

An Alternative Report in Relation to  
the 'List of Issues Prior to Submission  
of the Seventh Periodic Report of  
Japan'

**The Concerned Japanese Citizens for the  
Rights of the Child to Eradicate Child  
Guidance Centre Sufferings (JCREC)**

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## 1. Introduction: The Alternative Report Rationale

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1 ‘The Concerned Japanese Citizens for the Rights of the Child to Eradicate Child Guidance Centre Sufferings’ (JCREC hereafter) is a civil society organisation for eradicating human rights infringements committed by the State Party (especially the Ministry of Health, Labour and Welfare, MHLW, the Child Guidance Centres (CGCs) and alternative care facilities (ACFs).

2 Although the International Covenant on Civil and Political Rights (the Covenant) and the Convention on the Rights of the Child (CRC) have legal binding power in Japan, as provided in Article 98(2) of the Constitution, the MHLW and Courts have largely neglected these international human right legislations. Scornfully neglecting them, CGCs and ACFs operate for financial gain, **protecting their vested interests at the cost of undermining BIOLOGICAL FAMILIES, thus relegating Japanese children and families into essentially the ‘property’ of self-serving State-protected cliques.**

3 The JCREC addressed this grave human rights issue in two alternative reports that were submitted to the UN Committee on the Rights of the Child (UNCRC) in November 2017 and December 2018. Due to this and other civil society organisations’ efforts, the issue has been largely recognised by the UNCRC, as manifested mainly in paras. 27–29 of the 4th and 5th *Concluding Observations* (document number CRC/C/JPN/CO/4-5, 5 March 2019). Nevertheless, **the State Party has disregarded the facts and recommendations contained therein and has continued its human rights infringing operations.** Consequently, CGCs, ACFs, and Japan’s Courts are in serious breach of the International Covenant on Civil and Political Rights (Covenant hereafter), which is the reason we submit this alternative report to the Committee.

## 2. For Money and Vested Interests, Not Human Rights: Brief Histories of Japan’s CGCs and ACFs

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### A) Child Guidance Centres (CGCs)

4 Japan’s 215 CGCs are run by prefectural and ordinance-designated city governments. CGCs operate mainly pursuant to the Child Welfare Act (CWA), the Act on the Prevention, etc., of Child Abuse (CAPA), and orders/notifications from the MHLW, which has jurisdiction over CGCs and ACFs. The CAPA was hastily enacted in 2000 upon the provisions of CWA.

5 Right after the defeat of Japan, the aim of CGCs was **providing for war orphans the ‘temporary custody’ pursuant to Article 33 of the CWA** under paternalistic concept. These

children were sent to orphanages that later became ACFs.

6 Influenced by Thatcherism, the Japanese government launched the Ad Hoc Commission on Administrative Reform in 1981, aiming at neo-liberal restructuring. Under the mantra of the ‘rehabilitation of Japanese government[‘s] finance without tax increase’, the Commission took initiative to privatise and scrap welfare measures. However, **in defiance of this neo-liberalist reform, the MHW<sup>1</sup> spotlighted child abuse and assigned the task of its prevention to CGCs.**

7 Japan’s ‘child abuse prevention policy’ was thus created as a veil for protecting CGCs and ACFs’ vested interests. Para. 28(c) of the UNCRC’s 2019 *Concluding Observations* states: ‘*There is allegedly a strong financial incentive for the child guidance centres to receive more children*’.

8 CGCs normally have attached detention quarters (*ichiji hogosho*) for placing children who have been removed from their families. The conditions there shall be discussed in detail in Chapter 4(A) of this report (Paras. 19-22). **The UNCRC recommended the urgent closure of the quarters: ‘Abolish the practice of temporary custody of children in child guidance centres’** (Para. 29(c)).

9 Although CGC staff bear plausible titles like ‘child welfare officer’, such positions can be obtained by attending a course for a mere few days. Hence, staff members’ lack of experience is supplanted by a high-handed attitude towards the parents whose child(ren) the CGC has removed. CGC staff often ignore inquiries from parents, causing upset. Then, for example, the Director Nishizaki and Yasuyuki Shinno of the Ehime General Welfare Support Centre (CGC) called the police to arrest parents who they claimed were ‘gangsters’. However, four detectives visiting the family’s house found that the father was an ordinary office employee, spurring the detectives to conclude that ‘The CGC is weird’.<sup>2</sup> It is common practice for CGC staff to threaten parents in this way.

## **B) Alternative Care Facilities (ACFs)**

10 Established soon after WWII by religious and other benevolent groups through donations towards the care of war orphans, there are currently 795 ACFs (including 50 child psychotherapy facilities), concerned with children up to 20 years old, with 37,668 beds

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<sup>1</sup> Ministry of Health and Welfare, before amalgamation with the Ministry of Labour in 2001.

<sup>2</sup> This information was provided directly to the JCREC by the victim’s family. All the cases mentioned in this report reflect first-hand information, unless otherwise noted.

altogether as of 2018.<sup>3</sup> Placed under the MHLW’s jurisdiction, ACFs only accommodate children consigned by the CGCs. Most are privately managed by social welfare corporations that receive a ‘placement allowance (*sochihi*)’ from the government in almost exact proportion to the number of children they accommodate; the corporation is allowed to retain 30% of this allowance as ‘surplus’ (profit).

11 When the war orphans came of age, the orphanages were in danger of closure. A decrease in the number of children meant a reduced ‘placement allowance’ that could no longer cover the fixed costs. Even if the social welfare corporations were to go bankrupt, the managers cannot recover the funds because they no longer own the fixed capital, which was built through their donations.<sup>4</sup>

12 Since securing a sizable number of children became a matter of survival for ACF management, the National Federation of Social Welfare Councils, which represents their interests, have, since the 1960s, launched relentless campaigns on the pretext of ‘protecting the rights of the child’. The campaigns aimed to restrict parental rights and transfer children to ‘social care’, thereby filling the former orphanages’ empty beds.<sup>5</sup>

### 3. Detaining Children in Deprived Environments on the CGC Directors’ Arbitrary Decisions

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13 The 6th HRCtte *Concluding Observations*, issued in August 2014, addressed the issues on the ‘*involuntary hospitalization of persons with mental disability*’ (para. 15). Also under MHLW jurisdiction, this matters shares problems with CGCs’ involuntary institutionalization of children for prolonged periods.

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<sup>3</sup> MHLW, *Report on Social Welfare Administration and Services (Fukushi Gyosei Hokokurei)* 2018 version, Table 43.

<sup>4</sup> Yashiro, Naohiro (2002), Reform of the social welfare corporation system: In the tide of the social welfare structural reform. *Shakai Fukushi Kenkyu* 85.

<sup>5</sup> Tsuchiya, Atsushi (2017), “Children who should be protected” and a Genealogy of the Limitation of Parental Authority Problem. *Kodomo Shakai Kenkyu* 23, 113–132.

