

# **The Current Situation of Human Rights Infringements and the Sufferings Caused by the Child Guidance Centres of Japan**

An Alternative Report

submitted to the

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Prepared by

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## **Introduction**

1 The Jisou Higai #110 (JH#110, Relief #110 for Victims of CGC Sufferings) has been advocating against the extremely vicious human rights violations of the child guidance centres (CGC) of Japan and providing information and counselling in support of the unfortunate victims of the CGC since 2007. The realities that have been exposed through our actions are as follows:

### **1. Forced Parent-Child Separation in the Name of 'Temporary Custody'**

2 It has often been pointed out that the '*temporary custody*' in Japan is not temporary but indeed, lasts for a long time. Many serious human rights issues do not appear in the administrative statistics and they are the following:

#### *Child abduction by the CGC*

3 Frequently, the CGC forcefully separate children from their parents. Besides genuine abuse, the children are separated in pretext of investigating whether there is abuse or improving the child-rearing environment. The concerned citizens call it 'child abduction', because the CGC uses the tactics of deceiving parents and children to separate them. Many victim parents have experienced their children being taken away by a CGC staff while other staff distract their attention (report in Maki Okubo, *Reportage CGC*, Asahi Shinsho, p.16). Furthermore, a staff of Adachi CGC, Tokyo, broke into family U's house and took away child K from bed with his mouth covered while

the child was still crying (**Annex 1: The Adachi Child Abduction Incident, 2007**). This is a severe abuse of the on-site inspection system.

*Lack of judicial involvement in the separation of children from their parents*

4 Such problems arise because there is no fair judicial involvement at the start of custody. Even though it is extremely rare for the CGC to get adverse rulings, the henchmen of the CGC have attempted to fend off the judicial intervention, to avoid restrictions on their freedom. The CGC has falsified that the judicial review is made through Article 28, which transfers the child to an alternative care facility (ACF) at the end of the custody. It thereby waters down the UN recommendation for judicial involvement (Para. 29 (a) of the Concluding Observation of UNCRC to Japan in 2019). By 2019, the extension of temporary custody for more than 2 months was subject to the approval of the family court. However, there has been no end to the cases where CGC forces parents' approval for extension of temporary custody by saying, for example, "If you don't sign (for approving the extension), you won't be able to see your child". Thus, proper judicial involvement does not always happen. (**Annex 2: A Case of Prenatal 'Abuse' Charge in Toride, 2016**)

*Abuse of restrictions on visitation of parents to their children*

5 A considerable number of children who have been separated from their parents want to return to their parents' home. Yet the CGC does not inform the parents of this. In order to alienate the parents

from children, in many cases parents are restricted from visiting their children during temporary custody. The Ministry of Health, Labour and Welfare (MHLW) has issued a notice to the CGC that it is possible to restrict the visitation of the parents to their children based on judgment of CGC under ‘minimum necessity’; yet in reality, the visitation restrictions are imposed in most cases. These frequent separations and restrictions on visitations are grave human rights infringements caused by abusive infliction of state power. There are reports of cases in which the CGC has forced the child in custody to be consigned to ACF through a staff member lying, “Your mother started to live with a new man, so you can’t return home.” (**Annex 3: The Kawasaki CGC Child Exodus Case, 2007**). In the temporary custody case of Iida CGC in Nagano, even though the child begged the CGC staffs, “I want to go back home”, the CGC falsely reported to the parents, “Your daughter says she doesn’t want to go home” and “Your daughter refuses you”, etc. This falsehood was revealed when the parents met their child later. (Iida CGC false report in 2017, on blog ‘Support from Iida CGC, Nagano’). The CGC in Japan does not even allow the lawyers representing the parents to meet the child, the restriction being harsher than that of a prison. The children and families suffer from this act of authoritarian barbarity.

*Iron-law of the absence of custody in false cause*

6 In the administration procedure of the CGC, there is official pretention that the CGC makes ‘NO’ mistake in taking a child into custody. For this reason, once a child has been separated from his/her parents, the parents can do nothing but admit the abuse and follow

the conditions of the CGC (even if the charge of abuse was false) to get their child back (hostage CGC, *hitojichi shiho*).

*Falsifying the meaning and need of the family reintegration*

7 The CGC is very reluctant in reintegrating the parents and their children. They even change the definition to suit their taste: there are cases in which children are sent to foster parents instead of giving the child back to their original biological parents who maintain hostility with the CGC. This is also regarded as ‘family reintegration’ by the CGC.. It has become evident that behind this absurd measure exist the vested interests of those involved in child welfare who can benefit financially by raising children in the ACF and foster families.

