivers" and nurseries in centers and teachers in kindergartens are "the major conduit through which young children are able to realize their rights," as is stipulated in Paragraph 16 of the General Comments No. 7: Implementing Child Rights in Early Childhood.

Chapter 26. After-school Child Day-care

1. The purpose and role of after-school child day-care program

In Japan, after-school child day-care was institutionalized by the Act on Child Welfare twenty years ago. Before the institutionalization, parents' groups and NGOs took the major role in providing after-school day-care. Based upon their practice and experience, they identified purposes and roles of after-school day-care as (1) to guarantee safety and comfortable space where they can be accepted as they are for elementary school children of one-parent or two-income family after-school (including Saturdays and a whole day during the school vacation), (2) to realize healthy growth of children through play and learning, and (3) to guarantee parents' right to work and assure them of the work and life balance.

The parents' groups and NGOs demanded the central and local government to institutionalize the after-school day-care service with these purpose and roles. Responding to this demand from below, the government revised the Act in 1997, and stipulated its roles and purposes as follow.

The term "services for sound upbringing of after-school children" as used in this Act shall mean services to pursue sound upbringing of elementary-school children around or under 10 years of age whose guardians are absent from home during daytime hours due to work, etc., by utilizing children's recreational facility or other facilities after finishing lessons and giving adequate opportunities for playing and living to those children in accordance with the standards specified by a Cabinet Order (Paragraph 2, Article 6-3, the Act on Child Welfare).

2. The transition of national policy and the trial process toward the "new system"

The establishment of after-school child day-care can be traced back to the 1950s. Thereafter, parents and after-school childcare instructors worked together to establish them nationwide on their own. In the meantime, local governments subsidized after-school childcare managed by parents or established and run them directly. The central government, following the local governments, subsidized the local governments. In 1997, after-school childcare was legalized and since then its number has grown rapidly. At present, the number of centers ("unit of support") is 29,287, and that of the

enrolled children is 1,148,313 (as of 1 May 2017, investigated by the national liaison council of day care centers for school-age children).

The legislation in 1997 was insufficient in terms of public responsibility. There were no standards for implementing and managing after-school child day-care and assumed them to be managed “according to the actual circumstances of the area.” Even after the legislation, after-school child day-care program has had various problems such as; larger scale of centers, delay in the improvement of facilities and equipment, a poor working conditions of instructors, lack of appreciation by local administration and in communities, and insufficient budget. Therefore, the after-school day-care has much room to develop.

To tackle with these problems, the Special Committee to Implement Countermeasures for the Declining Birthrate of Social Security Council of the government started comprehensive review of the system in 2008. From 2010, the review meeting of the "New System for Children and Child-Rearing" took over this task. This meeting proposed to provide service in cash to parents whose children need after-school day-care (After-School Child-care Allowance). Facing arguments against this proposal, this meeting gave up this plan and finally proposed to provide service in kind. The meeting proposed the Children and Child-Rearing Support Projects, which was to be administered by municipal governments under national minimum standards. In August, 2012, the standards for after-school daycare was legislated in so called Three Laws Concerning Children and Child Rearing.

Article 34-8 of the Act on Child Welfare stipulates as follows:

(a) Municipalities (cities, towns and villages) have to establish the standards in the ordinance concerning the facilities and operation of the after-school child healthy development project. The standards has to ensure the level necessary for the physical, mental and social development of the child.

(b) In establishing the ordinance stated above, municipalities have to prescribe the qualification and the number of such staffs engaged in after-school healthy child raising project in accordance with the standards specified by the Ordinance of the Ministry of Health, Labor and Welfare, and for other matters the standards provided by the Ordinance of Ministry of Health, Labor and Welfare has to be taken into consideration.

Upon the request of the Act, a detailed consideration of the standards of after-school childcare was carried out. What is worthy of attention in this process is that it was carried out by the Child Session of the Social Security Council (MHLW), and not by the Child and Child Rearing Support Council (Cabinet Office), which has played the central role in establishing the “New System of Supporting Children and Child-Rearing.” Nonetheless, there were heated discussions between the arguments based on “the best interests of children (child’s perspective)” and on “diversity according to local circumstances, continuity and efficiency of measures taken previously by national and local governments (adults’ perspective).” This argument is probably still under way at national and municipal level as well.

Anyway, through the above deliberation, “Standards concerning Facilities and Management of After-School Healthy Child Raising Project” (hereinafter referred to as “Ministerial Ordinance Standards,” April 2014), “After School Child Club Management Guidelines” (herein after referred to as “Management Guidelines”, March 2015), “Prefectural Certificate Qualification Training Guidelines for After-School Child Support Staffs” (Notice by the Director -General, May 2015) were formulated. In the “Management Guidelines”, not only the management in the narrow sense but also the contents of after-school child day-care, the status of after-school child day care instructors, and the substance of instructors’ work were clarified. It is now established as a principle for the municipalities to follow the standards prescribed in their ordinances and the “Management Guidelines.” It can be said that we have taken a big step forward in comparison to 1997, when there was nothing like a standard in after-school childcare.

3. The qualifications and the number of after-school childcare instructors

In the “Ministerial Ordinance Standards”, the qualification of “after-school child day-care staff” is stipulated, and the number is prescribed as more than two for each center. Qualification training conducted by prefectures (for certification by prefectural governors) is institutionalized. The training of 24 hours for 16 subjects is required, and although there are criticisms on both quantity and quality of the training program, the curriculum as a whole is constructed on the idea that not only understanding the role of after-school child day-care staff, but also acquiring knowledge and

skills different from those of nurseries at child day-care centers and teachers of elementary school are necessary. Although some inadequacies remain, its framework assumes all incumbent after-school staff participate in the training course within 5 years. And in the “Children and Child Rearing Support Act,” improvements of salaries and other working conditions of after-school child day-care staff is clearly stated. After that, it has been implemented in “Project for Improving Salaries and other Working Conditions of After-School Childcare Staff,” and in some areas, campaigns by those involved in after-school child day-care and responding efforts by municipalities led to budget improvement.

4. Problems of the large-scale after-school childcare

In the “Ministerial Ordinance Standards,” the appropriate number of children one center accommodates is stipulated as roughly 40 or less. The “Management Guidelines” indicate the reason as follows:

In order to ensure appropriate environment and child rearing support, ... it is necessary to operate it within the scope of the appropriate number of children. ... For children to build mutual relations, or to live together as a member of a cohesive group, and for staff to build trust with individual children, the appropriate scale should be about 40 children or less.

In a large-scale after-school child day-care center with a large number of children, children “cannot feel at ease in a noisy environment,” and “quarrel due to trifles.” Also, when the group is too big, instructors cannot be observant to, and cannot listen carefully, to individual children, making it difficult for them to relate to children appropriately. Such a condition may make it necessary to “restrict children’s play and activities,” and still, “accidents and injuries might increase.” This circumstance surely gives detrimental effects on children. To leave such situation as it is cannot be tolerated in light of some provisions of Convention on the Rights of the Child.

However, the number of centers with more than 46 children is 8,459, accounting for 29% of the total enters, and children enrolled in such units amounts to be over 40% of the total (as of 1 May 2017, investigated by the national liaison council of day care centers for school-age children). This problem should be dealt with immediately.

In order to solve this problem, there is no other way than dividing a

large-scale after-school child day-care center into small ones, or to establish new centers.

5. Recent movement in the government to deregulate or abolish the “ministerial ordinance standards”

At present, salaries and other working conditions of after-school child day-care staff has not yet improved sufficiently, and a shortage of them is at present a nationwide problem.

There arising a movement in the government to solve this problem by appealing to the neo-liberalism, namely, deregulation of the standards.

Currently, the government has set up an Office for Decentralization Reform in the Cabinet Office and is promoting “decentralization reform.” By bringing “decentralization” to the fore, the government is trying to cut down the national standards of welfare services in general. In 2017 fiscal year, deregulation or abolishment of “qualification and placement of after-school childcare support personnel,” which is set forth in the “Ministerial Ordinance Standards,” is discussed.

Before the “Ministerial Ordinance Standards” was established, due to the fact that the qualifications and arrangement of after-school childcare staff were left to each local government, there were big differences in each region. Even after the “Ministerial Ordinance Standards” was formulated, some local governments fail to meet this standards. Still, the provision of “qualification and placement of after-school childcare support staffs” in “Ministerial Ordinance Standards” is improving quality of centers nationwide. The “Ministerial Ordinance Standards” is indispensable, and its abolition would surely worsen the current situation – insufficient support for the after-school childcare personnel and the wide regional difference—.

6. Conclusions

We suggest the U.N. Committee on the Rights of the Child to:

- a) Require the government to provide the data of regional difference in regard to the compliance to the “Ministerial Ordinance Standards.”
- b) Express its concern about the recent movement in the government to deregulate the national minimum standards.
- c) Recommend the government to raise and strengthen the national minimum standards on after-school child day-care service.

Chapter 27. Sexuality Education and Reproductive Health Education

1. The absence of comprehensive sexual education under the Japanese government's attack on sexual education

The Japanese government has reported that “instruction about sex/AIDS in school is implemented so that pupils/students acquire solid scientific knowledge about sex and that they will be able to behave appropriately” (paragraph 111), but the reality is completely different.

As seen in stipulations in course of study such as “the process up to conception is not taught in the lesson” (Science, sixth grade, Primary School) and “the lesson teaches up to conception/pregnancy but not the process of pregnancy” (Health and Physical Education, Lower Secondary School), Japanese children have very few opportunities to learn human reproduction scientifically. The “human body” which is taught in science classes in primary school (sixth grade) does not include sexual organs as “major organs” and there is no illustration of them in textbooks. The use of the term “sexual intercourse” and demonstration of the condom which is very important in prevention of AIDS are restricted in school. Consequently, although teachers are supposed to teach sexually transmitted disease, Japanese children have very few opportunities to learn concrete process of infection and methods of prevention. Similarly, the opportunity to learn contraception in concrete terms is taken away from children. The Japanese government's statement that “(it) includes content of reproductive health education” (paragraph 112) is contrary to the fact.

Furthermore, in course of study, only “interest in opposite sex” (Health and Physical Education, Lower Secondary School) is deemed to be “natural,” which means that only heterosexuality is treated as normal and there is no mention of diverse sexual orientations. Even in supplementary material for moral education produced by the Education Ministry, it is stated “it is natural to be attracted to the opposite sex” and the rights of sexual minority children are being neglected.

Sexuality education in Japan has been forced to beat a major retreat due to bashing on sexuality education since 2000. In particular, the attack on sexual education provided at Nanao Special School in 2003 was symbolic. The Tokyo Metropolitan School Board suddenly demoted the former head of the school and teachers were reprimanded for their “too radical” sexuality

education, which it had even praised up. The Board further forcefully confiscated teaching material and banned its use. Because of this incident, sexuality education in school has not been provided till present. Not only the Tokyo Met. School Board but also the Japanese government and the Education Ministry joined the attack on Nanao Special School, for which they should be held accountable. The phrase “developmental phases” the Japanese government uses was also used in this attack in order to restrict sexuality education. The Japanese government is intentionally restricting the promotion of comprehensive sexuality education. This is evidenced by the fact that the Ministry has not issued any guidance on sexuality education in school since it published “The principles and methods of sexuality education in school” in 1999.

2. The violation of sexual rights of children and young people

The reality of children and young people as stated below shows that scientific education on sex/AIDS is not implemented contrary to what the government says.

2-1. Insufficient education on menstruation and first ejaculation

According to the information from a member of our Association, the attack on gender-free education and sexual education which emerged in around 2002 continues to exert influence on school education. In the areas where the attack was fierce, even conventional education on menstruation has been abandoned and astonishingly, some schools now ignore the first menstruation and do not even instruct as to how to deal with it. According to the seventh National Survey on Sexual Behavior of Young People (the Japanese Association for Sexual education, hereafter, ‘the Survey’), the proportion of male university students who correctly answered “wrong” to the statement “ovulation always occurs during menstruation” was 33.2 per cent, while that of female university students was 66.2 per cent. There is a huge gap between male and female students and the rate of correct answer of both male and female students had dropped by about 10 per cent from the Survey six years earlier. The Survey asked basic physiological knowledge such as women’s menstruation and showed that knowledge to do with pregnancy and contraception was not acquired. Also, in regards to ejaculation, according to the Survey, the rate of correct answer (“wrong”) to the statement “if too much

semen is in the body, it has adverse effect on health” was 58.3 per cent for male university students and 20.4 per cent for female university students, and the rate is very low for female students. This is because of the influence of urban myth “because semen sack is filled up in three days, men cannot control their sex drive” and ignorance.

One of factors why understanding of ejaculation remains low is found in the fact that sexual education in Japanese school is focused on “giving birth” and there is scarcely learning on men’s sex compared to women’s menstruation. Men’s sex including ejaculation is excluded from school education (the Basic Report 48).

2-2. The spread of HIV and sexually transmitted disease among young people

A similar issue exists in regards to HIV and sexually transmitted disease. In more than eighty per cent of cases, infection with HIV has been through heterosexual or homosexual sexual contact (through homosexual sexual contact is at 68.7 per cent). Newly infected patients are most numerous among people in their thirties followed by those in twenties, which suggests that young people’s sexual behavior contributes to the increase in the number of infected patients (Committee on Trends in AIDS, Ministry of Health, Labor and Welfare). In regards to sexually transmitted disease, the rate of detection of chlamydia infection and gonorrhoea has been significantly higher among 15-19 years old compared to other age groups (Tokyo Metropolitan Infectious Disease Surveillance Centre). It has also been pointed out that the number of women in twenties who contract syphilis has jumped up. The government’s report does not mention this, but these are contracted through sexual contact.

These show that the government’s policies are inconsistent and insufficient in guaranteeing reproductive health as a human right.

2-3. Opportunity to learn sexual violence

Underdevelopment of sexuality education in school is particularly worrying in the field of social sciences. In particular, education on sexual violence is underdeveloped and there is no opportunity for school children to learn raping of young girls in Okinawa and the comfort women issue. In social studies and home economics are provided insufficient opportunities to learn sexual relationship, prostitution, the formation and development of family and changes in men’s and women’s rights.

Deepening one's understanding of human sexuality within historical and social contexts leads to a more human sexual relationship, a free and equal relationship between partners with an understanding that sexuality is a human right. By developing solid understanding of human sexuality, natural scientific knowledge should be considered not as mere technical knowledge but as knowledge which is essential to realize behavior that respects one's and the other's sex.

3. Moralization of sexuality education

Under this context in which social scientific sexual education is insufficient, opportunities to learn human sexual dignity, various sexualities and mutual human relationship tend to be provided in moral education lessons. If it takes the form of learning "life," children learn birth and the focus is on women as a sex to give life, and the emphasis is placed on thanking parents who have given birth to you. There is insufficient consideration to homosexuality, single-parent households and those children who are in care. Children learn a stereotype of the family and family life centered on heterosexual relationship between partners and between parents and children. They learn this together with other moral education lessons including respect for life, filial piety, cooperation and respect between sexes.

Course of study is evidently lacking in a perspective that children's sexual development should be supported by collaboration of social sciences and natural sciences. It is necessary to change this attitude and to revise educational content to provide children with sufficient opportunities to learn sexuality education that help their sexual development.

4. The problem of sexual harassment at school

In order to open up school education to sex, sexual violence at school has to be eliminated. At present, there is sexual harassment, bullying, discrimination against sexual minorities in school. A survey by Asahi Shimbun published on July 2017 revealed that about forty per cent of school boards of prefectures and ordinance-designated cities have not publicize disciplinary action taken against teachers for their indecent conducts. The number of disciplinary actions taken against "indecent teachers" was highest in 2015, which stands at 195 (including classroom assistants). Sixty per cent of the disciplinary actions was dismissal, the most serious measure, at 118. This represents an increase by about 30 per cent compared to the number of

disciplined teachers in 2011 (151), and the number of disciplined teachers is on the rise year by year. The Ministry request disclosure in order to prevent the repeat of offense but it is not actively pursued partly due to the need to protect the victims. In addition to training sessions for teaching and administrative staff, the creation of school environment in which sexual harassment does not occur is necessary.