14 CGCs remove children from their parents' care, without judicial review, under the name of '*ichiji hogo*' (temporary custody), as stipulated in Article 33(1) of CWA:

**'A Child Guidance Centre's director may, when he/she finds necessary, take temporary custody [*ichiji hogo*] of a child...'**

Article 33(1) was detrimentally amended in 2016, allowing CGCs to detain children merely for 'obtaining data...[pertaining to] the situation of children's mind[s] and bod[ies], and . . . environment and other situations which are placed'. Hence, the CGC can now remove and detain ANY child, since **the CWA does not require objective evidence or court review, but merely the judgement of a CGC director**. This is in clear breach of Article 9(1) of the Covenant:

*Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.)*

15 Nurseries and schools often make imprudent reports to CGCs, without due investigation or evidence. Upon notification, the CGC can immediately detain the child without hearing from the parents or going through judicial review. In its urgent recommendation 29(a) of the 2019 *Concluding Observations*, the UNCRC demands that Japan:

*Introduce a **mandatory judicial review** for determining whether a child should be removed from the family, set up **clear criteria for removal** of the child and ensure that children are separated from their parents **as a measure of last resort only**, when it is necessary for their protection and in their best interests, **after hearing the child and its parents**;*

16 This grave breach of Article 9(1) of the CRC has led to massive human rights infringements. For example, the Nagoya City Central CGC detained a 2-year-old boy for an 'unexplained injury' on 26 November 2019. The head of the nursery told the CGC, 'I didn't see it, so I don't know, but maybe...', without considering his grandmother's statement that the boy had rickets. The CGC later found that the injuries were caused by a fall the boy had taken, and not abuse, and yet they claimed that 'Frequent injures are in a broad sense considered to be negligence', without statistically defining 'frequent'. The child welfare officials in charge, Koichi Hattori and Yoshino Shibata, said they would return the boy for the time being, but they asked the mother to formally accept 'guidance for abused parents', which she refused, since she had not abused her son. The CGC officials responded, 'We can't return your son because there is a disagreement between yourself and the CGC'. In other words, **the CGC holds the child as hostage to force their unilateral view on the mother (hostage CGC, *hitojichi jiso*<sup>6</sup>)**. The mother-child separation was thus prolonged, and the mother's visitation requests were

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<sup>6</sup> The term proposed in 'Tokumei Hodo Tsuseiki' Kansai TV, televised on 6 August 2020.

denied. The child finally returned home on the evening of 27 December 2019 in terrible condition, with scratches, insect bites, sores under his nose, and inflamed genitals. When he saw his grandmother, he screamed and backed away; the CGC had obviously indoctrinated him into thinking that he had been abandoned.

17 As the UNCRC suspects, given that **CGCs are financed with *hogo tanka* (temporary custody allowances) of ca. JPY 350 thousand/month/child**, there is a strong financial incentive to remove children from their families. Furthermore, the detention operation budget share is as much as 50%–60% of the total CGC budget, i.e. CGCs seek to detain a certain number of children per year to meet the annual ‘abduction quota (*rachi noruma*)’ and avoid part of the budget remaining unexecuted, which results in the truncation of the following year’s budget.

**Recommendation 1: CGCs MUST NOT detain children at the sole discretion of the director. An independent, fair court procedure based on hard evidence and clear criteria must always precede detainment. The decision to detain a child must be made as a last-resort measure only, after hearing the child’s and the parents’ accounts.**

#### 4. The Violation of the Humanity and Inherent Dignity of the Children Detained in CGCs and ACFs

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18 As the UNCRC issued the following recommendation in its 2019 *Concluding Observation* Para. 20(c):

*Ensure that children’s facilities adhere to appropriate minimum safety standards and introduce automatic, independent and public reviews of unexpected death or serious injury involving children,*

the conditions in CGC detention quarters and AFC are in clear breach of Article 7 of the Covenant:

*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

##### **A) The Appalling Conditions in CGC Detention Quarters**

19 Once a child is detained in a CGC, s/he is often abused by CGC staff. On 29 March 2019, four lawyers on a third-party investigation team submitted a position document to the

head of the Bureau of the Social Welfare and Public Health, Tokyo Metropolitan Government,<sup>7</sup> detailing the CGC detention quarters' human rights violations:

### **Case 1: CGCs in Tokyo ABUSE 'prisoner' children in their detention quarters (digest of the third-party lawyers' report)**

The biggest problem is excessive congestion: as percentages of the total capacity, on average, 150.8% boys and 138.4% girls (in 2016) were confined there. This overpopulation is normal rather than exceptional, and on some days, the actual detainment/capacity ratio rises to 200%. Thus, study and clothes-drying areas are converted into bedrooms. Although the government places a strict control, via official capacities, on the number of persons who can be accommodated in nurseries and elderly homes, detention quarters are very much excepted.

'Children have been suddenly removed from their homes and schools ..., without the opportunity to greet their grandparents, siblings, attend tutorial schools, or hobby lessons or boys' baseball teams. In addition, although the detainment is in principle limited to two months,... **it can be extended, and there is no legal limit to the extension**' (pp. 7-8).

These situations place children under undue stress. **Detained children are normally NOT allowed to talk to one another.** To suppress defiance and sorrow, detention quarter wardens are verbally abusive, e.g. 'You're a good-for-nothing!', and disobedient children are placed in *kobetsu* (personalised discipline) behind 'a screen so that they cannot see other children in the group, to repetitiously . . . write Chinese characters, and to run many rounds in the gymnasium and on the grounds.... This can only be seen as a punishment in the name of guidance...' (p. 16).

**The detained children are not allowed to attend school**, but part-time instructors, often without teaching licenses, give lessons on school subjects for less hours than in regular schools. 'There are cases where learning is not done according to children's academic competence or needs. For example, ... in [a class consisting of] elementary, junior high, and high school students, [the learning contents] can be too easy for . . . one child and too difficult for another. In addition, when a child who is about to take an entrance examination for a junior or a senior high school is brought to the detention quarter, the insufficient opportunities to study in preparation for the entrance examination make it difficult for the

<sup>7</sup> The Third-party Investigation Team (2019). The Position Document (The Detention Quarter attached to CGC, Tokyo). Available from:

[https://drive.google.com/file/d/1KMPyYbotqSnm\\_OiLG2mGZebETnJ58KPD7/view](https://drive.google.com/file/d/1KMPyYbotqSnm_OiLG2mGZebETnJ58KPD7/view)



child to take the examination from the detainment quarter' (p. 14). In short, detained children's development opportunities are squandered.

A detained child commented, '**It's just like a prison**; we lose our feelings and we want to escape.... Why are only the children deprived of their freedom?' (p. 25) The lawyers concluded that 'Unless one is aware of the underlying sense of human rights, the detention quarters should have **no future**' (p. 40).