*Adverse effects of setting the quota for removal of children from families*

8 In addition, the number of children that a CGC removes from the families works as the benchmark for the budget that it gets the next year. The benchmark depends on the annual ‘*abduction quota*’ of bringing the children into custody; and the performance of the CGC is evaluated accordingly. The consequence is that after the quota has been filled ahead of schedule, the children seeking help due to genuine child abuse are sent back, since the beds in the ACF are filled.

## 2. Expansion of Infant Care Facilities and Increase in Infants Victimised by the Child Trafficking in Recent Years

9 In Japan, the complex problem of child poverty is becoming more serious in the wake of the COVID-19 pandemic. The number of single-mother households is increasing, yet the number of single-mother households living on welfare benefit is decreasing. It has been said that there are many cases of absurd parent-child separation by CGC among socially disadvantaged families such as those receiving welfare benefits. Local governments have saved expenditure to welfare benefits through the forced parent-child separation, while the CGC has used this system to fill the beds of ACF. The social care in Japan has been thus promoted at the cost of violation of human rights of the family members. To reinforce this system, the following policies have been adopted in recent years, which has further led to child trafficking.

*Real motives behind the separation of infants from their mother*

10 So far, there have been many reports of child abductions by the CGC from families with children in the primary school age; yet in recent years, the undue removals of infants and toddlers from their mothers have become more conspicuous. This operation is ostensibly aimed at preventing the death of infants, but the victim of South Kawasaki CGC claimed, “In some cases, children in primary school age who escaped from the ACF to return to their parents’ home exposed the falsehoods of the CGC and this flight from the CGC helped them regain their former family lives”. However, the infants have no way of knowing where their parents live and thus cannot escape from the forced family separation, which is advantageous to the CGC.

*Confidential registers of the 'specified pregnant women' and securing the capacity of the ACF for infants*

11 In spite of the extremely declining birth rate in Japan, more ACFs for the infants have been built and more beds have become available in pursuance to the policy of MHLW. Moreover, local governments throughout Japan have been requested to set up the 'Regional Council of Countermeasures for Children Requiring Aid (RCCCRA)', which can help strengthen the communication between the CGC and maternal and child health departments (MCHD) of the local governments. At present, many MCHDs require pregnant women to provide their personal information when issuing a maternity health handbook and ask them to agree to the condition written in small font 'to share information with support and relevant organisations at MCHD office'. Most pregnant women blindly agree to this, while 'the relevant organisations' are not specified. It, of course, includes the CGC. Moreover, there is no way for the pregnant woman to know that 'support' could mean the forced separation of the child from his/her mother. The RCCCRA registers the Specified Pregnant Woman 'in secrecy' in its ledger in order to secure enough number of infants.

*Common interests shared by the constituent bodies of the RCCCRA*

12 The concerned citizens have expressed that the bodies composing the RCCCRA share common interests: 1. the CGC in demand of more infants under encouragement of the enhanced financial incentives offered by the national government; 2. the maternal and child health administration of local governments that

do not want to pay for maternal and child support expenses due to ‘financial difficulties’; and 3. obstetrics and gynaecology clinics that want to cover up medical errors. This, in fact, has turned into a real threat.

### *Prenatal foetal ‘abuse’ charge in Toride*

13 In Toride, a city ca. 40km to the Northeast of Tokyo, a pregnant woman who had lost her job, requested help to a public health nurse in the Health Centre, the maternal and child health department of the city government, to apply for the ‘midwifery system’ as mentioned in the Child Welfare Act, which offers full support for childbirth expenses.

14 The public nurse turned her away by saying, “There is no midwifery system in the city of Toride”. After the woman gave birth, the public nurse reported the case to Tsuchiura CGC that the woman had not followed the guidance of the city government which had supposedly been offered in support of her pregnancy and the newborn baby. The CGC then separated the baby from her at the hospital. Later, a CGC staff told the woman that the CGC separated the baby forcibly from the mother because they received report from the public nurse that the woman “rode a bicycle while pregnant and worked late during pregnancy and she lacked childcare equipment”. The CGC then sent the baby to an ACF for infants against the will of the mother. **(Annex 2: A Case of Prenatal ‘Abuse’ Charge in Toride, 2016)**

### *Harmful effects of the custody through assessment*

15 The Toride case is an example of forced separation of a baby



from the parent based on ‘abuse risk assessment’ of a pregnant woman.