Also, adults' poor understanding of sexuality makes them see "sexual bullying" as mere "mischief" or "fooling around," which means sexual violation among children is left unattended. This should be an important challenge in sexuality education.

5. Conclusions

The government's reports do not touch upon the causes of these problems. We argue that the government's failure to provide sufficient sexuality education is caused by its failure to unifying the policy of the Education Ministry and that of Welfare and Labor Ministry: the Education Ministry places emphasis on moralization of sexuality education, but, the Welfare and Labor Ministry on scientific sexuality education.

UNESCO published *the International Technical Guidance on Sexuality Education* in 2009 and demands the implementation and spread of sexuality education based on it. There is a need to raise understanding of and consensus on sexuality education so as to enable sharing of this guidance and the government should be active in creating such a social environment.

The Guidance places importance on making comprehensive sexuality education accessible for all children. What is required is to provide education containing both natural scientific and social scientific content as mentioned above based on the principle of diversity in values regarding sex. We require the government to comprehensively review poor contents on sex in course of study based upon *the Guidance* (of course, this cannot be achieved overnight but we would like to suggest that we shall take a first step towards this direction).

We suggest the U.N. Committee on the Rights of the Child to request the government to provide information on its plan to follow *the International Technical Guidance on Sexuality Education*. We suggest the Committee to recommend the government to comprehensively review course of study from the viewpoint of perspective comprehensive sexuality education.

Part VII Education and Leisure

Chapter 28. Law and Policy concerning the Aims of Education

1. Introduction

In paragraph 130 of the fourth and fifth report, the government of Japan asserts that the aims and objectives of education stipulated in Article 1 and 2 of the New Basic Act on Education (2006) are “consistent with the directions stipulated in Article 29.1 of the Convention.” We, however, argue that Article 1 and 2 of the new Basic Act on Education are not compatible with Article 29 of the Convention.

In light of the drafting process of the New Basic Act, the government’s statements in the Diet’s Special Committee on the draft revised law of the Old Basic Act on Education, and the commentaries on the New Basic Act supervised by the high-ranked officer of the Ministry of Education³¹, Article 1 and 2 do not oblige the government to prioritize the aim of “the full development of personality” over other aims and objectives. These Articles allow the government to prioritize such aim as the nurturance of “the citizens, sound in mind and body, who are imbued with the qualities necessary for those who form a peaceful and democratic state and society.”

The New Basic Act was enacted in 2006 under the first term of Mr. Shinzo ABE as the Prime Minister with the aim to comprehensively revise the Basic Act on Education of 1947. The Old Basic Act, one of the greatest fruits of the democratic reform of Japan after the World War Two, was enacted with the aim to show the principles of new educational system under the new Constitution of Japan. The Liberal Democratic Party (LDP), which Prime Minister Abe belongs to, had hated the liberalistic tone of the Old Basic Act. LDP’s program adopted in 1955 declared that LDP aimed at the revision of the Constitution and the Old Basic Act. The New Basic Act was enacted to substantially weaken the liberal tone of the Old Basic Act, as well as to legitimize the effective training of elites who lead Japan in the global economic competition and the effective nurturing of obedient citizens who support Japan whose supreme aim is to win the global economy.

One of the main targets of the revision were Article 1 of the Old Basic Act, which stipulated the aims of education, and Article 2, which stipulated

³¹ KYÔIKU KIHONHÔ KENKYÛ-KAI [Study Group on the Basic Act on Education, supervised by S. Tanaka], Chiku-j ô Kaisetsu Kaisei Kyôiku Kijonhô [COMMENTARIES ON THE NEW BASIC ACT ON EDUCATION](Tokyo 2007).

the principles of education. Article 1 of the Old Basic Act stipulated the full development of personality as the first aim of education and showed the expectation that the nurturing of good Japanese citizens was realized as the result of the full development of personality. Though Article 1 of the New Basic Act declares the full development of personality as an aim of education, this article juxtaposes the aim of the nurturance of good citizens with the aim of the full development of personality. Because Article 1 of the New Basic Act does not clarify which one shall be prioritized over the other, the government can carry out policies for the nurturance of good citizens imbued with necessary qualities at the cost of the aim of the full development of personality. Furthermore, because Article 2 stipulates more than twenty virtues for the Japanese citizens to be imbued with, the New Basic Act gives an impression that the nurturance of good Japanese citizens is prioritized over the full development of personality.

Since 2007, the government has been adopting new laws and carrying out new policies which break down the principle and articles of the New Basic Act. In 2007, the government started the national standardized testing which all the 6th graders and 9th graders take part. School Education Law was amended so as to establish hierarchy among teaching staff. The Education Ministry issued the notice that proposed the local school boards of education to apply Zero Tolerance Policy (ZTP) to school discipline.

The national testing is for fulfilling the national government's duty "to maintain and raise education standards throughout the country" as is admitted in Paragraph 2 of Article 16. The amendment of School Education Law was to make schools –"provide a structured education in an organized way" as is required in Paragraph 2 of Article 6. The proposal for ZTP was for "instilling the recipients with respect for the discipline necessary to conduct school life" as is required in the same paragraph. In 2018 at elementary schools and in 2019 at lower secondary schools, the moral education will be carried out as "the special subject" with the aim to imbue children with all the virtues stipulated in Article 2.

All these new laws policies have negative impacts on children's full development of personality as is shown in Chapter 2 of this report. For the government, the aim of "the full development of personality" stipulated in Article 1 are empty words and the first aim of education are to raise educational standards and to nurture good citizens imbued with the virtues

stipulated in Article 2.

In the following, to clarify the incompatibility of Article 1 and 2 of the New Basic Act with Article 29 of the Convention, we confirm the structure of the Old Basic Act, explain how the New Basic Act was drafted, and compare the New Basic Act with the Old Basic Act.

2. Structure of the Old Basic Act

The Old Basic Act was enacted in 1947 with the aim to clarify the principles of the educational system which are derived from the Constitution of 1947. The educational system before 1945 was aimed at nurturing good citizens of Imperial Japan. The government was allowed to deeply control what should be and how should be taught. Imperial Japan used the educational system to urge militarism among people. Seriously reflecting on the past experiences of the educational system of Imperial Japan, the drafters of the Old Basic Act decided not to allow the government to utilize the educational system as its propaganda machine.

In the first paragraph of the preamble, the Old Basic Act affirmed the ideal of the new Constitution and said “The realization of this ideal shall depend fundamentally on the power of education.” In the second paragraph, under the name of “we,” the education “which esteems the individual dignity” was declared to be realized.

In Article 1, the first aim of education was set as “the full development of personality.” Article 1 of the Old Basic Act read as follows.

“Education shall aim at the full development of personality, striving for the rearing of people, sound in mind and body, who shall love truth and justice, esteem individual value, respect labor, have a deep sense of responsibility, and be imbued with an independent spirit, as builders of the peaceful state and society.”³²

Article 1 could be read as giving same weights to the aim of the full development of personality and to the rearing of people. However, COMMENTARIES ON THE BASIC ACT ON EDUCATION (1947) (herein after cited as the COMMENTARIES of 1947) by the education law study group of the Education

³² Translation of the Old Basic Act on Education is by the General Headquarter. The translation appears in GENERAL HEADQUARTER (ed.), Education in Japan, (Tokyo 1948), at 109-111.

Ministry, argued that the nurturance of “people” shall be conducted through the education for the full development of personality and thus the full development of the personality shall be prioritized over the nurturance of “people.” The COMMENTARIES of 1947 said “the full development of personality is the base of rearing builders of the state and society. The former aim covers much broader area than the latter. Only human beings who are reared under the broader aim can become good builders of the state and society.”³³

Article 2 of the Old Basic Act clarified the principles of education whose first aim was to realize the full development of personality. Article 2, under the name of “We,” declares that education shall be conducted thorough the “mutual esteem and cooperation”: the cooperation among children, parents, dwellers and teachers.

Article 10 gave this educational principle of “mutual esteem and cooperation” the legal expression and appropriated the role different from that before 1945 to the educational administration. Article 10 read as follows.

1. Education shall not be subject to improper control, but it shall be directly responsible to the whole people.
2. School administration shall, on the basis of this realization, aim at the adjustment and establishment of the various conditions required for the pursuit of the aim of education.

Paragraph 1 of this article recasted the educational principle of “mutual esteem and cooperation” as being “directly responsible to the whole people.” Being “Directly responsible” means that teachers shall fulfill their responsibility through listening to the voices brought daily by children, parents, and dwellers, identifying their needs and requirements, and conducting education which meet them. In contrast to this “being directly responsible,” “being indirectly responsible” means that one can fulfill their responsibility through obeying laws which are adopted by the assemblies, whose members are elected by dwellers or people.

Paragraph 1 of this article prohibits “improper control” of education. The COMMENTARIES of 1947 said that the typical “improper control” is adopting laws that control educational content and methods and making

³³ KYÔIKU HÔREI KENKYÛ-KAI [Study Group on Education Law, supervised by T. Tsujita & J. Tanaka], *Kyôiku kihon-hô no kaisetsu* [COMMENTARIES ON THE BASIC ACT ON EDUCATION](Tokyo 1947), at 63.

educational administration carrying out these laws. Paragraph 1 outlaws laws and educational administration which were normal under the era of Imperial Japan. Paragraph 2 of this article clarifies the role of educational administration as “adjustment and establishment of the various conditions required for the pursuit of the aim of education.” The role of educational administration was changed from controlling educational contents and methods to providing educational conditions which enable the human education.

3. Drafting process of the New Basic Act

LDP had tried to revise the Old Basic Act for the three times since 1955 when LDP was formed. The comprehensive revision of the Old Basic Act in 2006 means that LDP succeeded in the third trial. The first and second trial were aimed at introducing the nationalistic element into the Old Basic Act. The most distinguished characteristic of the third trial was that it also aimed at legitimatizing the educational system as a tool to make Japan win the global economic competitions.

The plan to comprehensively revise the Old Basic Act and to adopt the New Basic Act was firstly proposed in 2000 in the last report from the Commission on Educational Reform³⁴, which was established as an advisory body of the Prime Minister. This report said that the reform their proposals aimed at was equal to the education reform when Japan become the modern state in late 19th century and that after the World War Two.

The seventeen proposals raised in this report were organized under four groups. The proposals organized under the first and the second groups are on educational contents. The main proposals organized under the first group, titled “Fostering Japanese people with a rich sense of humanity,” were to establish the strict discipline in both homes and schools and to strengthen the moral education in schools. The main proposals organized under the second group, titled “Develop the talent of individuals and foster individuals who are rich in creativity,” were to give focus on the development of talents with which children were born and to “foster the leaders needed by society and realize a society which recognizes and supports such leaders.”

³⁴ REPORT BY THE NATIONAL COMMISSION ON EDUCATIONAL REFORM
—17 PROPOSALS FOR CHANGING EDUCATION — DECEMBER 22, 2000,
<http://japan.kantei.go.jp/education/report/pdfs/report.pdf>

The third and fourth groups are on the ways in which schools, school board, as well as the central and local governments manage education. The main proposals organized under the third group, titled “Create new schools for the new age,” were to centralize the authorities around the school principals and to give financial rewards to teachers highly evaluated under teacher evaluation system. The main proposals organized under the fourth group, titled “Basic Promotional Plan for Education and the Fundamental Law of Education,” were to “seriously consider investment in education as a national strategy,” to adopt basic promotion plan of education, as well as to adopt the New Basic Act on Education. The report said that the Old Basic Act shall be revised from three perspectives: “to foster Japanese living in a new age,” “to develop and give deep respect to the traditions, culture, and other elements to be handed down to future generations,” and “to establish provisions concerning the drawing- up of the educational promotion basic plan.”

From 2001 to 2005, the committee established by ruling parties, LDP and Komei Party, drafted the New Basic Act. All the meetings of this committee were closed. The Cabinet accepted the draft law from this committee and submitted it to the Diet in June, 2006. After the long discussion in the Diet, which amounted to more than 100 hours, the draft law was adopted in December, 2006.

4. The New Basic Act

The most distinguished characteristic of the New Basic Act was its exact attacks on the basic structure of the Old Basic Act. As is explained above, the basic structure of the Old Basic Act constituted of 1) Article 1, which set the full development of personality as the first aim of education, 2) Article 2, which declared education through the “mutual esteem and cooperation” as the principle of education, and was recast as direct responsibility of education in Paragraph 1 of Article 10, 3) Paragraph 1 of Article 10, which prohibited the government from enacting and carrying out laws which control educational contents and methods, and 4) Paragraph 2 of Article 10, which appropriated to the educational administration the role of providing conditions which enables the education with the first aim of the full development of personality.

The New Basic Act adds some new words to the preamble so as to

declare that the education shall not only esteem the individual dignity but also nurture an attitude “to honor the public spirit, “transmits tradition” and develop rich “humanity and creativity.” In the last, the new preamble declares the aim of the New Basic Act is to “promote an education that opens the way to our country’s future.” The words of “an education that opens the way to our country’s future” arguably means an education that realize the economic success of Japan. It is easy to see how strongly the preamble of the New Basic Act reflects the report of the Education Reform Commission.

The New Basic Act amends Article 1 on the aims of education. It inserted the aim of nurturing the people with the necessary qualities and juxtaposes this aim with the aim of the full development of personality. The New Basic Act deletes Article 2 of the Old Basic Act whose title was the principles of education and creates Article 2 whose title is “the objectives of education.”³⁵ Under this new article, more than twenty virtues for people to be imbued with are listed under five subparagraphs. As is mentioned in “introduction” of this chapter, the education with the aim to realize the full development of personality is juxtaposed with the education with the aim to nurture the people with necessary qualities. In other words, “the human education” is juxtaposed with “the civic education.”

Whether the human education is prioritized over the civic education has not been clarified either during the long discussion in the Diet or in the commentaries of 2007 supervised by the high-ranked officer of the Education Ministry. The New Basic Act does not clearly prohibit the government from carrying out the civic education at the cost of human education.

As Article 2 of the Old Basic Act was deleted, the principle of education through “the mutual esteem and cooperation” was vaporized. The words of “it shall be directly responsible to the whole people” in Paragraph 1 of Article 10 of the Old Basic Act were deleted. In lieu of these words, the words of “(education) shall be carried out in accordance with this and other” are added.

On its face, the New Basic Act does not clearly say whether the aim of the full development of personality is the first aim of education. The New Basic Act deletes the principle of the direct responsibility of education and adds the words that could mean the indirect responsibility of education. Thus

³⁵ The translation of the New Basic Act is by the Education Ministry, retrievable at: http://www.mext.go.jp/b_menu/kihon/data/07080117.htm (last accessed on October 9, 2017).

the New Basic Act make totally unclear the basic idea of the Old Basic Act that government shall not either prioritize civic education over the human education or adopt laws which control educational contents and methods.

Japanese government has set the workforce preparation which lead and sustain Japan as the economic giant as the first aim of education since 2012. It started the national standardized testing and proposed to apply ZTP to school discipline in 2007. In 2018, the moral education as “the special subject” will be carried out.

Because Article 29 of the Convention sets the full development of personality as the first aim of education, other aims of education listed in this article shall not be carried out at the cost of this first aim. Other aims shall be realized in harmony with this first aim. Because Articles 1 and 2 of the New Basic Act are ambiguous whether they prohibit the government from pursuing the aims and objectives other than the full development of personality at the cost of this aim, these articles are not compatible with Article 29 of the Convention. Seizing this ambiguity, the government has been adopting laws and carrying out policies that give harm to the full development of personality of children.

