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## **Appendix: List of Basic Reports**

## **General Introduction**

## Chapter 1 Introduction

In accordance with Article 45 (a) of the Convention on the Rights of the Child, the United Nations Committee on the Rights of the Child will examine at its January 2004 session the Second Report of the Japanese government. This is an Alternative Report to the governmental Report prepared by the Japan National Coalition Group of NGOs and Citizens for Preparing the Second Alternative Report (hereinafter referred to as Second NCNAR). Those citizens and NGOs have close relations with children on a daily basis and who are deeply interested in children's issues in every part of Japan.

As will be related more in detail later, the Second Report of the Japanese government submitted to the CRC in November 2002 is inadequate and does not provide minimum information for the CRC to have accurate understanding of children's issues in Japan. Actually, the content of the governmental Report fails to respond faithfully to the Concluding Observations of the CRC issued in 1998. To make it worse, the Report ignores the existence and spirit of the "Convention on the Rights of the Child" further more than before. Quantities and qualities of reference materials and information referred to in the preparation of the Report are inappropriate to reveal the actual situations of children in Japan. The Report totally ignores new infringements of children's rights and deterioration of social conditions caused by the collapse of so-called "bubble economy", prolonged recession of Japanese economy which started in the beginning of 1990s and actualized after the consideration of the Initial Report of the Japanese government. Furthermore under the on-going globalization (Americanization) of economy, the Japanese government has promoted restructuring of industrial organizations to restore economic and international competitive powers. Along with such policies, the government has radically changed measures for children for the first time after the elapse of fifty years since the defeat of the War. The Report does neither express its evaluation and views on how such drastic changes have affected children in light with the Convention of the Rights of the Child nor take notice of it at all. The Second Report of the government fails to show sincere attitude of the government for drafting children's policies on the basis of the "Convention on the Rights of the Child" and for implementing those policies a step further. Nay, the Report totally ignores the existence of the Convention and even provocatively shows enmity toward it. (See Chapter 4)

This Report prepared by the Second NCNAR is entirely different from the Report of the Japanese government. All members of the NCNAR have common understanding that the Japanese government, regrettably, does not recognize the significance of the "Convention on the Rights of the Child". They also recognize that the government is utterly indifferent to serious infringement of

rights of children in Japan and thinks nothing of the faithful implementation of the "Convention" in Japan.

The coalition group realizes that the Convention is a monumental landmark for human rights protection which people in the world have newly attained through various movements for human rights originated in modern civil revolutions and continues to exist in the 21<sup>st</sup> century. The group is confident that nothing but the full implementation of the "Convention" is the shortest and the best way to truly enable every human beings, not only child but also adult, to live in peace and with dignity on this earth. For its full implementation, adults themselves should be liberated from social burdens and become truly free. It also thinks that the basis of the society should be strongly supported by grassroots democracy in which every citizen and NGO assume respective responsibility. The group thinks it a starting point to listen to the voices of children in a humble way and to utilize experience of each individual who usually tackles with problems of children earnestly. Efforts have to be also made to grasp and analyze the situation of children in Japan realistically and specifically on the common recognition.

A number of citizens and NGOs voluntarily rendered free services to the preparation of this Report from every part of Japan for one and a half years. They met and exchanged views time and again. It is not too much to say that this Report is a treasure house of grassroots information and a compilation of data for understanding issues confronting children in Japan. The main purpose of this Report is to provide information to the members of the CRC who will examine the Second Report of the Japanese government. The NCNAR believes firmly and is deeply proud that the expected goals to sharply illustrate "poor childhood" in an economically affluent Japanese society has been achieved on the basis of firsthand information and materials collected by citizens and NGOs across Japan (Basic Reports).

## **Chapter 2 Organization and activities of the second NCNAR**

### **A. What is the Second NCNAR?**

In April 2001, the National Coalition Group of NGOs and Citizens for Preparing the Second Alternative Report on the Convention on the Rights of the Child (Second NCNAR) was formed at the initiative of the DCI Japan. Similarly with the First NCNAR which had been formed for the examination of the Initial Report of the Japanese government in 1998, it was aimed to form a coalition group which would prepare and submit an alternative Report of citizens and NGOs to the United Nations CRC. The group would call upon as many citizens and organization to submit their basic reports and integrate them into a Uniform Report. Through such a process, "the Second NCNAR aims to contribute to the critical and satisfactory consideration of the Second Report of the Japanese government at the CRC and to enhance the prospects of implementation of the Convention in Japan" (Item 1 of agreements of the Second NCNAR).

The Second NCNAR is an only nation-wide grass-rooted non-governmental organization that was formed exclusively for the preparation of the Alternative Report of citizens and NGOs regardless of thoughts and faith and also independent from any political parties, organizations and governmental agencies. Actually, the NCNAR is composed of around 100 non-governmental organizations and 400 citizens geographically ranged from Hokkaido, the northernmost prefecture to Okinawa, the southernmost in Japan. They are either mothers, fathers, teachers, nurses and other experts on children's issues who daily share joy and sorrow with children or lawyers and researchers who are interested in children's issues. There are fifteen co-representatives from various fields concerning the child, fifteen Secretariat members and 45 members of drafting committee. All of them worked voluntarily without any pay and participated in various meetings and general assemblies over and over again. This Report is the fruits of such thoroughly democratic discussion and cooperative works of a diversified people interested in children's issues in Japan.

It is noteworthy that the NCNAR has, as its members, an independent child's organization "Association to Deliver Children's Voices to the United Nations" as well as adults organizations. With the common aim to submit the Alternative Report to the CRC, child and adult members of the NCNAR actively exchanged views for last 2 years through meetings, lodging together, publication of journals. While keeping close relations, child and adult members implemented the Convention on the Rights of the Child themselves by respecting individual subjectivity as human beings to each other. All of them are proud of the practice.

The Second NCNAR has taken over activities and outcomes of the First NCNAR. The DCI Japan, which had played a leading role in making the most use of the first Concluding Observations of the CRC in Japan, assumed the responsibility of the secretariat of the Second NCNAR. The NCNAR has been so well-known non-governmental organization in Japan that one of its co-representatives was appointed as an adviser to the delegation of the Japanese government to the Special Session of the UN General Assembly on Children convened in New York in May 2002.

## **B. Detailed activities of the Second NCNAR**

The Second NCNAR was formed on April 6, 2001. However, the preparatory working group started its activities for the formation of the Second NCNAR since early 2001. The Secretariat of the DCI Japan has devoted itself in full force for three years to various secretariat activities. The Secretariat of the Second NCNAR has developed various activities including publication of bimonthly newsletters; invitation for submission of basic reports, edition, publication and arrangement of translation into English of submitted basic reports, etc. It also arranged the preparation of the Uniform Report and its translation into English: organized a great number of meetings including general assemblies; cooperated with other organizations; organized a campaign to examine the Second Report of the government; met with members of the Parliament and officials of various Ministries, etc. The expenses of those activities have been wholly funded by honest money (subscription fees and donation) and members have worked completely on voluntary basis without any pay. Followings are the details of activities.

### **1. Efforts to examine the Second Report of the government**

On April 9 and May 14, 2001, the Second NCNAR had meetings with governmental officials from certain ministries and supra-party members of Parliament to exchange views on the contents which should be incorporated in the Second Report of the Japanese government. Paragraph 3 of the CRC General Guidelines concerning Periodic Report stipulates, "The process of preparing a report for submission to the Committee provides an important opportunity to conduct a comprehensive review of the various measures undertaken to harmonize law and policy with the Convention". Taking advantages of the above-mentioned two meetings as important opportunities to conduct a comprehensive review to each other on children's issues, representatives of the Second NCNAR submitted at the meetings our publication, "Collections of Opinions of Citizens and NGOs". Regrettably, those voices of citizens and NGOs were not at all reflected in the Second Report of the Japanese government.

On November 26, 2001 just after the Japanese government submitted its Second Report, the Second

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NCNAR had the third meeting to exchange views with some governmental officials and supra-party members of the Parliament. On that occasion, the NCNAR requested the officials to explain the contents of the governmental report and asked the reason why the voices of citizens and NGOs were totally ignored. The officials took deliberate care not to reply definitely and unilaterally pronounced the coming of the scheduled time.

## 2. Preparation of ten-volumes of "Collection of Basic Reports"

In order to submit an alternative report full of accurate and firsthand information to the CRC, the Second NCNAR invited a variety of citizens and NGOs around Japan to submit their reports on children's issues which they had faced with on daily basis. The number of those basic reports amounted incredibly as many as 248, though individual reports differ in length to each other. Those basic reports were compiled into 10 volumes of "Collection of Basic Reports". They are the outcomes of one and a half years' activities of the Second NCNAR and first class materials of information on children.

## 3. Preparation of the "Uniform Report"

While extracting essence of the 10 volumes of the "Collection of Basic Reports" and supplementing and reorganizing them in accordance with the CRC General Guidelines for Periodic Report, the coalition group prepared a "Uniform Report". This Report was prepared by a drafting committee composed of 45 members (from 13 extended drafting committees of each field) and finally completed after the active discussions by general assembly several times. In the "Uniform Report", some models of recommendations and proposals to the government are attached.

## 4. Publication of a newsletter, "Information"

In order to promote liaison and mutual understandings among members, a newsletter "Information" was published bimonthly.

## **C. Composition of "the Second Report of the Citizens and NGOs"**

"The Second Citizens and NGOs Report on the Rights of the Child" consists of two parts: the "Basic Reports" by citizens and NGOs and a "Uniform Report" completed by the drafting committee on the basis of the basic reports. In other words, the "Basic Reports" are composed of firsthand information directly obtained by citizens and NGOs struggling to solve problems facing children in Japan. Wishing to facilitate the understanding of members and the Secretariat of the CRC on circumstances surrounding children in Japan, the drafting committee, with a perspective to highlight distinguishing

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characteristic of children's issues, rearranged and supplemented a wide variety of basic reports in accordance with the general guidelines of periodic report. The drafting committee aimed to make the "Uniform Report" and the "Basic Reports" organically correlated with each other, for example by citing in the "Uniform Report" some instances from the "Basic Reports" on occasion.

As is clear from the aforementioned, the "Second Report of Citizens and NGOs" is the fruit of cooperative works of a variety of citizens and NGOs who are concerned with children's issues in Japan as well as the outcome of democratic movements at grass-root levels.

## **Chapter 3 How the Japanese society reacted to the Concluding Observations**

### **A. The "Concluding Observations" hit the right nail on the Japanese government**

The Initial Concluding Observations issued by the UN "Committee on the Rights of the Child" to the Japanese government on June 25, 1998 encouraged all citizens and NGOs with deep concern on children's issues in Japan.

The CRC has shown its accurate recognition on the actualities of children in Japan who are exposed to developmental disorders due to the stress of highly competitive educational system. Those actualities include that children's growth and development are strictly controlled by the values based on the government economic development first policy at home, in school and in other facilities, exposed to competition, violence, and infringement of privacy, and deprived of freedom of expression. Based on the recognition, the CRC "Concluding Observations" suggested and recommended the Japanese government to comprehensively and drastically reform and improve the existing systems and structures which have caused those developmental disorders in compliance with general principles and individual articles of the Convention. The Second NCNAR highly appreciates that the UN Committee on the Rights of the Child issued such timely and appropriate Concluding Observations to the Japanese government.

The Japanese government has, however, not only totally ignored the Observations and but also continued to take contradictory policies and measures on children for last five years, details of which are mentioned later(See Chapter 4). It might be said that this regrettable attitude of the Japanese government was predicted by the sensational reports by a group of Japanese mass media that completely fabricated the proceedings of the consideration of the government Report at the CRC.

### **B. Bashing on the first consideration**

#### **1. Japanese children became pioneers of children by expressing their views at the CRC**

When the UN "Committee on the Rights of the Child" conducted its first consideration, Japanese children expressed their views at the Committee for the first time in the history of the Committee. They stated at the CRC on the "despotism of authorities symbolically shown in the principal's unilateral adoption of school uniform without listening to the opinions of children". They also stated also on the "realities that a number of children suffered from the stress by the government policy on

the child and deprived their rights to live at will" and "the existence of corporal punishment at various child facilities". A girl high school student stated as follows:

"There are many Japanese who think, 'As the Convention on the Rights of the Child' is for those who suffer from warfare and starvation, Japan has no need of such a Convention'. Such an opinion constitutes major obstacles for the Convention on the Rights of the Child to be implemented fully. We children are, only because 'we are children', not provided opportunities to talk out. In schools, we are taught to express our opinions but are not given opportunities to do so. Even when we express our opinions, they are not listened to. We live in a materially rich society where children can live in their own ways even without saying anything. On the contrary, some children are frowned upon just by having said something, isolated and sometimes suffered from inconceivable unfair practices due to their expression of opinions. Under such circumstances, children are afraid of expressing their opinions, tired of inability of their expression of opinions in changing realities and finally inclined to stop to express their opinions. In other words, Japan has become materially rich society through its remarkable economic growth and become spiritually less rich."