This is not only the case in Tokyo. The director of Hokkaido Katei Gakko, a 'children's self-reliance support facility' (former reformatory) in Engaru, demanded the reform of the inhumane practices at the Sapporo CGC detention quarter. A child in the lower teens detained there was confined in a roomette and was forced to sit at a desk all day with nothing to do, since the CGC did not allow stationery and books for studying. The child commented that the 'roomette is empty; it is just like a gaol'.<sup>8</sup>

Every several months, the media reports sexual assaults by CGC staff. For instance, in March 2020, a male staff member at the Nara Central Child and Family Guidance Centre was arrested on charge of attempting to intrude into the girls' common bathroom to peep at the detained girls' naked bodies, while in January 2020, a male staff member of the Yonago CGC (Tottori) was dismissed on the charge of repeatedly sexually molesting two detained girls.

20 CGC detention quarters are strictly closed spaces that are isolated from everyone but staff. Therefore, even if detained children suffer obscene acts, exposure is extremely rare. The incidents described above are likely the tip of the iceberg, and it is even suspected that CGC jobs attract paedophiles.

21 CGC staff's various abuses of detained children are indeed severe breaches of Article 10(1) of the Covenant, which stipulates that '*All persons deprived of their liberty shall be treated **with humanity and with respect for the inherent dignity of the human person***'. The UNCRC made the recommendation in para. 29(c) of the 2019 Concluding Observations to close them down. The MHLW blatantly defies this, as EVEN MORE CGC detention quarters are being built across Japan.

22 Many detainees are eventually involuntarily placed in ACFs, **neither** as a last resort **nor** for the shortest appropriate period of time, but rather as regular CGC practice, as will be shown later in Case 4. Detained children who the CGC has made docile are ideal for ACF placement. Hence, CGC detention quarters function as 'preparatory institutions' for children's

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<sup>8</sup> *Hokkaido Shimbun*, 4 May 2020 . <https://www.hokkaido-np.co.jp/article/416362>

involuntary consignment to ACFs.

## **B) Children Deprived of Liberty in ACFs**

23 The process of detaining children in ACFs is homologous to the ‘hospitalization of persons with mental disabilities’, as addressed in para. 15 of the List of Issues (LOIPR) of the HRCtte. Both processes involve involuntary placement by State power (*sochi* in Japanese), and the means of power execution commonly result in serious breaches of the Covenant.

24 Firstly, **the average number of years for which children are detained in ACFs is on a clear increasing trend**. In 2002, it was 4.4 years, whereas in 2017, it reached 5.0. Among all the detainees, the share of children that stay in an ACF for ‘12 years or more’ is also increasing, from 5.0% in 2002 to 7.8% in 2017.<sup>9</sup> These data reveal breaches of the HRCtte principles for the involuntary hospitalization of persons with mental disabilities, specifically the request that detainment should be ‘*only as a last resort, for the shortest appropriate period of time, and only when necessary and proportionate for the purpose of protecting the person(s) in question*’.

25 Although the Human Rights Watch (HRW) investigated Japan’s ACFs and concluded in its published report that ‘**[t]he very system of institutional care may itself be abusive**’<sup>10</sup>, the MHLW turns a blind eye and continues to protect its vested interest. One of the severest cases of abuse occurred in the late 1990s in Oncho-en in Chiba: ‘Older children were forced to stand upright or were seated and beaten with bats, iron pipes, sickles, wooden swords, etc., by the director and blood was shed’.<sup>11</sup> However, the MHLW never issued a closure order for Oncho-en, in alignment with similar non-action cases in Europe.

26 ACFs once housed war orphans; nowadays, they produce ‘**artificial orphans**’ by severing parent–child relationships and imposing visitation bans, thus causing the deterioration of children’s mental conditions, with some children tending to exhibit violent behaviour.

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<sup>9</sup> MHLW, *Investigation of children in ACFs*. <https://www.e-stat.go.jp/stat-search/files?page=1&toukei=00450273&tstat=000001024520>

<sup>10</sup> HRW (2014), *Without Dreams*, p. 4. <https://www.hrw.org/report/2014/05/01/without-dreams/children-alternative-care-japan>

<sup>11</sup> Record of Statements of Persons once placed in Oncho-en, Chiba District Court, dated 11 March 1999. <http://onchoen.yogo-shisetsu.info/saiban/kodomo-chinjutsu.html>

Therefore, both child-directed staff violence and violence and bullying among the detained population are common.<sup>12</sup>

27 ACFs dose **psychotropic drugs**, which most adults avoid due to the severe side effects, including medical dependency (toxicity), to the children in order to eliminate the potential for their rebellion against the staff. Welfare sociologist K. Yoshida conducted participatory fieldwork in an ACF in Western Japan and stated:

Although the facility [ACF] staff had reservations about the prescribing and administration of psychotropic drugs to the children, it was clear that they were resigned to doing so **in order to facilitate [the] operations and management of the facility [ACF]**. Further, one staff [member] viewed the systematic abolition of corporal punishment as an evolution in medical care and perceived psychotropic drugs to be a means of enhancing communication between children and adults — a fact that prompted [the staff] to accept the use of such drugs.<sup>13</sup>

28 The MHLW's *Manual* endorses psychotropic drug administration by allowing CGC/ACF directors to take 'custody measures' that have been liberally extended to 'medical practice',<sup>14</sup> including drug administration without parents' consent; the manual lists 'a medical examination in medical institutions (including psychiatry), an inspection and **medical treatment (medication, disposal, operation, etc.)**'.<sup>15</sup> Psychiatrists thus freely prescribe drugs to control detained children.

29 Detained children's futures in ACFs are bleak. The HRW report states that a major problem 'faced by people who grow up in alternative care is how to live independently after graduating from their care program'.<sup>16</sup> A boy whom the HRW interviewed left an ACF at

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<sup>12</sup> see HRW pp. 26-28.

<sup>13</sup> Kohei Yoshida (2013), 'The Use of Psychotropic Drugs at Foster Care Facilities and Staff Dilemma', *Journal of Welfare Sociology* 10, p.147.

<sup>14</sup> General Affairs Division, Equal Employment, Children and Families Bureau, MHLW (2014), *Kodomo Gyakutai Taio no Tebiki [The Manual on Responses to Child Abuse]*, Yuhikaku, p.170.

<sup>15</sup> *Manual, op.cit.*, p.172.