5. Conclusions

We suggest the U.N. Committee on the Rights of the Child to:

- (a) To ask Japanese government whether she interprets the aim of the full development of personality which is stipulated in Article 1 of the New Basic Law, as the first aim, at the cost of which other aims and objectives shall not be realized.
- (b) To express the concerns that Articles 1 and 2 of the New Basic Law are not compatible with the Convention.
- (c) To recommend that these articles be revised so as to clarify the first aim of education is the full development of personality, and new laws and policies be withdrawn, which have been adopted since the enactment of the New Basic Law and give negative impacts to children.

Chapter 29. Education Reform Centered on Competition and the National Standardized Testing

1. Introduction

In Paragraph 123 of its fourth and fifth periodic report, Japanese government gives the information on how it has diversified the upper secondary schools and has enhanced universities to multiply the ways of screening. The government seems to indicate that these diversification policies have eased or eliminate the highly competitive nature of the educational system in Japan.

We, however, argue that the highly competitive nature of educational system has been accelerated by the policy on national standardized testing. The policy was proposed by the Education Ministry in 2004. After the revisions of related laws, the national standardized testing had been carried out for four years from 2007 to 2010. After three-year intermission from 2010 to 2012 under rule of Democratic Party (DP), it was restarted in 2013 under the rule of Liberty Democratic Party (LDP).

The basic idea underlying the national standardized testing is that the formation of high scholastic ability shall be centered on competition. The government policy on multiplying upper secondary schools and enhancing universities to multiply screenings is the part of its policy to reorganize the overall educational system under the competitive environment. This recent policy contradicts the Committee's recommendations in the last Concluding Observations: to shift the formation of scholastic abilities from the competition centered to the child centered and to combine with this shift the comprehensive reviews of articulations between lower secondary schools, upper secondary schools and universities.

This chapter provides the information on the aim of the national standardized testing and the ways in which the aim is realized, as well as its negative impacts on teachers and students in their daily school life. Please refer to Chapter 2, which provides the information on how the national standardized testing hand in hand with the prefectural and cities' standardized testing worsen such problems as school non-attendance, bullying, school violence and suicide.

2. Promoting competition and cultivating the sense of rivalry

The movement toward the national standardized testing started in 2004. In December 4th, 2004, the Education Minister, Mr. Nakayama, made his presentation, titled “Come Back, Japan!” to the members of the Council on Economic and Fiscal Policy, the top advisory body of the Prime Minister. He stated “Being without natural resources, Japan’s only resource is the workforce. I propose to carry out the educational reform which pushes up Japan to the 1st ranked country in scholastic competition. This reform promotes the competition among children, cultivates the sense of rivalry, and carries out the national standardizes testing.” Explaining the background of his proposal, the Minister said “Being aware that the education affects the fate of the nations in the international mega ‘knowledge’ competition, all the countries are carrying out the education reform.”

Two months after the Minister’s presentation, Mr. Yutaka TOKIWA, the Director of Curriculum Division of the Ministry, recapped the main points of the national standardized testing in the interview appeared in the magazine published by Benesse Corporation, the largest education company in Japan (“View,” January 2005.). He said “From now on, schools and municipalities are required to have the sense of rivalry. This sense improves schools. --- Carrying out the national standardized testing and indicating relative positions of schools and municipalities, the Ministry would like to cultivate the sense of rivalry and improve scholastic abilities.”

To carry out the national standardized testing, the government successively adopt new laws and policies. In 2005, the laws were revised so as to reduce the share of the financial burden of the national treasury for paying salaries for teachers hired by municipalities from one second to one third of the total amount of cash paid for teachers’ salaries. In 2006, the Basic Act on Education was comprehensively revised with the aim to legalize the government authority to control educational contents and methods (see Chapter 28). In 2007, the related law were revised so as to establish the teaching license renewal system.

3. The national standardized testing

In 2007, the Ministry started the national standardized testing. The testing was carried out as the exhaustive survey in which all the 6th graders and the 9th graders took part. To fend of the criticism that the testing

overrides the authorities of municipalities to control their own schools, the Ministry did not carry it out by herself: the Ministry recommended municipalities to take part in the testing in their own decision. All the municipalities except for one city, City of Inuyama, responded affirmatively to the Ministry's recommendation. As the testing was carried out, however, the voices opposing the testing became stronger: they criticized the testing as accelerating the competitive nature of the educational system. In 2009, under DP rule (DP took over the power from Liberty Democratic Party in late 2008), the Ministry decided to carry out the testing as the sampling survey: 30% of the 6th graders and the 9th graders who were randomly chosen took it. In 2010 and 2012, the testing as a sampling survey was carried out. In 2011, the sampling testing was suspended due to the East Japan Great Earthquake of March 11.

When LDP returned to the power in late 2012, the government decided to restart the testing as the exhaustive survey in 2013. Furthermore, the Ministry published the league table of prefectures on the test scores. In 2014, the Ministry allowed the prefectures to publicize the league table of cities and towns on the test scores, and the cities and towns to publicize that of schools. The Ministry released the breaks on the acceleration of competition. Getting the higher scores in the national standardized testing became the most important agenda for the municipalities.

The Ministry recommends the municipalities to “make sure that the publication of the league tables on scores does not accelerate the competitions” in its operation guide. Still, some municipalities publicize the league tables not only on the scores in the national testing but also on those in its own testing. Some municipalities provide rewards and sanctions to schools according to their test scores: they provide schools of higher scores with more money and schools of lower with less. Osaka Prefecture even use the average scores of schools in upper secondary school screening: a student from a lower secondary school with higher scores is evaluated as more appropriate for a upper secondary school. In the municipalities which adopt such neo-liberal policies as school choice, school evaluation, and performance based school funding and school closure, test scores decide the fate of schools. As a result, the competition among school is getting fiercer.

As was planned in 2014, the national standardized testing is now making the overall educational system more than “highly competitive” and

cultivating the sense of rivalry among prefectures, cities, towns, schools and students.

4. Teaching to testing and standardizations of teaching and learning

Elementary and lower secondary school students throughout the country take the national, prefectural and cities' standardized tests a year. Urged to get higher scores in these three tests, teachings and learnings focus on drills and repetitions.

The municipalities with the lower scores borrow the teaching methods from the municipalities with the higher scores. They demand their teachers to follow these methods. They evaluate teachers to what degree they follow the methods. They even organize the site visits to check. Teaching methods are being standardized. Certain types of students' conducts are considered to lead them to higher scores and to establish the safe and calm learning environments conducive to higher scores. The ways in which students learn are also standardized. The standardized testing is now reorganizing the whole educational system including the teaching and learning activities under the competition.

The teaching to testing, however, gives the negative impacts on the students' motivation to learn. PISA survey shows that "the number of hours students spend for learning at home" is the shortest in Japan. The survey by a private institution shows that learning hours of students with the test scores above the medium become longer and longer from 1990 to 2016 and those of students with the test scores below the medium become shorter and shorter. With the progress of the standardized testing, the gap between students with high scores and those with less is being widened.

5. The national and local standardized tests opening markets for education industries

The government and municipalities entrust the whole of the operation of the standardized tests to education industries. The education industries make questions, score tests, total the scores, and analyze them. The national and local standardized tests open the new markets for education industries and strengthen their tie with the Ministry.

For example, the Ministry uses \$50 million for the national testing. Benesse Corporation, the largest education company in Japan, has been the

only participant to the auction for the contract for the national standardized testing for 6th graders and been awarded the contract with the bid price which was 99% of the price the Ministry expected. Benesse receives not only the benefits but also the “big data” on test scores of all the 6th graders in the nation.

The standardized tests are not the only tie of the national and local governments with education companies. Municipalities entrust regular classes, supplementary lessons and teacher training to education companies. Parts of the public schools are industrialized. In upper secondary schools, it is usual for students to watch lessons of teachers at private cram schools provided through satellites or to take examinations prepared by private cram schools.

6. Opening university entrance exam as markets for education industries

The Ministry plans to carry out the standardized testing for upper secondary school students of all the grades in 2019 and renew the National Center Test for University Admissions in 2020.

The standardized testing for upper secondary school students is aimed to survey the scholastic abilities. The Ministry plans to entrust the operation to education industries. The Ministry has already started its research on this new test with the help of education industries including Benesse.

The Ministry plans to renew the National Center Test for University Admissions in two points: first, to add description type of examinations in Mathematics and Japanese, and second, to abolish the exam of English. Applicants for university are required to take such tests as TOEIC, TOEFL, Test of English for Academic Purpose (TEAP) and Test in Practical English Proficiency (TPEP) provided by for-profit or non-profit educational organizations. Third graders of upper secondary schools are allowed to take tests twice from April to December and submit the better scores to universities. Test fees are \$57 for TOEIC, \$230 for TOEFL, \$150 for TEAP and \$50 for TPEP. English education for elementary school students of third graders and above will start in 2018. The English classes in elementary schools are considered to rely heavily on English education industries. When the plan of the Ministry to renew the National Center Test for University Admissions is realized, English education from elementary to upper

secondary schools will be largely open as the markets for industries.

7. Competition expanded to embroil the poorest families

Recent educational reform is always accompanied by the expansion of the market for education industries. And the expansion of the market is always accompanied by the embroilment of the less wealthy and the least.

Most of students at top elite universities in Japan are graduates of a small number of private lower and upper secondary schools. Entrance examinations of these private junior and upper secondary are so difficult that children with the knowledge provided in normal classes of public elementary schools cannot pass the examinations. Children shall go to cram schools which provide the extra knowledge and special techniques for three years from the fourth grade to sixth grade. The total cost for attending cram schools over three years is around \$20,000. The entrance exam industries are made practicable by rich families who can afford to pay this expensive fees. After children pass entrance exams, parents pay \$50,000 as tuition fees in total over six years. Families with the average annual income of \$50,000 cannot afford to pay \$70,000 in total for nine years for cram schools and the private junior and upper secondary schools. It is estimated that the families with the annual income of \$80,000 and more can afford to.

To break the monopolization of the seats of top universities by the graduates from a small numbers of private lower and upper secondary schools, the prefecture and municipalities establish public junior and upper secondary schools, named as secondary education school. Graduates from secondary education schools are expected to enter top universities. These public secondary education schools result in embroiling elementary school students from middle and lower class families in the competition for public secondary education schools.

Children from the poorest families are also embroiled in the competition. The programs on the child poverty by the Cabinet and municipalities emphasize “educational assistance,” which means the assistance which will help children getting higher degrees and better jobs. For example, the programs stipulate the cash transfer to the poor families when they send their children to cram schools. This educational assistance sits in the base of the programs and is the main constituent of assistance to the poor children. This assistance do not fulfill their immediate needs, namely

cash transfer for their living. Furthermore, it impose them the pressure to take part in the competition.

8. Conclusions

Under the education reform centered on the standardized tests, the highly competitive educational system in Japan is reaching at the point where education industries comprehensively gasp the function of evaluating scholastic abilities of children from elementary to upper secondary schools. Education industries are to decide how scholastic abilities are evaluated and what kind of abilities are worth calling as scholastic abilities. Furthermore, education industries will monopolize the know-hows on forming scholastic abilities.

Under this highly competitive and industrialized educational system, forming the high scholastic ability costs much and the household incomes decide the destiny of their children. Children are get involved not only in the competition for academic scores but also in the competition in the labor market their parents are struggling with. This doubled competitions deprive children of what they wish and need to get and impoverish their childhood.

As is shown in Chapter 2 of this report, the data from the Ministry indicate that the restart of the national standardized testing as the exhaustive survey triggered the rises in the rates or the number of bullying, school non-attendance, school violence and suicide. These data prove that the highly competitive nature of the educational system in Japan are the causes of disorders in development. Due to the limitation of space, this chapter does not provide the detailed information on how the pressure some municipalities with the lowest scores impose on students for high scores has raised rapidly and massively the rate of school non-attendance.

We suggest the U.N. Committee on the Rights of the Child, to require Japanese government to provide information on the standardized testing, to express its concerns that the formation of scholastic ability centered on competition is incompatible with the spirit of the Convention and the recommendation expressed in the last Concluding Observations, as well as to recommend the government to comprehensively review the reform centered on the standardized testing.

Chapter 30. The Authorization and Adoption of School Textbook

1. Introduction

In its last Concluding Observations to Japan, the U.N. Committee on the Rights of the Child expressed its concern that “Japanese history textbooks do not enhance the mutual understanding of children from different countries in the region as they represent a Japanese interpretation of historical events only,” and recommended the government to “ensure that officially reviewed textbooks present a balanced view of historical events in the Asia-Pacific region.” (Paragraphs 74 and 75)

In Paragraph 128 of the fourth and fifth periodic report, the government argues against these concerns and recommendations based upon the following three grounds.

First, the Education Ministry examines textbooks of private publisher with the aim to “identify obvious errors or significant imbalances in the description of textbook produced in the private sector in light of the results of objective academic achievement.”

Second, the Education Minister authorizes textbooks based upon examinations by the Textbook Authorization Research Council with “experts from non-governmental sectors.”

Third, authorizations are conducted in accordance with “the Basic Act on Education, which aims to foster an attitude of respect for other countries and a desire to contribute to world peace and the development of the international community, and with the Textbook Authorization Standards, which specify that necessary consideration should be given from the viewpoint of international understanding and cooperation with neighboring Asian countries.”

We explain how all of these three grounds are false. In addition, we show problems in textbook selection procedures.

2. Screening standards for textbook authorization

Before World War 2, the government of Imperial Japan obliged teachers to use textbooks edited by itself. After 1945, systems concerning school textbook was totally reformed and the new system, school textbook authorization system, was introduced. The Education Minister was to authorize textbooks of private publishers and teachers were to select

textbooks from those authorized by the Minister. This new system was aimed at securing variety in textbooks. But, unfortunately, this aim has been gradually skewed by the government since late 1950s.

Specifically, the present Abe administration has strengthened the government's control over textbooks. As a result, the authorization system has almost become the state control system.

Authors of textbooks can't write freely because they must observe many regulations such as the National Course of Study, which, the government asserts, are legally binding, and the Guidebooks on National Course of Study. The National Course of Study prescribe outlines of what should be taught in subjects and the Guidebooks show the details. Authors must write in accordance with these double regulations. Authors are forced to delete passages which contradict the government's views, and are forced to write government opinions.

The typical example of the current strengthening of the examination is the new notice on the screening criteria on textbooks for primary and lower secondary schools issued by the Education Ministry on January 17, 2014. The notice declares, "Textbook must be written in accordance with the decisions of the Cabinet or Supreme Court decisions." This means that the authors must write the decisions of the Cabinet or Supreme decisions on the issues. This is the evidence that textbook authorization system with strict screening standards forces writers to follow the government's views or the historical recognition and facts determined by the government.

3. Lack of professional independency in textbook authorization research council

The government report says that Textbook Authorization Research Council is an independent body consisting of professional non-governmental experts. In order for the Council to be professionally independent, it is necessary to remove political influence of ruling parties the Minister belongs to from appointment procedures. For examples, members shall be appointed based upon recommendations from specialized academic associations. But, the Minister appoints members by himself.

Moreover, examination procedures are also under political influence. The Council adopts its opinion on whether a textbook of a private publisher shall be authorized based upon examinations by "special examiners." Special

examiners are permanent staff of the Ministry specialized in the examinations of textbooks. Different from other permanent staff, special examiners are not selected through competitive examination. The Minister appoints them by himself. This means that the Minister can appoint special examiners mainly from the ruling parties' political point of views.

These special examiners examine whether textbooks edited by private publishers satisfy the Minister's screening standards, and submit their reports to the Council. Then, based upon their reports, the Council adopts its opinions on whether to authorize textbooks. At last, the Minister decides whether to authorize textbooks based upon the Council's opinions. In order for the authorization system to be academically professional and be independent of political influence, political influence of the ruling parties and the government shall be removed from the appointment procedures of members of the Council and special examiners. As is explained above, it is not removed. Thus, the authorization system gives birth to "Japanese history textbooks" which "represent a Japanese interpretation of historical events only."

