

The Second Report on Childhood Impoverishment in Japan

Annex 1: Voices of Non-school-attendant Students

**Annex 2: 'Is it a right?' Disabled children and young
people's rights to education, mobility,
leisure and work in Japan.**

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

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Chapter 1. Introduction

1-1. Outline of this Second Report

In November 2017, we, Citizens and NGOs Association for the Convention on the Rights of the Child (hereinafter, the Association), submitted our alternative report, titled CHILDHOOD IMPOVERISHMENT IN JAPAN UNDER THE NEO-LIBERAL AND NEO-NATIONALISTIC MOMENTUM (2017) (hereinafter cited as CHILDHOOD IMPOVERISHMENT). We, now, submit our second report, titled THE SECOND REPORT ON THE CHILDHOOD IMPOVERISHMENT IN JAPAN. This second report aims at providing information on the issues identified in the List of Issues (LOI) to Japanese government and also on the issues not identified in the LOI but to be raised in the dialogue with the Japanese government. Part I (from Chapter 2 to 6) of this second report provides the former information and Part II (Chapters 7 & 8) the latter.

Two annexes are added to this second report.

Annex 1 is “*Voices of School-non-attendant Children.*” Interviewing more than 70 school-non-attendant children, two groups of parents prepared this annex. Short voices of kids collected in Annex 1 vividly show why they shall keep themselves away from schools, what kind of difficulties they face in school and family, as well as what they really demand: they demand sufficient time for rest to restore their “sense of agency,” which they lost in school.

Annex 2 is “*‘Is it a right?’ Disabled children and young people’s rights to education, mobility, leisure and work in Japan.*” This annex is the report of joint research group of J. F. Oberlin University in Japan and the University of Central Lancashire in the U.K. This report is the fruit of the qualitative analysis of voices of Japanese kids with its unique method: youth with disabilities both from Japan and the U.K. analyzed the voices of kids with disabilities. This unique method brings it home to us how the conceptions (or misconceptions) of disabilities and childhood hinder kids with disabilities from enjoying the rights to education, leisure, work, and mobility. This report is a must-read for CRC not only because it provides vivid information on what is really meant by being children with disabilities in Japan, but also because it shows the participation of kids in analyzing their own difficulties brings us firm foundation for policy evaluation and elaboration.

In this introduction of the second report, first of all, we would like to point out eight important issues which are not identified in the ILO, but to be raised in the dialogue with the Japanese government (1-2). Then, we show the list of chapter numbers of CHILDHOOD IMPOVERISHMENT and those of this second report, which provide information concerning the issues identified in paragraphs of the LOI (1-3). We explain the outline of complementary information (1-4) and that of two Annexes (1-5).

1-2. Eight Important Issues not Identified in the LOI but to be Raised in the Dialogue with the Japanese Government

Though the following eight issues are not identified in the LOI, we recommend the Committee to raise them during the dialogue with the Japanese government¹.

First, the issue of the aims of education, namely, the compatibility of the aims of education stipulated in Articles 1 and 2 of the Basic Law of Education (2006) with Article 29 of the Convention (See, Chapter 28 of CHILDHOOD IMPOVERISHMENT report.).²

Second, the issue of the pledge of allegiance ceremony in public schools (See, Chapter 31 of CHILDHOOD IMPOVERISHMENT.).³

Third, the issues of the politically biased textbook authorization system (See, Chapter 30 of CHILDHOOD IMPOVERISHMENT.).⁴

¹ Among eight issues, we had discussion on the first, second, third, fourth and sixth issues with the officers of the Ministry of Education on October 29, 2018. In footnotes, we show how they replied to these issues.

² We asked whether the first aim of education, namely the full development of the personality of children, set limits on the inculcation of values listed in Article 2 of the Basic Law of Education. The officers did not give any answer to this question.

³ We asked whether the government has any plan to give notice to parents and children that they can decide whether or not to participate in the pledge of allegiance ceremony. The officers answered that it is not necessary to give this kind of notice.

⁴ We asked the specific measure to assure the political neutrality and the professional quality of textbook. The officers answered that the Minister of Education appoints textbook examiner by taking into consideration their professional knowledge.

Forth, the issue of Zero Tolerance Policy applied to school discipline (See, Chapter 16 of CHILDHOOD IMPOVERISHMENT.).⁵

Fifth, the issue of the retreat in the free tuition fee in upper-secondary schools (See, Chapter 32 of CHILDHOOD IMPOVERISHMENT.).

Sixth, the issue of “free time” of children (See, Chapter 1-4 and Chapter 35 of CHILDHOOD IMPOVERISHMENT.).⁶

Seventh, the issue of play and leisure activities of children after natural disasters. Because CHILDHOOD IMPOVERISHMENT report does not provide any information on this issue, we provide it in **Chapter 7** of this second report. This chapter shows that no national law and policy takes into consideration the children’s right to play, rest and leisure in reconstructing communities attacked by natural disasters.

Eighth, the issue of backlash against sex education. We put together pieces of information provided in different chapters of the CHILDHOOD IMPOVERISHMENT in **Chapter 8** of this second report.

⁵ We asked whether the Zero Tolerance Policy is compatible with Article 13 of the Act on School Education of Japan, which stipulates that the disciplinary action shall be taken only when it is educationally necessary. The officers answered that, in the notice of the Ministry which recommends the local school boards of education to apply ZTP to school discipline, the Ministry stress the necessity to take into consideration unique character of each student and contexts of his/her misconducts.

⁶ We asked how the Ministry took into consideration the indispensability of “free time” for students both in schools and out of schools in designing the National Course of Study. The officer answered that they assure recess time during classes. Other than that, the Ministry prioritize the sparing of time for imbuing students with the qualities necessary for becoming national citizens of Japan.

1-3. Chapter Numbers of CHILDHOOD IMPOVERISHMENT and this Second Report Providing Information concerning the Issues Identified in the LOI

Below is the list of chapter numbers of CHILDHOOD IMPOVERISHMENT and those of this second report, which provide information concerning the issues identified in paragraphs of the LOI.

The LOI (paragraph numbers and issues)		Childhood Impoverishment (chapter numbers)	This Second Report (chapter numbers)
1	Plan to adopt Comprehensive law on children's rights	Chapter 4-2.	
1	Impacts of revised Child Welfare Law	Chapter 4-3.	
1	the Outline for the Promotion of Development and Support for Children and Young People (2016)		Chapter 5.
3	Discrimination against foreigners	Chapter 8.	
3	Discrimination against girls	Chapter 9.	(See also Chapter 8.)
4	Measures to abolish corporal punishment	Chapter 15.	(See also Chapter 3-1-1.)
4	Support and rehabilitation services provided to child victims		Chapter 3.
5	Measures to enhance foster parent system	Chapter 20-1.	(See also Chapter 3-3-1.)
6	After-school day-care for children with disabilities	Chapter 6-3.	Chapter 5, Section 2
6	Meanings of inclusive education and special needs education	Chapter 24.	Chapter 4 & Annex 2.
7	Medical care of children in Fukushima	Chapter 12-4.	(See also Chapter 7.)
9	Child poverty and social transfer	Chapter 5-2 & Chapter 7.	
10	Early childhood care service	Chapter 11-3 & Chapter 25.	
10	Bullying	Chapter 2-2-4 & Chapter 34.	(See also Chapter 3-1-2.)
10	Extremely competitive schools system	Chapter 2 & Chapter 29.	Chapter 2 & Annex 1.
12	Juvenile justice	Chapter 36	Chapter 6
16	Allocation of financial resource	Chapter 5-2.	
18	Suicide	Chapter 2-2-5 & Chapter 21.	

1-4. Outline of Complementary Information on the Issues Identified in the List of Issues

1-4-1. Paragraph 10 of LOI on the Extremely Competitive Nature of Schools

Chapter 2 provides three pieces of information on the extremely competitive school system. The first is on how the national standardized testing has made “teaching to testing” prevail in the daily educational practice. This information is drawn from the national survey conducted by All Japan Teachers and Staff Union (*Zenkyo*) this year. The second is on the situation of Adachi ward in Tokyo, which is the most famous experimental field of the neo-liberal education reform in Japan. The third is the information on how the recent education reform has opened the public school system as the market for for-profit corporations and how deeply the school system has become dependent on for-profit corporations. Please also refer to **Annex 1** “Voices of School-non-attendant students.”

1-4-2. Paragraphs 4 and 12 of LOI on Rehabilitative Service to Child Victims and Delinquent Juveniles

Chapter 3 provides the comprehensive information on the rehabilitative service for child victims of corporal punishment by teachers, bullying by students, child abuse, and violence in alternative family environments, as well as for children in conflict with law. As the socio-economic gaps has been widened under the neo-liberalization of the society and the state, it has become clearer that existing protective and rehabilitative mechanism has become ineffective. Expanding difficulties of children under the unequal society are far exceeding the capability of the existing mechanisms. This chapter, the first interdisciplinary analysis of the existing mechanism, shows the urgent need for the comprehensive reconstruction of the mechanism to protect children from harmful conducts and to provide rehabilitative measures to child victims and to children in conflict with law.