<sup>16</sup> HRW, *op. cit.*, p.76.

the age of 18 and ‘changed jobs at least 20 times in the 3 years since’. ‘The furnishings company where he got his first job upon leaving the institution gave him little work and the monthly pay of 20,000 yen (ca. US \$180) was hardly enough to survive on . . . After less than half a year, he could not afford [his] rent and became homeless, sheltering in a manga [Internet] cafe or wherever he could’.<sup>17</sup>

30 The insufficient measures the MHLW and CGCs have taken to protect detained children from COVID-19 infringe human rights. On 7 April 2020, the Japanese government declared a state of emergency. Prime Minister Abe called for ‘measures to prevent the spread of infection by preventing three types of tightness: closed, dense, and proximate’. In compliance, most schools closed in early April; however, CGCs and ACFs are still holding children around the clock in virus-friendly environments. On 22 April, eight children in an ACF for infants in Minato-ku, Tokyo were found to be infected with COVID-19. In accordance with the Para. 8 of calls from the UNCRC<sup>18</sup>, the parents demanded the children’s temporary release for the period specified in the ‘declaration of emergency’, so that they could stay in their family homes and escape the COVID-19-promoting detention conditions. However, the director of the Tokorozawa CGC flatly rejected this plea on the grounds that **such detainment had been approved by the court**. Children’s continued detention during the COVID-19 pandemic undermines their safety and security.

31 The MHLW attempts to suppress objections to these administrative acts by stating in its manual that ‘The act which disturbs the custody measure of the director of the CGC wrongfully is the act which damages directly or indirectly the interest of a child’.<sup>19</sup> That is, the MHLW considers CGC directors’ orders to be in children’s best interests, in the absence of proof, even if an order is abusive. This is a clear manifestation of ‘*Sonderrechtsverhältnis*’ to be discussed in Para. 47 of this report.

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<sup>17</sup> HRW, *op. cit.*, pp.76-77.

<sup>18</sup> UNCRC, ‘The Committee on the Rights of the Child warns of the grave physical, emotional, and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children’, 8 April 2020, <http://cpd.org.rs/the-committee-on-the-rights-of-the-child-warns-of-the-grave-physical-emotional-and-psychological-effect-of-the-covid-19-pandemic-on-children-and-calls-on-states-to-protect-the-rights-of-children/?lang=en>.

<sup>19</sup> *Manual*, *op. cit.*, p. 171.

**Recommendation 2:** Pursuant to the UNCRC’s 2019 Recommendations 29(c), the State Party must immediately CLOSE all CGC detention quarters (*ichiji hogosho*) due to the inhumane treatment of the children detained there, and scrap any plans to build more.

**Recommendation 3:** The placement of children in ACFs should be imposed only as a last resort, for the shortest appropriate period of time, and for the express purpose of protecting children in cases where development in the original family is truly harmful. ACFs must treat detained children humanely, with respect for their inherent dignity. Dosage of psychotropic drugs to the detained children must be totally banned. The MHLW must issue a closure order to the ACFs that infringe on children’s human rights and dignity, including through sexual assault.

## 5. CGCs Ban Biological Parents from Visiting and Communicating with Their Detained Children

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32 As mentioned above, ACFs treat detained children like orphans—as though their parents are dead. CGCs often sanction parents who disagree with their child(ren)’s ACF consignment by means of fiddling with their visitation rights. The UNCRC highlights this human rights infringement in para. 28(e) of the 2019 *Concluding Observations*: ‘*Children placed in institutions [ACFs] are deprived of their right to keep contact with their biological parents*’.

33 Banning visitation is often associated with Japan’s single-custody system, which is now notorious across the civilised world. CGCs play an active role in aggravating the sufferings of biological parents who have lost parental responsibility through divorce, as evidenced in the following petition for submission to the mayor of Setagaya-ku with respect to the operation of Setagaya CGC:

**Case 2: A petition letter from an aggrieved mother whom the Setagaya CGC banned from visiting her son**

Dear **Nobuto Hosaka**,<sup>20</sup> Mayor of Setagaya-ku, Tokyo,

I had been imprisoned for a false charge and gave birth to my first son in a prison. My son and I were separated from each other within 2 hours and I was not even allowed to give colostrum. It was a really hard and lonely childbirth.

Upon my release, my son was 4 months old. Thereafter, I had custody of him and raised him in my cozy family until he reached 3 years old. My parents helped me raise my son, but my husband did not co-operate much. Due to a misunderstanding involving my husband's parents, my husband and his parents completely ignored me. Without my knowledge, my husband filed for divorce, which resulted in my loss of custody of my son under the single-custody system. For about 4 years, I worked hard to rehabilitate myself by reflecting on my past actions and trying to overcome my dependence on psychotropic drugs.

However, for 4 years, the Setagaya CGC has given no consideration to my son's happiness. It has inhumanely banned me, a mother, from visiting my beloved son whom I raised for 3 years. The CGC did not even allow me to write to my son for 2 years. After I lost my parental authority, the person in charge at the Setagaya CGC stopped informing me about my son's situation. The CGC even refused to take my calls. After custody was transferred to my son's father, all childcare was at his sole discretion.

My son is now in Primary 2. I am worried about how he is getting along at school and in daily life in general. Divorce is inconsequential to children, who love both their parents. I have always been my son's mother. Article 9, paragraph 3 of the CRC states that parents and children have the right to maintain contact. The Japanese Civil Code provides the right of visitation and interaction with a child, with the child's best interest in mind. The CGC should therefore assist parents who have raised their child(ren) but happen to live separately later on. I repeatedly made this obvious point, but the CGC still does not hear me.

If a child is removed by the CGC, the first thing that a normal parent would do is rescue the beloved child from detainment. However, my former husband kept my son in the ACF for 2 years, and his parents each met with my son separately. My son said that he wanted to be with me as soon as he saw me. My former husband and his family were

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<sup>20</sup> When Hosaka was an MP, he took initiative regarding the CAPA legislation. He has never admitted, however, his own political fault in enabling these sorts of human rights infringements in the Setagaya CGC.

aware of this, and they refused to help me exchange letters or visit my son, despite my persistent requests. I know how happy and relieved my son would have felt if I had just been able to write him.

My former husband and his family are inhumane, but the CGC is worse. While I was in prison, the Setagaya CGC transferred my son from the ACF to my husband's parents without consulting me or reporting this to myself or my lawyer. The children who were detained in an ACF for a longer period are said to bear a second trauma. I heard that my son was traumatised when he was separated from me at the age of 3. After that, I wanted to ask him what life has been like, which is information that the CGC does not disclose to me.

According to the family court investigator's report at the time, my son perceived his father as 'scary' and his mother as 'smart'. If my son and his father had maintained a good relationship, my son should have a positive perception of him. Severing mother-son ties constitutes mental and psychological abuse. My son has likely been brainwashed into believing that I abandoned him, when, in fact, I love him, but even if he wants to hear that, he cannot ask anyone, and so he must endure it. Like every mother, I suffer just thinking about my son's broken heart. If this continues, I will surely suffer a serious mental disorder someday.

I will sue you, Mayor Hosaka, the highest authority of Setagaya CGC, someday. It does not matter whether I win or lose. **I want to make the general public aware that Setagaya CGC abuses and tramples on human rights by breaking familial ties.** I will tell the court that the Setagaya CGC has inflicted psychological wounds on both my son and myself, and I will ask for redress: 'If you, Setagaya CGC, think that you made a mistake even a little, please allow me to exchange correspondence with my son and visit him right away. CGC, please stop this injustice. Just as I have to reflect on my past and recognise the need for change, so must my son's father and the CGC reflect on what they have done and also recognise the need for changes'.