16 A family is regarded by the CGC as ‘abusive’ through deployment of the ‘abuse risk assessment sheet’, where ‘history of parental abuse’ and ‘single-parent family’ are listed as criteria for potential child abusers. This method is called the ‘child abuse assessment’, which is to earmark potential candidates for forcible separation in the name of ‘temporary custody’. The CGC has a list of possible factors extracted from previous abuse cases.

17 Although this may be a necessary condition, it does not explain everything. Suppose there is a case in which a teenage pregnant woman is alleged to abuse her children frequently due to her unwanted pregnancy. The risk assessment then invites the decision that young pregnant women are potential abusers and therefore, their babies need to be separated from their parents involuntarily without fair and impartial judicial review. In Japan, this is a major human rights violation where pregnant women are suspected of ‘abusing’ without any hard evidence. Similarly, those who have experienced past violence are labelled as abusive risk families. Separation of children from their parents also occurs when a parent has been previously in an ACF. This erratic ‘risk assessment’ has resulted in a lot of absurd cases of forced separation of children from their parents, which is indeed a discrimination under undue prejudice.

18 This ‘custody through assessment’ referring to unjustifiable separation of a child from his/her parent by the CGC has increasingly become common in recent years. This ‘assessment’, while aiming at identifying potential abusers based on factors regarded as the risks in

the past cases of abuse, does not offer the absolute criteria in identifying the abuser. For example, the ‘facts’ of high incidence of child abuse in the families of single parent pregnancies and the experience of abuse in childhood are employed by the CGC to draw a conclusion that a baby from single parent or a pregnant woman with history of abuse should be separated from his/her parents because they could be potential abusers. Of course, not every woman with a history of abuse or single mother abuses her baby; it is a serious violation of human rights to make this sort of allegation without due evidence in each individual case. In fact, single-mother families and those who have ‘experienced’ psychiatric disorders such as depression have frequently become victims of forced child separation. In this sort of ‘risk assessment’, the separation of children from families are carried out based on the attributes that the parents cannot change, and there is even a view among the CGC that all the children whose parents have these attributes should be separated when they are born, and that the children should not see the parents for good. This is *de facto* weeding out of parents by the CGC, which amounts to the eugenic protection administration that determines the ‘women who are not eligible to bear children’ through the state power.

19 This sort of bizarre administrative practice has become quite common among the CGCs in Japan recently. As a pregnant woman applies for the Maternal and Child Health Handbook, her demeanour of worry about childcare puts her under surveillance for possible separation of children from her family by the Council for Maternal and Child Health Care. The baby who is born would thus be used to fill the beds of the increasing number of new ACFs for the infants and

eventually becomes a candidate for child trafficking in the name of ‘special adoption’.

*Promotion of child trafficking through amendment of civil code*

20 Behind these problems, there is another evil—the amended Civil Code of 2020, ridiculed as the ‘Child Trafficking Act’. Through attempts to alienate the biological parents from the procedure at the drafting stage, the authority of the CGC has been strengthened so that once a child is recognised to have the potential of being abused, the child may be put into ‘special adoption’ at discretion of the CGC director without the consent of the biological parent or the child under 15 years old. Furthermore, the communication between the biological parents and children would be banned. In other words, the CGC has full authority as a child broker regardless of the wishes of the biological parents and the children.

21 The Japanese Government has set a goal of doubling the number of special adoptions. The concerned citizens have accused domestic NPO for its activity which offers a child for special adoption for about JPY 2 million (ca. USD 19 thousand) per child. The infants and toddlers are forcibly separated from their parents while they do not recognise the faces of their biological parents. Considering the current intensity of victimisation of the children by the CGC, the families within Japan have no effective countermeasure to protect themselves from the distractive authority of the CGC completely severing the bonds between parents and children who want to stay together.

### 3. Prospects for Solving the Damage Caused by the CGC

#### *UN recommendation to abolish temporary custody in CGC offices*

22 The UN Committee on the Rights of the Child (UNCRC) issued recommendation in 2019 that the Japanese government should abolish the temporary custody of children in the CGC offices. While government officials and the mass media remained silent, the victims of the CGC saw in this recommendation the light of salvation from the serious human rights infringements. Since then, the UNCRC recommendation has been widely shared among the victims of CGC in Japan.