1-4-3. Paragraph 6 of LOI on Inclusive Education and Day-Care for Children with Disabilities

Chapter 4 provides the information on the problems in the implementation of “inclusive education” in Japan and the recent reform of the day-care service for children with disabilities. Please refer also to **Annex 2** to this second report, because it shows how Japanese youth and kids see the inclusive education and special need education.

1-4-4. Paragraph 1 of LOI on the Guideline for the Promotion of Development and Support for Children and Young People (2016)

Chapter 5 analyzes problems in the Guideline for the Promotion of Development and Support for Children and Young People (2016). This chapter argues that, because the Act

does not afford the Convention with the power to guide national policies, the Guideline fails to identify the difficulties of children and the youth or to elaborate measures from the viewpoint of children's rights. This chapter asserts the need to adopt a revised Act or a new law which clearly obliges the government to realize the rights recognized in the Convention.

1-5. Two Annexes on Voices of School-non-attendant Students and Youth and Kids with Disabilities

Annex 1, "Voices of School-non-attendant Students," is prepared by the parent groups in Tokyo and Yamanashi, whose children do/did not go to schools. They collected voices from 77 kids from March 2016 to May 2017. Annex 1 picks up short remarks of 25 kids, which express their feeling most candidly. Their voices are evocative of how they are deeply annoyed by the loss of "sense of agency," namely, "the feeling of being in charge of your life: knowing where you stand, knowing that you have a say in what happens to you, knowing that you have some ability to shape your circumstances."⁷ These voices tell us that the school-non-attendance is the desperate efforts of kids to restore their "sense of agency."

It is not reported in the government fourth and fifth report, but, the government enacted in 2016 the Act to Assure Opportunity of Education Equivalent of General Compulsory Education. The aims of the Act are twofold: first, to provide to a person who did not receive sufficient education at compulsory primary and junior high schools the opportunity to receive it in night junior high schools, and, second, to provide school-non-attendant students with diversified ways of learning. It would be argued that the Act eases the difficulties of school-non-attendant students by allowing them to learn outside schools. Nevertheless, as are shown in the voices of kids in Annex 1, what they demand is not "learning," whatever form it takes, but, the sufficient time for rest to restore their "sense of agency." The Act would not take away from students the pressure imposed under the extremely competitive educational system," because the Act would only replace the pressure "to attend school" with the pressure "to learn" by stressing the importance of "learning."

Annex 2, " 'Is it a right?' Disabled children and young people's rights to education, mobility, leisure and work in Japan," is the report by the joint research group of J. F. Oberlin University in Japan and the University of Central Lancashire in the U.K.

⁷ Bessel van der Kolk, *THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA* (Penguin, 2015), at 95. He also expresses this sense as "ownership of your body and your mind --- of yourself." (at 203).

This report is the fruit of its unique method: the youth with disabilities analyzes the voices of kids with disabilities.

This report, echoing the critical analysis of the neo-liberalization by CHILDHOOD IMPOVERISHMENT, adds new findings. First, although the government sees insufficient abilities of kids with disabilities as the barrier for them to enter the labor market and asserts the special education for workforce preparation, private companies set the barriers against them and the government has not made any effort to get rid of them. Second, kids with disabilities themselves are eager to enjoy leisure and, in order to meet their demands, the government shall take comprehensive measures including those assuring their right to mobility.

PART I

Complementary Information on the Issues Identified in the List of Issues

Chapter 2. School Education under the Extremely Competitive System

2-1. Difficulties under National Assessment of Academic Ability: From the National Survey Conducted by All Japan Teachers and Staffs Union

Almost all Japanese public school students are forced to take exhaustive academic achievement examinations conducted by each national, prefectural, and municipal government. Surprisingly, the National Assessment of Academic Ability (NAAA), conducted by the Ministry of Education, covers 100% of public elementary and middle schools in Japan. In addition, 30 of 47 prefectures have conducted their own achievement testing in public elementary schools, and 32 of them conduct it in public middle schools.

Originally, “testing” in school education has to be an opportunity for teachers to know students’ understanding and their obstacles of learning so that teachers could reflect their lesson plans and improve them, and for students to understand their achievement, as well as weakness, of their learning so that they can use the result of testing to improve their future learning. The academic achievement test which are conducted by each level of government are, however, nothing more than that teachers and students are forcefully involved in intensified competition by only showing result of test scores and averages of each prefecture, municipality, and, in some circumstances, school.

All Japan Teachers and Staffs Union (AJTSU) conducted a national survey on problems and difficulties of NAAA from April to June of 2018, and could have responses from 626 public school teachers of 21 prefectures (9 special districts and 228 municipalities). From this survey, we have to emphasize following three point of views on which the Committee needs to focus.

First of all, there are so many schools which have provided their students with specified school-wide preparation for NAAA. According to the result of the AJTSU survey, 44.5% of all public schools (52% of elementary schools and 32.9% of middle schools) conducted some kinds of test prep instructions by requiring their students to take examination based on the past NAAA, or by imposing homeworks to prepare for the NAAA. Responding to those circumstances, on April 28th of 2016, the Ministry of Education issued a notification to prefectural and municipal government, notified them that “it is inappropriate to take any extreme actions seemed to be only aiming at increase of test scores.” Despite this notification by the Ministry, the AJTSU survey of 2018 shows that over 40% of public schools still have prepared their students for the NAAA, and that

the NAAA strongly affects to curricular of each school.

Second, free comments section of the AJTSU survey shows how much the NAAA gives detrimental effect onto students, teachers, and whole school education. One effect is that both students and teachers become much sensitive to average scores of their school under the NAAA. For example, a student explicitly regretted that “our school is the worst in the city,” and a teacher says that “we are feeling strong pressure to be judged only by average scores without any consideration of school circumstances.” Administrators of city board of education themselves, in fact, stirred up these pressures by making cynical remarks to schools, telling that, for instance, “your school’s average score is lowest in the city.”

Another serious problem of the NAAA is that its implementation itself increases burdens on students, and diminishes their motivation to learn. Because it is too hard for students, especially for elementary students, to take required full day testing of the NAAA, some teachers commented that students with difficulties in learning “tended to act violently during days just before the NAAA testing or showed reluctance to come to testing,” and that “those testing amplifies sense of inferiority in students with difficulties by making them feel nothing they can learn.” A teacher also shows that “repeating of testing only resulted in students’ reluctance to lean or deprived students of learning with joy.” Therefore, the NAAA has caused huge detrimental effects even contradicting to its original purpose to improve academic achievement of *every* student.

Finally, most recent concern surrounding the NAAA is the proposal of new teacher evaluation system which uses scores of NAAA in personnel decisions of school administrators and teachers. This policy was proposed by the Mayor of Osaka city for the first time in the nation and, despite objections from member of city board of education, affirmed in the City General Council for Education (which is the council between mayor and board of education to discuss general policy of education).

To protest against the new teacher evaluation policy, the Osaka Prefectural Teacher Union and the City Teacher Union have tried to collect millions of signatures to ask city mayor to withdraw the proposal. Responding to this movement, some newspapers also criticized the mayor’s proposal in their editorials: e.g. “it is unpleasant to be absorbed into ranking and to force schools to receive values of private companies. If the NAAA is for improving education, it is time to reconsider the role and way of the NAAA” (*Kobe Newspaper*); “It is completely unreasonable to amplify competitiveness among school education.” (*Nigata Nippo*); “There are some other prefectures which published the name of principals whose school is ranked higher, or which funded additional budget to schools that improved their ranking of the year. It is not just the problem to increase

competitiveness of school education but the problem which proves that independence of education have been intruded by political interference” (*Shinano National Daily*).

To respond to those circumstances, the AJTSU published official comments to abandon at least exhaustive survey of the NAAA because it “involves students and teachers into “un-educational” competition to raise test scores and it rather distorts essential meaning of education or learning.”

2-2. Instances of Academic Ability Testing in Adachi-ward, Tokyo

Adachi-ward, one of the Tokyo metropolitan special districts, has been frontline of education reform which strengthened competitiveness on improving students’ test scores by introducing the school choice and scrap-and-build method in public elementary and secondary schools. This reform included following various actions; increase of school hours (from 2003), employment of principals who used to be in private companies (from 2004), recognition of special district which consolidate an elementary school and middle school into one building (from 2004), funding based on school performance (from 2005), disclosure of information of school academic performance (from 2006), and reduction of summer break days. Among those various actions, however, center of the reform was municipal high-stakes tests which was the first municipal testing other than national and prefectural academic ability test.