'How do you do in school, my son? Recently, because of the coronavirus pandemic, you can't go to school and I think you are at home, but please visit my home and show me you are well! I have been really worried about your daily life, at school and [at] home'.

I will continue to pursue my belief for the rest of my life, so please, Mayor Hosaka, recognise the cruelty of the Setagaya CGC and stop these human rights infringements. Please let me see my beloved son as soon as possible. I petition you from the bottom of my heart.

Sincerely, the Mother.

34 The CGC's rending of familial ties is in obvious breach of Article 23(1) of the Covenant:

*The family is the **natural and fundamental group unit of society** and is entitled to protection by society and the State.*

**Recommendation 4: CGCs must unconditionally allow both parents to visit their child(ren), pursuant to Article 23(1) of the Covenant and Article 9(3) of the CRC. CGCs should not intervene in family affairs based on the internationally-discredited single-custody concept.**

## 6. CGC Infant 'Abduction' and Government-Sponsored Child Trafficking Under the Guise of 'Special Adoption'

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35 In paras. 18–20 of the LOIPR, the HRCtte expresses concern about human trafficking. Japanese children, mainly babies, are now victimised under the guise of '**special adoption**', by CGCs and NPOs seeking neo-liberal 'social business' in collusion with CGCs.

36 Special adoption is 'a ruling establishing an adoption which extinguishes the legal relationship between a child and his/her natural relatives' (Article 817–2, Civil Code of Japan) by erasing biological parents from the family register. Hence, specially-adopted babies are appealing because they can be raised from infancy as if they were the adoptive parents' own. Infertile families that want babies can essentially purchase them through the NPOs that are closely associated with CGCs.

37 This issue has become a grave concern, especially for expecting families, in light of the State Party's legislative action to lift the need for biological mothers' consent to enter babies into the 'special adoption' scheme.

38 Article 817–6 of the Civil Code was amended in April 2020: 'A ruling of special adoption shall only be made if both parents of a person to be adopted gives his/her consent to the special adoption; **provided that this shall not apply in cases** where the parents are incapable of indicating their intention or the parents have abused the child, abandoned the child without reasonable cause, or there is any other cause of grave harm to the interests of the person to become the adopted child'.

39 Local governments send public health nurses to visit every expectant mother. The



nurses assess the expectant families using a Home-Assistance Common Assessment Planning Sheet, on which anxiety about childcare, neurologic manifestations, and household poverty are all negatively assessed. Even frequent attendance at government-offered childcare consultations can be seen as symptomatic of anxiety. If the number of negative assessment points reaches the threshold limit, the relevant CGC clandestinely applies the **'specified expectant mother' (*tokutei nimpu*)** label, pursuant to Clause 5, Article 6-3 of the CWA (as amended in 2009), thus drastically increasing the likelihood that the baby will be 'abducted' by the CGC and processed into the special adoption scheme. Public health nurses are no longer kind advisors to future mothers.

40 There have been many cases in which CGCs have taken a baby immediately after a 'specified expectant mother' gave birth, for example, when she leaves the room to use the toilet. Many women have returned to find their baby's bed empty, as shown in Case 3 below. In 2017, a mother whose baby was removed by a CGC in Shikoku threw a Molotov cocktail into the CGC's yard.

41 Infant 'abuse risk' is not the real reason for the shift in public health nurses' role. Many brutal child abuse cases and tragic deaths that keep happening prove that the MHLW and the CGCs have neither the will nor the ability to eradicate 'child abuse'. **Using 'abuse' as a pretext, a steady supply of babies who are taken into custody are 'sold' to infertile families for ca. JPY 2 million (USD 18 thousand) through NPOs.** In today's neoliberalist Japan, everything, including infants, is commodified.

### **CASE 3: The Tokyo Metropolitan CGC removed a just-born baby from a family and the parents fear their daughter may be put up for 'special adoption'**

The family's beloved daughter was removed by the Tokyo Metropolitan CGC on the morning of 21 November 2018, upon the mother's release from the maternity hospital. The reason, according to the Nerima-ku Child and Family Support Centre, was due to the 'mother's illness'. The parents despaired over the loss of their beloved baby.

Initially, the CGC kept the baby's whereabouts secret, but it was later found that she had been transferred to an ACF (infant home) in Nakano-ku, Tokyo. There has been no prospect for her release thus far, even since the passing of her first birthday.

During the fifth week of pregnancy, the couple had been asked to participate in a discussion session with administration staff, namely Section Chief Shimada of the Nerima General Welfare Office (GWO), a social worker called Tanaka, the section chief of the Shakujii GWO, and two others. The parents now regret their blind trust in these officials.

On 2 August, Shimada ordered the family to find an appropriate place to live. However, because the baby was born before the family found a place, Tanaka decided 'to leave the care of the baby to the CGC only while the parents finished moving'. The parents agreed because they thought Shimada was benevolent and sincere, with the child's safety in mind. Furthermore, Masaki from the Nerima-ku Child and Family Support Centre said that this would be 'temporary protection until the parents become ready for child-rearing'.

In December 2018, the parents visited Child Welfare Officer **Kenji Osawa** of the Tokyo Metropolitan CGC to demand their daughter's return. Osawa replied, 'The family could be difficult to raise her', which was far from the truth. Later, Osawa told them to visit Odilia Home (an ACF for infants), where their daughter had been consigned. There, the mother was able to embrace her daughter. She visited her about twice per week thereafter.

The family received government livelihood assistance and rent allowance. Urged by the administration, they signed a contract for a two-storey house in February 2019 and moved in on the afternoon of the 21<sup>st</sup>. However, by the time they got to their new house, it was already dark, and the power had not yet been connected. They therefore squeezed all of their belongings into the ground floor.

In May, Osawa **suddenly asked the parents to divorce**. He claimed, 'I can't release your daughter because your home is not clean. If the mother lies idle most of the day, the CGC will take your daughter to a distant place that costs JPY 3,000 for a return trip to get to there. Tell me when you get divorced'. Thus, in order to tidy up their house to ready it for their daughter, the couple had to throw away a large portion of their belongings.

Despite their efforts, their daughter was not released. When Osawa visited their home in September 2019, the family demanded justifiable reasons for their daughter's continued detainment, but Osawa's explanations were erratic, and he became intimidating when he was alone with them, in the absence of other government staff.

As instructed by Osawa, the family visited Dr. Oguri, a mental health doctor affiliated with the Tokyo Metropolitan CGC, together with Osawa. Dr. Oguri attempted to fabricate a mental illness in the husband, namely 'the delusion that the CGC and the Social Welfare Council collude', for which he prescribed psychotropic drugs. The parents suspected that it was no more than a subterfuge, which the doctor had executed under the CGC's direction.