4. Authorization system actually created tension with neighboring countries

There are many conflicts of views among China, Korea and Japan, especially those on such matters as understanding of history and territorial issues. But, textbook authorization is carried out so as to make authors to write only the views of the Japanese government. This has resulted in political controversies among three countries. These facts manifestly show that government's arguments on these matters are far from the real situations.

As for the territorial disputes on the Northern Islands, Takeshima islands and The Senkaku Islands, the Education Ministry revised the Guidebooks in 2014 and prescribed that teacher shall teach that these disputed islands are inherently territories of Japan. This revision is imposed also on textbook publishers through the Government notice which requires them to obey this revision in editing textbooks.

5. School textbook selection

According to the government, school teachers are obliged to use authorized textbooks as main material. And the government do not allow

teachers to select textbooks by themselves. The Law concerning Measures for the Free Distribution of Textbooks in Compulsory Schools prescribes that, in a certain selection area (As of April 2017 there are 583 areas in Japan), teachers are expected to use the same authorized textbook which local boards in an area jointly select.

However, teachers shall be endowed with the professional responsibility to select materials most appropriate for children. The ILO-UNESCO Joint Recommendations concerning the Status of Teachers in 1966 stipulates a role of teachers in selecting textbook in Paragraph 61. This paragraph reads,

The teaching profession should enjoy academic freedom in the discharge professional duties. Since teachers are particularly qualified to judge the teaching aids and methods most suitable for their pupils, they should be given the essential role in the choice and adoption of teaching material, the selection of textbooks and the application of teaching methods, within the framework of approved programs, and with the assistance of educational authorities.

6. Textbook selection under political influence: the case of Yaeyama

The current textbook selection system has a problem in that it does not respect the professional responsibility of teachers. It has also a problem in that it does not remove political influence from selection procedures. The case of Yaeyama selection area in Okinawa in 2011 typically showed the latter problem.

Yaeyama selection area selected a textbook edited by the history revisionist group under the influence of the conservative Mayor of Ishigaki City, whose School Board is a member of Yaeyama selection area. Taketomi School Board, a member of Yaeyama selection area, decided to use other textbook, turning down the selected textbook. The main reason is that a textbook edited by the history revisionist group refers few to what children in Okinawa should know.

A textbook on civics edited by the history revisionist group, who believe that, during World War 2, Imperial Japan fought for the liberation of Asian countries, has only a few passages on issues surrounding American military bases in Okinawa. This textbook also emphasizes the deterrent

power of the Self Defense Force of Japan without referring to the role of Article 9 of the Constitution of Japan in maintaining peace, which prohibits the government from carrying out war and maintaining military forces.³⁶

The Law mentioned above stipulates that the central government shall owe the cost of textbooks selected by a selection area and deliver them to students through school boards. In this case, Taketomi School Board, with donations from people, paid the cost of textbooks of its own choice, and delivered them to students. The Education Ministry, however, insisted that the measures taken by Taketomi School Board were illegal and it ordered the Okinawa Prefectural School Board to guide Taketomi School Board to withdraw these measures.

We point out here the central government's inconsistent attitude towards the decisions of the Cabinet: in case of textbook authorization, the government observed the decision, but, in case of textbook selection, it neglected the decision. From 1997 to 2000, the Cabinet decided and publicize its plan to decentralize textbook selection procedures: the Law shall be revised so as to allow every school to select textbooks. This plan has been put behind for long time.

7. Conclusions

We firmly believe that the current textbook authorization and selection system is the cause of the concerns the Committee expressed in Paragraph 74 of the last Concluding Observations. The textbook authorization and selection system allows the ruling parties and the government to exercise their political influence on textbooks. Our challenge is to fundamentally reorganize the system by making it resistant to political influence and endowing teachers with professional responsibility in selecting textbooks.

We suggest the Committee to recommend the government the followings as the measures to be taken immediately to:

³⁶ Article 9 of the Constitution of Japan reads as follows

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

- (a) Reorganize the current textbook authorization system and set up new council which is truly independent of the government and whose authority is limited to identify obvious errors or significant imbalances in draft textbooks and to give suggestions.
- (b) Reorganize the current textbook selection procedures: it is essential that teachers are endowed with professional responsibility to select textbook by themselves.

Chapter 31. The Autonomous Development of Conscience of the Child

1. Introduction

Regarding the implementation of Article 14 of the Convention on the Rights of the Child (hereafter, the Convention), Japanese government states in the Combined Fourth and Fifth Periodic Report that: a new measure to religious education was added in the revised Basic Act on Education, which reads “general knowledge regarding religion ...shall be valued in education;” the revision reconfirmed that public schools shall refrain from religious education (para. 56, 2nd report -para. 145); and that religious behavior such as personal worship and opportunities to participate in religious rites are guaranteed in correctional facilities (para. 57, 3rd report - para. 227). In the previous reports, it mentioned besides the provisions of the Basic Education Act, Article 19 (Freedom of Thought and Conscience) and Article 20.1 (Freedom of Religion) of the Constitution of Japan (1st report - para. 100), and it also made reference to Japanese children studying the Constitution at elementary, junior and upper secondary schools (2nd report - para. 144).

Although the freedom of thought and conscience were referred to in the previous reports, it was the freedom of religion which has been discussed as the main issue. However, in regard to the freedom of conscience of the child, it should be reviewed whether it is guaranteed in the area other than religion. As the child is in the process of forming conscience in secular sense, they should be protected from interference by the government lest the cultivation of autonomous personality be rendered impossible.

2. The right to freedom of conscience

Article 14 of the Convention provides freedom of conscience as well as freedom of thought and that of religion. Since those three concepts in Article 14 have their own meaning respectively, thought and conscience here can be understood as connoting secularity. According to General Comment No. 22 of Human Rights Committee (HRC) which clarifies the interpretation of Article 18 of International Covenant on Civil and Political Rights (ICCPR), “Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or beliefs” (para. 2). It seems that the content of “conscience” to be protected, distinguished from religion, has not been made clear in the previous UN and UN-related documents. However, it should be

safe enough to say that conscience compares with religion in its weight as the views of the world.

Conscience is internally developed in each person through accumulation of learning of scientific facts and judgement of rights or wrongs in society, and functions as norms of self-discipline. In case of grown-ups, the right to control one's behavior based on the established secular world view of each is allowed. It is prohibited for the government to coerce a person into professing belief or to give detrimental treatments for holding specific belief. Furthermore, if one's rule based on secular world view clashes with the order of national laws, the former is given priority to the latter and the person can be exempted from the government order.

3. Restrictions on government power based on liberty of parents' religious and moral education for their children

According to General Comment No. 22 of HRC, Article 18 of ICCPR (Freedom of Thought, Conscience and Religion) doesn't require governments to be neutral in religion; that is to say, it is not prohibited to have a state religion. Nor does it prohibit to teach history of religion or ethics at public schools. In the general comment, two limitations are imposed on religious and moral education in public schools to comply with Article 18 - 4 which protects the liberty of parent's religious and moral education to their children. First, instruction of subjects such as "History of Religions" or "Ethics" in public schools should be conducted in a neutral and objective manner (para 6). Next, even if the instruction is given in a neutral and objective manner, provisions of non-discriminatory exemptions or alternative education that would accommodate the wishes of parents or guardians" should be given (para. 6).

However, it is not clear what kind of restrictions could be imposed on government based on the freedom of thoughts and conscience of the child, nor is it clear whether more rigorous restrictions could be imposed on the government than those prescribed in the General Comment No. 22 of HRC regarding the liberty of parents' religious and moral education to their children. It seems that these issues are not yet made clear by any UN offices or UN-related committees. If we take particular note of the fact that not only the child's established conscience but also its formative process to be an autonomous person should be protected, more rigorous restrictions than

those specified in General Comment No. 22 should be imposed on the government.

4. Limits of national intervention to autonomous development of child's conscience

Children are in the process of making their non-religious worldview on their own, mediating education at schools and at home and experiences in daily life. If the state is allowed to freely intervene in such process, adults with autonomous personality in the future are eradicated in childhood. The autonomous formation of conscience in childhood is an essential premise for the exercise of freedom of conscience as an adult.

Intervention by the state to the process of autonomous formation of the child's conscience could most effectively be done through public education. It could oblige teachers to transmit the information and values approved by the state to the child, and prohibit the transmission of other information and values. It is to make a teacher who is in charge of education in public schools a national postal deliverer. If we are to protect the process of autonomous formation of conscience of the child, it is necessary to respond to the question of appropriate restrictions which could be imposed on teaching of unilateral information and values by teachers.

This issue has continuously been reviewed in Japanese courts since the 1960s. In 1976, the Supreme Court gave the following response to this question:

We can understand that under the Constitution which recognizes the basic freedom of an individual and regards its independence to be respected in state affairs, national interventions that hinder the child from growing up as a free and independent personality, such as forcing an education to instill erroneous knowledge and unilateral idea into a child, is not permitted under the provisions of Article 26 and Article 13 of the Constitution.

To extend this response, the state cannot oblige teachers to transmit to the child only the unilateral view in the school curriculum, especially in history and civics. Also, in the case of moral education where academic areas on which such education should be based is not yet established, the state cannot decide unilaterally on which moral codes to be taught and oblige teachers to transmit them exclusively. And as for school events to be conducted as

extracurricular activities, forcing the child to take actions that implicate controversial issues such as oath of national allegiance is not allowed. It is not allowed to teachers as well.

5. Restrictions imposed on teachers and responsibilities of teachers

Needless to say, teachers are also not allowed to inculcate their views unilaterally to the child. However, unlike the state, teachers are responsible for educating children to meet their needs while listening to their demands in face to face relations. They are also responsible for encouraging children's autonomous conscience by transmitting truth while mediating scientific examination of it.

In teaching school subjects, not only religious history and ethics but also history and civics, the scientific authenticity of various ideas including the historical view and the social view supported by the ruling party at the time should be explained to children in a manner appropriate to the process of child development and adapted to their developmental stage. Regarding moral education which lacks the basic academic field, it is important to teach the historical context which generated the specific moral code and how it adjusted conflicting interests in a careful manner. In cases involving controversial topics without the established scientific authenticity, teachers are responsible to explain why the topic is controversial.

6. Designation of moral education as a school subject

From the perspective just discussed above, four issues emerge as unacceptable state restrictions to the autonomous development of children's conscience in Japanese public education:

- 1) Forcing teachers to inculcate specific historical and political views through textbook verification system and obligation to use textbooks (discussed in Chapter 30)
- 2) Designating moral education as a school subject and obliging teachers to inculcate specific views of the world and history of the state.
- 3) Obliging teachers to swear national allegiance at school events.
- 4) Prohibiting teachers to express their political views in class, as stated in the notice triggered by the lowering of voting age to 18, most 12th grade students falling in this category (discussed in Chapter 13).

As 1) and 4) are discussed in detail in other chapters, the discussion here is

focused on 2) and 3).

Formerly, moral education has been categorized in special activities, not as a school subject to teach. Although teachers are obliged to use certified textbooks and give grades upon evaluating performance of students in subject education, no such obligation is placed in special activities. Since moral education was not a subject, although the teaching guideline was given in *the Course of Study* issued by MEXT, there were no certified textbooks and obligation to evaluate students with grades. Teachers could teach civic virtues using materials that they deem appropriate.

The Japanese government revised Ordinance for Enforcement of the School Education Act in 2015, making moral education a "special subject". "Morality" became the primary subject placed at top of the subject list, and moral codes are now to be taught not only in "Morality" as a subject, but also in all other subjects at school. The movement to make "Morality" the first subject has started when the new Basic Act on Education was enacted in 2006.

The new Basic Act on Education prescribed about 20 moral codes as a necessary qualification for the people. These moral codes are categorized in four areas based on *the Course of Study* at that time: (1) mainly concerning themselves, (2) mainly concerning relationships with people, (3) mainly concerning life, nature, involvement with sublime beings, and (4) mainly concerning nature and human groups. The Japanese Government revised the operation criteria of the textbook certification in 2014 and demanded publishers to state clearly which part of textbooks corresponds to each virtue listed in Article 2 of the new Basic Act on Education.

The Minister of Education, after making morality a "special subject," made revision of the part on moral education in *the Course of Study* and released a commentary on it. Certification of elementary school moral education textbooks is already finished as of 2017, and that of the lower secondary schools is under way. From 2018 in elementary schools and from 2019 in lower secondary schools, teachers will be required to teach morals using the certified moral textbooks and evaluate children.

The greatest problem of having made morality a "special subject" is that it is almost impossible for teachers to give scientific analysis to the moral codes to teach since the academic field underlying "morality" remain unestablished. MEXT has not yet presented a scientific demonstration for categorizing human virtues into four areas as shown above. Furthermore,

subjects of moral science are not offered in Japanese universities. Although Japan Moral Education Society exists, no such association for scientific study of morality exists. Also, "Ethics" is not at present a compulsory subject for elementary and lower secondary school teaching licenses.

In dealing with comfort women in history classes, it is possible to give lessons based on historical research and verify with students the government's insistence that the Japanese army had not engaged in recruiting comfort women and establishing comfort stations. However, it is impossible for most teachers to analyze scientifically the virtue of "living noble," explained as the foundation of all the virtues in *the Course of Study*, and the virtue of feeling "shame" on violating moral codes, which is indispensable for "living noble." To analyze the moral code of "shame," one has to be acquainted with the psychological concept of "Sin and Shame." Few teachers, if any, are familiar with this field.

7. The ceremony for swearing allegiance to the state

There are many school events as extracurricular activities in Japan. Besides ceremonies at occasions of entrance and graduation, cultural festivals and athletic meetings are held in many schools. The history of school events extends back to pre-WWII years. For example, an entrance ceremony and a graduation ceremony were held to confer certificates to enrollees and graduates, showing the authority of Empire of Japan. But in the education reform after the war, school events has become opportunities for children's autonomous activities, providing occasions to use the knowledge learned in each subject comprehensively and actively.

State control on school activities, originally meant for children's autonomous activities, is exercised through obliging schools to incorporate national flag and national anthem in school activities as specified by MEXT in *the Course of Study*. This state control started with the revision of *the Course of Study* in 1989. After National Flag and National Anthem Law,—designating "Hinomaru"(Red Sun in the middle of white flag) as national flag and "Kimigayo"(Reign of the Emperor) as national anthem, — was enacted in 1999, school ceremonies where participants are to stand up for "Hinomaru," the symbol of national unity, and sing "Kimigayo," which praises the emperor as a symbol of the unity of the people, have come to be conducted as the ceremony to swear allegiance in many schools in Japan including national

universities.

At the beginning of the 21st century, the Board of Education of the Tokyo Metropolitan Government issued an order to public upper secondary school principals to incorporate the allegiance ceremony into school ceremonies, and ordered them to issue a “work order” to teachers which demands them to participate in those ceremonies, standing up for the national flag and singing the national anthem. This was because few public upper secondary schools in Tokyo has had incorporated such ceremonies at that time. More than 400 teachers stayed still on chairs and kept silent when asked to stand up and sing. The Board of Education punished them for disobedience to the order. Since then, teachers who didn’t stand up at ceremonies has been continuously punished with sanctions getting heavier every year. The teachers initiated a law suit to challenge the constitutionality of those orders and punishment, contending that they are impermissible constraints on their freedom of conscience and their freedom to teach on their professional discretion.