It is obvious that their expression of opinions left deep impression on the members of the CRC, referred time and again during the later consideration and led to the distinguished Concluding Observations.

## 2. Those children were scandalized by a group of mass media in Japan

A mass media in Japan gave out false news that the CRC did not show "understanding on the issue of school uniform" with a running title, "High school students failed to appeal an UN Committee. They were persuaded that they were happier than those children who had no appropriate clothes". A weekly magazine even used the running title, "Spoilt Japanese high school students were scolded by the United Nations. The UN Committee member said, 'You are privileged children.'" In the article, the writer of the magazine wrote, "The Committee members were rather taken aback by the opinions of those students, because the opinions were too crude". The writer coarsely criticized the students, saying that they "failed to make members understand their opinions", "were scolded by the Committee members", "were given caustic remarks", "were reasoned" and "were reproved".

It is difficult to understand the reason why such spiteful accounts were fabricated and published. However the arrogant and tyrannical logic of the economically powerful, now prevailing in Japan, is easily seen through those articles here and there, as if to say, "What else on earth do you want, you who are materially rich and given even school uniforms!", and "Don't behave like spoilt children! You cannot earn yourselves and yet dared to go as far as Geneva to express your opinions". The essence of the Convention on the Rights of the Child has to liberate children from the arrogant and tyrannical control and domination by economic priority policy and to restore the innate rights of the

child. Unfortunately, the state of affairs in Japan on which a girl high school student referred at the UN Committee has remained for last five years since then and even bent over the Japanese society even much more heavily.

3. Senseless words uttered by a member of the Japanese government delegation (also a member of the UN sub-Committee on Human Rights) concerning the Initial consideration of the Japanese government Report

In the above-mentioned article of the weekly magazine, a member of the Japanese delegation to the CRC commented, "They (citizens and NGOs) inoculate members of the CRC with their recognition of seriousness of the situation in Japan. Some members who do not know much about the situation were confused and they asked the government delegation irrelevant interrogations one after another. As a result, the proceedings of the Committee did not move on smoothly as scheduled". A university professor highly trusted by the government as an expert on the international human rights also stated to the magazine, "The Convention on the Rights of the Child was drafted primarily for the protection of children in developing countries in which children are threatened their right to survive by the child labor, slave trade and child prostitution". He was then President of the Japan Society on the International Human Rights Laws as well as a member of the UN Sub-committee on Human Rights. He wrote one year later in another magazine, "The child is half share", and "Japanese children who live excessively rich lives pay too much attention on the Article 12 stipulating the right to express views".

It is quite strange that nobody else but a member of the government delegation of Japan (she was promoted afterwards) made just after the initial consideration, as mentioned above, a statement which openly show enmity to the role of NGOs in the consideration procedure of the government report. These statements made by a delegate to CRC and a government's most trusting scholar in the field of the international human rights laws are nothing but the total negation of the "Convention on the Rights of the Child" and the CRC "Concluding Observations". It is not too much to say that it regrettably might be an advance notice of the subsequent attitude of the Japanese government.

### **C. Various efforts by citizens and NGOs concerning the Concluding Observations**

As mentioned in the beginning of this General Introduction, the Concluding Observations have given a exceeding gleam of hope and encouragement to all citizens and NGOs who are concerned with children's issues in Japan. It is not too much to say every paragraph of the Concluding Observations was fresh for their eyes. They were further more moved by paragraphs 22 "the Committee is concerned that children are exposed to developmental disorders due to the stress of a highly competitive educational system and the consequent lack of time for leisure". Paragraph 43

which states, "the Committee recommends that the State party take appropriate steps to prevent and combat excessive stress and school phobia" was equally impressive for them. Some other citizens and organizations were much more interested in paragraph 13 (concerns with difficulties encountered regarding respect for the views of the child), and paragraphs 35 and 49 (recommendations concerning publicity and generation of debate on the Convention and Concluding Observations). A variety of efforts have been made by a number of citizens and non-governmental organizations to make widely available the Concluding Observations. In order to protect rights of the child substantially, various campaigns were launched across Japan. Study meetings on the Concluding Observations were organized every part of Japan; various proposals for reform and change were submitted to the local administrative authorities; schools and education boards and a number of requests demanding consultation meetings were presented to the respective authorities. A number of non-governmental organizations made with unbounded vitality multiform surveys on the implementation of the Convention on the Rights of the Child and the CRC Concluding Observations as well as on the publicity of them. The outcomes of those surveys constitute essential parts of the Second NCNAR to be presented to the UN Committee on the Rights of the Child and are used as principal basic data of this Uniform Report.

Unfortunately those efforts of citizens and NGOs have, however, never been rewarded except only with some fortunate cases. On the contrary, as will be mentioned more in detail later, such measures as to be totally against the Convention and the Concluding Observations have been promoted both at central and local levels.

In the following, the efforts made by the DCI Japan are introduced as an example of how citizens and NGOs have made efforts for the dissemination and implementation of the Concluding Observations.

#### **D. Negotiation with the Ministries carried out by the DCI Japan**

Since its formation in 1994, the DCI Japan has developed its activities for the dissemination and implementation of the Convention on the Rights of the Child. At the time of the first consideration of the government Report by the CRC, the DCI Japan called upon various citizens and non-governmental organizations across Japan to form the First NCNAR and acted as its Secretariat. After the consideration at the CRC and the publication of its Concluding Observations, the DCI Japan has coordinated manifold efforts to make the most of the Observations. The DCI Japan has been particularly interested in ensuring freedom of expression of the child in various spheres, in establishing machinery for grievances, in ensuring substantial training and in improving educational system. Among those activities, the DCI Japan has attached much importance on giving pressure on the government for designating a responsible agency for the management and coordination of

measures in compliance with the Convention on the Rights of the Child. The agency might be named "Department of Child Affairs". That is because it had been undecided which departments of the government had responsibilities for the implementation of the Convention ever since its ratification. Whenever the DCI Japan called upon the Education Ministry to have a consultation on educational issues of children, the officials of the Ministry used to say, "You should go to the Ministry for Foreign Affairs, because the Ministry is responsible for the Convention on the Rights of the Child". Then the Ministry of Foreign Affairs repeatedly answered, "We have no responsibilities for drafting concrete measures". All the DCI Japan got from the government offices had used to be the round about. Therefore, the DCI Japan has demanded the government to establish an agency for the implementation of the Convention, recognizing it as an issue to be solved urgently. For last five years, the DCI Japan has made enormous efforts for the implementation of the CRC Concluding Observations. The CRC recommended in paragraphs 8 and 30 to strengthen coordination between various governmental mechanisms involved in children's rights. Followings are some examples of efforts made by the DCI Japan, which shows how indifferent and unconcerned the Japanese government and its offices are for the implementation of the Convention on the Rights of the Child and how irresponsible they are for the dialogues with citizens and NGOs.

1. Immediately after the first consideration of the Initial Report in June 1998, the DCI Japan has organized briefing sessions in various parts of Japan, translated into Japanese and printed the detailed proceedings (only one proceedings in Japan with about 100 paged booklet which was reproduced from tape-recorded discussion of the first consideration, typed in single space and edited according to the order of time and also according to themes) and distributed copies among members of the Parliament and certain ministries as well as citizens and various organizations. The DCI Japan has also translated and published the Concluding Observations of the CRC.
2. In December 1998, the DCI Japan invited Mrs. Judith Kirp to visit Japan. It was Mrs. Kirp who presided the session of the first consideration of the Report of the Japanese government. The purpose of the invitation was to have her lecture meetings for the dissemination of the significance of the Concluding Observations and the implementation. In December 7, 1988, Mrs. Kirp visited and had talks with Speakers of both Upper and Lower Houses and Assistant Minister of Foreign Affairs. She also participated in the social gathering with supra-party members of the Parliament, representatives of related ministries as well as with citizens and non-governmental organizations. The gathering was the first epoch-making opportunity to exchange views among tripartite parties. Through these opportunities, the Ministry of Foreign Affairs was compelled to answer that it would make efforts for the dissemination of the Convention and examine the possibility to establish an organ for the promotion of the Convention and for the coordination of various measures concerning the Convention. The Speaker of the Lower House stated that he would make efforts to call upon some representatives of children to a special session of the Budget Committee and to make children express their views on how the national budget should

be used. Unfortunately it has turned out to be his lip service and no such a session has been called upon.

3. On February 1, 1999, the DCI Japan had a consultation with the responsible department of the Ministry of Foreign Affairs to actualize the issues (e.g. how to disseminate the Concluding Observations, actualization of the Observations and an organ for the management and coordination) which were discussed at the gathering mentioned above. The officials of the Ministry answered that it would be difficult to establish an inter-ministerial organ for the management and coordination due to considerable difference of recognition among ministries however hard the Ministry would make efforts to have closer contacts with other ministries. They also pointed out that the goal to establish such an organ would be political issue beyond the authority of the Foreign Ministry.
4. On February 14, 1999, the DCI Japan submitted a letter of request to the Prime Minister and Chief Cabinet Secretary for holding a special session of the Parliament on children's issues and for the establishment of an organ for management and coordination of the measures to implement the Convention on the Rights of the Child. On March 24, 1999, the DCI Japan had a meeting with Mr. Uesugi, Deputy Secretary of the Cabinet but he avoided discretely to commit himself.
5. In June and July 1999, the DCI Japan exchanged views with officials of the Foreign Ministry and of then-Management and Coordination Agency on how to make the written text of the Concluding Observations available as well as on the establishment of an organ for the promotion of the Convention. An Agency official informed the DCI Japan that in relation to the scheduled reorganization of central ministries and agencies, youth related measures would be transferred from the Agency to the Cabinet Office. He also made known that issues of the child would be treated in a department of the Office instead of by the inter-ministerial organ. The DCI Japan demanded to establish a "Department of Child Affairs" in any case.
6. On November 11, 1999, the DCI Japan organized the second tripartite gathering at the Parliament building with the participation of Mr. Jacob Egbert Doek, member of the CRC (who visited Japan to attend the "International Symposium on the Rights of the Child" organized by the Graduate School of Law, Hitotsubashi University) and other five foreign expert researchers on the rights of the child. Participants of the gathering exchanged views on the intrinsic value of the Convention on the Rights of the Child, the Concluding Observations and the establishment of a monitoring organ for management and coordination of activities concerning the Convention. Mr. Doek emphasized the importance of establishing such a monitoring organ. The government officials reiterated the same answer that the government made efforts for the dissemination of the Concluding Observations through its homepage and did not show any concrete measures at all.



7. On February, 2001, the DCI Japan had a consultation with the Ministry of Foreign and the Cabinet Office immediately after the reorganization of the central ministries and agencies. Though a new Gender Equality Office was established in the process of the structural reorganization of the central ministries and agencies, a monitoring organ of the Convention on the Rights of the Child, "Department of the Child Affairs" was not established. Both Foreign Ministry and the Cabinet Office replied that they had made their utmost efforts to comply with the repeated requests by various organizations only to find it in vain.
8. Since then the DCI Japan had tripartite gatherings for three times in April, May and November 2001 concerning the Second Report of the government. The government's answers retreated gradually, saying, "Frankly speaking, the matter has not been examined at the internal meetings of related ministries and agencies". And finally, the Second Report of the government explicitly states that "So far, we have no plans to establish a new system for coordinating these measures within the Government".

### **E. The Japanese government has thoroughly ignored the Concluding Observations**

As stated in (2) of this General Introduction, the Japanese government has thoroughly ignored the Convention and the Concluding Observations immediately after the observation of the Initial Report of the government and taken hostile attitude to them. The reason why might be that smooth proceedings of the observation was filibustered by fire of questions from the CRC members who had been inoculated both fact and fiction without discrimination by the citizens and non-governmental organizations. As a result, the government has come to consider the Concluding Observations as "irrelevant and insignificant". The Concluding Observations might be nothing but a sort of international ceremony for the government who had publicly stated that there would be no need to change any measures on the child even after the ratification of the Convention. Or the Japanese government might regard the Observations as an "unreasonable imputation" by those who are unable to understand the Japanese society. At all events, the indifference and enmity of the Japanese government toward every paragraph of the Observations cannot be adequately explained in words. Followings are some episodes to illustrate the basic standpoints of the Japanese government.