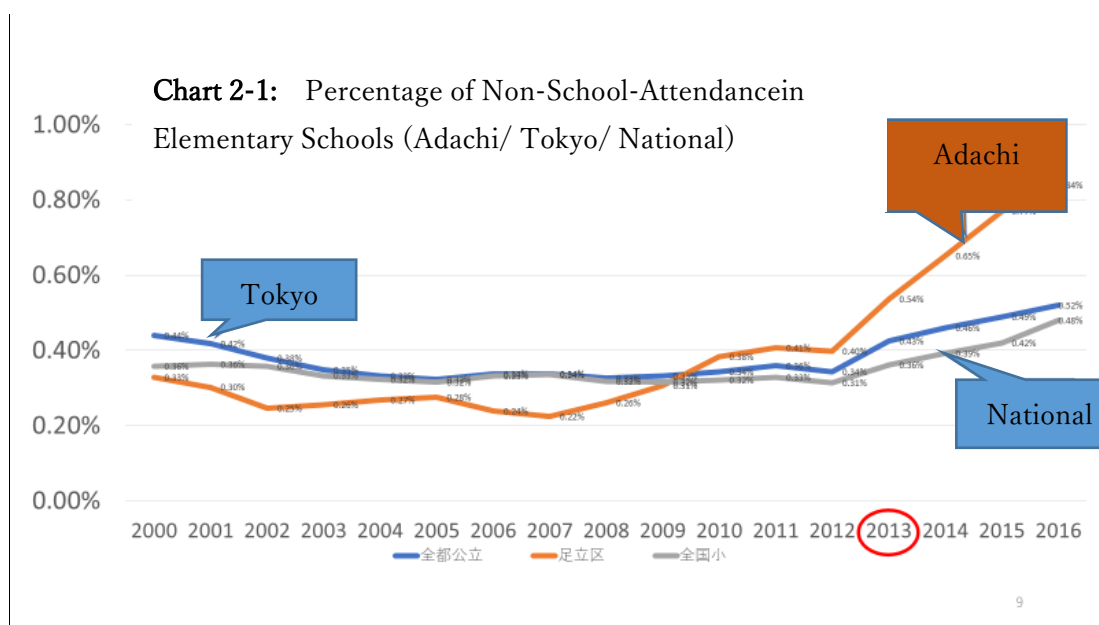
Due to the fact that, in 2004, Adachi-ward was listed as the lowest performing district among 23 wards in Tokyo Metropolitan Academic Ability Test (testing 5th and 8th grade students within Tokyo every school year), it started to disclose ranks of schools within its district on homepage, and also launched municipal level high-stakes testing by its own since 2005. Various numerical data which simply compare test scores among schools, classes, and students inclined to reinforce competition among them.

Public officers of Adachi ward attributed this low academic performance to “incompetence” of school teachers and introduced teacher assessment system setting quantitative goals based on test scores. This new assessment system resulted in reinforcement of competition among teachers, dismantling of collegiality, and isolation of teachers. In spite of the fact that teacher quality is one of the most important learning conditions for students, teachers in Adachi ward are damaged or deprived of their professionalism or self-confidence. In three years after 2003, among approximately 2,500 teachers in Adachi ward, 5 teachers died on the job, 26 teachers got sick leave due to mental diseases as a result of above reforms. Because teachers are damaged both their mental and physical conditions, there are so many 40 or 50 years old teachers who chose to quit their job far before official retirement age.

Because of the fact that, since 2006, test scores become one of the formulas to decide amount of each school budgeted, teachers and students are involved in competition school-widely. In 2007, it was reported that some principals manipulated test scores of their schools illegally, which shows that whole school education itself was distorted.

As mentioned above, “education reform” in Adachi ward, driven only to improve test scores, changed postures and landscapes of school education. Although Adachi ward used to be a district which has the least number of school-non-attendants among students, the number of school-non-attendance has increased rapidly from 2007-10, and it has become one of the districts which has highest rates of school-non-attendance absenteeism (Chart 2-1).

The number of school-non-attendance has been increased not just within Adachi, but in whole Tokyo metropolitan area or even nation-wide since 2013. Because this trend was exactly accompanied with the restart of exhaustive survey of the NAAA in 2013, it is seemed to be true that “Adachi problem” was extended to national level. Even within Adachi ward, the rate of school-non-attendance rapidly increased in 2013-16 because of the enforcement of “improvement action for academic ability.” This action includes “Adachi Academic Standard” which focused on lower performance school, teachers, and students to control their daily educational activities, and on the marketization or corporatization of instructional methods which was imported from education industry. It should be noted that those actions intently focused onto students with learning difficulties or poverty background and aimed to involve them to the competition of academic performance.



2-3. Structural Characteristics of Education Policy in Japan

2-3-1. Competitive School Entrance Examination and Development of Education Industry

Transition from primary schools to secondary education and to higher education in Japan has been carried out through extremely competitive entrance examinations. Stratified structure from top to bottom schools, as well as its crude selection of students, drove all students to entrance examination, and developed educational industry and market to prepare students to those examinations.

In 1980s when Japan had second peak of student number, competition for entrance examination became huge and made serious problems. Parents in metropolitan area, aiming at avoiding college entrance exam, tended to send their kids to private middle and high schools which are directly connected to their affiliated private colleges. In this term, it became more common that even elementary school students go to afterschool program, provided by private company, to prepare for entrance exam of private middle schools, and that economic status of each family strongly influenced on students' competitiveness in entrance exam. Accompanying with the rapid growth of education industry including test prep-schools and "cram" schools, most people inclined to think of to "improve their kids' academic ability in test prep or cram schools instead of public schools." In 2015, 47% of all 6th grade students and 61% of 9th graders are enrolled in after school programs provided by test prep or cram schools: which means that it is usual for Japanese students to have "double schools" in a day and are bound to test prep for extremely long hours.

On the other hands, in 2000s, all public and private schools also faced with competition to recruit their students and struggled with raising school ranking in academic ability indicator. As a result, schools now are estimated by their ranking on academic ability, and many schools which could not succeeded to concentrate their students due to their lower ranking were closed or consolidated with other school.

Furthermore, controversy about decrease of student academic ability due to the flexibility of national curriculum and so called "PISA shock" urged officers of school administration to introduce any kinds of actions to improve the academic ability, including prefectural and municipal level high-stakes testing. Responding to those movements in prefectural and municipal level, the NAAA was restored in 2007. It seems to be true that the NAAA and related actions to improve student academic ability have been, as a public policy, sustaining or even strengthening those extremely competitive circumstances surrounding students.

2-3-2. Indoctrination of Competitive Minds and Disciplines: The Problems of "Zero Tolerance Policy"

The above circumstances called “Competitive Education,” “The NAAA Regime” are originally routed from governmental report titled *Rebirth of Japan*, published by the Council on Economic and Fiscal Policy in 2007. The report argued that “The human resource is the most important part of our country where has less natural resources. We need the education reform which raises academic ability of Japan to the top of the world ranking. To realize this reform, we need to implement the national academic ability testing to cultivate mindsets of students to compete and brush up with each other.”

Along with the restart of the NAAA, what also changed school education system was introduction of the “Zero Tolerance Policy” (ZTP). By the 2006 amendment of the Basic Act on Education, the act declares that, in school education, “It shall be carried out in a way that emphasizes instilling the recipients with respect for the discipline necessary to conduct school life.” Under this clause of school of education, education to “respect for the discipline” had become common educational tool nationally after the Ministry of Education issued the *Guideline for Discipline of Students* in 2010. The Guideline emphasized exclusion of students, instead of inclusion, by indicating that “it should not be reluctant to suspend students” who showed misconduct, violence, orbullying.

Since 2013, along with restart of exhaustive survey of the NAAA, students and teachers have been forcefully involved in huge competition to raise test scores in their daily life. Especially, students in the lowest performing community have been faced with strong pressures to be prepared for testing. In those communities, by making the instructional standard and the learning and discipline standards, teachers have been forced to use instructional tools, lesson models, and ways of discipline which were adapted in the highest performing community.

2-3-3. New Market Created by the High-Stakes Testing

Since the NAAA and almost all prefectural and municipal academic ability tests have delegated their necessary tasks for marking, calculation, and analysis to private educational companies, connection between school administration and educational industry have been strengthened for making the new market.

The national government expends over 5,000 million yen annually onto the NAAA. The largest educational company, Benesse Corporation, have obtained big money and private data of students by accepting delegated tasks of the NAAA for elementary school students under the contract with the Ministry of Education for 10 years. Including the prefectural and municipal level academic ability testing, it should not be overlooked that each level of government has been contributing to expanding market for education industry.

The connection between government and education industry has been strengthened not only by testing, but also by part time instructors, supplemental educational services, and in-service teacher training programs provided by education industry including cram school companies. It also has become usual in public high schools to use online education programs and trial examinations provided by private test prep companies. As education market has been expanded, education industry seems to become a significant part of the “public” education. While the Ministry of Education scheduled to introduce the Learning Assessment for High School Students from 2019, and the New Common College Entrance Examination from 2021, they are supposed to be based on proficiency examinations developed by education industry.