The Supreme Court judged the case three times on the legality and constitutionality of orders and punishments by the Tokyo board of education. The Court ruled that the orders are constitutional because:

- the ceremonies teachers were ordered to participate demand only “some ritual conducts containing expression of respect to the State,” thus only indirectly constrains their freedom of conscience,
- the orders were reasonable measures to realize the educational object to cultivate in children the attitude to respect the national flag and national anthem (if the Supreme Court judged singing “Kimigayo” facing the “Hinomaru” as nothing other than the ceremony for swearing allegiance to the State, it is highly probable that the Court judged the orders unconstitutional as the direct constraint on the teachers’ freedom of conscience).

However, the Supreme Court decided that adding heavier punishment yearly to the teachers who disobeyed the order is unconstitutional since it fails to consider that their disobedience, not singing “Kimigayo” facing “Hinomaru,” derives from their conscience.

It may be judged that constraints on children’s freedom of conscience is not involved in these cases, because swearing of allegiance was not forced on them. However, in the perspective of protecting children’s autonomous

development of their conscience from the intervention by government, as discussed above, the order to the teachers are judged as impermissible restraints on children. This is because, although swearing allegiance to the State using the national flag and the national anthem constitutes controversial issues in two senses, teachers are not encouraged to teach students its controversial nature, and are prohibited to convey the problem by their own acts such as disobeying the order concerning the ceremony.

Appropriateness of swearing allegiance cannot be judged by scientific analysis, unlike the evaluation of the present State which can be answered either in positive or in negative terms. In Japan, we have controversial issues concerning national flag and national anthem such as:

- whether we should use the “Hinomaru” flag, which was a symbol of the Empire of Japan, as the present symbol of Japan,
- whether we should sing “Kimigayo”, which was sung to praise Emperor under the Constitution of the Empire of Japan, as a national anthem under the Constitution of Japan which prescribes the sovereignty of people.

To sing “Kimigayo” facing the “Hinomaru” can be an act to demonstrate positive evaluation toward the present State and its government, and it also implies the approval of “Hinomaru” as national flag and “Kimigayo” as national anthem.

Those teachers who disobeyed the order didn't stand up to sing the anthem because it would run counter to their conscience. In so doing, they showed to their students not only that ceremony for swearing the allegiance was one of the controversial issues, but also that the conscience worked as the basis for governing one's own actions. They sat still quietly at the ceremony, knowing that not standing up in front of their students had the positive meaning for the autonomous development of their conscience.

If the Japanese government takes the autonomous development of children's conscience seriously, it should approve the exemptions of those teachers from the swearing allegiance ceremony, as requested by them based on their conscience, instead of giving administrative punishments.

8. Conclusions

Therefore, we suggest the CRC to:

- (a) Demand Japanese government to present;

- the scientific basis of four areas of moral education prescribed by the Minister of Education,
 - measures taken by the government to enable teachers analyze scientifically the moral codes which are deemed necessary for Japanese citizens,
 - the opinion about forcing teachers to sing “Kimigayo” facing “Hinomaru”, not giving exemption for those unable to do so because of their conscience, and the effects of the above on the autonomous development of children’s conscience.
- (b) Remind Japanese government that Article 14 of the Convention also protects the autonomous development of children’s non-religious conscience;
- (c) Recommend Japanese government to give comprehensive review on the following issues in the light of Article 14 of the Convention;
- Article 2 of the Basic Education Act,
 - establishing moral education as a “special subject,”
 - forcing teachers to sing “Kimigayo” facing “Hinomaru,”
 - textbook certification system,
 - ”notice” on political activities of 12 th grade students, triggered by the lowering of the voting age to 18.

Chapter 32. Making Upper Secondary and Higher Education Free

1. Retreat from the program on free upper secondary education

After Japanese government submitted its third periodic report to the U.N. in 2008, the political power shifted from Liberal Democratic Party (LDP) to Democratic Party (DP). Under the DP rule, the Diet adopted the new law waiving upper-secondary school fees in 2009 and enacted the new law in 2010 (The U.N. Committee on the Rights of the Child welcomed this law in Paragraph 19 of the last concluding observations). The government also took administrative measures to expand the tuition fees exemption for university students. Judging that these legislative and administrative measures cured the situations incompatible with Paragraph 2 (b) and (c) of Article 13 of the Social Rights Covenant, the government withdrew the reservations added to this paragraph in September, 2012.

In December, 2012, LDP took over the political power from DP. The LDP government abandons the DP government's policy to gradually make upper-secondary and higher education free. In 2013, the Diet revised the law waiving upper-secondary school fees and changed the titles to "Act on Financial Aids for Upper Secondary School Attendance" (enacted in 2014). As the new title indicates, the law abandons the waiver of public upper secondary school fees and introduced the income-tested financial aids. The LDP government also decided not to expand the tuition fees exemptions for university students.

In the informal meeting with citizens and NGOs in February, 2016, the officer from the Education Ministry said "The revised law would fill the gaps in educational opportunities more effectively with limited budgets." The officer from the Foreign Ministry said "The government maintains its policy to make efforts to gradually making upper-secondary and higher education free." However, the measures taken after December, 2012 are nothing but the retreat, which the Convention is understood to prohibit.

The fourth and fifth periodic report neither gives the information on this retreat nor explain how this retreat is compatible with the Convention or the Committee's recommendation to "protect priority budget lines for children against changes in levels of resources"(Paragraph 20, (c) of the last concluding observations).

This chapter shows that the income-tested financial aids at upper-

secondary education and the scholarships at higher education are insufficient to make the upper-secondary education “available and accessible to every child” and higher education “accessible to all” (Article 28 of the Convention). This chapter concludes that, though the Convention affords the state parties with the broad discretion in choosing measures for realizing secondary and higher education available or accessible for all, considering the insufficiency of the measures taken after 2012, the discretion of Japanese government is substantially reduced to zero where she is obliged to make upper-secondary and higher education free.

2. Income-tested financial aids for upper secondary students

After the Diet adopted the law waiving tuition fees for upper-secondary school in 2009, the government started “the program to make tuition fees free at public upper secondary schools and provide financial aids to students attending private upper secondary schools” in 2010. The government provides public upper secondary schools with amount of cash equal to the total amount of tuition fees they will get from students with the premise that tuition fees per student is \$1,188 a year. The government also provide \$2,000 a year to private upper secondary school students from families whose annual household income is \$25,000 and less, \$1,500 to those from families whose annual household income is more than \$25,000 but less than 35,000, \$1,000 to those from families whose annual income is \$35,000 and more.

The statistics from the Education Ministry’s “Survey on Private Expenditure for Educating Children” show that, even after this program started, parents of upper secondary school students still owed heavy financial burden for education. Annual private expenditures in 2010 for educating a public upper secondary school students were \$3,939 (\$2,380 for in-school education and \$1,560 for out-of-school education) and those for a private school student were \$9,230 (\$6,850 for in-school education and \$2,380 for out-of-school education). Nevertheless, the program was epoch-making in two points. First, it established the universal service in kind for the first time in upper-secondary education. Second, it was the first government policy to assure “strategic budget lines” to make upper-secondary education free.

In 2014, this epoch-making program was abolished and the new program titled “Program on Financial Aids to Upper Secondary School

Attendance” was introduced. Under this new program were provided two different aids. The first is the income-limited aid to tuition fees. This aid provides upper secondary school students from families whose annual household income is \$25,000 and less with \$2,970, those from families whose annual household income is more than \$25,000 but less than \$35,000 with \$2,276, those from families whose annual household income is \$35,000 and more but less than \$59,000 with \$1,782, and those from families whose annual household income is \$59,000 and more but less than \$91,000 with \$1,188. The second aid is a livelihood aid. A public upper secondary school student from a family receiving public assistance receives \$323 a year and a private upper secondary school student \$526. A public upper secondary school student from a family exempted from inhabitant tax receives \$758 a year and a private upper secondary school student \$840.

The statistics from the Education Ministry’s survey show that, after this new program started, the private expenditures increased both for public and private upper secondary school students, and especially for the latter. In 2014, the private expenditures for educating a public upper secondary school students were \$4,100 a year (\$2,430 for in-school education and \$1,670 for out-of-school education) (Compared with the expenditures in 2010, they increased by 4%), and those for a private school student were \$9,950 (\$7,400 for in-school education and \$2,550 for out-of-school education) (Compared with the expenditures in 2010, they increased by 8%).

There lie three problems in this new program.

First, as have already mentioned, the shift from the former program that combined the universal services in cash and the selective to the new program that has only the selective series is the retreat in measures to realize the social rights which the Convention is understood to prohibit.

Second, the government sees the universal services in cash and the selective ones as conflicting. The government used the budget left over after abandoning the universal services in cash for the selective services on the reason of limited budgets. However, if the government had protected “priority budget lines for children against changes in levels of resources,” it would not have bartered the universal services in cash for the such selective services as are recommended in Paragraph 51 of the last Concluding Observations (The Committee recommend to “provide appropriate financial, social and psychological support” to “disadvantaged children and families.”).

Third, multiplied and complicated selective aids hinder the poor families from applications, and naturally bring about families qualified for aids but without them. There exist such selective financial aids as education allowance for families receiving public assistance services, aids to school attendance for low income families, income-tested aid to upper secondary school students, education benefit for widow family and family with many children, and aids to out-of-school education for poor families. To carry out these multiples and complicated selective financial aids effectively, the huge management system shall be established, but, it is not. The more serious the difficulties children face, for example being neglected or abused, less probable it is for parents to submit applications. Children with the stronger need for the selective aids tend to have less chances to receive them.

When the state parties to the Convention take the selective financial aids as the measures to make the upper-secondary and higher education available for all, they are obliged to take every measures to assure that no qualified child is left without such aids. If they fail to do so, it should be understood that the broad discretion afforded to the state parties in choosing measures is to be reduced to zero, where they are obliged to make those education free. Japan is one of such state parties.

3. Student loans and scholarship for university students

Para.121 of the fourth and fifth periodic report of Japan gives the information on the scholarship, which only reads “see, para. 391 of the third periodic report.”

According to “the Survey on Livelihood of Higher Education Students in 2014” by Japan Student Services Organization (JASSO), on average, students of national universities annually paid \$6,477 for tuition fees, received \$3,459 as scholarship, and got \$2,760 paid by part-time jobs. Those of private universities paid \$13,616, receive \$4,152 and got \$3,328 paid.

In 2017, JASSO provides loans without interests to 51.9 million university students, which amount \$3.5 billion, and loans with interests to 81.5 million students, which amount \$7.3 billion. As these statistics show, scholarships of JASSO gives more weight on loans with interests. Facing the serious voices from the civil society that scholarships in its true meaning (providing students with money they shall not refund) are needed, JASSO decided to begin in 2018 to provide scholarships to 20,000 first graders and

provide them to 80,000 students from first to fourth graders in four years, which will amount \$ 880 million in 2021. Students are qualified to receive these scholarships if their families are exempted from inhabitant tax and they showed excellent scholastic and other abilities in upper secondary schools. These students will receive \$2,400 at least and \$4,800 at most per year.

JASSO's student loans and scholarships have at least three problems. First, the new scholarship program is too limited both in the number of students and in the amount of money. Combined with the qualifications, the new scholarships program would not make higher education accessible for all. Furthermore, the new scholarship program is designed to be provided to half of the students from families exempted from inhabitant tax. This means that the program will not fill all the need of students from this type of families.

Second, though student loans without interests begin to be provided to all the applicants from families exempted from inhabitant tax in 2017, students from families paying inhabitant tax cannot receive the loans without interest unless they showed excellent scholastic and other abilities in upper secondary schools. JASS still adopts the old idea of higher education "on the base of merit." Considering there came up the new idea of higher education "on the bases of capacity," namely on the bases of potential possibilities, JASS should abandon this old idea.

Third, JASSO, through its tough debt collection programs, pushes debtors to the corner. Due to the worsened labor conditions nevertheless of the strong economy, so many persons with university degree become low-paid workers and have serious trouble repaying their loans. In 2010, JASSO began to report to the consumer data industries the names of graduates in arrears in repayment, and get orders of enforcement by courts to collect debt from heavy debtors. In 2017, JASSO publicized the league table of universities on the ratio of graduates in arrears in repayment to the total number of graduates owing debts to JASSO. JASSO foments the idea of self-responsibility by replacing the problems of its program and labor markets with the problem of debtors.

These problems in JASSO student loans and scholarship program give negative impacts on students' daily lives. In 2012, 20.4% of university dropouts answered that they dropped out due to the economic reason. The economic reason was the most common reason for dropouts (the total number of university dropouts was 79,311 and the rate was 2.65%). The rate increased

by 6.4% from 14.0% in 2007. This shows JASSO's program does not respond to the needs of poor students.

The "Campus Life Data in 2016," the survey on livelihood of university students by National Federation of University Co-operative Associations shows that university students engage in part-time jobs for long hours to earn money for their living and tuition fees. 71.9% of university students engage in part-time jobs, 20.7% engage in night part-time jobs, 13.9% works for 20 hours or more a week. 19.2% answered that they work for their living and 17.7% answered for savings. 73.4% of those who receive student loans answered that they are anxious about repayments. 75.3% of those who receive student loans engage in part-time jobs, work for 54 hours and earn \$322 per month. Those data for students without loans are 71.0%, 48.8 hours and \$293. Students with loans work and earn more than those without loans. According to the Survey by JASSO mentioned above, the rate of university students who answered that financial assistance from their parents are not sufficient to continue their studies in universities was 35.0% in undergraduate, 43.6% in master course, and 53.9% in doctor course. These data shows that the need to earn money for their living and tuition fees deprive students of time and capacity to concentrate on their studies.

4. Conclusions

In 2010, Japanese government started the program for making upper secondary and higher education gradually free. Though the program needed to be developed, the government retreated from it in 2014. The government shifted from the universal services in cash for upper secondary school students to the selective on the ground that the financial assistance to poor children should be prioritized. Nevertheless, due to the limited budget allocation, the selective services in cash cover only a small part of students needing financial assistance and provide only a small amount of money. The government states that she still maintains "the policy to make efforts for gradual realization of free education," and "in a medium- and long-term perspective, the recent program heads toward the free education."

We suggest the U.N. Committee on the Rights of the Child to express concerns that the excessive dependence on the private educational expenditure imposes undue burdens on families, and the limited budgets for children causes the retreat from the program for free education.

We also suggest the Committee to recommend the government to:

- (a) Be aware that the retreat in making upper secondary school free is incompatible with the Convention and immediately cure this retreat.
- (b) Take legal and administrative measures to assure the sufficient budget lines which enable the government to make the public education free and the selective financial assistance available for all who need them.
- (c) Restart the free upper secondary school program and make free not only tuition fees but also such matters as entrance fees, textbooks and uniforms in accordance with General Comments No. 11 of the U.N. Committee on Economic, Social and Cultural Rights and Paragraph 29 of Concluding Observations of CESCR on the third periodic report of Japan (E/C.12/JPN/CO/3, 2013).
- (d) Replace the student loans with scholarship and expand scholarships both in number and payments, and abolish the qualifications for scholarships with the aim to provide them to all who needs them.
- (e) Adopt the medium- and long-term plan of actions for making university accessible for all including the program on free tuition fees.

Chapter 33. School Non-Attendance

1. Background

Since 1991, in Japan, School Non-Attendance is defined as ‘absenteeism from school’ of children in elementary schools (1st-6th grade) and junior high schools (7th-9th grade) for 30 or more days in a school year, consecutively or intermittently, with the exception of cases of illness or of economic difficulties.

From 1966 through 1990, absence from school of more than 50 days during a school year was classified as ‘reluctance to attend school’ and the term ‘school non-attendance’ was applied to these children. The reluctance was regarded as being caused by the personal characteristics of children and issues with their family life such as poor discipline and/or the lack of good family relations.