The **CGC is still unduly detaining this family's daughter**. Consequently, the parents' mental conditions have deteriorated. In December 2019, the couple asked the public health nurse if the wife had been designated as a 'specified expectant mother'. Although this information was not disclosed, the parents suspect that the Tokyo Metropolitan CGC tacitly plans to coerce them into waiving their parental rights through the prolonged detention of their daughter, who will eventually be trafficked under the 'special adoption' scheme.

42 Since family court almost always rubber-stamps CGC requests expectant mothers are often reduced to **baby manufacturers** at arbitrary discretion of the CGC.

**Recommendation 5: The CGC's practice of labelling some pregnant women as 'specified expectant mothers' and then confiscating their babies should be halted with immediate effect.**

**Recommendation 6: The State Party's 'special adoption' scheme, effective April 2020, should be scrapped, as it constitutes CGC-mediated human trafficking for the economic benefit of some 'social-business' oriented NPOs. 'Special adoptions' should be arranged only with the biological parents' free, independent consent, without the involvement of NPOs or CGCs. The biological parents should retain their rights to repeal their consent to special adoption at ANY time.**

## 7. Severe Injustice in the 'CGC Legislation' System: the Family Court Procedures and Administrative Litigations

43 The HRCtte members may be wondering why such grave human rights infringements are not being rectified or sanctioned under Japanese legislation. Hence, the fundamental flaw in the legislation system, which is in serious breach of Article 14(1) of the Covenant, must now be scrutinised in relation to the CGC cases:

*[a]ll persons shall be equal before the courts and tribunals..., everyone shall be entitled to a **fair and public hearing** by a competent, **independent and impartial tribunal** established by law.*

44 **Japan has been notorious for ignoring global human rights legal systems enshrined in UN treaties.** The State Party's ratifications of UN human rights treaties are mere pretensions to human rights progress, rather than genuine commitments to putting the

provisions of the treaties into real practice domestically. Hence, the international community has had difficulty bringing Japan into compliance with these treaties.

45 **Japan's Courts seldom deploy the provisions of the UN human rights treaties as judgement criteria.** Instead, the State Party often protects vested interests at the cost of human rights, by deploying domestic laws in discord with UN treaties.

46 This fact was pointed out last year in the UNCRC's 2019 *Concluding Observations*, which made several urgent recommendations in paras. 28 and 29, all of which the Japanese Courts have disregarded in favour of domestic laws that the UNCRC has demanded be 'harmonised' with the CRC.

47 Attorney-at-law **Tomohiro Kurohara**, who is an ardent advocate for eliminating the death penalty in Japan and is familiar with the legal system related to the CGC, names the set of CGC-related domestic laws and government orders '**CGC legislation**' (*jiso hosei*).<sup>21</sup> According to Kurohara, CGC legislation embodies '**Sonderrechtsverhältnis**' (the special power relation) that Japan adopted from pre-Weimar Germany as the principle for State regulation, i.e. the people-power relationship in the pre-WWII imperial constitution. In this relationship, the State exercises comprehensive control over people and social groups, including families. CGC legislation is thus a remnant of the pre-WWII legal system.

48 According to Kurohara, this special power relation derives from the assumption of State paternalism; it follows that as an organ of the State apparatus, CGCs are always benevolent, thus removing the need for their regulation by an external power that represents fundamental, universal human rights. Here is the idea of **a priori State infallibility**, which is no different from the communism under Stalin.

49 Reflecting this paternalism, the **rejection rate of the pleas made by the CGC at the court is overwhelmingly low.** Although Article 28(2) of the CWA stipulates that ACF placement must be judicially reviewed every 2 years, out of the 267 cases that were adjudicated in family court in 2016, only 6 involving a child's initial ACF placement by a CGC were rejected, while 211 were upheld. Regarding pleas following placements, the percentage of CGC wins is higher, with **zero** rejections and 135 upholds out of 140 cases in 2016,<sup>22</sup> indicating that once a child is placed in an ACF, detainment will continue until majority, in clear breach of

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<sup>21</sup> From personal communications with Kurohara.

<sup>22</sup> The Supreme Court of Japan, 'Trends of cases related to Article 28 of the CWA and the actual status of cases handled': <https://www.courts.go.jp/vc-files/courts/file1/150827jidoufukusi28h26.pdf>

Clause 14 of the UN *Guidelines for the Alternative Care of Children*. CGCs' bi-monthly pleas to extend their 'temporary custody' (this procedure became compulsory in 2018) are almost shams, as evidenced by the 84.1% uphold, compared to the 3.3% rejection rate, in the family courts.<sup>23</sup>

50 A family whose offspring has/have been removed by a CGC can file an administrative complaint against the CGC. However, the body that considers these complaints is the local government administrative body in charge of child affairs, and since child administrators and officials from the same local government that staffs CGCs frequently come and go, it is impossible for families to obtain fair, independent decisions.

51 Filed complaints are rarely satisfactorily resolved. Out of 6,410 overall judgements in 2016, only 3.3% were fully or partially upheld.<sup>24</sup> Hence, the complaint system is a dysfunctional form of redress for families whom CGCs have deprived of their offspring.

52 Many of the alleged 'child abuse' cases for which the CGC consigns the children to ACFs are either venial or false charge. Even in cases of actual 'child abuse', families still deserve just, humane legal proceedings, based on hard evidence and international human rights legislations. For the multitude of reasons discussed below, severe injustice prevail in CGC-legislation-related Court rulings in Japan.

53 Firstly, there is **legacy of paternalism** (discussed in paras. 4-5) in controversial Article 33 of the CWA that was initially developed to assist war orphans.

54 Secondly, to avoid the difficult task of proving abuse and neglect based on hard evidence, a jurist pandering to the MHLW put forward a rigged interpretation of Article 28 of the CWA: establishing that parental care 'significantly harms the welfare of the child' **alone** shall be sufficient for upholding a CGC's request to consign a child to an ACF.<sup>25</sup> Consequently, the family courts adjudicate children's placement for 2 years based on vague allegations from

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<sup>23</sup> Table 3 of the Judicial Statistics (2018): <https://www.courts.go.jp/app/files/toukei/689/010689.pdf>

<sup>24</sup> Ministry of Internal Affairs and Communications, 'Investigation of the Implementation Status of the Administrative Appeal Act (Outline of the situation in local governments) in 2016': [https://www.soumu.go.jp/main\\_content/000608569.pdf](https://www.soumu.go.jp/main_content/000608569.pdf)

<sup>25</sup> Tsuneo Yoshida (1987), 'Case study of the Child Welfare Law (1)', *Meisei Daigaku Keizaigaku Kenkyu Kiyō* 19, p.73.

CGCs, WITHOUT hard evidence of ‘abuse’ or ‘neglect’.