From the academic achievement testing to college entrance examinations, education industry has obtained initiative in main part of whole school education system. It is the result of extremely competitive education system in Japan that the standard level of academic abilities are handed by education industry, and that teachers deeply depend on tools of private companies, most of them are developer of those tests, to raise test scores. Above phenomena proves that education policy in Japan have continuously extended and strengthened extremely competitive nature of education for children through testing and actions to raise scores. It becomes also visible how economical gap could be an obstacle to raise tests scores of every student. A number of students in this country are suffering from both economical gap and achievement gap under highly competitive school system and deprived of so many important and necessary things for their childhood. Impoverishment of childhood still has been extended and become more serious than ever before.

Chapter 3. Rehabilitative Service for Child Victims and Delinquent Juveniles

3-1. Rehabilitative Service for Child Victims of Corporal Punishments and Other Violence in Schools

3-1-1. In Case of Corporal Punishment and Other Violence by Teachers

Article 11 of the Act on School Education prohibits corporal punishment by teachers. However, under the name of “*Shido*,” teachers often inflict not only corporal punishments but also physical violence which much far exceeds corporal punishments, verbal violence which hurts the dignity of children, or physically restrain children and scold them for hours. Teachers often commit these violent acts during extracurricular sport club activities. School Boards of Education tend to hide the incidents of teachers’ violent acts against students for fear of being criticized as allowing them.

All the more because the law prohibits corporal punishments, there is no law or policy to provide rehabilitative measures to students psychologically hurt by teachers’ violence. The Education Ministry has issued “Manual on Urgent Response to Students’ Suicides” (2010), “Manual on Investigation of Causes of Students’ Suicides” (2011), and “Manual on School Accidents” (2016). These three manuals of the Ministry, however, give no mention to what schools and teachers should do to students in case where they are hurt by teachers’ physical and verbal violence, even though there have happened several cases where students committed suicide due to the psychological harm by teachers’ violence.

3-1-2. In Case of Bullying and Other Violence among Students

Among the cases of bullying reported by schools or mass media are included many cases of batteries, bodily injuries, lethal injuries, theft, blackmails, and ostracism. These cases sometimes result in suicide by bullied students.

The government of Japan enacted the Act on Promotion of Measures against Bullying (2013). This Act defines bullying as acts among students which hurt them, and prohibit students from bullying others. Chapter 5 of this Act obliges schools and independent committees established by school boards to investigate “serious cases.” This Act, however, does not stipulate any measure for the rehabilitation of bullied students.

School counselors, which the government began to place to schools in 1995, are expected to provide psychological care to bullied students. However, they cannot meet this expectation because the number of school counselors is not sufficient and furthermore,

they are part-time workers. The Education Ministry adopted the policy to place a school counselor to all the public school in Japan (27,500 elementary and lower-secondary schools) by 2019. This policy, however, would not result in effective provision of rehabilitative service because school counselors, who are part-time workers, cannot keep continuous relationships with victimized students or see students on hand whenever students need to see them.

As is emphasized in the fourth and fifth governmental report, the government takes the punitive measures to bullying students including reporting them to police. In our view, however, bullying children also need rehabilitative service which let them be aware of the seriousness of what they did, understand why they bullied other students, and reconstruct relationships with victimized students, all the more because they are also victims of violence and neglect by adults. The Education Ministry has never adopted the policy to provide rehabilitative service for bullying students, but they shall adopt it.

3-2. Rehabilitative Service for Abused Children

3-2-1. Lack of Alternative Family Environments Capable of Providing Rehabilitative Service to Abused Children

According to the statistics publicized by the Health Ministry in August, 2018, the number of child abuse cases reported to 210 child guidance centers all over Japan was 133,778 in FY 2017, which was the largest after the Ministry officially counted the number of cases. Among them, the number of psychological abuse was 72,197 (54.0%), physical abuse 33,223 (24.8%), neglect 26,818 (20.0%), and sexual abuse 1,540 (1.2%).

According to the research by the Ministry, during FY 2016, among 195 children, who were separated from parents and placed in hospitals more than one month, 63 (32%) stayed in hospitals even after medical treatments were completed, due to the fact that child guidance centers could not find out alternative family environments. Based upon this research, the Ministry issued to local governments and child guidance centers the notice asking them to improve the ability of child welfare institutions to treat severely hurt children and increase the number of foster parents who are able to treat them. This notice shows the government's failure to provide severely abused children with alternative family environments capable of providing appropriate rehabilitative care.

Following "Guidelines on Operation of Child Guidance Centers" (2018) and "Manual on Child Abuse" (2013), child guidance centers decide and carry out rehabilitation plans for abused children who are temporarily separated from their parents. However, without the alternative family environments that can follow and develop the plans, rehabilitation of abused children cannot be completed.

3-2-2. Rehabilitative Service in Child Welfare Institutions

In FY 2015, among 103,286 child abuse cases reported to child guidance centers, in 17,801 cases (17.2%), children were temporarily separated from abusing parents, in 4,106 cases (4.0%), children were placed in child welfare institutions, in 464 cases (0.4%), children were placed in foster families, in 6,305 cases (6.1%), children were put under the guidance by child welfare caseworkers.

Among 4,106 cases where children were placed in child welfare institutions, 2,536 children (61.9%) were placed in children's homes, 753 (18.4%) were placed in infant homes, 184 (4.5%) were placed in children's psychological treatment institutions, and 160 (3.9%) were in children's self-reliance support facilities. The rest were placed in foster families. This shows that all most all the abused children were to receive rehabilitative service in child welfare institutions.

To these child welfare institutions are placed nurseries and instructors who have basic knowledge, as well as psychotherapists with professional knowledge. These workers provide children with safe environment and appropriate assistance including the sex education to sexually abused children. Psychotherapists provide counselling service. Psychiatric visit institutions to provide medical service.

In order to improve the quality of rehabilitative service in children welfare institutions, three problems are to be solved, all of which are closely related with budget and national standards on facilities.

First, as is mentioned in 2-2-1, the number of facilities with the ability to provide rehabilitative service shall be increased.

Second, Standards on Facilities and Operations of Child Welfare Institutions (2017) shall be revised with a view to drastically strengthen the rehabilitative service. The Standards provides that one instructor or nursery shall be placed for every four or five children, and one psychotherapist shall be placed to an institution with appropriate facilities and equipment. Considering the fact that one nursery or instructor can work eight hours a day, one nursery or instructor shall take care of twelve to fifteen children during their work. Under this hard condition, it is difficult for nurseries or instructors to establish close relationship with each child, which allow them to understand his/her unique demands and meet them timely. Though Child Welfare Act requires child welfare institutions to provide aftercare to children after they left institutions, they are not capable to respond to this requirement, because they consume all the energy in treating children in institutions.

Third, hard and low working conditions of instructors and nurseries shall be radically improved with a view to allow child welfare institutions to accumulate

experience and professional knowledge. Due to the hard work arising from the fact that one nursery or instructor shall take care of twelve or fifteen children, they tend to leave their jobs early. The statistics are relatively old, but, it was reported in 2002 that around 50% of instructors and more than 60% of nurseries left their jobs in less than five years. Recently it has become difficult for children welfare institutions to recruit new instructors and nurseries due to their low salaries.

3-3. Rehabilitative Service for Child Victims of Violence in Child Welfare Institutions

3-3-1. In Case of Violence by Instructors or Nurseries in Child Institutions, Instructors at Family Homes, and by Foster Parents

The revised Child Welfare Act of 2008 prohibits workers and foster parents from inflicting violence against children placed in child welfare institutions and foster families. This revised Act requires the local governments to conduct survey on the violence against placed children, and the Ministry of Health has publicizes results every year since 2009. According to the Ministry, from April 2009 to March 2017, the average annual number of cases where violence against placed children were reported was around 250. Among them, the average annual number of cases where violent acts were recognized was around 60. In FY 2016, the number of cases where violent acts were recognized was 87. Among them, 53 were in child welfare institutions, 13 were in foster families or in family homes, 8 were in temporary protection institution of child guidance centers, and 6 were in institutions for children with disabilities.

This statistic shows that the ratio of the number of children who were inflicted with violent acts in child welfare institutions (53) to the total number of children paced in se institutions (26,449) and the ratio of the number of those in family homes or foster families (13) to the total number of children in them (6,546) were almost same in FY 2017: both were around 0.2%. The risk of placed children for violence is not reduced when they are placed in such small family environments as family homes or foster families. The lesson that we shall derive is that the isolated and closed nature of any type of alternative family environment raises the risk of children for violence.

In 2017, the Ministry of Health adopted the policy to set up third party committees, which investigate the cases of violence by instructors or nurseries in child welfare institutions or by foster parents, and is now drafting the guidelines on the organization and operation of these committees. However, the Ministry has not yet clarifies whether she plans to adopt a policy on rehabilitative service to victimized children. If children abused by parents in the past are inflicted with violent acts by persons working in child welfare institutions or by foster parents, they are traumatized so seriously that their trauma

would last even after they become adults. The Ministry is required to urgently adopt a plan to provide these children with rehabilitative service.

In addition, the Ministry is required to adopt two preventive measures: first, to improve drastically the Standards on Facilities and Operations of Child Welfare Institutions by increasing the number and salary of instructors and nurseries, and, second, to adopt a comprehensive plan to improve the quality of foster parents, which includes training courses and temporary respites.