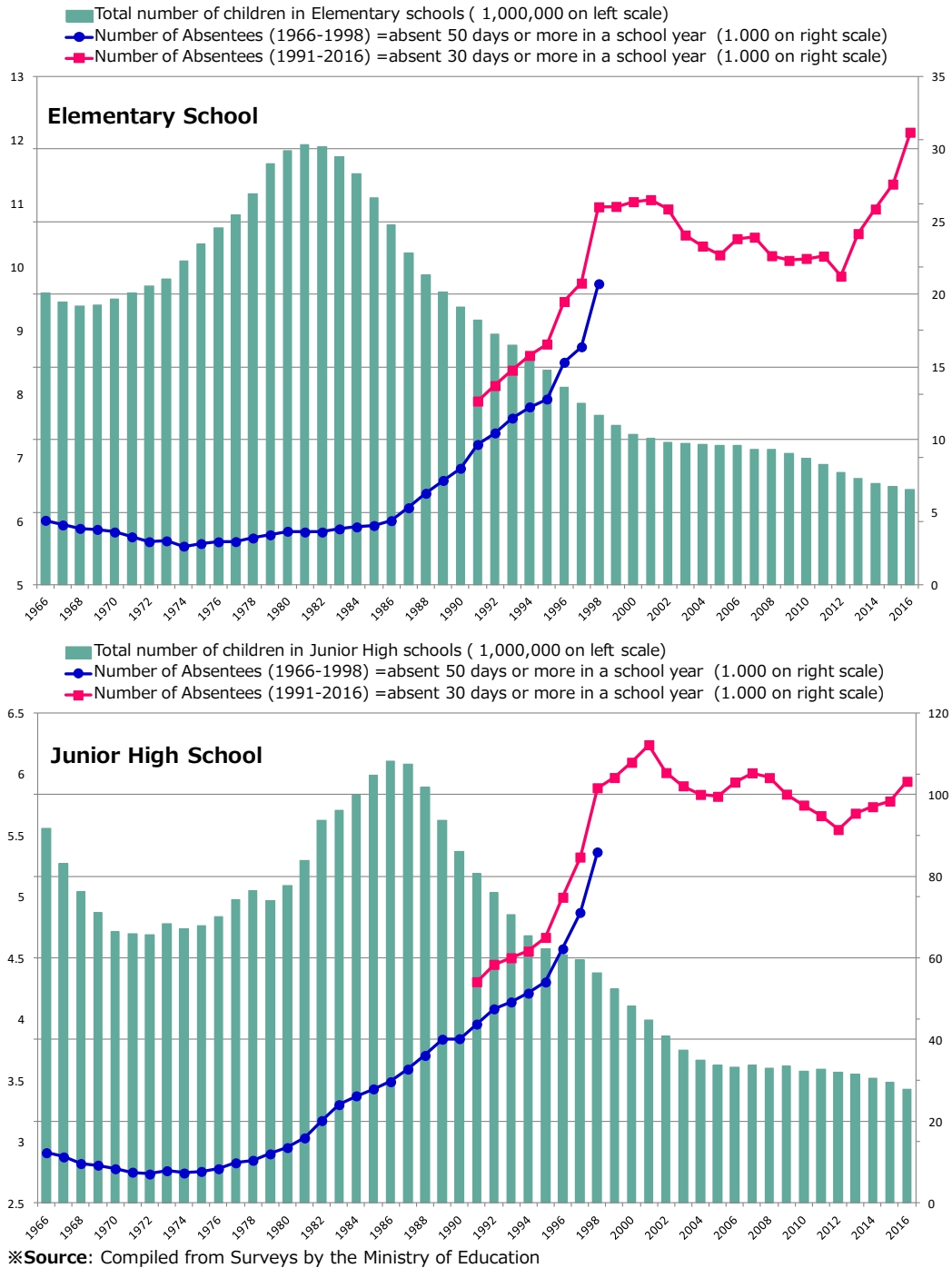
The Ministry of Education has been accumulating statistics on school non-attendance since 1966, and has taken measures, mainly to give educational cares to children and their parents. As shown in Figure 32-1, in 1966 school non-attendance children numbered 4,430 in elementary school and 12,286 in junior high. In spite of measures taken, the number in 2016 reached an all-time high figure of 31,151 in elementary school and 103,247 in junior high. As the increase continued through 1980’s, the Ministry in 1989 set up a Survey and Study Group for measures for school non-adjustment, consisted of education specialists. Based on the report of the Group, the Ministry in 1992 launched new guidelines, stating that “school non-attendance can occur in any child, and school life disorders such as bullying, poor study performance and distrust in teachers can trigger school non-attendance.” School and other organizations concerned were requested to cope with the problem more extensively using these new perspectives.

The Report led the Ministry to take measures for early detection of school non-attendance and early return to school. To assist in making school a place where children can be mentally stable or find peace of mind, school counselors were introduced. Despite these measures, the number of school non-attendance has increased so rapidly, despite the decrease in the population of school children. We believe the underlying reasons are due to an increase in bullying, the critical attitudes of teachers which, often lead to just punishment, and tendencies towards bullying by senior members of club

activities towards their junior counterparts.

Children desperately needed to be away from school, to protect themselves from these harmful issues. But these harmful issues were not surveyed nor understood and yet children were not permitted to take absence from school. The rapid increase in school non-attendance has been brought about by the hasty push of a 'back to the school' policy without looking into the causes of refusals and how to solve the underlying issues. Children have been put into a stressful situation, being unable to stay away from school, and yet the educational administration has made the situation worse by focusing only on cutting down the statistical number of refusers.

Figure 33-1 Transition of Total Number of Children and Number of Absentees 1966-2016



2. Recent surveys

The Ministry of Education every year conducts a Basic School Survey which includes studies on disorderly behaviors of children. It also conducted in 2014 a special survey on former school-refusers. In this survey, those who had been listed as the 9th grade refusers in 2009(5 years before this special

survey) were asked “Looking back, what had led you to school non-attendance?” Let us compare the result with the report in the School Survey of 2014. In the School Survey, schools reported what teachers compiled and assessed from cases at their respective school. Results were as follows. Studying the reports reveals a striking disparity in the understanding of the problem, between children and teachers.

	Former Refusers	School Reports
■ Troubles with other students	52.9%	16.5%
■ Difficulty in studying	31.2%	9.3%
■ Difficulties with teachers	26.2%	1.6%
■ Problems in club activities	22.8%	2.2%
■ Transition (entering/moving)	17.0%	2.9%
■ School rules and regulations	10.0%	1.8%

‘Difficulties with teachers’ is referred to by 26.2% of the former refusers but the same counts for only 1.6% in the School Report. We must ask why is there such a disparity? In the Basic School Survey the issues ‘emotional confusion’ such as school anxiety (28.1%) and ‘apathy’ (26.7%) are mentioned as major causes of refusal.

In many cases children are forced to attend school, under the pressure from parents and teachers, telling themselves “I must go to school” and/or “If I don’t go, I’ll be in trouble going up to the next education.” The mental and physical fatigue that accumulates from this situation is what brings about emotional confusion and apathy, which at one stage triggers refusal to attend. We must realize where these symptoms come from.

3. School non-attendance and medical treatment

Children, distressed by the rigid attitudes and punishment from teachers, or from the oppressive atmosphere in club activities, begin to feel they don’t belong at school. Mental and physical exhaustion leads them to reluctantly attend and to the occasional absence from school. Schools, however, then appeal to parents “School and parents, hand in hand, must bring children back to school,” and occasionally homeroom teachers, classmates or school social workers visit their homes, or in some cases local welfare workers or social workers come to their doors in the morning to walk

them to school.

Struggling children often complain about physical disorders such as stomach pains, headaches, fever and see a pediatrician or go to hospital. However in more and more cases, they are told they are not physically ill, and are often advised by homeroom teacher, counsellor or school nurse to see a psychiatrist or psychosomatic doctor.

As a result, an increasing number of elementary and junior high school children are being prescribed sleeping pills, anti-anxiety drugs, anti-depressants, antipsychotic drugs, or similar medicines (cf. ¶26). The return-to-school policy of the Ministry, emphasizing attendance, steers parties concerned to put continued pressure on children to go to school rather than coping with the true causes of the problem. This in turn has brought about an increased number of such prescriptions and has produced children suffering from the side-effects of medication. Also, isolated and defiant children are sometimes misdiagnosed as having a developmental disability for their aggressive behavior towards their parents.

Children's physical disorders such as stomach pain and headaches disappear when they stop attending school and spend their own time home. But schools and parents insist they must attend. Everywhere in the country, children are asking their parents "I didn't want to be born, if I knew I'd have to go to school" "I want to quit school!" and "What is the school there for?" They are seeking answers to the question "For whom are the schools there for?" and desperately trying to find a place where they can relax, rest and learn.

4. Juvenile suicide: Children who cannot take absence from school.

Some children, though deeply wounded by bullying or critical teachers, are obsessed with the notion that they must not take absence from compulsory education schools, and choose to kill themselves when things go beyond their mental and physical limits. It should be noted that juvenile suicides occur at high levels right after long vacations, as shown in Figure 32-2 which compiled day-by-day statistics over the last 40 years. High numbers occurred after New Year Holidays, spring vacation, so-called Golden Week in May and summer vacation.

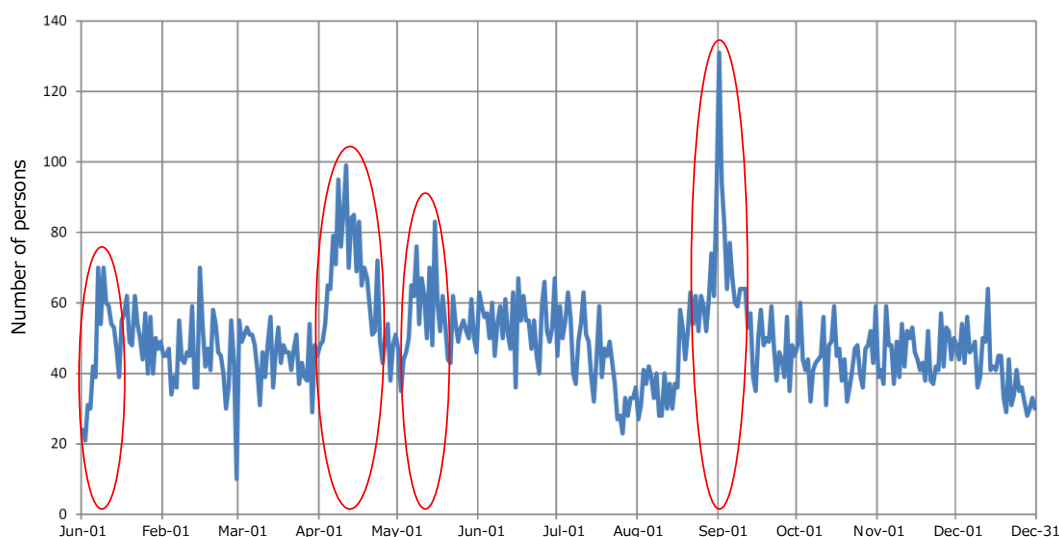
It should be noted that juvenile suicides occur at high levels right after long vacations, as shown in Figure.32-2 which compiled day-by-day statistics.

Adversely, smaller numbers are reported during vacations. We must also notice that there are increased number of suicide at the mid-term or end-of term exam.

The total number of suicides a year in Japan, which once exceeded 30,000 is on the decline. But that of junior high children has been on the rise since 2011. Some of the suicide notes included notes “I wanted to stay away from school” and “If I was not bullied, I wanted to live!” School non-attendance is an emergency exit for life of children.

Figure 33-2 : Juvenile Suicides (18 years and under/day-by-day)

Notice peaks appear after long school vacations, such as the beginning of April and Sept.1.



※**Source:** White Papers on Suicides by the Cabinet Office,2015.
 Ellipse added by the author of the paper.

5. School Non-Attendance Measures Act

With the Ministry’s Early-Return-to-School measures at a stalemate, NGO’s and study groups asked Parliament members group, sympathetic to Free Schools to take a legislative action. A move was made to enact ‘Free School Law’, mainly targeted at acquiring subsidies to support free schools which accommodate school non-attendance children. But the contents of the bill proposed to the Parliament was criticized by non-attendance children, parents and the public, and after repeated modifications “The Law on Ensuring Regular-Equivalent Educational Opportunities” which goes by the name of School Non-Attendance Measures Act was enacted in December, 2016.

The Law divided children into two categories, non-attendance student and regular pupil/student. School non-attendance is regarded as a personal problem. The Law opens a way to set up schools especially for non-attendance students, and allowed victimized children to be separated from regular classrooms.

Furthermore, under the pretexts of giving continuing long-term support to non-attendance students, the Law obliges the central and local governments to take measure necessary to ensure that teachers, experts on psychology and other related persons share the information on non-attendance students and assistance afforded to them. Personal information and family situations are recorded, shared by all members of the school and is also filed at the Education Support Center. Given that school non-attendance may reoccur, personal information is held until 5 years after graduation from upper secondary school. These provisions are an outright infringement of the privacy and rights of a child.

The notice to schools sent from the Ministry just before the law was passed in the Diet, said that school principals must decide whether a child should be moved up to the next grade or be eligible for graduation. We are worried the “vested right” of next grade and graduation recognized hereto for non-attendance children may be at stake.

Children have a right to learn at school but are not obligated by law to attend. What is the best interests of non-attendance children who are deprived of their right to learn? We should ask them directly. Shortly after the Law was passed, parents of a non-attendance child in Okinawa received a letter from the school warning the child would not be allowed to graduate if their absence from school continued.

6. Conclusions

Children need schools where they can learn and grow in safety and with peace of mind. They need to be liberated from oppressed school life of exam competition and the rigid control by school rules. The Ministry’s policies, however, are focused on children’s early return to school and to lowering the number of school non-attendance, and children cannot take absence from school to avoid mental and physical damages or violation of their rights. The most urgent priority is to strive for better education environments which make it possible for children to stay away from school without hesitation and

also to return to school with no preconditions.

School Non-Attendance Measures Act which introduced schools especially for non-attendance students and the support sheet must be comprehensively revised. Some children are lost, having been somehow induced to believe they must go to school. All children should be given the knowledge of the United Nations Convention on the Rights of the Child, Article 31 of the right to rest and leisure in particular, in order to enable them to decide when to rest away from school when they feel they are in danger. We must also strive to eradicate misunderstandings and prejudices of society on school non-attendance and correct unjustified treatments of non-attendance students in higher education and employment.

We suggest the Committee to recommend the government to comprehensively review the law on school non-attendance.

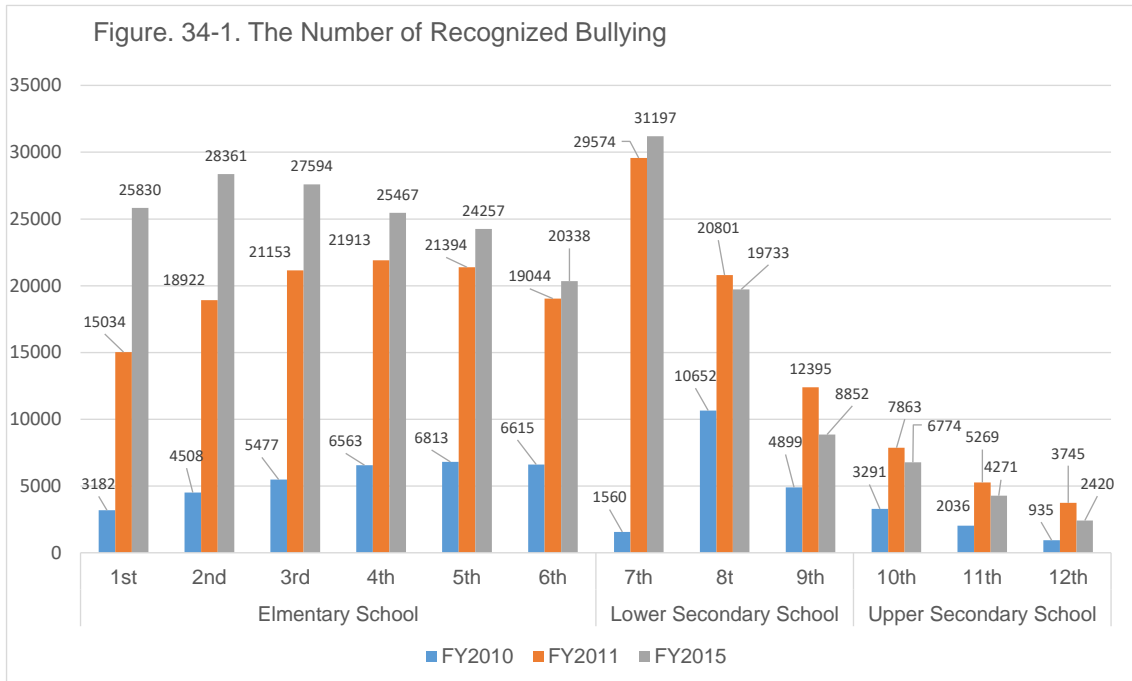
Chapter 34. Bullying

1. Bullying is becoming more serious

On October 11, 2011, an eighth grade boy student in Otsu City committed suicide due to bullying. In this case, teachers and a principal of his lower secondary school took no measure to stop bullying after they recognized the boy was bullied, and, after his suicide, the school reported to the city board of education that there was no incident of bullying in this school. This case was widely covered by the media with the headings of “Schools hid the truth.” This case triggered criticism not only against this school but also against schools in general: they tend to neglect the voices of bullied students to ask help and hide bullying.