1. Persistent stance to maintain "May 20 Notification" issued just before the effectuation of the Convention in Japan

The (then) Ministry of Education issued a notification ("May 20 Notification") to every prefecture education board and educational institutions on May 20, 1994 just before the effectuation of the Convention. It stated that "The school would be managed in the same way as before even after the

ratification of the Convention on the Rights of the Child". For example, it refers to Article 12 (right to express views freely) and the succeeding Articles on civil rights, the most characteristic ones in the Convention. The notification states as follows; "Article 12 and succeeding Articles from 13 to 16 stipulate the right to express view, to freedom of expression. However, any school has authority to instruct and direct students and to decide school regulations in rational manner for attaining the educational goals of the school concerned". It further states that as the school regulation is a certain arrangement for the promotion of growth and development through healthy school life of individual students, it should be decided by the responsibility and judgment of school authorities". It emphasizes that "In school, pupils/students should be enabled to understand their responsibilities appropriately as well as their rights". In other words, the "May 20 notification" states that despite the provision of the Convention on the Rights of the Child, school can with its responsibility and judgment instruct and direct pupils/students and decide school regulations to attain educational goals without listening to the opinions of children as before. The notification states that before being taught on the execution of their rights, children should be taught to fulfill their responsibilities. It has been already clarified through the proceedings of the first observation of the government report that such an interpretation of the Convention goes against the Convention on the Rights of the Child.

Nevertheless, the officials of the Ministry of Education and Science reiterated the same words with the "May 20 notification" at the tripartite gathering convened in April 2001. Furthermore, the Ministry wrote in the chapter 'The Convention on the Rights of the Child and Improvement of School Education' of its White Paper 2001, "The Ministry notified on May 20 each prefecture education board some major points which should be improved in light with the gist of the Convention". It cannot be but said that the above-mentioned sentence not only disregards but also shows enmity toward Paragraph 13 and 35 of the Concluding Observations.

2. The Convention on the Rights of the Child was totally disregarded when three basic laws were "revised".

The Japanese government has continued to work for the drastic revision of three basic laws on children, i.e. Child Welfare Law, Juvenile Act and Fundamental Law of Education which have been applied for more than 50 years since the enactment of those laws just after the defeat of the War. Provided that there is any historical necessity to "revise" those laws, the reason why should be derived from that every national law concerning the child has to be in compliance with the Convention on the Rights of the Child. Only through such a revision, current serious situation as to be called "loss of the childhood" could be drastically reformed.

However, the government has never distributed the text of the Convention on the Rights of the Child as resource material for the consideration of the Child Welfare Law revised in 1998 just before the consideration of the Initial Report at the CRC. The Convention on the Rights of the Child and the

CRC Concluding Observations were totally disregarded when the government submitted the bill for the revision of the Juvenile Act (revised in 2001). Concerning the scheduled revision of the Fundamental Law of Education, a great number of citizens and non-governmental organizations demanded the government to take regard of the Convention and the CRC Observations. However, the government has taken no notice of the request. The National Commission for Educational Reform, an advisory organ to the Prime Minister, was established in March 2000 and it proposed in December 2000 basic principles to revise basic education system maintained for more than 50 years. In response to the proposal, the Central Council for Education prepared a draft for the revision of the Fundamental Law of Education. The government has never distributed the CRC Concluding Observations to members of these two major organs, not to mention of the Convention on the Rights of the Child itself as reference materials. The NCNAR cannot help expressing its deep resentment for such a government attitude to take measures for children successively which openly disregard and show enmity toward the Convention on the Rights of the Child and the CRC Concluding Observations.

### 3. The government has totally neglected to disseminate the CRC Concluding Observations

How has the government disseminated the CRC Concluding Observations? "The Committee (on the Rights of the Child) considered in May 1998 the Initial Report of our country and adopted its Concluding Observations. The Observations include suggestions and recommendation by the Committee on the comprehensive programme to eliminate corporal punishment and bullying in school, etc. The Ministry is now making efforts to take necessary measures, respecting these suggestions and recommendations as far as possible".

The above-cited paragraph is printed in the Ministry's "Principles for Human Rights Education" with the title "'The Convention on the Rights of the Child' and the Improvement of School Education". This seems to be the only one governmental document that referred to the contents of the CRC Concluding Observations. What a pity that a government has such a poor comprehension of the Concluding Observations! It means that the government has wholly covered up the most important parts of the Concluding Observations from the eyes of the people.

Eventually, the government has not fulfilled its minimum responsibility suggested in Article 49 of the Concluding Observations. It states, " the Committee recommends that the report be published, along with the relevant summary records and the Concluding Observations adopted thereon by the Committee. Such a wide distribution should generate debate and awareness of the Convention and of its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations". Only one media to a wide distribution was the Home page of the Ministry of Foreign Affairs. (But it does not cite the summary records.) The government has totally neglected to print and distribute those records among relevant governmental

bodies, the Parliament, courts of justice, education boards, schools and relevant institutions.

It is not too much to say that the government has not had the slightest intention to "generate debate and awareness of the Convention and of its implementation and monitoring". For last five years, the government has never actively approached the NCNAR on any measures to implement and monitor the Convention and the Concluding Observations. All of the above-mentioned tripartite gatherings and meetings to exchange views were planned and implemented on the initiative of citizens and non-governmental organizations. It is quite obvious from the dialogues between the government and the DCI Japan (3. (4) 1.8) that the government has said something just to suit the occasion concerning the establishment of an organ for management and coordination.

#### 4. The governments views expressed in the replies at the Parliament

For last five years, deliberation has been made for several times at the Parliament sessions on the implementation of the Convention on the Rights of the Child and the CRC Concluding Observations. Those members of Parliament who have demanded the active implementation of the Convention asked the government's views at the Committee on Education and Culture, Committee on Foreign Affairs and Committee on Budget, etc. on a variety of issues pointed out in the CRC Concluding Observations. The CRC pointed out in its Concluding Observations following points. (a) difficulties encountered by children in expressing their views and their right to participate (paragraph 13), (b) highly competitive educational system exposing children to developmental disorders due to the stress (paragraphs 22 and 43), (c) establishment of the Management and Coordination Agency of the Convention on the Rights of the Child (paragraphs 8 and 43), (d) establishment of ombudsman system (an independent monitoring mechanism) for the protection of the rights of the child (paragraph 32) and (e) plan of action to prevent and combat with juvenile delinquency (paragraph 46).

However, the government replied without exception that it has made its sincere efforts to implement faithfully the Convention on the Rights of the Child on the basis of the "May 20 notification" and that children's rights are protected sufficiently and coordination of measures is fully implemented within the current system. Ms. Kawaguchi, Minister of Foreign Affairs asserted (at the Committee on Foreign Affairs of the Lower House, April 23, 2003) that the government had no plan to establish an independent agency for coordination of policies. Being questioned whether the government had the idea to deal with juvenile offenders in compliance with the Convention on the Rights of the Child, Mr. Konoike, Minister on Youth Affairs replied, "I do not know much about the Convention on the Rights of the Child. Even if such a Convention exists, I have no will to accept and observe the Convention" (at the Cabinet Committee of the Lower House, July 16, 2003). This assertion by the Minister in charge of youth affairs and other replies of ministers in last five years reveal clearly that the government does not have appropriate understanding and give lowest priority on the Convention

and the rights of the child, which would be treated later more in detail.

#### **F. Move of the local municipalities concerning the Concluding Observations and the Convention on the Rights of the Child**

As mentioned earlier, the Concluding Observations of the CRC encouraged citizens and non-governmental organizations and influenced them greatly. Consequently, their activities have come to produce fruitful outcomes at local municipality level. Campaigns carried out in close cooperation among citizens and non-governmental organizations resulted in the enactment of the Act on the Rights of the Child and the Act on Ombudsman System (Kawanishi City, Kawasaki City, Saitama Prefecture, etc.). A number of municipalities established "Section of Child Affairs", a section comprehensively dealing with children's affairs (Kochi Prefecture, Tone City, Gunma Prefecture, etc.). Regarding moves of municipalities more in detail, see Chapter 17.

## **Chapter 4 Appraisal of the Second Report of the government by citizens and NGOs**

Frankly speaking, the Second Report of the government does not fulfill the minimum requirements of the general guidelines regarding the form and contents of periodic reports. It is nothing but a low level and even scandalous report to show lack of understanding on the Convention on the Rights of the Child, insincerity toward the CRC and its Concluding Observations and arrogant attitude not to provide the minimum necessary information for the consideration of the Report.

Such attitude of Japanese government is derived from various factors affecting Japanese society as a whole. Those factors include followings. 1) outmoded stereo-typed views on children and human rights, 2) nationalism attaching more importance on the interests of the state than interests of children, 3) cultural dualism disliking idealistic and universal international human rights, and 4) retreat of equality and social welfare under the prolonged recession and also under the drastic conversion of industrial structures based on "neo-liberalism".

Since the Japanese government ratified the Convention on the Rights of the Child, it is obliged to faithfully take measures suggested and recommended by the Concluding Observations. It is the responsibility of the Japanese government to the international society and to children in Japan. It is not questioned whether the government has implemented the Concluding Observations or not. The government is requested to provide information on the measures adopted, factors and difficulties encountered in the implementation and steps taken to overcome them as well as overall or sectoral policies for children in compliance with the Convention. It is difficult to find out in the Second Report a bit of sincerity and honesty to face with the consideration of the Report at the CRC. The NCNAR considers the Second Report of the government as follows.

### **A. Extremely insincere and defiant attitude to the Concluding Observations**

The Second Report thoroughly disregards the Concluding Observations issued in 1998 and copes with the CRC extremely insincerely and defiantly. One of the major reasons why such circumstances took place can be attributed to the non-existence of the unified action plan as well as of an agency responsible for responding comprehensively to the Concluding Observations. Paragraph 19 of the government Report states that the Committee for the Promotion of Youth Policy of the Cabinet Office has been making according to its guidelines general coordination of all measures and

harmonizing law and policy with the Convention on the Rights of the Child. However there is a great disparity between the basic stances of the guidelines and the Concluding Observations. The CRC made 39 recommendations in total to the Japanese government, on which more detailed mentions are made later in the "General measures for implementation G". Twenty-eight recommendations out of 39 (71.7%) are not dealt with in the guidelines. Even when some mentions are made, most of them refer only a part of those recommendations or rather lead to the infringement of the rights of children. Thus, there are neither machinery nor action plan to cope with the Convention on the Rights of the Child and the CRC Concluding Observations.

## **B. Lack of understanding and serious efforts**

The Second Report of the government totally lacks the description on how the government comprehends the Convention on the Rights of the Child as well as the rights of children in general. It is hardly possible to find out a glimpse of sincere efforts by the government for the implementation of the Convention.

For example, the governmental Report proudly describes that authorities provide training sessions concerning the "Convention" to public service workers whose works are related to the child (paragraphs 44 and 55). In reality, the training is, however, restricted only to specialized training according to types of occupations of public service workers. There are hardly any sessions in which trainees have opportunities to learn about the Convention on the Rights of the Child as a whole and the Concluding Observations as well. Actually, training sessions organized by the "National Center for Teachers' Development, an independent administrative institution responsible for unified and comprehensive implementation of government-controlled training programs" (paragraph 44) have no programs with the title, "The rights of the child" or "The Convention on the Rights of the Child". According to the surveys made by citizens and non-governmental organizations, every teacher who participated in the "(training) opportunity for newly-employed teachers" (paragraph 44) replied that he/she was not provided training on the Convention on the Rights of the Child and the CRC Concluding Observations. In fact, authorities provide a number of training opportunities. However, in those training sessions, some mentions are made on the Constitution of Japan and the Convention on the Rights of the Child as one of various international laws on human rights. There are, however, not a single session specially organized for the understandings of the Convention on the Rights of the Child, particularly on its uniqueness and significance.