In 2017, the Advisory Committee on the New Ways of Alternative Family Environments publicized its report, titled “New Vision of Alternative Family Environments.” In this report, the Committee proposes the time-bound goal for increasing the ratio of children placed in foster family: 75% of children under the age of three shall be placed in foster family in five years, 75% of those from the age of four to five in seven years, and 50% of children above the age of five in ten years. The Committee also proposes to make a children’s home smaller: a children’s home shall accommodate six children at most and have one and more persons working for them. The Committee, however, does not make clear how to improve the ability of foster parents to rehabilitate abused children, what amount of money is needed to make a children’s home smaller, and who will pay for the cost. Any plan on alternative family environment should take into consideration the risk of children for violence arising from the isolated and closed nature of the alternative family environments. It should include both the preventive measures and measures to rehabilitate victimized children. The Committee’s proposals shall be totally reconsidered because they neither consider this risk nor the preventive and ex-post measures.

3-3-2. In Case of Violence among Children in Child Welfare Institutions

The issue of violence among children in child welfare institutions has been taken seriously by persons working for these children. In the national annual conferences of persons working for children in child welfare institutions, cases on sexual violence among children have been reported continuously. However, no survey has been conducted either by the Ministry or by a local government until 2017.

In 2018, Mie prefectural government publicized its survey on violence among children in child welfare institutions. According to this survey, during nine years from FY 2008 to FY 2016, the average annual number of children who inflicted or were inflicted with sexual violence was 30 out of 600 children living in child welfare institutions in Mie prefecture. Inspired by this survey, the Ministry decided to conduct national survey and elaborate protective measures.

When children in child welfare institutions are found to inflict sexual or other forms of violence against other children, child guidance centers transfer those children to other institutions. However, no special assistance or program is provided either to the victimizers or the victims. Some of persons working for children in the institutions gives helping hands to the victimizer or the victims based on the knowledge they derive from their experiences. To develop the comprehensive program of rehabilitative service for both the victimizer and the victims is the most urgent task for the government.

3-4. Rehabilitative Service for Victims of Juvenile Crimes and for Delinquent Juveniles

Since 2000 when the Japanese government revised the Act on Juvenile, the government has revised the Act four times in the ways against the ideas and articles of the Convention. Under these revisions the participation of victims in juvenile trials is realized. However, the system for providing economic or psychological assistance to victims has been totally left untouched. The call by the civil society for “restorative justice,” whose aim is to reconstruct the relationship of victimizers with victims and community members, has become strong, but, the restorative justice has not yet been incorporated into the juvenile justice system, and is practiced informally by some attorneys at laws.

Corrective education in juvenile training schools and guidance by probation officers and volunteer probation officers have achieved and sustained superior performance. After juveniles are relieved from training schools or parole, however, they do not have any chance to receive rehabilitative service from the government. Rehabilitation service for juveniles who are relieved from training schools or prole is provided only by private voluntary organizations. Halfway houses run by private organizations accommodate juveniles who do not have a home to go back to. So called “cooperative” owners of private companies offer jobs to juveniles. Some voluntary groups provide daily life assistance. Big Brothers and Sisters Movement (BBS) provides service for restarting life. In 2018, some of these private organizations established National Network for Preventing Juvenile Delinquency. These private endeavors to provide rehabilitative service to juveniles relieved from training schools or parole do not afford to provide needed assistance to all the juveniles who are relieved from training schools or parole.

In addition to scarce resources of rehabilitative service available for them, juveniles relieved from training schools or parole are facing another difficulty. Echoing the government’s policy to strengthen the punitive approach to delinquent juveniles, some mass media intently publicize their names and photos. The movement towards imposing social sanctions on delinquent juveniles hinder them not only from restarting their life,

but also from reflecting on their past misconducts and developing sense of repentance. Publicizing a name or a photo of a delinquent juvenile is against Article 40-1 of the Act of Juvenile Justice.

Chapter 4 Inclusive Education of Children with Disabilities and After-School Day-Care

4-1. Current Situation of Inclusive Education

In July 2012, before the government of Japan ratified the Convention of the Rights of Persons with Disabilities, the Ministry of Education issued a report titled “Promotion of Special Needs Education to Develop a System of Inclusive Education toward Building a Cohesive Society” with a view to show the new educational policy for children with disabilities after the ratification of the Convention. Citing the Article 24 of the Convention, it stated that: persons with disabilities should not be excluded from the mainstream education system; that opportunities of elementary and secondary education should be provided for them in areas of their residence; that they should be given “reasonable accommodation” according to their individual needs. The report declares that the education for children with disabilities moves to *special needs education* after the ratification.

Since this report of 2012, the government has considered *special needs education* as synonymous of *inclusive education*. Thus, the term of *inclusive education* is not used at all in the Combined Fourth and Fifth Periodic Report of Japan. The fourth and fifth report only states that education for children with disabilities shifted from *special education*, which is given in special places, such as special schools and special classes in line with the types of disability, to *special needs education* to meet the individual educational needs.

The Japanese government does not describe its understanding of *inclusive education* per se, because the government regards promotion of *special needs education* as synonymous to *inclusive education*. However, sufficient measures have not been taken to realize essential elements of *inclusive education*; “no exclusion from the general education system,” “guarantee of opportunities of elementary and secondary education in areas of residence,” and “provision of reasonable accommodation.” As for the actual situation, Chapter 25 of our first report, CHILDHOOD IMPOVERISHMENT, points out that the conditions for children with disabilities to learn in mainstream classes are inadequate in terms of class size of regular classes, content of education and support for learning and other activities. Therefore, we believe that it is all the more important now to emphasize again the following issues.

The first issue is the process of deciding which school to enroll. Although laws

were revised (Ordinance for Enforcement of the School Education Act, para. 2 of “Efforts Taken by Ministries and Agencies”), many municipalities still assign the priority to types and extent of disabilities specified in Article 22(3) of the above Ordinance; thus, enrollment to special classes or to mainstream classes with part-time use of resource rooms are decided based on written notices issued by authorities. Although the intention of respecting the wish of children with disabilities and their parents in deciding their enrollment was included in the above stated report of Ministry of Education, “Promotion of Special Needs Education to Develop a System of Inclusive Education toward Building a Cohesive Society,” we have seen no improvement following the revised law in terms of guidance to enrollment.

The second is that the shift to *special needs education* does not put reform of mainstream schools in its perspective at all. To make mainstream school to be inclusive, guaranteeing high-quality education for children with disabilities, scaling down the number of children in one classroom, eliminating barriers in school facilities and ensuring thorough provision of reasonable accommodation are all indispensable. However, the standard (uppermost limit) of class-size remains at 40 students per class and “Promotion Guidelines for Barrier-Free School Facilities” (2004), which is not legally binding, has not been revised under the new policy of building inclusive education system, and no budget has been allocated specifically for eliminating barriers in school facilities. Although the Ministry of Education announced some exemplary models of reasonable accommodation, it throws the weight of responsibility of providing such accommodation to each child on schools and those who establish and operate schools, and the responsibility of the government (mainly the financial prospects) is kept unspecified.

As pointed out in CHILDHOOD IMPOVERISHMENT, the Japanese Government, although emphasizing that it has successfully made a shift to *special needs education*, has not altered the traditional educational framework, and the education system for children with disabilities is left behind of the change.

4-2. After-School Day Care for Children with Disabilities

Responding to 20-years movements for public assistance for after-school-day-care institutions for disabled children, in 2012, the government established public subsidy for those institutions. The Government started providing subsidy to these institutions on the base of per-head and per-day funding: amount of subsidy per day is calculated by multiplying per-head subsidy by the total number of child user per day.

Since then, the number of such facilities has increased rapidly. According to the survey by the Ministry of Welfare, the number of such facilities grew from 2540 in April

2012 to 4594 in April 2014, and to 8352 in April 2016. It is estimated now that around 180,000 children with disabilities attend 12,000 facilities.

In 2018, the Ministry enacted the revised rule on subsidy. The revised rule introduced two types of per-head subsidies: the first type is for institutions where 50% and more of users are disabled persons and the second type is for those where less than 50% are disabled persons. The first type per-head subsidy is a little bit less than that before the revision and the second is much far less.

The revised rule would surely cause revenue decrease for most of the institutions. According to an urgent survey by National Association of After-School Day-Care Facilities, not a few facilities expect revenue decrease of several million yen (several tens of thousand dollars). Moreover, in response to the question on the difficulties brought by the revised rule, about 20% of the facilities replied that they are facing closure, over 30% mentioned that they may have to reduce staff, and almost 50% replied they may have to reduce personnel cost.