55 Thirdly, the State Party does not take the CRC seriously, even after its ratification in 1994; instead, it introduced CAPA, which changed the nature of CGCs from welfare institutions to **‘family police’**, vested with *Sonderrechtsverhältnis* over citizens.

56 Fourthly, Information on detained children is asymmetrically distributed, since **the CGC disallows parents from visiting their children** to prevent parent–child information sharing. All child records are held by CGCs and are rarely disclosed; on the rare occasions that they are disclosed, they are **mostly redacted**. CGCs’ administrative discretion thus remains opaque, making it impossible to judge whether the institutions’ claims are justifiable.

57 Fifthly, family court decisions are often based on family court investigators’ reports. However, MHLW *Manual* asks CGCs for ‘smooth cooperation with the family court investigators and the network of relevant organisations around the child with the CGC staff at the centre’.<sup>26</sup> That is, **Manual effectively orders CGC to co-opt family court investigators to avoid adverse investigation outcomes**, thus preventing investigators from conducting independent investigations based on their own expertise.

58 Sixthly, the legal procedure pertaining to the Article 28 plea with respect to ACF placement without parental consent is eerie because **parents are involved merely as ‘interested parties’, thus positioning relatives on unequal footing with CGCs**. Families are ultimately forced to accept family court adjudications for children’s 2-year ACF consignments.

59 Seventhly, **CGCs often fabricate evidence** for the family courts in pretence of modern judicial proceedings.

60 Trials and judgments based on such conditions and circumstances are far from fair or impartial as provided in Covenant, but **reminiscent of the Medieval Inquisition**, inevitably lack fairness and neutrality. Families are forced to take part in such medieval judicial system and procedures in contemporary Japan.

61 In administrative litigation against the MHLW and CGCs, the Courts engage in biased ‘fact-findings’ in favour of CGCs, meaning that egregious CGC acts are rarely adjudicated as illegal. The Courts blindly accept CGCs’ questionable ‘evidence of child abuse’, while ignoring clear counter-evidence submitted by families. Court bias therefore makes it difficult for families to win administrative litigation against CGCs.

62 **In supporting CGCs, Courts regularly use parents’ critical comments about CGCs and ACFs to discredit their claims**, as shown in Case 4 below. This is obviously a browbeating

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<sup>26</sup> *Manual, op.cit.* p.263.

tactic to discourage criticism of CGCs and ACFs.

63 Although the cases in which Courts have rejected the Article 28 plea are few and far between, they do exist, thanks to rare independent court judges. However, families hardly encounter such white-knight judges who are conscious of global human rights norms. The judiciary should naturally be fair to everyone, rather than acting like a lottery.

64 Attorney Kurohara thus calls for the sweeping abolishment of the *Sonderrechtsverhältnis* that bolster CGC legislation, in favour of a system that respects international human rights laws, particularly because children's wellbeing is crucial to the future of our society at large. External pressure from the UN is essential to accomplish this change.

**Recommendation 7: The Family and High Courts of the State Party must make its adjudications on every CGC-related case based on the independent and robust examination of evidence and the UN international human rights treaties that respect the integrity of the biological family. The uphold rate for CGC pleas should therefore see substantial reduction, to at least less than half.**

**Recommendation 8: The State Party should abandon the outdated *Sonderrechtsverhältnis*-type CGC legislation and practices as they are incompatibility with international human rights legislation. The State Party should instead respect democratic power relations and allow citizens to enjoy the full scope of human rights, as stipulated in the relevant UN treaties.**

**Recommendation 9: With regard to Article 28 and 33 pleas, the Family and High Courts of the State Party must extend equal treatment to all parties, including the concerned children and parents. CGCs should immediately stop the 'hostage CGC' practices, leveraging detained children and parental visitation rights to coerce families into accepting CGC's administrative orders.**

**Case 4: The judiciary rubber-stamps CGC pleas without due consideration of evidence and human rights, and resorts to the 'hostage CGC' retaliation against defiant position of parents<sup>27</sup>**

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<sup>27</sup> Based in part on Chapter 5, Section 2 'Koka Gakuen Incident, in *Jiso Riken (Vested Interest of CGC)*', Hassaku Sha, 2016, pp. 280–295 and except for the recent events in the Courts.

Reiryu, once a pupil at Koka Gakuen, a Catholic private elementary school in Western Tokyo, is beloved by his father. Due to his Asperger's syndrome, he sometimes exhibited difficult behaviour. However, his father, knowing that many artists and scientists in history also had this syndrome, and realising the need to pursue his son's long-term best interests, took great pains to nurture Reiryu's talents by training him in several areas, including English and mathematics. At the beginning of Primary 4, he was able to solve simple linear equations, and at age 9 he was commended nationwide. His father also took him trekking and skiing to keep him physically fit.

When Reiryu was promoted to Primary 2 in 2011, his class teacher Takashina began to inflict repeated severe corporal punishments on him to curb his hyperactivity in class. The principal, **Sister Ishigami**, claimed that this violence was 'a legitimate form of instruction'. In December 2011, the father began to petition the principal for an investigation, an apology, and the proper sanctioning of Takashina. The principal **refused them, but she reported instead several false accusations of 'abuse' of his father to impute the blame for the corporal punishment onto Reiryu's family.** The inferential statistical test on the time-series correlation between the father's actions against the corporal punishment and the principal's reports of 'abuse' to the CGC showed that the father's protests at the school triggered the principal's 'abuse' reports to the CGC, with a rejection rate of 0.000005%.

On 1 May 2013, Reiryu's new class teacher, Ryoichi Tajima, who had just been promoted to vice principal, kept Reiryu in school until late evening, under the falsehood that he could not go home unless he finished all the mathematics problem sheets that his father had given him. Having induced Reiryu into a panic, Tajima rang the Tokorozawa CGC. Two staff came and deceived Reiryu into thinking he was going to a 'sleepover party'; in reality, they placed him in a CGC detention quarter, where he was confined for the next 8 months, during which the CGC did not allow him to go to school at all.

Without conducting a detailed investigation into the alleged 'abuse', the CGC submitted an Article 28 plea to consign Reiryu to an ACF. However, the documents that the CGC produced on 'father's abuse' were, through Ishigami's and Tajima's testimonies, later found to be forged. The Saitama Family Court nevertheless upheld the plea, without in any way verifying the alleged abuse or neglect.

The ACF's custody measures ruined Reiryu's diligence. When Reiryu was first taken to the ACF, he was perplexed to find that his video games were always at his disposal. Left unattended, he indulged into video games endlessly, with little guidance with respect to his academic obligations. Consequently, Reiryu began to say, 'I don't like studying'. He



often failed to submit his homework.

His father is now in the **eighth year of no contact with his son, i.e. no visitation, and Reiryu's whereabouts have also been concealed** as the typical 'hostage CGC (*bitojichi jiso*)' measures inflicted by **Kiyoshi Okano**, a Tokorozawa CGC staff.