The Convention on the Rights of the Child recognizes, contrary to the "common sense" of the theories on human rights, the child with no (or insufficient) thinking faculty and legal capacity as a subject to exert its rights. It has a revolutionary content in trying to cope with the expression of opinion by the child rightfully and to recognize the child as a subject with dignity. On this more

detailed mentions will be made later. Then why has the child to be treated as human beings with dignity? Wisdom of human race has taught the fact that the child can grow and develop into autonomous adult with social morality, only when it is treated not as an "object" for rearing and fostering but as a "subject" to exert its rights to express views (a human subject with dignity). The fact is supported by various academic truths.

Therefore, so far as the training sessions provide no special program on the rights of the child for growth and development and in particular on the right to express its views, it is difficult to recognize those training sessions as appropriate training to make known the Convention. As shown in the above-mentioned example, it is hardly possible to recognize from the Second Report how the Japanese government has understood the Convention on the Rights of the Child and rights of the child as a whole. Consequently, the Report is far from the sincere periodic report for the implementation of the rights of the child as well as the Convention on the Rights of the Child.

### **C. Negligence of accountability**

The Second Report of the Japanese government only cites measures and issues one after another undertaken for last 5 years. The Report does not make appraisal and positive verification whether those measures are harmonized with the Convention and the CRC Concluding Observations (are they really useful for the implementation of the Convention or do they obstruct the implementation, and what have brought difficulties, etc.).

Last five years, period of great upheaval, were the turning point of the government policies on the child. The government proposed one after another various reform plans including drastic change of educational system and privatization or conversion to Private Finance Initiative of nurseries and after-school centers for latchkey children. Bills concerning children have been submitted to the Parliament in succession including on "Juvenile Act", "Prevention of Child Abuse", "Penalty Regulations on the Commercial Sexual Exploitation", "Conversion of National Universities into Administrative Institutes". The bill to amend the "Fundamental Law of Education" is scheduled to coming session of the Parliament. It was not, of course, decided whether these bills would be submitted to the Parliament sessions when the government had been preparing its Second Report. However, some mentions should be made on whether these bills give positive or negative influence on the implementation of the Convention on the Rights of the Child. Actually, the "Juvenile Act", "Law on the Prevention of Child Abuse" and "Law concerning Penalty Regulations on the Commercial Sexual Exploitation" were "revised" or enacted. Nevertheless, juvenile delinquency, child abuse, girl prostitution take places one after another. These subjects are written more in detail in following chapters of this Report dealing with individualized issues.



#### **D. Farfetched composition**

The Second Report of the Japanese government is unilaterally composed of political ideologies of the government and it states in roundabout way or conceals the troublesome parts.

Followings are some examples. The Second Report refers to "daily promotional activities to eliminate prejudice and discrimination against foreigners" in paragraph 93. It further states that "students are guided towards respecting culture and tradition in their own hometown or country, trying to befriend other people in the world, and contributing to world peace and human happiness" in paragraph 273. However, in reality, the Report shuts its mouth hard about the governmental policy to disqualify graduates from Asian ethnic high schools including Korean schools to the university entrance examinations, while the government qualifies graduates from Western international schools to university entrance examinations (See Chapter 33-35). The Report does not also mention about the strengthened national control over education. For example, in accordance with the National Course of Study with legal binding force, the government has directed every school to hoist "*Hinomaru*" (rising sun flag) and sing "*Kimigayo*" (song for emperor' reign) (See Chapter 47 and 100). It has also strengthened performance evaluation of teachers, infringed students' rights to express their views and dared to appraise patriotic minds of individual pupils and students. The Report states, "(a child is to be engaged) in pupil council of students council activities, ensuring the participation of students in decision-making". It is totally against the realities (See Chapter 104). There is really no end to list contradictory examples, including strengthening of school regulations and enforcement of graduation ceremony shutting out the voices of teachers and students, etc.

#### **E. Deceptive process in the preparation of the Report**

Article 3 of the general guidelines of the CRC states as follows. "The Committee believes that the process of preparing a report for submission to the Committee provides an important opportunity to conduct a comprehensive review of the various measures undertaken to harmonize law and policy with the Convention and to monitor progress made in the enjoyment of the rights set forth in the Convention. Such a process should encourage and facilitate popular participation and public scrutiny of government policies." It is evident from what are mentioned (a) to (d) that the process of preparing the Second Report of the government does not fulfill the above-mentioned requirements. Wishing to conduct comprehensive review of various measures of the government and to monitor progress made in the enjoyment of the rights set forth in the Convention, the Second NCNAR requested the government to have a consultation meeting, preparing a number of materials. Thanks to the participation of supra-party members of Parliament, two consultation meetings were convened but unfortunately opinions expressed by citizens and non-governmental organizations on those opportunities are not totally reflected in the government Report, just like as on the occasion of the

Initial Report.

## **F. The Report does not provide essential and general features of children's issues**

The introduction of the Second Report of the government states, "Japan has been expanding its welfare and educational programs particularly since the end of World War II. Every program has attained high-level achievement". It refers to two examples concerning the current big issues of children, "declining birthrate" and "new social problems as child prostitution, child pornography, bullying, juvenile delinquency, suicide, drug abuse and child abuse" caused by more and more complicated social environment. It is impossible to grasp whole situations surrounding children only by mentioning these aberrant acts of children.

Those symptoms are a partial eruption of serious situations surrounding children in Japan. However hard individual "new social problems" are held down by punitive means, the magma explodes one after another. Why are children inclined to do prostitution, bullying, delinquency, commit suicide and indulge in drug abuse? Why do the grown-ups abuse children and fail to establish a home? There has emerged a society where children are unable to grow and develop and the grown-ups find it difficult to live. Such social values and social structure for the attainments of those values are nothing but the very magma that brings about new social problems one after another. Nothing but such social situation surrounding children should be now coped with.

Such critical social situation was already pointed out clearly by the Committee on the Rights of the Child concerning the Initial Report. The CRC pointed out that children in Japan are exposed to developmental disorder due to a stress of being too strictly controlled at home, in school and in institutions by economy-first social values. It also pointed that children are exposed to competition and violence, infringed privacy, and deprived of the right to express views and to play. On the recognition as mentioned above, the CRC in its Concluding Observations recommended the Japanese government to take appropriate steps to drastically and comprehensively change and improve the existing system and structure in compliance with general principles and individual Articles of the Convention on the Rights of the Child. As was mentioned earlier, the Second Report states boastfully, "Japan has been expanding its welfare and educational programs and attained high-level achievement" of those programs. However it is nothing but the very welfare and educational programs that were requested to drastically reviewed. First of all the Japanese government should have started the preparation of the Second Report from paying due regards to suggestions and recommendation by the CRC Concluding Observations. The government should have recognized that the more unilaterally it promotes its policy on the child, the more children suffer from distortion of growth and development. Actually, the government defiantly rejected the CRC suggestions and recommendations and attributed the current situations of children solely to

superficial new social problems.

So-called "hopeless children" as cited in the Introduction of the Second Report as well as "hopeful children" in mainstreams are equally groping for their own ways to become considerate grown-ups, while being strictly controlled by economy-first social values at home, in school and institutions. It is hard to find out such unpainted faces of children in any part of the Second Report. That is the very cause of the failure of the government Report.

## **Chapter 5 Situations of children's rights deteriorated in past five years**

As I have already quoted several times before, the Concluding Observations issued by CRC five years ago expressed strong concern that children in Japan are being exposed to excessive competition, control, violence and invasion of privacy. They are also being deprived of expression of opinions, which eventually distorts their growth and development. How will the situation of the present children be like in another five years? Unfortunately, the answer is, "It will be far worse!"

Ten years have passed since the so-called bubble economy burst. The Japanese society is now in a state of deep economic slump. Its social cultural structure that has supported the post-war growth of Japan no longer functions. Japan is trying to turn radically towards a new social cultural structure in order to recover Japan's economic strength. I will enlarge on this point later in the 7<sup>th</sup> chapter. Amid the fierce global competition, Japan is on a way to form a society based on principles of neo-liberalism and neo-nationalism with a view to regaining the national power.

Under such circumstances, the situations of children's rights have deteriorated: (1) "the best interest of the child" principle is not taken into account (See Chapter 36-42), (2) children's right to express their own views are almost completely demised (See Chapter 45-49), (3) environments for those who are supposed to back up children's rights have degraded (See Chapter 46, 63 and 64), (4) equality and social rights have stepped back (See Chapter 99 and 114-119), (5) support system or ombudsman system to encourage the use of children's rights are out of guarantee and (6) efforts made by citizens, NGOs and sensible teachers to put the Convention on the Rights of the Child into practice are now meeting a great backlash. Thus, a Japanese child cannot grow and develop into a sensible adult who "can live in his/her ways and think of others."

First, let us overview the situation of children's rights in Japan.

### **A. Increase of the children who are incapable of having a relationship with community, harming others and taking self-destructive behaviors**

The notable characteristic of them is that a child who looks very average or "innocent and clever" suddenly takes incomprehensible behaviors such as becoming "out of control" or staying in his/her shell. What a lot of ordinary children have become inadaptable to the reality without specific reasons from the perspective of adults!

The following types of children are increasing:

- (1) children who cannot build a relationship with society by having little appreciation to be in a group, being feckless (See Chapter 85), going to school nurse's office instead of attending classes, refusing to go to school (See Chapter 106), and withdrawing from the society for long time even after their school-age (See Chapter 106),
- (2) children who harm themselves by smoking, hanging around amusement quarter, engaging in prostitution to earn money (See Chapter 127), taking unrestrained sexual activities (See Chapter 86), being addicted to drugs (See Chapter 84), having the eating disorders, and committing suicide
- (3) children who harm others by triggering classroom chaos, shoplifting, bullying (See Chapter 96 and 105), committing a robbery, waging school violence (See Chapter 96 and 105), joining a motorcycle gang, and killing others (See Chapter 126).

What makes children hurt themselves, others, or society although such behaviors sacrifice their own future and break their parents' hearts?

## **B. Increase of the Children whose life and health are being threatened**

It is true that Japan is now under the economic recession. But in comparison with other countries, Japan is much richer. Despite it, many children in Japan ruin their lives, fall into ill health, and fail to grow and develop properly. Increasing number of parents becomes incompetent to cope with their child rearing with love and responsibility. Basic conditions for child rearing and livelihoods have deteriorated in this commercialistic society.

- (1) The number of children, who have to be taken into emergent shelters or care facilities due to physical abuse by their parents (See Chapter 72-74), grows by leap and bounds. These facilities are now overflowing with children who need a special care (See Chapter 68). Standards for child welfare facilities remain as same as that of 50 years ago (See Chapter 68).
- (2) Some children show a "mock autism" symptom because they watch video or TV too much (See Chapter 43 and 57). Some are diagnosed as pervasive developmental disorder or attention-deficient hyperactive disorder (ADHD) (See Chapter 85). Many of these children need to visit special care facilities.
- (3) The number of underdeveloped children shows a sudden increase due to poor nutrition (See Chapter 84), sick-building syndrome or allergy symptoms, and physical or mental disorder allegedly caused by electromagnetic waves giving off from mobile phones (See Chapter 43).

### **C. Amid control and competitive principles, children are being sorted out and graded into elite and non-elite**

The aforementioned Concluding Observations issued by CRC points out that children at Japanese schools inevitably compete with each other, and that corporal punishment and violation of children's privacy frequently take place under the control-oriented education, resulting in the deprivation of their rights to expression of opinions. Basically, such situations remain unchanged. It is true that cases controlling children's behaviors externally with school regulations or corporal punishment is getting fewer, but "controlling children's mind" under the name of ethical education is getting systematically reinforced as one of the governmental goals. This is nothing but neo-nationalism. In terms of competitive principles in the field of education, the government expects to "effectively train future leaders of Japan". To this end, it sorts out children into elite and non-elite from early stage. This move is rapidly building up in Japan.

Thus, the Japanese children are put into a tougher race to get into prestigious universities under the control-oriented education system. The expectation from parents or teachers and the education system in which the government pursues its goal to produce handful of future leaders appropriate to the recovery of Japan's national strength are driving children into compulsively wavering between "winner" and "loser" in the examination war and the national loyalty race. During the past few years, the evaluation system, which grades children into excellence and non-excellence and eliminates the non-excellence from the elite course, has moved ahead at a fast pace. Children have to make a desperate endeavor to give a good performance not to be discarded from the expectations from the society, parents and teachers.