The Ministry argues that the revision is needed to raise the quality of service by purging out institutions which only pursue profit. Nevertheless, arguments in the related government bodies and the related notice by the Ministry show that the real aim is to reduce total public spending for these institutions. The fiscal system subcommittee of the Fiscal System Council of the Ministry of Finance on October 9, 2015 criticized after-school day-care in that average ratio of expenditure to revenue is so low that institutions got inappropriate profit. It also criticized the growing total cost for subsidy. The notice issued by the Ministry of Welfare on March 7, 2016, orders that the maximum number of day per month for which disabled children are allowed to use after-school-day-care shall be days of the month(31 or 30) minus 8. This notice sets limit on the number of day which can be used for calculating subsidies with sacrificing parents' needs to have temporary respite during holidays and their needs to work for 6 days a week due to low payments. Moreover, in the revision of People with Disabilities General Support Law and Child Welfare Act in 2016, it is stipulated that, in case where there are sufficient number of seats in existing private institutions, prefectures are allowed to reject a new application for subsidy from a private institutions.

Though the revised rule was enacted in April 2018, in three month after the enactment, only 37% of municipalities finished classification. Facing this situation, the Ministry issued a notice on July 26, 2018, in which it urged municipalities to classify institutions and to subsidize different amount of money. The Ministry is firm in enacting the revised rule.

There are at least two problems in the revised rules. First, the revised rule would

surely result in lowering salaries and other working conditions of adults working for and with disabled kids in institutions, and, thus, in lowering the quality of service. If the Ministry seriously seeks for raising the quality, it shall set the minimum standards on salaries and working conditions of those adults in lieu of subsidy cut.

Second, the revised rule is so broadly tailored as to give negative impacts on institutions run by non-profit private organizations. In order for the Ministry to make the average ratio of expenditure to revenue higher, it shall shut out for-profit private organizations from the market of after-school-day-care-service, because the low ratio is typical for for-profit organizations. The Ministry shall take a narrowly tailored measure which accurately catches a real target.

Chapter 5. Problems of “Guideline for Promotion of Development and Support for Children and Young People”

5-1. Introduction

On February 9, 2016, Guideline for Promotion of Development and Support for Children and Young People (hereinafter, the Guideline) was issued based on Article 8 of the Act on Promotion of Development and Support for Children and Young People

The Act, with the express statement that it “conforms to the principles of the Constitution of Japan and the Convention of the Rights of the Child,” prescribes promotion of comprehensive measures to support children and young people (Article 1). The Act prescribes to establish the Headquarter of Promoting Development and Support for Children and Young People in the Cabinet Office (hereinafter, Headquarter), which is chaired by the Prime minister (Article 29), and is in charge of drawing up Guideline (Article 8 & 26).

This setup, at a first glance, seems as if the Japanese government established a machinery which puts the principle of the Convention of the Rights of the Child into practice substantially and comprehensively in Japan. But, if we examine the scope of the responsibility of the central government under the Act and the Guideline and the viewpoint of “Headquarter” in identifying the difficulties of children and the youth and the measures to solve them, we find that such view is misleading.

5-2. The Limited Responsibility of the Central Government under the Guideline

As of September 2018, there are 26 laws which require the central government to adopt a guideline which prescribes the inter-ministerial policies or the inter-central-and-local policies on certain policy agendas. Most of them are under the jurisdiction of Cabinet Office (Act to Accelerate Policies for Disadvantaged Child, 2013; Act on Promotion of Development and Support for Children and Young People, 2009; Basic Act on Suicide Prevention, 2006; Basic Act for Measures to Cope with Society with Declining Birthrate, 2004; Basic Law for a Gender-Equal Society, 1999; Act for Establishment of the Cabinet Office, 1999; etc.).

There are two types of guidelines under these laws. When the law aims to realize the horizontal coordination, namely, inter-ministerial coordination, a guideline is a part of “basic plan”: a guideline shows basic principles and the other parts of a basic plan

shows a list of detailed policies which derive from a guideline (Basic Act on Crime Victims, 2004; Basic Environment Act, 1993, etc.). When the law aims to realize the vertical coordination, namely coordination of the policies of the local governments with those of the central governments, a guideline include principles and measures (Act to Accelerate Policies for Disadvantaged Child, 2013; Basic Act on Suicide Prevention, 2006, etc.). These laws and guidelines allocate different roles to the central and the local governments following principles regulating the inter-governmental relations which are considered as appropriate for certain policy agendas. The central government owes the responsibilities to take the roles and measures identified in the laws and guidelines. The local governments are required to adopt their action plans by giving due consideration to guidelines.

A guideline in the Act falls under the second. The Act obliges Headquarter to adopt a guideline. Other than to adopt the guideline (Article 8), the Act obliges the central government to implement a guideline (Article 3), to raise public awareness (Article 10), to create better social environment (Article 11), and to disseminate information to local governments and non-governmental organizations (Article 14). These limited roles of the central government is justified on the ground that the local governments shall assume the main responsibilities to support children and the youth because the local are closer to them. Then, the Act obliges the local governments to make efforts to draw up “Program for Children and Young People” (Article 9 & 10) by giving due consideration to a guideline

The Act and a guideline relieves the central government from such responsibilities of its own as improving national minimum standards on service in kind and service in cash for supporting children and youth, strengthening inter-governmental fiscal relationship that assures money transfer for these services, and regulating the labor relations by labor laws so as to enable parents to be parents. Thanks to this relief, the Cabinet takes the agenda of supporting children and youth not so seriously. The present Guideline was drafted as a revision of the former guideline “Vision for Children and Young People” (July 23, 2010). Those in charge of this revision was the Review Council of Promotion of Development and Support Children and Young People comprising academics and experts. The Council met eighteen times between July 26, 2011 and November 16, 2015 and prepared a draft of a new the Guideline. Based on this, Headquarter met only once on February 9, 2016, and a “round-robin” decision was obtained.

5-3. Problems in the Guideline

The Guideline identifies four main areas or sources where difficulties of children and young people arises: (1)difficulties in families (poverty, child-abuse, etc.), (2)difficulties in communities (attenuation of human relations and links, etc.), (3)difficulties arising from changes in information-communication environment (dissemination of illegal and harmful information, etc.), (4)difficulties relating employment (non-regular employment, prolongation of unstable state by being out of school and employment, etc.).

The Guideline organizes basic policies and measures to deal with them in five categories: (1)measures to realize sound development of all children and young people (acquisition of daily life capacities, progress in academic achievements, acquisition of career skills and motivation, etc.), (2)measures to support children and young people, as well as their families with special difficulties (children and young people who stop-at-home, school-non attendants, those with disabilities, delinquents and those turning into crime, and the impoverished, etc.), (3)measures to create better social environment for the development of children and young people (construction of the relationship among family, school and community, coping with the harmful environment, etc.), (4)measures to recruit and train personnel to support growth and development of children and young people (cultivating community personnel with diverse background, etc.), (5)measure to educate children and young people who lead the creative future (development of those who participate actively in a global society, those who can lead innovation in science and technology, those capable of adapting to evolution in information and communication technology, etc.).

These lists of difficulties and the measures have at least two problems.

First, they totally disregard the fact that the school education is the main source of the difficulties of children and the youth. The list of difficulties gives no mention to the difficulties arising from schools, though the highly competitive nature of the school system causes the developmental disorders including school-non-attendance, bullying, suicide, and school violence as the last three concluding observations of CRC pointed out. Though in the lists of the measures, the issue of school-non-attendance is mentioned, but the issue is connected not to the school education but to families or juvenile delinquency. Disregarding schools as the main source of the difficulties, the Guideline indicates “progress in academic achievements” as the measure to solve the difficulties, even though it could further accelerate the competitiveness. The Guideline even goes further to indicate the education for elite who leads the economic development as the measure to solve the difficulties.

Second, almost all the measures listed in the Guideline are ex-post measures: they

treat the symptoms instead of the causes. For example, as the measures for child poverty, the Guideline call for such measures as mitigating the educational costs by expansion of scholarship program or lessening worries by improving a consulting system. The Guideline, however, does not indicate preventive measures that touch the causes. To solve the child poverty, it is essential to critically reflect the past deregulation of labor relations, which resulted in the decreasing income and the increasing number of the “working-poor.” Nevertheless, the measure to re-regulate the labor relation is not identified in the Guideline. This is because the re-regulation of labor market, which can be realized only by the central government through revising the related labor laws, falls outside the limited roles of the central government under the Act.

5-4. Conclusion

Although the Act gives mentions to the Convention, the Act does not afford the Convention with the power to guide policymaking or the coordination of the inter-ministerial or the inter-governmental policies. To make the Act conducive to realize the rights recognized in the Convention, it is necessary to comprehensively revise the Act or adopt a new law, which clearly obliges the central and the local governments to realize the rights recognized in the Convention and clarifies the responsibilities of the governments under the Convention. In addition, a revised Act or a new law shall establish the Headquarter headed by the Prime Minister with the responsibilities to identify children’s difficulties and measures to solve them based upon the Convention and the concluding observations of CRC, as well as to coordinate both the inter-ministerial and inter-governmental policies.