#### *Lawmakers working to restore human rights of parents and children*

23 The House of Representatives MP Sei-ichi Kushida pursues the issue of fraud custody by the CGC in the parliament and makes efforts to introduce the judicial review in the process of temporary custody. In addition, Takako Suzuki, also a House of Representatives MP, revealed various undue operations of the CGC in the parliamentary debate. Furthermore, Hatsumi Iwanami, a member of the Chiba Prefectural Assembly, is aware of the problem that many single-mother families and families on welfare benefits have been suffering from the administration of the CGC. She has been acting to rectify this difficulty. The number of lawmakers who act on behalf of the victimised family to restore their human rights is still few and far between, and we look forwards to further development.

*CGC reform in the city of Akashi, Hyogo*

24 Earlier last year, Fusao Izumi, Mayor of the City of Akashi, Hyogo, became the first Japanese mayor to embark on efforts to save children who have been completely separated from their parents for more than a year by the CGC. The city government has promised to review the administrative measures of the CGC by a third-party committee and reform the CGC to guarantee the rights of parents and children to meet each other and of the detained children to go to school. In most other local governments, progress in recognising these human rights of the parents and children is still at snail's pace.

*Japanese judiciary dealing with the CGC cases is not fair or impartial*

25 The human rights infringements towards parents and children by the administration of CGC have been aggravated by the judiciary. Many district and family court judges engaging in the judgement of the CGC cases do not make objective judgements but blindly endorse the human rights infringement committed by the CGC. The independence and impartiality of the judiciary stipulated in the Constitution and the Covenant is undermined under deception of 'cooperation for preventing child abuse'. Judges too often blindly follow the plea of the CGC, which is assumed prima facie to be 'a child welfare expert'. Even lawyers representing the CGC victims advise that it is better to accept the decision of the CGC to consign a child to the ACF because the parents have little chance to win over the CGC even in the most unreasonable cases of forced separation of a child

from the parents.

26 Even if a CGC brought a child into custody by a false charge, the family court normally approves in a breeze the CGC's Article 28 plea, which grants CGC the power to consign the child to ACF. **Annex 4** demonstrates this problem of Japanese judiciary clearly. The court rulings are normally based on the application of legal concept of *negotiorum gestio* to the operation of CGC, which is vested with the coercive state power which the ordinary citizens do not possess. However, the adverse claims of the parents to the operation of the CGC have been hardly entertained. The adjudication of the first and second instances of this **Annex 4** case thus accepted the egregious 'abuse' charges laid on child Y, reported to Tokorozawa CGC claimed based on the fabricated evidences under tacit intention of expelling the child from school (the human rights problems related to this practice common in Japanese schools is addressed in Para. 62 of the UNCRC, Concluding Observations to Japan in 2010). These instances have blindly endorsed the actual operations of the CGC which are in obvious breach of the international human rights laws and the Japanese Constitution. **Annex 5** demonstrates even bizarre court procedure of the *habeas corpus* at Tokyo District Court. The procedure that had breached the fundamental theses of the adversarial system should therefore be unconstitutional. Yet the Supreme Court, which is supposed to judge the constitutionality of any affairs, turned the appeal down on 2 December 2020 in extreme favour to the CGC. These two Annexes thereby prove the breach of Japanese judicial operation of the CGC cases to Article 14 of the Covenant.

27 We, the JH#100, nevertheless demand judicial involvement in temporary custody, because, through judicial involvement, there is more substantial hope for the return of children having separated from their families by false charges.

*Exile of a Japanese mother and her daughter to the Netherlands*

28 Under such unfair and partial judicial practice of Japan, the court endorsed the forcible separation of the daughter from her mother in the Article 28 plea submitted by Nagasaki CGC with fabricated evidence, despite the fact that both mother and her daughter wanted to live together.

29 The daughter was then rescued from the confinement at the ACF by the relatives and our activists. Immediately thereafter, the mother and daughter fled to the Netherlands to save their familial bond. This is the first case of a Japanese family seeking refuge from the oppression of Japanese child administration in which the judiciary was part of the human rights infringing system (**Annex 6: Mother and Daughter's Flight to the Netherlands, 2008**). The victim daughter remained in the Netherlands in exile for more than 10 years and waited to attain 18 years of age for fear of being abducted again by the CGC in Japan. Recently, she issued a statement, "What the CGC did to me was a crime".

*Dear distinguished members of the UN Human Rights Committee, we, the JH#110, sincerely request honour of your shedding light on these bizarre human rights infringements that Japanese child administration and the judiciary are jointly inflicting upon*

*Japanese children and families, to open the way for their salvation.*