- (1) Children are mentally and physically exhausted: A number of children are still controlled by physical punishments (See Chapter 105); some are controlled by too much school regulations (See Chapter 104); some are neglected or abused by their parents and eventually taken into care facilities but receive ill treatment there again (See Chapter 68 and 71); some are forced to have their hair butch cut; and some are refused to attend graduation ceremony because of their dyed-hair.
- (2) Children are forced to internalize the moral value set by the government (See Chapter 48 and 98). The Ministry of Education edited a government-designated moral book called "Notebook of Mind", and distributed them to every elementary and junior high school across Japan. The Ministry strongly encourages (actually forces) to use this book at school lessons, by evaluating which school use it or not, in order to implant the nationalistic morality into children (See Chapter 49): School children are now forced to engage themselves in social service as one of

the school subjects (See Chapter 95); Children's motivation, interest and attitude towards every school subject are evaluated in report card (See Chapter 97); Schools in some municipalities evaluate the level of one's "patriotic consciousness" in his/her report card (See Chapter 98); Furthermore, junior high school teachers evaluate students' character on the report card submitted to a high school for an entrance examination (See Chapter 115).

- (3) High-handed school administration based on the particular political purpose tramples on children's rights to express their own views. As seen in incidents in Kunitachi Daini Primary School and Tokorozawa High School (See Chapter 100), local governments, boards of education and school principals impose the *Hinomaru* Flag (national flag) and *Kimigayo* (national anthem) on children and teachers as an inevitable duty to be good Japanese. These authorities destroy children's willingness, sentiments, and good human relations with teachers. (See Chapter 101)
  
- (4) The fierce competition to get into better schools and the control-oriented educational system make children exhausted. Recently, large-school-district-system for senior high school's entrance exam and a rating system of high schools have emerged instead of small-school-district-system for high schools' entrance exam (See Chapter 40 and 115). High school administrators have to make efforts to achieve their numerical goal "how many students enroll in what universities". For example, entire Tokyo is a single-school-district with about 12 million population but only four schools in this district can be designated as schools for prestigious universities. For only a handful of famous universities, children have to go through the rabid competition: First, they must enter a brand-name primary school, then junior high school and high school and can eventually get into a prestigious university (See Chapter 40, 99 and 114). Rich families can afford to let their kids go to well-known private class or hire experienced private teachers in preparation for entering in a university as higher level as possible. Household expenditure for it reportedly increased by 15 percent from that of five years ago (See Chapter 99 and 119). If one's parents fall short of money or if one drops out from an escalator for better schools, this child is socially labeled as a loser. As if the society said, "Ok, this is the job suitable to your ability and status. You must put up with it." The loser inevitably accepts his/her position and devotes to "public or national" developments without complaining (See Chapter 98). Just for this purpose, public morality and patriotism set by the government have appeared in school education.

#### **D. Economic principle and administrative control cause destruction of children's growth and school environment**

Children's social and living environments with relatively stable human relations necessary for

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children's growth and development have been so far maintained by government. But the new social principles called neo-liberalism (a performance-based, self-responsible, and competition-based society according to one's financial power and ability) and neo-nationalism (a nationally mobilization regime in which everyone takes a pledge of loyalty to the country to regain the state power) are destroying the various backgrounds and changing them into different forms. Social and living environments that have supported to bring up children are aggravated and becoming more impoverished (See Chapter 36-42).

- (1) In the wake of economic recession, working condition of parents gets worse than ever: Growing number of companies go bankrupt; unemployment rate remains high; overtime work without allowance mercilessly takes place; and a number of people die or commit suicide from overwork (See Chapter 64).
- (2) Public institutions such as nursery schools (See Chapter 87-92), kindergartens (See Chapter 93), after-school care program, and evening high schools (See Chapter 119) are on the verge of destruction. According to the neo-liberalism (market- and competition-oriented principle), these public facilities are being privatized or closed down with private finance initiative (See Chapter 36-42).
- (3) Principles of the neo-liberalism and neo-nationalism emerged in school education, too. Teachers now have to work hard like robots to fulfill their educational goal set by the authorities. Today, teachers in Japan are thoroughly controlled by the authorities, nationalistic politicians, chairs of board of education, or principals. The authorities provide absolute rights for principals, frequently punish teachers for their disobedience to authorities' order, disqualify certain teachers and eliminate them from schools, provide a system to severely evaluate teachers, and has the rights to reshuffle teachers (See Chapter 42, 101 and 107-113). In addition, teachers have to look after 40-student classes (See Chapter 117). Each teacher neither has time nor power to face each student to form a personal relationship to encourage his/her progress. This is the reality.
- (4) Parents and PTAs can no longer speak out about the educational goal or policies set by the authorities.

## **E. Increasing discrimination**

The Concluding Observations issued by CRC in its 13<sup>th</sup>, 14<sup>th</sup>, 20<sup>th</sup>, 34<sup>th</sup>, and 41<sup>st</sup> clauses expresses a special concern over discrimination in the Japanese society, and recommends that actual situation of discrimination against minority children be strictly investigated and abolished. However, the new

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social value (neo-liberalism and neo-nationalism) further aggravates the existing discrimination. Under the name of equality, the government tries to integrate children, who need a special care, into an ordinary class and abandon generous cares for these children. Certain type of disabled students, irrespective of their will, must study in ordinary class (See Chapter 75-81). After-school care program for working parents is getting assimilated into more general measures (See Chapter 17). What's more, the government helps discriminate "different people" like kids out of marriage (See Chapter 23) or foreigners (See Chapter 30-35) because it seeks to maintain the mono-nationalism to recover the country's strength. The situations of discrimination in Japan have become severer. The government also intends to maintain gender discrimination under the name of "joint participation by men and women".

- (1) American-Asians (See Chapter 23), foreigners (See Chapter 30-32), Ainu, Koreans (See Chapter 33-35) residing in Japan, other nationalities and minorities, disabled children (See Chapter 30-32), children out of marriage (See Chapter 23), children in welfare facilities are tend to be discriminated.
- (2) The government seeks to keep and strengthen the present gender-bias as seen in different minimum age of marriage between men (18) and women (16) (See Chapter 26).

**F. The government or society in general has a tendency to discard "children in social problems" by punishing them or putting them into welfare facilities. Support systems for children in problem are not sufficient in view of individual growth and development.**

- (1) By revising the Juvenile Law, the age applicable to the criminal punishment will be changed to 14 from the present 16. This proves that the government intends to give tougher punishments to delinquent children (See Chapter 13 and 126).
- (2) Punishments against so-called patronage dating or child prostitution will be tougher.
- (3) The newly revised Child Abuse Prevention Law fell short of improving the standards of facility set in 50 years ago, and remains its policy to lock up problem children in welfare facilities (See Chapter 72-74).
- (4) The National Council for Educational Reform proposed "not to hesitate to discipline for problem children," and introduced a system to discard children incompetent to compulsory education process (See Chapter 104).

## **Chapter 6 Social background depriving of "childhood"**

### **A. "Childhood" trampled by the social cultural structure in the post-war period**

In the post-war period, the Japanese society provided a certain social-cultural structure in which "anyone who has high ability but can stifle his/her own desires to innocently cozy up to the power and authority can benefit from the country." The post-war Japan gave top priority to the economic prosperity centering on large corporations in cozy ties among politicians, bureaucrats and business. All of the Japanese were called out in this framework, drafted as corporate warriors, that is, foot soldiers for the economic growth, suffered overtime work, never complained about being transferred to far regions and leaving his family behind, clenched their teeth and endured it. Some of the commandoes even died of Karoshi.

After the War, Japan has formed a very efficient society and has built up the wealth. The people of Japan were forced to believe in economic growth and to achieve this, hold down their desires, obey economic power and authority, and according to their degree of obedience, given interests such as promotion. If one expresses his/her opinions or objections, he/she will be judged as being not frank enough, "dangerous elements" or "odd men out", and will be demoted. As a consequence, he/she will be transformed into a person who never think for him/herself, throw him/herself away, and will do everything he/she could to cooperate with the "public" to maintain and develop the society, how unreasonable it may be.

Children, in preparation for the business-prone society, are compellingly thrown into the race to get into prestigious universities. According to their intelligence and tractability, children are sorted out and graded into an elite course and a non-elite. As a result, children get lost and stop showing their feelings. No matter how unreasonable the uniformed value is, children are brought up to believe that to discipline oneself is the best and the foremost value of the society and this is the quickest route for self-maintenance. The state policy tramples on people's individuality and morality guaranteed by the Japanese Constitution.

Thus, added incentives such as higher social status, more money and other utilitarian benefits made the people dumb in order to push ahead the post-war economic development in Japan. Here, moral education was a piece of glue.

## **B. Social cultural structure to gain the new state power grabs "childhood" away**

Since the bubble economy burst, Japan has been in a state of economic slump. It is no longer able to reward its people. Its conventional social-cultural structure is facing to turn into a different shape.

Firstly, for a further development of the Japanese economy, Japan should change the current mass-production industry to a knowledge-intensive industry led by high-tech sectors. Secondly, to survive in the global competition, Japan should establish its firm position militarily and diplomatically in the world stage in cooperation with the United States. Thirdly, to gain such an economic and international state power, individual person in Japan should consider the change of Japan as essential even without a reward, devote to the country according to individual degree, feel proud of the country, and recognize a love itself as the common moral and value of the society. It is vital for individual Japanese.

Here, there is a logical reason for the government to implement the moral education. The government steadily prepares for a new system to regulate the society and cultivate human resources to mobilize all people into a state-power-gaining business. To revise the Fundamental Law of Education, hollow out the Constitution, and improve wartime legislation are the core to set up the new system plotted by the government. The wartime legislation enables Japan to virtually "exercise collective self-defense" in cooperation with U.S. forces. It is clear that all these moves are the sign to revise the Constitution.

Amid the worldwide competition, for regaining Japan's state power, it is necessary to introduce a principle of self-determination (ability-based) and self-responsibility (performance-based), instead of the collusion-based existing policies among politicians, bureaucrats and industries. Based on this principle, people should compete with each other in the good sense and return their achievements to the state. That is the way what the neo-liberalism should be, the government thinks. Based on the market mechanism, "distribution of rewards" and the "sorting-out" merge into a social structure.

In the past Japanese society, anyone loyal to the power was able to reap some fruits. This used to be a factor to maintain the stable society. However, in a new social-cultural structure based on the neo-liberalism, people must gain rewards by themselves at the end of the competition. So, rewards will concentrate on only a small number of talented people. Many other people will be losers. Such a bipolarization may appear in a new social cultural structure. The government recognizes that without getting rid of winners' arrogance and losers' apathy and grudge, it will be impossible to realize a successive stable development of the country. Therefore, the government believes that it will be inevitable for both winners and losers to have a moral sense loyal to the public such as "a willingness to proactively participate in a community" and "a willingness to love for tradition, home province

and the country". This is what the government urgently wants for the moral education to realize the neo-nationalism. Winners are required to have leadership to effectively regain the state power and losers are required to follow those leaders without complaining. This type of public morality will label a person, who disobeys the leaders, as an incompetent loser and will even punish him/her in the end. Both children and adults have to work hard obsessively with the principle of market mechanism as a prerequisite under the "ability-and-performance system". If not, they will be losers.

Thus, on the pretext of the recovery of state power, the neo-liberalism has brilliantly combined with the neo-nationalism to thoroughly take "individuality" and "morality" away. The competition and moral set by the government will never create energies essential to individual happiness and national development. The reason is that the forced competition and moral will exploit "human relationships that guarantee peace, self-confidence and freedom with each other" to create those energies.

## **Chapter 7 Messages from "struggling children"**

We have seen situations of Japanese children who have lost their "calls" (cannot express their opinions) in various scenes in their daily life, and as a result cannot live and grow as human beings (Chapter 5). This report also pointed out the problems of Japan's government which, instead of attempting to change such situations, is cornering children even further by bringing only efficiency to their environment (Chapter 6 and 7). In this chapter, from citizens' and NGO's basic report, we will look at calls of children who have grown up in "normal" families and schools to think about how they feel in Japan's society considered as a "affluent society".

### **A. Case of a college student, a victim of child abuse**

"In my house, what my father said was absolute. Just because I couldn't solve math problems, he grabbed and pulled my hair, and hit me. Even though I was helping in preparing dinner, he still hit me for some reasons I could not understand. ... But we children were trying to be what our parents wanted us to be. Blaming ourselves, we thought that there would be some reasons for us to be punished.