*** Subjoinder**

On June 11, 2014, five legislators of the ruling Liberal Democratic Party (Hirofumi NAKASONE and others) introduced the Bill for the Revision of the Act on Promotion of Development and Support for Children and Young People to the House of Councilors (abandoned without substantial debate). The Bill deleted the following clauses from the provisions of the said act; conforming “to the principles of the Constitution of Japan and the Convention of the Rights of the Child,”(Article 1), “one's dignity as an individual” and “primary consideration of the best interest”(Article 2), and introduced an imposition of “the primary responsibility for sound nurturing of youth” on parents and guardians.

Chapter 6. The Government's Plan to Lower the Maximum Age for the Act on Juvenile

This chapter provides information on the government's plan to lower the maximum age for the Act on Juvenile from 19 to 17.

Though the Criminal Code of Japan stipulates that the minimum age for the criminal responsibility is 14, the Act on Juvenile stipulates that a person who committed crime at the age of 19 and below shall not receive criminal sanctions but protective measures which consider his/her educational, medical or social needs. Since the revision of the Act in 2000, the government revised the Act four times so as to strengthen the punitive approach to juveniles by expanding the roles and strengthening the power of prosecutors. These revisions are against the spirit and the articles of such international documents on juvenile justice as Beijing Rule and Riyadh Guidelines.

In 2016, the Legislative Council of the Ministry of Justice started examining whether to lower the maximum age of the Act. The proponents for the lowering of the maximum age argue that the increasing number of serious crime among juveniles necessitates the stronger punitive approach. They also argue that, because the minimum age of the civil responsibility is lowered from 20 to 18 in 2018, the maximum age of the Act shall be lowered in the same way. However, as is shown by the decreasing rates of criminal behavior among juveniles for more than 30 years, the juvenile justice system in Japan shows the high performance for decreasing the rates of criminal behavior among juveniles. Furthermore, it also shows the high performance for rehabilitating delinquent juveniles and reintegrating them to the civil society. There is no need for lowering the maximum age.

If the government succeeds in lowering the maximum age (she plans to submit the Bill on the Revised Act on Juvenile to the Diet in 2019), persons at the age of 18 and 19 are to be transferred from the world of the Act to that of the Criminal Code. The revised Act would deprive these persons of the opportunity to receive educational, medical and social measures taken under the Act. Furthermore, the prolongations of these measures admitted under the present Act would probably be abolished. The present Act allows the family courts to prolong the educational and social measures to the age of 23 and the medical measures to the age of 26. The fact that the Legislative Council of the Ministry of Justice has not decided to examine whether to maintain these prolongations is considered to show that, when the maximum age is lowered, these prolongations would

be surely abolished.

The characteristic of the Act is that it stipulates several ways to widen its application to persons at the age of 20 and over: the Act widens the tolerant attitude towards criminal offenders. If the fifth revision of the Act is realized in the future, this tolerant attitude will be drastically narrowed. We suggest the Committee on the Rights of the Child to recommend the government to reconsider the lowering the maximum age of the Act on Juvenile.

PART II

**Information on the Issues
not Identified in the List of Issues
but to be Raised by the Committee**

Chapter 7. Children under Natural Disasters and Nuclear Accident

7-1. Introduction

Japan is a country with many natural disasters. Typhoons, heavy rainfalls, earthquakes, and tsunami have often caused huge damages. Every time when a disaster occurred, many children were at risk of their lives and deprived of their daily lives. In recent years, Japan had damages of the Great Hanshin-Awaji Earthquake of 1995, the Great East Japan Earthquake of 2011, and Kumamoto Great Earthquake of 2016. This year (2018) also had a torrential rainfall disaster in western Japan.

In the Great East Japan Earthquake on March 11, 2011, children actually had huge damages on their daily lives; 892 children, aged from 0 to 19, lost their own lives, 241 children became orphans, 1537 children lost their at least one of their parent, and more than 23,000 children left their hometown and were forced to transfer to another school from their original one.

7-2. Child Lives in Fukushima after Earthquake and Nuclear Accident

The developmental conditions of children in Fukushima, where encountered the Great East Japan Earthquake and nuclear accident, are still in crisis. The Fukushima prefectural childcare liaison council summarized the conditions in a booklet titled *Five Years after the Earthquake/ Nuclear Accident: Children in Fukushima* (May 2017). The booklet shows what happened to children under above circumstances; “children have been deprived of fun, exciting, and lively experiences such as developing friendships:” “Although children had enjoyed activities searching for something outside, now they cannot touch flowers, tree nuts, or insects.” Parents also have to feel regression when they told children that “you should not go there,” or “do not touch this.” Some parent indicated that “in Fukushima, I had to teach that it was very dangerous to play outside innature.” There were some children who said “I will die when I drink water.” In Fukushima, even six years later after the nuclear accident, it has not come to the point that children regain nature as “favorite friends,” so that we must be aware what kinds of influence have been on children's mind.

7-3. An Important Lessons about the “View on Children:” Children's Vitality

Despite the above tremendous circumstances on children, children who are

accommodated in evacuation centers did not lose their energy. There are so many children who make up play groups of different ages and who stand up to care for the elderly people, as well as who issue wall newspaper that transmits information. These energetic children have encouraged adults who had lost their energy by the disaster.

Ironically, as the lifeline was destroyed and the school system became dysfunctional, children could enjoy their free time, create playing groups, and discover their own role. These things were also happen in evacuation centers after the Great Hanshin-Awaji Earthquake. Children are not objectives to be protected, but are agencies who have "strong living power" to encourage adults by participating and taking a responsibility in their lives. Those facts seemed to be one important lesson for "view on children".

7-4. Natural Disasters and the Rights of Child

In April of 2016, two continuous earthquakes (mag. 6.5 and 7.3) hit the Kumamoto prefecture, and 269 people died due to the disaster-related reasons. About 180,000 people had to be evacuated from their home. The report of Japanese government mentioned "opportunities for children to consider future town building in the process of reconstruction after the Great East Japan Earthquake," but such remark was not made for the Kumamoto Earthquake.

Although the Convention on the Rights of the Child has no article on the rights of children facing with natural disasters, but the fundamental rights, such as "the best interest of the child" (Art.3), "the survival and development of the child"(Art.6), and "the child the right to express"(Art.12), should be addressed with special importance in emergency. After the Great Hanshin-Awaji Earthquake of 1995, Japanese government allocated so called "education reconstruction teachers," who are in charge of children's mental health, but have not yet taken in case of the Great East and Kumamoto Earthquakes.

7-5. Lesson from "Children's Instinct"

We would like to point out two important lessons or issues on the children's rights during the Kumamoto Earthquake. First of all, we need to recognize how "play" is important for children. When water suddenly came out from the ground just after the earthquakes, five or six boys started playing by making their own canal around there. Another group ran at full speed and climbed up trees.

We could find that these show "the children's instinct to play" and their self-release from the restriction of their schools and parents, and that how these children had been restricted their behaviors in their daily lives. One reporter says, "I have realized again the importance of playing, which gives children power to overcome the worries, stress, anxiety, and discomfort caused by the earthquake." As the Committee accurately pointed

out, playing is “a fundamental and vital dimension of the pleasure of childhood.”(Para.14, General Comments No.17) It was also interesting phenomena that children came up with group for volunteer work in the temporary housing complexes. However, when the schools started again, they went back to their daily lives where their time are predominated by the long school hours, extracurricular activities, cram schools, and the computer games at home.

7-6. Children Want to Play Even in the Temporary Housing Complexes!

Second, it is the problem that none of the 110 temporary housing complexes was equipped with a place for children to play. The local TV news took up this problem at “Temporary Housing Complex T” (516 houses, which is the biggest temporary housing complex in Kumamoto). They showed the boys playing hide-and-seek inside the gathering place called “Everyone’s House” and their mothers who were worried about injuries and accidents caused by the conditions of roads and cars were coming and taking their children to there. The mothers started the petition campaign. Para.53 of eneral Comments No.17 points out “the rights provided for article 31 are often given lower priority in situations of conflict or disaster.”

After one year, a 3000 m² playground was constructed in “Temporary Housing T” but this is the result of the residents’ earnest campaign and the leaders’ request, which finally reached the prefectural government. From the start, The Emergency Act does not allow public funds to be used for making a playground. There were no such cases that the fund was used for playgrounds and equipment. Children are actually living in temporary housing, but their lives are not temporary. Needless to say, children grow every day. The rights of children to play and grow up should not be overlooked or ignored even during the time in disasters. We must not forget the advice from the Committee – “in these situation, opportunities for play, recreation and cultural activity can play a significant role in helping children recover a sense of normality and joy after their experience.”(Para. 53, GC No. 17)

Chapter 8. Impingement on Sexual Development of Children and the Responsibility of Japanese Government

In March 2018, Mr. Toshiki KOGA, a member of the Tokyo Metropolitan Assembly, inveighed against the sex education at one junior high school in Adachi Ward at the education committee of the Assembly. Following this, Tokyo Metropolitan Education Board demanded correction to the Ward pointing out that using the terms such as “sexual intercourse,” “contraception” and “artificial abortion” deviates from the *Course of Study* issued by the government. This government, which has long tolerated the attack on sex education, should be held accountable for this failure to reflect the UNESCO International Sexuality Education Guideline to the *Course of Study*.