According to the survey by the Education Ministry, the total number of cases of bullying in elementary, lower secondary and upper secondary school was 7,378, decreasing from 8,335 in 2009 by 957. But, the number in 2011 jumped up to around 198,000, increasing by around 128,000. This was because, being criticized by newspapers and the public, schools began to report the cases of bullying to school boards candidly. It was estimated that the decrease in the number of bullying until 2010 was caused by the Ministry’s policy to see the bullying as an evidence of insufficient ability of teachers and schools to prevent it: under this policy, teachers and principals were afraid that, if they reported the cases of bullying candidly, they would be negatively evaluated.

Since 2011, the number of the cases of bullying reported by the schools has been increasing. The number of cases of more serious bullying has been also increasing. After the government enacted the Act on Promotion of Countermeasures against Bullying in 2013, the number of cases identified as “a case suspected as causing serious harm on a student body, mind and properties” under Article 28 of the Act was 75 in 2013, 92 in 2014 and 130 in 2015. According to the survey by the Ministry, the number of students suspected to commit suicide due to bullying was 9 in 2013, 5 in 2014 and 9 in 2015. (See Figure 34-1)



2. Problems in the Act on Promotion of Countermeasures against Bullying of 2013

The cause of bullying is the stress that the highly competitive educational system places on students as the U.N. Committee on the Rights of the Child has confirmed three times. The government also recognized the real cause of bullying (see Chapter 2). Nevertheless, the government has taken no measures to reform the highly competitive educational system. The government even has carried out the policy to strengthen the competitive nature of the system (see Chapter 29).

Furthermore, the government has taken the punitive approach to the issue of bullying. In 2007, the Education Ministry issued the notice, which proposed to impose strict discipline on students engaging in bullying or school violence on the ground that strict discipline would cultivate the sense of respect for social norms among students (see Chapters 15 and 16).

In February 2013, the Council for the Implementation of Education Rebuilding issued its first report, titled “Coping the problems of bullying.” This report proposed to establish “a subject on morality” in school curriculum and to enact a new law, which clarifies roles of school, family and community in case of bullying and promotes strict discipline on bullies. Upon this proposal, the Act on Promotion of Countermeasures against Bullying was

drafted (see Chapter 3).

The Act prescribes the roles and responsibilities of schools and families to prevent and respond to bullying. The Act obliges the central and local governments and schools to adopt preventive programs. The Act obliges a school and a school board to establish a special organ responsible for elaborating preventive measures. Furthermore, the Act obliges a school and a school board to investigate all the cases in which bullying is suspected to “cause serious harm on a student body, mind and properties.” (Article 28) These are the positive aspects of the Act.

The Act, however, is negative in that, identifying the cause of bullying as the lack of morality in bullies, it takes a punitive approach to bullies. Article 4 of the Act prohibits students from bullying. Article 15 requires schools to strengthen moral education and volunteer activities by students as preventive measures. Articles 9 and 23 require a school to provide protective measures to those who are bullied and to give strict direction and guidance to bullies. The Act does not see that bullies are also the victims of the stress the highly competitive educational system place and is silent about measures to solve difficulties bullies face. As the Research Center for Student and Career Guidance, part of the National Institute for Educational Policy Research of the Ministry, stated “the strongest factors inducing children to engage with bullying are ... ‘pro-competition values ...,’” (see Chapter 3), the countermeasures against bullying should be directed not at the lack of morality in bullies, but at the highly competitive nature of the educational system, which causes this “pro-competition values.” The punitive approach taken by the Act is proven to be ineffective: the number of cases of suicide due to bullying or that of serious bullying has not been decreased since its enactment. In lieu of punishing bullies, measures to cure mind of bullies hurt under the competitive educational system should be taken immediately.

3. Factors that hinder teachers from responding to voices from bullied students

Whenever cases of bullying is covered widely by the media, the Education Minister and other politicians encourage children “to raise your voice and ask help or send an SOS call to fathers, mothers, and teachers without hesitation.” The Ministry issued several notices that required school boards to carry out questionnaire survey to students as the measure to detect

bullying as early as possible. Furthermore, the government is now planning to carry out program for youth to teach them how to “send an SOS call.”

But, a problem resides not in children who does not raise their voices, but in teachers who do not respond to the voices of bullied children or their parents.

According to a parents’ group working for the issue of child suicide, more than half of 53 reports by investigation organs of school boards on the cases of serious bullying found that teachers or principals neglected or did not appropriately responded to the voices of bullied children or their parents. In 29 cases (2 were in elementary school, 21 in lower secondary, 6 in upper secondary, and 1 unknown), bullied students or their parents asked help to teachers or principals. In 8 cases, students answered to questionnaires from schools that “they are bullied.” But, teachers who were asked for help neglected these voices or did not share the information with other teachers or principals. Thus, schools did not take measures to protect students from bullying or to stop it. In all of these cases, special organs for bullying established in schools under the Act did not function at all.

The factors which induce teachers to neglect the voices of bullied students and their parents, or hinder them from sharing the information with colleagues are as follow.

The first factor is the lack of knowledge on bullying. Bullying has been a serious issue for more than 30 years in Japan. Still, students of teachers colleges rarely receive lectures on bullying. Teachers are rarely provided with lectures on bullying in on-the-job training course. Though the Ministry has urged that on-the-job training on bullying is important, the focus of the in-school training has been put not on how to prevent and respond to bullying but on how to make students get better scores in the standardized testing.

Second, the outcome evaluation of teachers’ performances. The outcome evaluation induces teachers to engage in such educational activities as training students to get better scores in testing or to show better performance in extra-curricular sport activities because outcomes of teaching activities are shown in objective numbers. Responding to bullying consumes much time, but an outcome is not so clear. Temporary teachers, which constitute around 15% of teaching staff in elementary and lower secondary schools (see Chapter 11), do not think they owe responsibilities to respond to bullying because they are hired to teach academic curriculum.

Third, the lack of time. Due to heavy workloads, teachers lack time for responding to bullying individually and collectively. Even if meetings are held to talk about bullying, due to the lack of time, teachers only share the information but do not elaborate measures to stop it. In many schools, questionnaire investigations are conducted upon the suggestion by the Ministry. But, due to the lack of time, teachers aggregate data, but take no action to respond to bullied students. Realizing that teachers would not respond to their voices, bullied students stop answering that “they are bullied.” Then, aggregated data shows the number of bullied students decrease, and teachers believes that questionnaire work for stopping bullying or that bullying is disappearing. At last, even if teachers watch bullying, they believe it is just a practical joke. Bullies believe teachers allow them to bully, and bullied students are trapped in despair.

Forth, the lack of horizontal and bottom-up cooperation among teachers. The Ministry has strengthened the policy to hierarchize teaching staff after 2007 when the Act on School Education was revised so as to divide teaching staff into four layers: a vice-principal, a head teacher, a leading teacher and a teacher. This policy has promoted a from-top-to-down way of decision making and made it difficult for teachers to cooperate horizontally or make decisions in a from-bottom-to-up way. As more teachers become temporary workers and more professionals such as school counselors or school social workers are placed in schools, divisions of labor in school have been accelerated. This is also promoting the loss of horizontal cooperation among teachers, which is indispensable for prevention of and response to bullying.

Fifth, the negative impact of Zero Tolerance Policy (ZTP). Since 2007, the Ministry has required school board to apply ZTP to school discipline (see Chapter 16). ZTP requires schools to make rules which stipulate misbehaviors and punishments in a detailed way and to adopt those rules to misbehaving students without any exception. This deprives teachers of opportunities to consider contexts and causes of misbehaviors. Teachers gradually lose attitudes of understanding and supporting students.

4. Problems in investigation of serious bullying

As is mentioned above, the positive aspect of the Act is to oblige schools and school boards to carry out investigations when bullying is suspected to “cause serious harm on a student body, mind and properties.” Before the Act

was enacted, schools rarely conducted investigation on cases where students were suspected to commit suicide due to bullying. They rarely gave parents the information on what happened in schools. After the Act was enacted, guidelines on how to investigate and how to resport to parents were prepared and the results of investigation have been reported to parents. Parents have been provided with more detailed information than before.

Owing to the investigations on the cases of serious bullying, the relationship between bullying and suicide has become clearer. From 2013 to 2017, 52 cases were suspected as the cases of suicide by bullying. In 35 cases, investigations were finished and, in 34 cases, investigation reports were publicized. In 29 cases out of these 34 cases, investigation organs concluded that bullying caused suicide.

Still, there is much room for investigations to develop.

Some investigations were criticized as insufficient or ineffective. Going through more cases, problems in the ways to investigate are expected to be solved. Due to the fact that many investigation reports were not disclosed to the public, the results of investigations were not fully utilized for developing preventive measures. Some school boards even hid the fact that they started investigations.

Some school boards established third party investigation committees upon the request of parents. But, the results of third party committees were not sufficiently utilized. In some cases where it took a year or more to finish investigations, the results were publicized after bullies had graduated schools: the results were not utilized for guidance to bullies at all. In many cases, teachers did not utilize the results of third party investigation, because teachers felt that the cases were taken away from them and became none of their business.

5. Conclusions

We suggest the Committee to:

- (a) Request the government to provide information on why the Act on Promotion of Countermeasures against Bullying is not effective in reducing the number of bullying.
- (b) Recommend the government to take comprehensive measures to change the highly competitive nature of the educational system.

Chapter 35. Leisure Play and Cultural Activities

1. Introduction

The fourth and fifth periodic report of the Japanese government does not give either specific or clear information on the difficulties children face in enjoying their right to play, leisure and cultural activities. This chapter identifies the three problems in the government report. Then it provides two pieces of information about which the government report is silent about: first, the information on how “free time,” which is an indispensable condition for children to enjoy the rights recognized in Article 31, has been deprived from children, and, second, the information on suppressive attitude prevailing in the civil society which set limits on children’s free activities.

2. The government does not understand the meaning of Paragraph 76 of the last Concluding Observations

Paragraph 133 of the government report stated “With the participation of community residents, school facilities are utilized after school hours or on weekends for various learning activities, experiencing nature, cultural, artistic, sports and other activities, as well as socializing with community residents.” However, all the learning and other activities referred to in this paragraph are adult-led activities. They have little to do with promotion and facilitation of “children’s playtime and other self-organized activities” recommended in Paragraph 76 of the last Concluding Observations.

3. The data provided in the government report are not updated

In Paragraph 136 and 137 of the government report provided are the data on the number of “cultural facilities” and “child welfare facilities (children’s halls and children’s recreational grounds).” These data are the same in those in provided in the second and third government reports and are not updated. The first government report reported that the number of “children’s recreational grounds” was 4,189, and the second 4,143. In 2010, the number of the children’s recreational grounds decreased to 3,407. “Children’s Castle,” a popular playground for children and parents, was closed in 2015 against public outcry to keep it open.

Paragraph 135 of the government report refers to “Basic Sports Plan,” adopted in March 2012 and says that the Plan is for the comprehensive and

systematic promotion of sports activities. However, according to the Annex 2, it just set the numerical targets in the number of “comprehensive community sport clubs” and “youth sports associations.” The Plan covers only a part of the rights recognized in Article 31 of the Convention.

4. The government does not take into consideration the basic idea of General Comments No.17 (2013)

Paragraph 42 of the General Comments No.17 states “children are entitled to time that is not determined or controlled by adults, as well as time in which they are free of any demands – basically to do nothing, if they so desire.” Paragraph 22 of the first Concluding Observations said “children are exposed to developmental disorders due to the stress of a highly competitive educational system and *consequent* lack of time for leisure, physical activities and rest.” (Emphasis is added). These paragraph indicate that the most important point in realizing every right recognized Article 31 of the Convention is to free children from the high pressure impose by the government and the society and to secure “free time” for children. Nevertheless, the government report say nothing about whether their new laws and policies resulted in assuring free time for children.

5. More free time has been deprived from children

5-1. Increase in school hours

According to the information from after-school daycare workers, more and more children say “I am tired” when they arrive at daycare centers. Due to the lack in rest during school hours, children feel fatigued. Nevertheless, the Minister of Education revised the National Courses of Studies so as to make standard class hours longer in 2011. Furthermore, the Minister decided to increase them further in 2020 (See Table 33-1). As is shown below, children are losing free time for their rest, leisure, play, and cultural activities.

5-2. Increase in class hours

The following is the information provided by an elementary school teacher in Fukuoka prefecture. The information shows how longer class hours affect the daily life of students.

She said that, before 2011, the first graders of his school had two days with four hour classes (this means that the classes are finished before noon.)

and have three days with five classes (this means that students receive four classes before noon and one class after noon.). After 2011, they have only one day with four classes: they have four days with five classes. In 2020, the first graders will have five classes every day. This teacher said that, in FY 2017, in some elementary schools in her community, the first graders have a day even with six classes. It is clear that children are losing more free time during after school. In her school, fifth and sixth graders have an extra class, named “academic ability power up time.” They have seven classes a day. Some students receive “private study training” after school, students who forgot to do their homework receive “Homework Training” during recesses between classes, and students with bad posture receive “Hipbone Training.”

Table 35-1. Standard Class Hours Prescribed by the Education Minister in 2011 and 2020.

School year	Grade1	Grade2	Grade3	Grade4	Grade5	Grade6
2011	850	910	945	980	980	980
2020	850	910	980	1015	1015	1015

(Elementary school standard annual class hours. One class time is 45 minutes.)

5-3. Decrease in recess time

In her elementary school, as the class hours have increased, recess time between classes has been cut down. Recess between the first and second class was shortened from 10 to 5 minutes. To assure the time for classes, this shortened recess between the first and second class was even abolished: students receive two classes without recess.

In some elementary schools in her communities, based on the experiments whether students can “go to the restroom,” “prepare for next lesson” and “get a seat” in 3 minutes, the recess time was shortened. Based on the reason that “third graders can hold their urine for longer,” third graders and above are not allowed to go to toilet during recess. There are even a school which shortened lunch break from forty five to fifteen minutes. Some lower secondary schools carry out classes for supplementary academic achievement after school and abolished after lunch recess.

5-4. Saturday learning program expanding extracurricular classes to Saturday and undermining “five-day school week system”

The Education Ministry has carried out “Programs on Promoting Learning Activities for Children on Saturday” since 2014. By the revision of Article 61 of Enforcement Regulation of the School Education Law in 2013, the government allows schools to provide extracurricular classes on Saturday. The programs are now undermining the “five-day school week system,” which was established for all the graders from the first and twelves in 2002.