However, what hurt me more than such violent acts was his words. Whenever my father got angry, he always asked me who provided me with food to eat and house to live, using the most violent words. Of course he knew that I did not have any ways to earn money or anywhere else to go. It was really sad to hear him saying such things because I felt like my existence was denied. To me, he was saying as if he let me eat his food and stay his house even though he did not want to. I started to wonder if I was born to be loved and if there were any reasons for me to be here."

### **B. Statement made by high school student at his graduation ceremony**

"In the first grade, a physical education class was exactly like military training. At that time, teachers' violence was rampant at school. ---- Using his finger, our teacher orders us what to do. If we do not follow his order, we are hit, kicked, and ordered to sit on our heels. Our dignity is trampled down. Our teachers' command could turn us into human beings who can face right for many hours if we are ordered to do so. He tells us, "You don't have any human rights. Just follow my order." Some students are hit and kicked on the ground in front of many students. For a

person who has a normal pride as a human being, it is painful to see such scenes. So they shut their eyes, ear, and heart. The situation gets even worse when it comes to an extra class. The teacher treats us like slaves. Then we finally get units of the subject. What if we have the slightest pride as human beings? The situation could be more miserable.

... Just because we are not smart, our teachers treat us like trash. A motto of this school is "patience". But what is patience? "Accept the fact that you are trash. Spend your life as trash. So you need to have patience!" In order for teachers to look at their trashy treated students without feeling something, they also need to have patience! We never wonder why we have to do whatever teachers tell us to do. ... They never tell the truth to our parents. "Your child did such bad things. Your child has all the responsibilities." "So your child cannot leave the house for a while." "Your child has to drop out school." Without looking at the nature of problems, a lot of schoolmates left the school, or were forced to leave the school. Being treated like trash, they lost their hope for the society. Teachers' violence is considered as a part of education. But if students commit violence, whatever the reason is, they are forced to drop out. In three years, about 150 students, or one-third of all students, left the school. High school was a place for us to prepare ourselves to be adults. Experiencing many things, we growing up. We are not trash. We can become trash if we are treated like it. But we are never trash!

### **C. Case of a child who attempted to commit suicide**

When I was in the third grade of elementary school, I jumped from the 3rd floor of my house. I wanted to kill myself because I had been abused by my father. There are too many examples. In order to "discipline" his daughter, he beat me until I became unconscious. When I was taking shower, he came into the bathroom and took me outside naked. At a dinner table, reasoning that I sit in a bad position, he beat me every three minutes. His extreme "discipline" cornered me physically and mentally. Saying, "It is harder for your dad to hit you than you being hit," my mother failed to protect me. The only person who tried to protect me was my little brother. Even though his body was shaking, he tried to stop my father from beating me. But my father told me, "Why are you teasing your loving brother?" and beat me even harder. That made me hate my brother who was adored by my parents.

I was never teased at school. Since my parents were rich and had incredibly good reputation, people around me thought that I was raised in a privileged family and envied me. Actually, such a good image of my family allowed me to escape from the reality. However, because I wanted to impress friends and could not tell anybody what my father was actually doing to me, I had to struggle even more.

... TV news frequently tells stories about children who were abused to death by their parents. Adult people are giants to children, and horror of children beaten to death by the giants is unimaginable. I cannot stand the fact that such abuse is still taking place somewhere in the world. Not only the physical abuse, parents' expectation for their children to go beyond their ability pressures them too much. Children who are not allowed to have their own personality are also physically abused.

Children's feelings of despair and loneliness are immeasurable when their family, which is supposed to protect them, starts to attack them. Children do not have an ability to be independent in the society so that cannot live without their parents. They are not their parents' mascots or marionettes, and deserve to be respected as human beings. It seems that the whole society forgets about it. Family must be the place where children feel secured and develop without restraining their own personality."

#### **D. Statement of 14-year-old boy who killed or wounded children in Kobe City in 1997**

"If I had been myself since my birth, I would not have put a victimized child's head in front of the school gate. ...If I wanted, I could enjoy murdering alone without being noticed by other people. I tried to attract public attention because I wanted them to recognize me, who has been and will be transparent, as a real human being at least in their imagination. At the same time, I don't forget to take revenge on compulsory education which has made me "transparent" and the society which established the compulsory education."

"I thought my life was worthless. But this world is where the weak are the victims of the strong. If you are strong, you can kill and control the weak."

Those statements as written above tell us how adults kill children's personality and force children to be what they and their society want them to be. Although children know that adults unreasonably treat them and hurt their dignity, they cannot do anything but obey the "giants." Their statements express their frustration and sadness. The strong control the weak in the society. Only the ones who have the ability to win in competitions can survive in the society. Those who do not have power and cannot make money have to stifle their desires and obey the strong. We can see how children, who are the weakest and have to depend on adults to live in such society, feel hopeless and powerless. A tragedy happens when such feelings turn into hatred.

When we pay attention to the children's messages, such government's statement as "Children are respected as human beings," sounds no longer persuasive. How could we accept the "reform" the government is promoting, that is, the way to force children to do everything under the formula,

"self-determination = self-responsibility"? Could those messages be considered as "Selfishness of children who are spoiled in the rich society" ?

Children are insisting adults and the society. "I don't want to live such a life. Even if I am not smart or useful, I want to be told, 'You are the one and only. You can be just the way you are.' I want to be respected as a human being."

If adults and society do not notice children's "words" and ignore their messages, their "words" will be violent and destructive. Their anger against adults who do not understand them and their feeling of "nobody cares about me" urge them to conduct some destructive actions. Children's messages are warning the society, "Society should become the place where children can develop themselves!"



## **Chapter 8 New concept of children and new idea of children's rights**

### **A. Children who have been denied their "childhood" in society which prioritizes economic development**

After the end of WW II, Japan has created one of the most efficient society in the human history and has established the present wealth. In order to achieve economic development, the citizens have killed their demands and obeyed economic power so that they could be provided various rewards like promotion, money and so on. If they raised their opinions or objections, they would be isolated and fired by their companies. As a result, they have tried to contribute to the preservation and development of the "public" they have belonged to, instead of expressing their views.

Under the centralized education system which has promoted rigid teaching guidelines, strict school rules, corporal punishment, severe competition for entrance into higher education, as well as control of teachers, children have been selected into elite and non-elite according to their grades and obedience level. Then they have lost themselves and failed to express their opinions. They have realized that the best way to protect themselves is to adapt themselves to the society's uniform values.

In short, both adults and children are prohibited from expressing themselves in the society which puts economic development before everything. Their failure to find their goal of their life in the "overly peaceful" society is not because they have been allowed to have enormous freedom. It is because of the society which requires people to be intelligent and obedient to the power in order to seek the most efficient way to develop its economy. Many incidents in the society have been committed by the people, including children, whose personality has been destroyed by the "public." But the power in Japan ignore their responsibilities and attempt to develop their profit by introducing stricter and more inhumane education system.

### **B. Ontological basis for children's development**

As a result of the education system under the "public" which forces people to obey its values, children have failed to develop their personality, to work for other people, and to respond to the results of their activities. How can people establish their own personality?

Current psychology has shown that in order to build their personality, it is inevitable for people to have human relations with other people who accept their desires. Traditional education system, which has emphasized moral, lecture, and restriction, never allows people to develop themselves.

When children cannot satisfy their own desires, they get angry as a natural human response. If their parents can fulfill their desires whenever they are frustrated, they can feel secure toward their parents. The sense of security leads them to have the feeling of atonement and the ability to empathize with parents and other people. Instead of being suppressed, children's desires or anger need to be liberated and accepted so that they could develop the feeling of atonement and establish their personality.

When children are understood and accepted by adults without being accused or labeled, they can grow the feeling of atonement and appreciation. Acceptance allows them to have self-love and curiosity which is inevitable to live based on their own personality. Then they can notice that they also need to accept other people and produce energy to use for people around them.

In order for children to build their identity and to allow themselves to use their energy for other people without having the feeling of loss, they must be loved until they can grow the feeling of atonement. Going through these periods, "Desire ? anger ? expressing opinions ? being accepted ? feeling of atonement," must be secured for children to establish themselves and avoid self-destruction.

Controlled by the current uniform values, parents impose their desires on and dominate their children, saying, "We are doing this for you." Parents' failure to accept the existence of their children prevents children from growing the feeling of atonement. As a result, children hold desires, pretend to be somebody else, and mentally struggle to prevent self-destruction. Delinquency, prostitution, bullying, and school-refusing result from the struggles. In other words, parents who have immersed themselves under the "public", prioritizing economic development, cannot build humane relationship with children, and control children with the social and economic values. The situation gets even worse when parents believe that they are doing good things for their children. As a result, children, far from establishing their own personality, have hatred, and in some cases they destroy themselves.

### **C. From the "view on objective growth and development" to the "view on subjective growth and development"**

The present-day psychology clarifies : children should not be treated as an object to be brought up in line with needs of state, society and parents, but they should be treated as a subject to participate in their own growth and development by expressing their views (desires) and being accepted. When the subjective view is compared to the objective view which is deeply incorporated into socio-cultural structure of our country, the following three points are found in characteristics of children's tragedy (loss of childhood).

- (1) Children are nothing but raw materials which are poured into a cast of society, and their individuality as a human being is lost (loss of human dignity).
- (2) Human relations in which adults honestly react to children's demands until feelings for atonement needed for growth and development are uttered (loss of "human relationship ").
- (3) Children, consequently, are deprived of the opportunity to grow, develop and to live independently (growth and development =loss of opportunity of self-realization).

Then, how should we save children from such loss of childhood? Dependence on adults' goodwill is impossible. For, adults themselves are incorporated into socio-cultural structure, and driven into a corner where they control, throw children into a cast, and drive children into solitude and despair and self-destruction as adults had been made so formerly. Therefore they are asked to guarantee children human rights, socially accepted powers, and help children build human relations, grow, develop, and live independently. Here lies the core of the rights of the child. The keyword should be "expression of desires." Prior to studying it, we look at critically the "view of autonomous children."

### **D. Criticism of the "view of autonomous children= the theory of self-decision and of socially participatory rights"**

There is a view of regarding children as the subject of self-decision in contrast of the view of children's "objective growth and development." The view is typically argued by Freeman in England, and in Japan, is supported by a lot of scholars and lawyers. Recently, the "Municipal Ordinance on the Rights of the Child" of Kawasaki City ( a city near Tokyo) has taken the same stand. But the theory of civic rights approved so as to set adults free in the modern citizens' society is mechanically applied to children, and this means that children be treated as "little adults." This ordinance merely imitates the essence of adults' (citizens') rights established through enlightening movement period and human rights revolution.

In the modern civic rights theory, approval of human subjectivity (individual dignity) comes from

perfection of the link .1. rational entity ? .2. self-determination ? .3. self-responsibility. An entity with abilities of self-decision and self-responsibility is respected as grownup substance and given a dignity as individuals.

But, we cannot approve for children the same capability of "self-determination and self-responsibility (autonomy=dignity of individuals=independent freedom) as adults. If children actually have such capability, a concept to distinguish from children and adults should not be necessary. To lead independence as humans for children by bringing self-determination=self responsibility is theoretically impossible, and a very dangerous idea which preys upon children, the socially weak. When adults impose upon children the idea of "Once you make a decision, you should take a responsibility for that," it will create a new tool of control and rule.

The education reform now under way in Japan is intended to induce a new control and ranking on the basis of self-determination and self-responsibility or under the name of "diversity and freedom of choice." The adverse revision of the Juvenile Law in 2001 was based on the concept. Can we accept as children's right the self-decision of such misconduct as runaway, cohabitation, and juvenile prostitution? Freeman says that self-decision which might impair one's virtues can be restricted from the viewpoint of paternalism (the state intervenes in the self-determination in order to protect child's own interests). This reveals that the theory of "little children" doesn't have a substance enough to approve as "individual dignity."

No matter how many little children we produce, it is only self-satisfied to adults. Even if we give children over 14 a position of self-decision on the restricted conditions, children less than 14 years old won't be respected as one human substance, and will remain as objects of adults' "love = custody = control." This sort of theory of children's rights will exclude from the contexts "true children" who won't become little adults.

The essential problems of children's rights originally lies in the point that "why and how can the children who have insufficient ability of self-decision (by J.S. Mill) and cannot produce any "wealth" (by J. Locke) be treated as grown-ups (a human being with a dignity) ?" If children cannot find the grounds of becoming a human subjectivity in the same adults' autonomy (self-decision or individual dignity), what's the reason?