There are three elements to this failure. First, although the minimum age for consensual sex is 13 in Japan, the government postulates on a misguided view on children and does not guarantee the development of sexuality of children. Second, regarding nurturing of next generation in terms of “productivity,” little concern is given to guaranteeing reproductive health rights, imposing the gender role of giving birth on women, and inactivity toward redress of disdain for sexual minorities, especially for homosexual individuals. Third, while it is inactive in guaranteeing individual rights to life and to education, it maintains conservative family policy counting on familial mutual assistance and unpaid work by women. The first and the second elements are structurally related to the third elements. The government, pursuing financial interests by cashing in on these elements, leaves human-rights infringements unsolved.

Here, the misguided view on children refers to an ignorance of the sexuality of children, thus lacking concern for its development. This can be found in the opinion of the expert committee on sex education of the Central Council for Education (Expert Committee on “Education to Bring Up Healthy Body,” March, 1994): there, children are referred to as “committing inappropriate sexual activity,” “unable to take social responsibility”; and thus, “premarital sexual intercourse is inappropriate.” Moreover, based on the opinion that “details of contraception should not be taught,” “instruction on sex” within a health context was confined according to “the developmental stage” of children, and contents of “collective and uniform instruction” was restricted, thus showing a negative appraisal to the collective education on sexuality at school. This unawareness of children’s developing sexuality is also found in the policing of sexual

activity of children, which is based on the Prefectural Youth Protection Ordinances. Rather, what we need is guaranteeing and supporting children so that they can achieve sexual development in the process of choosing their conducts at school and in other places.

The second and third elements arise because the Japanese government leaves the gender inequality in society unsolved. For example, driven by the #Me Too movement, a female media reporter indicted parliamentary vice minister of the Ministry of Finance of sexual harassment in a weekly magazine in April 2018. However, Minister of Finance publicly stated “there is no such thing as a sexual harassment crime.” And in response to a written inquiry by an opposition diet member demanding revocation and apology, the Cabinet issued a written response stating that “there is no existing law which prescribes sexual harassment as a crime.” In July, Ms. Mio SUGITA, a diet member of the Liberal Democratic Party, made her opinion public in a monthly magazine stating that the same-sex couples are “non-productive,” and that “the legitimacy of the use of taxpayers’ money for them is questionable.” Her opinion, without any correction, has been tolerated by Prime Minister and leaders of the ruling party. Moreover, in August, it was found out that the Tokyo Medical University has deducted entrance exam scores of female candidates so that the proportion of female enrollees does not exceed a set limit, for the reason that they cannot be expected to keep working as doctors. In the following weeks, it has become clear that this is a common practice among major private medical schools. We notice that such tolerance and inactivity of the Japanese government toward gender inequality hamper legislation and thus create hotbeds for the commercialization of children’s sexuality and sexual bullying among children.

Therefore, we demand the Japanese government to implement various past recommendations of the United Nations as soon as possible to raise the level of human rights protection to international standards, and to put effective institutions in place. We ask the UNCRC to recommend the improvement of the first and the second issues. To promote human rights protection in the area of sexuality, we demand that the Japanese government should take measures to introduce a new education which incorporates the International Sexuality Education Guidelines, both in formal education and other settings. These will be prerequisites for legislation of a comprehensive ban on discrimination.

Annex 1

Voices of School-non-attendant Children

Introduction: Let's Start from Kids' Voices

The following collection of short voices from school-non-attendant students are edited by Hatsumi SUZUKI, the president of the parents group in Yamanashi prefecture whose kids are/were non-school-attendant. She is also a member of Citizens and NGOs Association for the U.N. Convention on the Rights of the Child, Japan (hereinafter the Association). She collected voices of 25 kids, which typically show how they felt while they were at school, why they left schools, how they felt while they stayed at home, how they overcame their difficulties, and what they demanded.

77 voices were collected by different two groups with different aims from March 2016 to May 2017. 66 voices were collected by the parents group of Tokyo whose president is Satomi IDE. She called around 600 adults who participated in the National Conference on School-non-attendance for collecting voices of kids not attending school, with an aim to clarify how the Act to Assure Opportunity of Education Equivalent of General Compulsory Education of 2016, of which focal point is to provide various types of “learning” to non-school-attendant students, misses their true demands. 66 members responded to her call and sent voices to her. The other 11 voices were collected by Hatsumi and submitted to the Association with a view to help the Association evaluate the real situation of non-school-attendant students. All the voices were from Yamanashi prefecture.

With permission of Satomi, Hatsumi edited this collection of voices. In taking up voices of 25 kids out of those of 77, she carefully confirmed that no kid demands “learning” and all of them demands adults who listen to them, time for rest and self-reflection, trust by parents and restoration of sense of being themselves. Their voices are evocative of how they are deeply annoyed by the loss of “sense of agency,” namely, “the feeling of being in charge of your life: knowing where you stand, knowing that you have a say in what happens to you, knowing that you have some ability to shape your circumstances”(Bessel van der Kolk, *THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA* (Penguin, 2015), at 95). They tell us that the school-non-attendance is the desperate efforts of kids to restore their “sense of agency.”

Let's start listening to their voices.

Well, please listen to our mumblings

▽Well, Mom, I have no freedom at school. Even when I want to draw pictures during recess, my teacher says I have to play outside.

▽All the activities at junior high school is arranged by the adults. It's not fun because we can't decide for ourselves. They say "you can make the decisions," but there is a framework already set by them.

▽Mom, you don't want to put your hands into a bucket of worms, do you? For me, school is just like that.

We can't be ourselves at school

▽At school, I can't say what I mean, and tears just come down. I feel as if I am somebody else. It gets me so tired. Can I stay away from school for a while?

▽I have to laugh with others even when it's not funny for me, just because everybody else is laughing. That's the hardest for me.

▽It's tough for the teachers, too. Every day, they have to listen to kids who get into fights or cry. If I ask for their advice, I'll be adding to their problems, and they will get sick. So, I'm OK. I won't say anything.

▽I want to be alone somewhere. Even if I feel like "being alone," others worry about me and they always ask "what the matter with you?" They don't leave me alone and that makes me very tired.

▽For me, schools always made me tense. The competition was tiring, too.

▽Even though everybody around me thinks it's my selfish choice, staying away from school is hard for me, too.

Try to understand me a little more!

▽Everything bothers me, that's why I play computer games. But that bothers me, too, so I can't stop. Actually, I hate myself for doing this.

▽ *I don't need letters from the whole class. I know our teacher told them to do it. Those letters don't touch my heart.*

▽ *In the morning, Mom asks me "Are you going to school today?" Then, my teacher calls me and says "I will be waiting for you tomorrow." At night, Dad tells me "Go to school tomorrow, OK?" It was really depressing. I just wanted someone to tell me "You can take a day off."*

We are on for 24 hours, 365 days

▽ *Dad, Mom, you are lucky. You get to go out to work, and do other chores away from home. During that time, you can forget about us. But for 24 hours, 365 days, we are constantly annoyed by many thoughts, worries and anxieties. We never have a time to forget.*

▽ *I didn't do anything wrong. So, why do I have to sneak around?*

▽ *Mom, let's stop thinking about school. Then, there's no need for you to worry, and I don't need to feel depressed.*

▽ *The hardest was when I was called upon in class and couldn't give an answer. Even now, that experience hurts. I wish the teachers taught me with more kindness and clarity so that I could understand better.*

Happiness is being accepted

▽ *Mom, do you know that I think of you and Dad every time I get up and every time I go to bed?*

▽ *It was a relief when Mom changed. I couldn't say anything to her because she didn't understand me. But now, she does and I feel like we finally can relate as mother and daughter.*

▽ *It makes me happy when people understand me.*

▽ *When parents say "It's OK, don't worry," it's thousands of times more powerful than anything else. So, I want parents and adults to say "It's*

OK, don't worry," with sincerity no matter how long the 'not-going-to-school' period lasts.

▽Why am I laughing? It's because Mom is laughing.

▽I am not alone any more. I now know Dad and Mom really love me. That's the only thing I need to live my life.

It was a time for self-reflection

▽I wish my parents had left me alone while I was not going to school. All I wanted was for them to keep an eye on me beside a tree nearby.

▽There are so many things I can't do. But maybe now I'll start believing "This is me now."

▽Two years of school-non-attendance was very hard. I was obsessed with so many worries spinning in my mind. But those 2 years were meaningful.

▽What is needed for school non-attendeess is time to go over the worries and the environment which allows it.

▽For me, there are three important things to find my own path,; not to run away from your worries, to make your own choices, and to consult other people.

▽The time when I didn't go to school gave me a chance to think deeply about myself. Now I can think that way.

Give your attention to our life path

▽After thoroughly facing my worries, I will make my own decisions. So, please trust us, our power to live, and the power of our soul which rises up from our hearts.

Annex 2

‘Is it a right?’

**Disabled children and young people’s rights
to education, mobility, leisure and work in
Japan**