Reiryu's 7 years of detainment have deteriorated his scholastic performance. At public junior high school his performance dwindled down to so poor that he could only gain entrance to a vocational high school. Since its curriculum differs from that of a general high school, it is now difficult for him to acquire the academic competence needed for university matriculation. As a teenager, Reiryu is supposed to be at an important stage of designing his adult life; had he not been detained, he might, for instance, have been looking at school and career options with his father. These opportunities are all deprived of.

In the ACF, Reiryu has been unable participate in his favourite outdoor sporting opportunity to trek or ski. Instead, he spends most of his leisure time in his room, likely due to the effects of unauthorised doses of psychiatric drugs. The ACF's medical neglect of Reiryu is also a serious problem: he received no professional care for his Asperger's syndrome nor was his myopia assessed so that he could be provided with prescription glasses.

The judiciary has failed to rectify these reckless human rights infringements of the CGC. When the Tokorozawa CGC submitted the plea for second renewal of Reiryu's ACF consignment, a Saitama Family Court judge upheld it, in January 2020, on the claim that 'He is living stably', while disregarding the CGC's failure to meet its legal obligation to make an effort for return of Reiryu to his father. The judgment also represents irresponsible disregard for the fact that Reiryu cannot stay in the ACF forever, and once he leaves, neither the CGC or the Courts will help him. The judge even joined the 'hostage CGC' blame on Reiryu's father, stating that he 'repeatedly made critical remarks . . . about the CGC and behaved defiantly in response to the CGC'. At the Tokyo High Court, to which the father appealed, Judge **Hitomi Akiyoshi** also condemned the father's criticism of the CGC as a rationale for upholding the plea to continue Reiryu's ACF placement, thus revealing a hallmark of the *Sonderrechtsverhältnis* as a prominent characteristic of CGC legislation.

In the adjudication of the administrative litigation that Reiryu's father filed, Tokyo High Court Judge **Kazuaki Ono** made the following statement in the ruling dated 10 July 2020 regarding judicial review prior to the CGC's 'temporary custody': 'The issue of the

kind of judicial review that should be introduced in addition to the existing procedures falls under the task of legislature. ... [Yet] prioritising the protection of the rights of guardians by adding an *excessively heavy procedure to temporary custody* and giving priority to the protection of the rights of guardians may result in the failure to execute the temporary custody, thereby harming the interests of children. Even taking the recommendation made by the UNCRC to the Japanese Government in March 2019 into consideration..., it cannot be said evidently that the temporary custody system under Article 33 of the CWA infringes the rights of the people in relation to Article 9, paragraphs (1) and (2) of the Convention' (p. 33, emphasis JCREC). The High Court thus blatantly claims that State Party's current practice of removing children from their families without judicial review is in 'the interest of [the] children' and not in breach of the Convention, even though Reiryu's fate has poignantly demonstrated the opposite. The judiciary of State Party thereby ignores the incontrovertible fact that all other civilised countries respect an 'excessively heavy procedure' to protect the global human rights of children, as stipulated in Article 9 of the CRC. The ruling also unduly supported the 'hostage CGC' administration by ignoring its document forgery and its non-compliance with the obligation to reintegrate Reiryu into his family, as stipulated in Article 48, para. (3) of the CWA, as well as the failure to respect his right to seek an independent medical doctor's second opinion on the diagnosis made by the CGC doctor.

## 8. Concluding remarks: The State Party must strictly abide by the International Human Rights Laws in the CGC Legal System and Administration

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65 On 22 May 2013, Hideaki Ueda, Japan's human rights ambassador, yelled 'Why you're laughing? Shurrup!' at a session of the UN Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Geneva. However, having read this alternative report, the members of the HRCtte should by now know the reason for the laughter. Even in 2020, the High Court of Japan scornfully tramples on UNCRC recommendations, in support of CGC and ACF infringements on the fundamental, inalienable integrity of the biological family, as protected in Article 23(1) of the Covenant.

66 We therefore wholeheartedly hope that the members of the HRCtte will act positively to defend the human rights of Japanese children and families, who are groaning under the yoke of the State Party's CGC legislations and administration. Although these

problems have already been recognised by the UN, and recommendations were already issued in part in the UNCRC's 3rd–5th *Concluding Observations*, the State Party has shown no intention of implementing them. The people of Japan are therefore in urgent need of harsher international intervention, including from your Committee. We very much look forward to this in your forthcoming *Concluding Observations*.

**Recommendation 10:** The State Party should respect the integrity of the biological familial bond as an inalienable human right, as stipulated in Article 23(1) of the Covenant; and the MHLW and CGCs should abide by the international human rights treaties that defend this right.

**Recommendation 11:** All the motives arising from the vested interests and monetary gains of CGCs, ACFs, and NPOs with respect to alternative care practices should be completely removed from the policies of the MHLW and CGC system.

**Recommendation 12:** The provisions of the CWA and other related domestic laws, and the practices of the MHLW, the CRC, and the ACFs are in breach of the Covenants and Conventions of the UN, so that eradicating amendments of the domestic laws and the restructuring of the CGC/ACF system can be called for with immediate effect.

## Appendix: Glossary of Abbreviations

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ACF	Alternative Care Facilities or ‘children’s home’, <i>Jido Yogo Shisetsu</i> . Most are former post-WWII orphanages.
CAPA	Act on the Prevention, etc. of Child Abuse, <i>Jido Gyakutai no Boshi Touni Kansuru Horitsu</i> .
CCPR	The International Covenant on Civil and Political Rights
CGC	Child Guidance Centre(s) in Japan, <i>Jido Sodan Sho</i> .
Covenant	International Covenant on Civil and Political Rights.
CRC	Convention on the Rights of the Child.
CWA	Child Welfare Act, <i>Jido Fukushi Ho</i> .
HRCtte	UN Human Rights Committee.
HRW	Human Rights Watch (a US-based human rights organisation), or its recent report <i>Without Dreams</i> , if it is in parenthesis.
JCREC	The Concerned Japanese Citizens for the Rights of the Child to Eradicate Child Guidance Centre Sufferings ( <i>Jiso Higai wo Bokumetsu Suru Kai</i> , a civil society organisation that advocates for the human rights of children and families victimised by CGCs and ACFs)
LOIPR	List of Issues Prior to Reporting of the UN Human Rights Committee.
<i>Manual</i>	MHLW, <i>The Manual on Responses to Child Abuse</i> . See footnote 14.
MHLW	Ministry of Health, Labour and Welfare of Japanese Government, <i>Kosei Rodo Sho</i> . (Previously the Ministry of Health and Welfare, before amalgamation with the Ministry of Labour in 2001.)
MHW	The former name of the MHLW, <i>Kosei Sho</i> , before amalgamation with the Ministry of Labour in 2001.
UNCAT	The United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
UNCRC	United Nations Committee on the Rights of the Child, under the umbrella of the UN Office of the High Commissioner for Human Rights.