### **E. Expression of desires for providing children a power with subjectivity as a human being.**

The core of power by which adults can make children a power to be one individual human substance lies in expression of desires. In fact, this doesn't mean that children, like adults, are subjects of self-decision and self-responsibility (subjectivity with "individual dignity" level), but means that

they will be treated as one human being with dignity (subjectivity with "human dignity" level). This has been demonstrated by slogans or philosophy that "persons have inborn human rights" or "any person has value merely as being a human" or "babies, those mentally disabled, those suffering the softening of the brain, and healthy persons are all humans."

Japanese children have been deprived of these human dignities in the socio-cultural structure, and they have been treated objects instead of as a subjects.

### 1. Restoration of human dignity

"Human dignity" is different from "individual dignity." The former is a value that all humans must be respected merely because humans are humans without ability of self-decision = self-responsibility. What grounds identity to practice human dignity by themselves is the ability "humans have their own demands, and can display them." Denial of human dignities and "transparent entity" of humans mean that the "ability of expression of their own desires" are destroyed by outside forces. Consequently, the entity itself is disregarded. Human dignity exists in the very relationships where others properly react to children's action (expression of such desires as "I want you to so and so" ---- it is termed as expression of views by the Convention). These desires (views), if not rational or not self-decided nor responsible, can be expressed. Suppose, no matter how much children shout for desires, they get no reactions from others. In such a case, the entity of the children itself is disregarded and their human dignities are denied. If their opponent is too strong, children cannot express its desires (views) for fear and self-defense, and they even don't make demands, being driven into a corner of a "transparent entity."

Thus, to accept as children's rights children's subjective power of "expression of desires" guarantees children's dignities. Therefore, the Convention newly guarantees expression of views and duty of its respect (Article 12).

### 2. Human relations and formation of a place where he/she is accepted as he/she is

When children express their desires and adults properly react to them, a human relation is formed. What children really demand is that continual human relationship (catch-ball of dialogues) in which "parents and teachers properly accept and seriously respond to children's desires and views no matter how ridiculous they are." When adults don't properly respond, ignore or dismiss them by force, children suspend their expression of demands and start a "performance." Children result in suppressing their desires, and human relations in a true sense aren't produced. Accordingly, to express desires (views), whether they are disadvantageous or uncomfortable to themselves or their opponents, needs as its vital premise to guarantee continual human relations in which their desires are easily responded with such words: "Take it easy," or "You've had much trouble."

3. To guarantee opportunity of growth and development

This is mentioned in detail (the aforementioned (2) Base for theory of existence of growth and development). Unless children are accepted with a feeling of compensation and are guaranteed free human relations that enable them to express their desires (views), they are unable to grow and develop into autonomous persons. As they express their desires (views), they can independently engage in their growth and development and live their present life.

## **Chapter 9 The right to express views means the essence of children's rights---- the right to build human relationships**

The characteristic of the Convention is stipulation of all children's rights. But most of them, rather than being peculiar to children, are general, traditional human rights which must be guaranteed to all people including adults.

Historical and revolutionary meaning of the Convention is, after all, recognition of the rights to grow and develop (See Article 6), and shifting values from the traditional "view of objective growth and development" to the "view of subjective growth and development." That means to set free children from the education and children policies supported by the authority to achieve utilitarian aims of the state, society and adults. In other words, the Convention guarantees that, by assuring the rights to express views (=desires) and adults' obligation to respond to them, children can restore dignity as a human substance, form relationships with parent and teachers, and through which, participate into the process of their growth and development (See Article 12 and 5). To recognize children's subjectivity to use the rights to express views (=desires) is not to let children participate in citizens' and political activities like adults. Without affluent human relationships, it is impossible for children properly to grow and develop. The essence of the right to express views (=desires) is the "right to build human relationships" itself. Moreover the view of growth and development mentioned in the Convention, as stated before, is underpinned by the knowledge of the latest psychology and psychiatry. Therefore, the Convention provides that duties of the state are not to directly intervene in the process of child's growth and development, but to help such human relationships (See Article 18 and 3).

Thus, the right to express views is to enable children to live their present life, grow and develop through human relationships in which children are respected as a human substance, build the relationships and acknowledge themselves each other. Children are to be respected through not autonomy but the words that humans are humans. They live not in solitude but through "human relationships which enable children to share relief, confidence and freedom each other." This is a self-realization of children's rights.

The state, society and adults are to take following responsibilities, instead of policies of the past education and children's policies which have suppressed children's views (=desires).

- (1) to create some environment in which children can express views (=desires), by reflecting on their past control-oriented policies

- (2) to sincerely listen to and accept any of children's demands (different from realization of contents of the desires)
- (3) to be considerate to children's pains, not in a coercive attitude
- (4) to empathize children's desires, and help children to realize them
- (5) to take such accountability as convincing explanation and having dialogues in the case of refusing their desires

Speaking in the abstract, as a substance to guarantee children's growth and development, these matters are needed : relief to experience a feeling of atonement, confidence to experience self-affection, and freedom to try anything. The beginning of education (=to educate) is to develop and let bloom children's inmost "power", or a desire which is kept within children's minds,. The education and children policies which only suppress their demands is control-oriented, and spoil children's development.



## **Chapter 10 What Japan's children's problems have brought about**

As Japanese children said at the time of initial consideration before CRC, the Japanese government and those in power consider that "the Convention was established for the sake of children in developing countries." Therefore, they have taken the stance of "since the Convention exists for children whose lives are threatened by war, starvation and poverty, or for saving those undernourished children, wealthy countries like Japan don't need it." When the government ratified it, it insisted, "Japanese children have fully been protected by the Constitution of Japan, the Child Welfare Law, the Juvenile Law and so on, therefore the government doesn't have to enact other laws in line with the Convention." The 2<sup>nd</sup> Government Report was made with the notion that children ought to be happy if a country is economically affluent."

But, only war, starvation or poverty doesn't hamper children's growth and development. Only children in developing countries have been deprived of childhood., and the Convention doesn't exist only for the benefit of children in developing countries.

This is exemplified by the messages, submitted by Japanese NGOs, of children and of many adults who interact with them. As the "force" for economic development, children, since infant, have been selected, given goals, forced to become a person that society expects while giving up "living in their own way." In order to become persons who can contribute to economic development, children have been tied to invisible, violent systems. Children have been deprived of "his own way of living," their "words (desires)," and human relationships. An NGO report was full of the words of children in which they have been deprived of irretrievable childhood.

Japanese children, consequently, are unable to live "in their own ways," to be of service to others, and to live a creative life. Children in Japan, a "big economic power," have lost opportunities to grow and develop into persons with harmonious, perfect character as mentioned in the Convention, like children in developing nations.

Under these facts, We NGOs published a new view of children. What children in Japan and other advanced countries need is to grow up and develop through interaction with adults. In short, it means to build human relationships through the rights to express views (=desires), and to get back to the spirits of the Convention.

## **Chapter 11 For solution of children's problems ---- implement the Convention together with children in other countries**

The message given below is among the ones issued by 400 children of the world who participated in the " U.N. Special General Assembly for Children." held in May 2002.

### A WORLD FIT FOR US

We are the world's children.

We are the victims of exploitation and abuse.

We are street children.

We are the children of war.

We are the victims and orphans of HIV/AIDS.

We are denied good-quality education and health care.

We are victims of political, economic, cultural, religious and environmental discrimination.

We are children whose voices are not being heard: it is time we are taken into account.

We want a world fit for children, because a world fit for us is a world fit for everyone.

In this world, We are not the sources of problems; we are the resources that are needed to solve them.

We are not expenses; we are investments.

We are not just young people; we are people and citizens of this world.

Until others accept their responsibility to us, we will fight for our rights.

We have the will, the knowledge, the sensitivity and the dedication.

We promise that as adults we will defend children's rights with the same passion that we have now as children.

We promise to treat each other with dignity and respect. We promise to be open and sensitive to our differences.

We are the children of the world, and despite our different backgrounds, we share a common reality.

We are united by our struggle to make the world a better place for all.

You call us the future, but we are also the present.

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In the present Japanese society, there are no street children nor terrible poverty which leads to

starvation. Japan has no battlefields. But Japanese children and those in other countries are the same in that they have been deprived of their opinions by political and economic powers, not recognized as human substances living today, and exploited their childhood. They are connected into one through the same trouble (struggle). Children often cause various problems. But the cause doesn't lie in only children. Those children provide courage and power to adults who try to create an easy-to-live-in society. Let us try to listen to calls of children worldwide, create an environment where adults and children can share relief, confidence and freedom, and realize an easy-to-live-in world. We citizens and NGOs, in firm belief of such a world to come, are determined to implement the contents of the Convention in our daily life.

## **I. General Measures of Implementation**

## **Chapter 12 Withdrawal of the reservations and declaration to the Convention**

The Japanese Government made a reservation to Article 37-(a) of the Convention and made declarations on Articles 9-1 and 10-1. Regardless of the recommendation by the Committee on the Rights of the Child to consider the withdrawal of the reservation and declarations (Paragraph 28 of the Concluding Observations of 1998), the government states that “we have no plans to withdraw our reservation and declared interpretation.” (para. 2 of the Second Report of Japan) In stating so, the government does not clarify the reason why she maintains the reservation and declarations. We should say that the government should have clarified the reason and fulfilled her accountability to the international society.

In our first report titled THE LOSS OF CHILDHOOD IN A RICH SOCIETY, JAPAN, we critically analyzed the grounds upon which the government made reservations and declaration. Since the critics still hits the points, we will quote the related paragraphs in our first report in the following.

“The reason for the reservation on Article 37-(a) of the Convention in the Government report (para. 13) is given, but the explanation is not persuasive. National laws require persons below 20 years of age to be separated from persons who are 20 years of age and over. This can be interpreted as laws of state party “which are more conducive to the realization of the rights of the child” (article 41 of the Convention). It provides persons who are 18 or 19 years of age with special protection and opportunity for social integration. The Government should have declared that “adults” provided in Article 37-(c) means persons who are 20 years of age and over, or that paragraph (c) of article 37 of the Convention be interpreted as not to affecting national law which requires the separation of persons below 20 years of age from those persons who are 20 years of age and over. The reservation on the whole sentence of the second sentence of paragraph (c) is too broad, giving unpreferable influence on the protection of the rights of the child deprived of his/her liberty.

In the Government report, there is no explanation on the reason of the declarations on the Article 9-1 and Article 10-1, but it is clear that the Government intends to prevent impact which the articles will have on existing immigration procedures. These declarations are incompatible with the spirit of the Convention that recognizes the significance of family in protecting and promoting the rights of the child. These are also incompatible with Article 3, which prescribes that the best interests of the child shall be of a primary consideration.

The Japanese government should withdraw their reservation on the Article 37-(c) of the Convention.

The Government should also withdraw the declarations on Article 9-1 and Article 10-1.”

## **Chapter 13 Enactment of Child Abuse Prevention Law, revision of Juvenile Law and the plan to revise Fundamental Law of Education**

The years from 1998 constitute the period when the legislations on children have gone through the important changes. This trend toward the change is still continuing because the government is now planning to add the fundamental changes to the education law. Few of them seem to be conducive to the implementation of the Convention, but, most of them have strong tense with or contradict the Convention. In this chapter, we will give overview on Child Abuse Prevention Law enacted in May, 2000, the revision of Juvenile Law in November 2000, and the revision plan of Fundamental Law of Education. Though it is a small step, the enactment of Child Abuse Prevention Law was the progress made for the Convention. But, the revision of the Juvenile Law, which introduced the punitive approach to delinquent juvenile, and the plan to revise Fundamental Law of Education, which is now under the consideration, clearly constitutes the backlash against the movement in the international society for the rights of the child.

### **A. Child Abuse Prevention Law of 2000**

Against the background of the increasing number of child abuse and neglect cases, the Bill on Child Abuse Prevention Law, submitted by the cross-party group of the members of the Diet, was adopted by the Diet in May 2000. This law makes it mandatory for the central and local governments to take measures to strengthen the cooperation with non-government organizations (Article 4), impose the obligation to put their efforts in early detection of child abuse on the persons related with child welfare such as school teachers, medical doctors, nurses and lawyers (Article 5), and make it mandatory for the persons who detect child abuse to report the case to a child consultation centers (Article 6).