5-5. Shortened holidays

The lengths of summer break and winter break are to be decided by the local school boards. The lengths are different from boards. For example, the longest summer break is 45 days in Chiba and the shortest 27 days in Hokkaido or Nagano which are the snowiest area in Japan. Due to the Minister’s revision of the National Course of Study to make standard class hours longer, some boards decided to make school days longer. For example, Yoshida Town Board of Education in Shizuoka Prefecture stated that it will decrease summer break from 24 days (in 2017) to 16 days (in 2018), and increase the annual school days from 210 to 220 and more.

6. Suppressive attitudes spread in the society and longer working hours of parents hinders children’s play, leisure and cultural activities

Children are being deprived of their free time under the government educational policies. These are not the only cause that hinders children from enjoying leisure, play or cultural activities. As other causes, we shall point out the increasing suppressive attitudes towards children in the civil society and long working hours of their parents.

6-1. Restrained by rules

Both inside and outside of schools, there are so many rules and prohibitions. For example, children must swear “I never enter school after school hours” or “I never eat and drink on the road.” In some children's halls and after-school daycare centers, strict rules are set. Some even prohibit play with paper airplanes, hide and seek, and play with balls. Some even set limits of height to stack large blocks and prohibit use of *Go* stones to play house. There are rules such as “Do not run! Do not be fooled! Do not let out loud! Do

not lie down! Do not go to the park outside! Do not play unless you do your homework!” In many of playgrounds are put big panels saying “No Ball Play.”

6-2. Intolerant attitude towards children in the civil society

According to the survey by a real estate company on noises in neighborhood which touch a nerve (SUUMO Journal, September 18, 2015), the items which ranked the first to the third are voices of parents scolding children, cries of children and footsteps of children living in higher floors. There was even the legal case in Hachioji City, Tokyo that demand the compensation for the damages caused by a child's voice.

6-3. Adults losing free time to spend with children

According to Nationwide Survey on Families and Children in 2009 by the Ministry of Health, Labor and Welfare, due to the long working hours of parents, 32.0% of families with children answered that they do not eat breakfast together at all. 31.8% of fathers answered that they have four hours or less a week to talk with their children. These answers indicate that parents have no time to spend with children for leisure or play. This situation is incompatible with what Paragraph 20 of General Comments No.17 says: “Children’s development can be supported by loving and caring adults as they relate to children through play.”

We would like to point out here the fact that older children or young adults such as upper secondary school and university students are difficult in taking part in volunteer activities for leisure and play for younger children. They are busy because they have classes on Saturdays (upper secondary schools and universities) and they receive classes until the first week of August (universities).

To provide parents and young adults with longer time for interacting with children and participating activities for children is required.

7. Conclusions

In spite of these difficulties mentioned above, NGOs are making efforts to enrich and broaden children’s play and leisure. For example, they operate play parks and adventure playgrounds which provide space to play, fantasy play, “Children’s Fictional Town (Mini-München),” and artistic activities. Some of them organize children associations. There are much room

for the government to improve the policies for the rights recognized in Article 31 and to assist and cooperate with such NGOs. It is necessarily for the government and the civil society to create communities and environments that extend children's play and cultural activities. Above all, what is urgently required for the government is to spare and expand the free time for both children and parents.

We suggest the U.N. Committee on the Rights of the Child to recommend the government to:

- (a) Be aware of the importance of free time for children.
- (b) Establish clear standards which limits class hours and school days with the aim to assure free time for children both inside and outside of schools.
- (c) Strengthen regulations on working hours of parents with the sim to assure them free time for spending play and leisure with children.

Part VIII Special Protection Measures

Chapter 36. Juvenile Justice

1. Increasing deviation from the U.N. standards on juvenile justice

In the second and third Concluding Observations, the U.N. Committee on the Rights of the Child recommend the government to review the juvenile justice system with a view to develop it in line with the U.N. standards on juvenile justice and General Comments No. 10 of the Committee. The government fourth and fifth periodic report provides responses to the recommendations in the Concluding Observations.

In the beginning we would like to point out that, in its fourth and fifth periodic report, the government makes no reference to the U.N. standards on juvenile justice, though, in its third periodic report, the government stated “measures in line with the purpose of the standards will continue to be promoted.” (Paragraph 469). Since late 1990s, the government has strengthened the punitive approach to juvenile offenders and expanded roles of prosecutors. The government has moved in the direction just opposite of the U.N. standards and deviated from them so far to the point that it will never take them into consideration.

In the followings, we will provide the information alternative to that provided in some paragraphs of the government report, and we will also provide information on a lack of legislative facts (facts that justify new laws or revisions of laws) in the government policy, as well as on the government recent plan to lower the maximum age for the Act on Juveniles from 19 to 17.

2. Information alternative to that provided in the government report

Paragraph 154 of the government report, which gives response to the recommendation on prevention of stigmatization, refers to Articles 60 and 61 of the Act on Juveniles. Nevertheless, in cases of serious crimes, names, photos and addresses of juveniles have continued to be publicized by magazines or through internets. The government has failed to take effective measures to protect privacy of juveniles in cases involving serious crimes and to prevent stigmatizations.

Paragraph 157, which shows response to the recommendation on legal assistance, says that, in “certain serious cases in which public prosecutors can participate,” family court appoints an attendant *ex-officio* for a juvenile without an attendant. An appointment of an attendant is made necessary

only for “certain serious case.” It does not respond to the recommendation that every juvenile shall be with an attendant “at all stages of the procedure.”

Paragraph 158, which shows response to the recommendation on the access by children deprived of liberty to education, refers to Annex 2 of the government report. The information provided in Annex 2 is only on the access by juveniles placed in juvenile prisons, juvenile training school, juvenile classification homes and other criminal facilities. It does not refer to the fact that such juveniles as detained in police facilities are not given the access to education.

Paragraph 161 refers to Annex 3 for the information on foreign juveniles provided with interpreters. The information in section 20 of Annex 3 shows that, from 2011 to 2015, only about 30% of foreign juveniles were provided with interpreters.

Paragraphs 162 to 167 provided only formal information on how laws stipulate the measures for children deprived of liberty, but do not provide information on the real situations of those children.

Paragraph 164 gives information on separation of juveniles from adults in police detention facilities. The government, however, should provide the information on whether it plans to stop detaining juveniles in police and detain them in juvenile classification home or in other facilities especially for juveniles.

Paragraph 170 says “there is no sentence comprising life imprisonment without parole.” The government, however, should provide information on whether it plans to abolish life imprisonment with parole to make related laws compatible with General Comments No. 10 of the Committee.

3. Lack of legislative facts to lower the minimum age for criminal punishment from 16 to 14

The revised Juvenile Act of 2000 lowered the minimum age for criminal punishment from 16 to 14. The Committee recommended the government to re-lower the minimum age of criminal responsibility in its second and third Concluding Observations.

In responses to these recommendations, the government says that legislative fact that justified the revision is “the alarming situation where serious and vicious crimes were frequently committed by juveniles aged 14 or 15” and rejects the recommendation by saying that there is not “any situation

that requires re-amending the minimum age for criminal punishment.
“(Paragraph 155)

We argue that this legislative fact has not existed. According to official data from the government, the number of juvenile delinquencies reached the first peak in 1964 and the second peak in 1983. Since 1983, however, the number of juvenile delinquencies has decreased with the pace larger than that of decrease in the total number of children. According to data from the Justice Ministry and the Welfare and Labor Ministry, the average number of students per grade from an elementary to upper secondary school and the number of juvenile delinquency cases were 2.5 million students and 1.1 million cases in 1964, 2 million students and 0.7 million cases in 1983, and 1.0 million students and 0.1 million cases in 2016. These data show that the number of students fell to half and the number of juvenile delinquency case to one seventh. The number of cases of murder or attempted murder was 350 in 1964 and 30 in 2016.

4. Recent plan to lower the maximum age for the Act on Juveniles from 19 to 17

Under the Act on Juveniles of 1949, delinquent juveniles are treated under family court procedures. Juveniles receive social and educational survey by family court probation officers, who have professional medical, psychological and educational knowledge on juveniles. Based upon this survey, family courts hand down their judgements. From the viewpoint of protection of procedural due process of law, the Act had rooms to be developed, but, the Act and its operation have been revised so as to develop juvenile justice systems in line with the U.N. standards. The family court system under the Act and correctional education provided by juvenile training schools, juvenile classification homes, and probation office has succeeded in restraining crimes by delinquent juveniles in their adulthood and making the society safer. Juvenile justice system constitutive of family court procedures and correctional education has worked effectively. All the related professionals and researchers agree to this.

Since 2000, however, the Act on Juveniles has been revised for four times so as to expand roles of prosecutors and strengthen punitive approach to juveniles. Environment where children overcome their difficulties through educational measures and are reintegrated to the society has been

deteriorated. The government is now drafting revisions to the Act so as to lower the maximum age for the Act from 19 to 17. If revisions to the Act are adopted, the juvenile system in Japan would be destructed.

If the maximum age for the Act is lowered from 19 to 17, all the persons who committed crime at the age of 18 and 19 are to be treated under criminal procedures. They would be deprived of chances to receive educational, medical and welfare treatments and thus lose chances to be reintegrated into the society without stigmatization. Considering the fact that the ratio of the number of juvenile delinquent cases with heinous or serious crimes to the total numbers of juvenile delinquent cases is less than 0.2%, treating all the juveniles at the age of 18 and 19 under criminal procedures and depriving of them those chances cannot be not necessary.

Many of young adults at the age of 18 and 19 go to universities or engage in stable jobs. Nevertheless, in modern society, it is difficult to see them as socially matured. Some of young adults at these ages engage in unstable jobs or retry their education in such educational system as night upper secondary schools or correspondent schools. Young adult at the age of 18 and 19 as a whole cannot be considered to be able to take self-responsibility under criminal systems. They should be treated under family court procedures and be afforded with educational and other assistance to recover from delinquencies.

After 1945, the control of juvenile justice was shifted from the Justice Ministry to the Family Court. At the same time, the maximum age for the Act on Juveniles was raised from 17 to 19. Founders of the Act considered that persons at these age needed educational and other treatments and these treatments would be more effective to let them overcome delinquencies. History after 1945 proves that this insight of founders of the Act is right. The lowering the maximum age from 19 to 17 means returning back to the situation before 1945. This is nothing but a historic retreat in juvenile justice system in Japan.

5. Conclusions

We suggest the Committee to request the government to submit information on:

- (a) Legislative fact that justifies the strengthening of primitive approach to juvenile delinquencies.

(b) Recent plan to lower the maximum age for the Act on Juveniles.

We suggest the Committee to recommend the government

(a) Re-raise the minimum age for criminal punishment to 16.

(b) Review the plan to lower the maximum age for the Act on Juveniles.

Chapter 37. Commercialization of Girl's Sexuality

1. JK business and other business

Maud de Boer-Buquicchio, Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography, came to Japan in 2015. In the press conference, she referred to "JK business" and said "JK business is not a rare case among the lower and upper secondary school girl students. Those girls think they are doing part-time jobs." JK business includes many types of service: "JK walking" in which men take girls anywhere, "JK photograph party," "JK refresh," in which men have massage on the heel of a foot, "JK office," where men can watch the undergarments through magic mirrors, and "JK professional wrestling" in which men can stick closely to bodies of the girls.

JK business is a hotbed for sexual exploitations of girls. Not a few girls in JK business were reported to be forced to have sexual intercourse. But, JK business is not the only hotbed. "Junior entertainers," "costume players," "waitresses of maid café," cafe with waitresses dressed in cute maid costumes, and "DOKUMO," an amateur model who appears in fashion magazines, are other hotbeds. There are many sites for recruiting girls to "junior entertainers," "costume players," "waitresses of maid café," and "DOKUMO." Girls can submit application for job interviews through these sites.

In job interviews for junior entertainers or costume players, interviewers say "Let's begin with chatting. You are safe because it is only talking by TV telephone." Once they appear on TV telephone, they come to be forced to expose skin. When they refuse, they are forced to pay several thousand yen as a penalty for breaking contract. According to Survey on Sexual Exploitation on Internets: Realities Sex and Violence Injuries of Young People publicized in September 2017 by Light House Support Center for the Victims of Human Trade, girls who were persuaded and contracted to become junior entertainers were required to engage in sexual acts (sex itself and having photograph taken) which they did not hear nor agreed on. The ratio of the number of girls who have those experiences to the total number of girls who were covered by this survey was 26.9%.

In addition to JK, *Joshi-Kosei*, (which means upper secondary school girl students in English), such words as JC, *Joshi-Chugakusei* (which means lower secondary school girl students) and JS, *Joshi-Shogakusei*, (which

means elementary girl students) have come into common use. This shows commercialization of girl's sexuality is expanding to younger girls. On internet, we can easily find out precarious photos of younger girls and movies of their sexual dance performances.

2. Traps in internets

Internet provide girls with traps for child pornography. Recently it is usual not only for lower secondary school and upper secondary school student but also for elementary students to upload self-made movies or photos on internets. It is easy even for elementary students to upload them. There are so many devices which induce children to upload self-made movies and photos. In such famous site as *Niko-Niko Douga*, *Tuikyasu*, and *Africa TV*, when users upload self-made movies or photos, they can get comments from viewers immediately. The number of and the ratings by viewers are given to uploaded self-made movies or photos. According to the number of reviewers or the ratings, children can even get "points" or "coins," which can be used as gift vouchers in Amazon and i Tunes.

While girls upload pictures and movies, thinking to perform a fashion show, they receive viewers' requests for wearing swimming suits and some of them respond to these requests. Sex industries can easily identify these children exploitable and make contacts with them through these sites.

In schools, education on "media literacy" has been enhanced. This education is not efficient in preventing children from falling into traps of sex industries. It does not respond to rapid improve in internet technologies. Teachers who carry out this education do not know what kinds of traps are provided and how easily students are caught.

3. Factors in the educational system which induce children to easy sexual activities

The educational system offers two factors enhancing girls to easy sexual activities, which could lead them to be caught in traps for pornography and prostitution.

The one is that school do not provide sexuality education which respond to anxieties and distress students have as their bodies are sexually matured. Children without friends to talk with, children with little conversation with parents, and children with poor academic scores or in poor

relation with teachers use SNS to find out someone with whom they talk about their anxieties and distress. This experience makes them feel that they can get safe and reliable information on sex from anonymous persons through internet and let them take a next step: making access to sites recruiting sex related jobs.

The other factor is that, just when children are getting sexually matured and start seeking for recognition in social relationship, they face difficulties in getting recognition they seek for: due to the competition in school, a large number of students are made to feel they are failures. Students who are left behind are more likely to jump into easy sexual activities.

4. Towards comprehensive approach to the Issue of commercialization of girl sexuality

In paragraphs from 173 to 205 of its periodic report, the government provides information on the measures it took for child prostitution and pornography. In addition to these measures, such measures as imposing controls on finance from banks to sex industries is required.

Furthermore, considering the facts that factors inducing girls to sell their sexuality are multi-dimensional, more comprehensive approach should be taken. Especially, reform of sexuality education in schools based on UNESCO's International Technical Guidance on Sexuality Education (2010) and fundamental reform of the highly competitive nature of the educational system are required. As is mentioned in Chapter 27 of this report, the government conservative intervention into sexuality education in school prevents teachers from carrying out sexuality education which could respond to the needs and demands of girls and boys. As is mentioned in Chapter 28 and 29, as the government expanded the scholastic competition to lower grades, it becomes more difficult for children get feeling of being accepted or being recognized. Without solving these problems, eliminations of sexual exploitation of children cannot be expected.

Chapter 38 Children in Okinawa Islands

Under Translation.

ANNEX: LIST OF MEMBERS OF CNACRC, Japan

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