Though the enactment of this law is one of few progresses made after 1998, there are mainly two defects in this law. The first is that this law, which give its main concern on the establishment of the early detection and report system, does not touch upon the rehabilitation of abused children and abusing parents, and thus leaves it for the discretion of the central and local governments to decide whether to allocate greater resources to the rehabilitation system, namely whether to increase the number of professional staffs in child consultation centers or children's homes, or whether to renovate children's homes to respond to increasing number of children who are to be placed in these institutions. Due to the lack of the concern on the rehabilitation system for child abuse, staffs in

child consultation centers cannot handle the cases reported to them, and abused children, without being provided with sufficient rehabilitation service, are to be packed into children' homes.

The second is that, though the law's main concern is to protect abused children by strengthening the system of early detection and reporting, the system is still insufficient. For example, the law does not impose the punishment to the persons working for child welfare in case where they do not report a case though they are aware of it. The law neither provides the exemption from the legal responsibility in the case of wrong reporting. Furthermore, since the related laws, which protect parental right to physical custody of children, has not been revised yet, there still exist the difficulty in keeping abused children away from abusing parents when the parents requires the takeover of children.

When the law was adopted, the Diet added the supplementary provision, which requires the Diet and the government to review the law in three years after the enactment. The consideration of the Second Report of Japan will be an opportunity to direct the government to revise the law so as to make it more conducive to the realization of the rights recognized in the Convention.

(See Chapter 72-74 for detailed information)

## **B. Revision of Juvenile Law**

Juvenile Law was revised in November 2000. This revision was not for reacting to the Concluding Observation adopted by CRC in 1998, which recommends the government to undertake "a review of the system of juvenile justice in light of the principles and provisions of the Convention and of other United Nations standards in this field such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty." Instead, revision was carried out against the background of sensational crimes such as the Kobe slash-and-run murder case in which a boy attacked many people, killing one child. The sensational crimes committed by juveniles provided the social impetus towards stricter sentencing and heavier punishments, with fewer chances of probation, parole or commutation of sentences.

The revision introduced the punitive approach into Juvenile Law, which gives more focus on the rearrangement of social or family environments of children and the provision of social welfare service to children. Thus, putting aside the ideal of the child development, the revision gives more emphasis on punishment of delinquent juveniles.

A primary example of the penalization of juvenile crime is the lowering of the age of juveniles who may be sent to the adult courts. This is termed as the "standardization of the practice of sending a case to the public prosecutor (criminal court) when it meets certain criteria." There have also been



unfavorable changes in the conditions of the commutation of sentences, the length of sentences which may be given in prisons or other facilities, conditions for prosecutors to become involved in cases of misdemeanor being tried in the closed Family Court, and the use of a collegiate system for difficult cases.

With regard to the lowering of the age of offenders eligible for trial in adult courts, the original law did not permit juveniles who had not reached the age of 16 at the time of committing the crime to be sent to criminal court. However, after the revision juveniles over the age of 14 who committed serious crimes could be sent to criminal court and tried as adults. Moreover, juveniles over the age of 16 who commit murder in the first degree, formerly considered for the Family Court hearings, will now be sent to criminal court as a standard practice. This removes juveniles from the Family Court system, which aims to provide juveniles with the chance to reform, and instead places them in adult courts where determining the degree of punishment is the main work of the court. This now occurs not only in unusual cases “when the nature of the crime or the mental state of the criminal indicates the need” but in cases which, though difficult, used to remain at the Family Court level.

Sentences handed down by the adult courts to juveniles are not as liable to commutation. While it is still the rule that a juvenile under the age of 18 at the time a crime is committed who receives a death sentence has that sentence commuted to a life sentence, if the juvenile receives a life sentence, the original practice was to reduce the life sentence to 10 to 15 years. This has changed; courts now have the alternative of keeping the original life sentence. As for consideration for early release or parole, a prisoner given a life sentence as a juvenile used to become eligible for parole after serving 7 years of a reduced life sentence (10 to 15 years). Now, if a prisoner was under 18 at the time of the crime and was eligible for a death sentence but given a life sentence instead, eligibility for parole is no longer granted.

In the name of “making the admission of evidence more just” prosecutors are permitted to be involved in family court hearings, and rulings in cases of crime committed by juveniles may be decided using a “three judges panel system.” Until now all cases of juvenile crime were heard by a single judge in a closed family court. However, judges increasingly felt that a more appropriate process for difficult cases should include a lawyer or legal attendant for the defense, and a prosecutor borrowed from the adult court. These two plus the presiding judge would then form a collegiate system in which rulings would be decided in council.

However three people judging a case does not guarantee that a juvenile will be better able to give evidence or that the evidence given will be more accurate. It is far more likely that the juvenile and the adults handling his or her case will become diverted from the process of counseling and reforming the juvenile, and instead will argue legal points to the confusion of the juvenile and his or her guardians, who will be hard put to it to understand what is going on. Prosecutors trained in the

adult criminal courts will likely bring to the juvenile courts the accusatory, penalizing nature of their work, putting the reforming and remedial work of the juvenile court at risk.

The Second Report of Japan states that the revised version of the Juvenile Law does not trend away from international standards of human rights including the Convention. Such a statement must have been made with a complete misunderstanding of the nature of the international standards of human rights to which it refers.

(See Chapter 126-128 for detailed information)

### **C. Plan to revise Fundamental Law of Education**

The government is now planning to revise Fundamental Law of Education. In December 2000, the National Commission on Educational Reform established by the Prime Minister, proposed the revision in its final report, titled “17 PROPOSALS FOR CHANGING EDUCATION.” Having received the recommendation to revise the Fundamental Law of Education from the National Commission on Education Reform, the Minister of Education asked the Central Commission on Education to draft the plan on revision of the Fundamental Law of Education in November 2001. The Central Commission submitted its final report in March 2003.

The Central Commission recommended the revision of Article 1 of the Fundamental Law of Education, which prescribes the first aim of education as the full development of the personality of the child as Article 29.1.(a) of the Convention. Article 1 reads “Education shall aim at the full development of personality, striving for the rearing of the people, sound in mind and body, who shall love truth and justice, esteem individual value, respect labor and have a deep sense of responsibility, and be imbued with the independent spirit, as builders of a peaceful state and society.”

The Central Commission, asserting that education should be aimed at educating children into people who willingly contribute to “the public” or at inculcating “patriotism” in children, proposed the revision of Article 1 so as to reflect this assertion. If the revision is carried out, the education will cease to be a tool for realizing the rights of the child, and instead, become a tool for realizing the national policies. The aim of the revision is to remove the legal obstacle for the government to fully using the educational system as its tool and allow the government to indoctrinate children with nationalism and other ideologies.

The Central Commission also recommended the revision of Article 10, which limits the role of educational administration to providing the conditions necessary for education. This article was included in the Fundamental Law of Education based upon the reflection on the fact that the pre-war nationalistic educational administration deeply went into the content of education, controlled the minds of students, and led Japan to the ruin of the Second World War. Article 10 reads “Education

shall not be subject to improper control, but it shall be directly responsible to the whole people. School administration shall, on the basis of this realization, aim at the adjustment and establishment of the various conditions required for the pursuit of the aim of education.”

The aim of this revision is to authorize the power of the Ministry of Education to control the educational contents. The revision of Article 10 is also aimed at establishing a new organ, of which name will be “the Commission for Promotion of Education” in the Cabinet Office, in whose hand the power to decide how to allocate the financial and other resources will be concentrated. During the 1990s, the powers have been concentrated in the hand of the Cabinet Office in many policy areas, such as economy, gender equity and environment. But this concentration of power is for subordinating main policy areas to the new economic policy and resulted in weakening the power of the legislative body to control the administrative body. Under the revised law, the government can freely carry out its recent educational policy, which is going to allocate more public funds to the education for elite and less to the education for non-elite.

Furthermore, the Central Commission proposed the deletion of Article 5 of Fundamental Law of Education, which reads “Men and women shall esteem and co-operate with each other. Coeducation, therefore, shall be recognized in education.” The Commission said that this article on coeducation is unnecessary because the coeducation has been fully realized. But, the proposal constitutes an overreaction to gender equality from the conservatives which have recently led the “gender backlash.” (See Chapter 25) And at the same time, we should say that its hidden aim is to educate boy and girls separately so as to produce elite males in more effective way.

If this revision plan as mentioned above is realized, it has almost the same effect as adding reservations to Article 6, 12, 28, and 29 of the Convention and a declaration to Article 2. The consideration of the Second Report of Japan by CRC will be an important opportunity to make the government reconsider its revision plan.

(See Chapter 95 for detailed information)

## **Chapter 14 Judicial decisions applying the principles and provisions of the Convention**

The courts have been reluctant in nullifying the practice or laws as violating the rights recognized in the Convention. The judgment of Tokyo Higher Court in May 9, 2002 on *Matsumoto v. Gunma Prefectural Government* typically shows this attitude of the courts. The judgment shows how arbitrarily the courts interpret the rights recognized in the Convention and thus verifies the need to organize the in-service training of judges in which they can understand the meanings given by the monitoring body of the Convention to the rights recognized in the Convention.

In this case, Mr. Matsumoto, who has worked as a teacher in Kiryu Industrial High School of Gunma Prefecture for more than 40 years, sought the compensation for his mental damages on the ground that the principal illegally cut his article out of the Student Body Magazine. The Student Body of this high school publishes a yearly magazine titled “Time & Space.” The editorial board of the magazine consisted of the members of the Student Body and some teachers. In December 1995, one of the teachers asked Mr. Matsumoto to submit his article titled “I am also going to graduate the high school,” since he was to retire at the end of the fiscal year of 1995, namely in March 1996. Mr. Matsumoto submitted his article to which he attached the subtitle of “Looking back on the forty years in Kiryu Industrial High School” at the beginning of February 1996.

In his article, he wrote about how he, chemistry teacher, got interested in the social issues. He said that, when the Ministry of Education introduced teacher evaluation system in 1957, thinking it as a step toward warfare, he got involved in the movement against the Ministry. He also wrote about his experience of taking part in the movement against the revision of the Security Treaty between Japan and the U.S.A during the 1960s.

The magazine was printed and distributed to students and teachers at the end of February 1996. Reading Matsumoto’s article in the magazine, the principal asserted that the magazine should be called in on the ground that the article was not appropriate for the Student Body’s magazine. Being argued against him by the teacher who was the member of the editorial board, the principal asserted that the magazine should not be distributed to the freshmen who are to enter the high school in April 1996. Being objected by teachers in school, then, he decided to distribute to the freshmen the magazine from which Matsumoto’s article was excised. Actually in May 1997, he ordered the teachers who took charge of giving advice to the Body to excise the article from the magazine and distribute them to freshmen. During this process, the principal never talked the issue with the

Student Body.

Mr. Matsumoto argued that what the principal did violated not only the right to freedom of expression and the right to freedom of education which he enjoyed under the Japanese Constitution, but also the students' right to participate in the school management, which is recognized in Article 12 of the Convention. Being rejected by the lower court, Mr. Matsumoto appealed to Tokyo High Court. As to the right to freedom of expression and of education, the Tokyo High Court rejected Mr. Matsumoto's argument by stating that a teacher does not have the right to freely express his opinion on the politically controversial issues in school without giving objective and impartial explanation of the issues or giving students the opportunity to have dialogue with him on the ground.

The Tokyo High Court rejected the argument that the principal violated the students' participatory right by never talking the issue with students, stating as follows.

“Because the edition of the magazine issued by the Student Body is the voluntary and autonomous activity by students, it may be desirable that the views of student should be listened to through the Students Body in some cases. But, the principal had discussion with the teachers who took in charge of giving advice to the Body several times before he ordered the teachers to excise. If he had organized the meeting with students in which he would have raised the question to them and listened to their opinions, teachers should have prepared for the meeting and drafted the explanation to students and students should have discussed with each other and summarized their opinions. It would have consumed time and efforts, and thus consumed the time for classes and other extracurricular activities. Whether allowing students to express their opinions would produce educational outcome is unknown. Furthermore, it would have the risk of producing a negative educational outcome. Considering these things together, it will be sweeping to judge that the principal should have organized the meeting with students to allow them express their opinions only for the issue of this article. Thus, this court does not say that the principal misused his discretion on school management and control on the ground that he did not directly listened to the opinions of the Student Body or students. Thus, this court cannot accept the argument of the appellant.”

This judgment of Tokyo High Court shows how incorrectly the courts understand the meaning of Article 12. It ignores how Article 12 and Article 6 are intertwined with each other and thus how essential the rights recognized in Article 12 is for realizing the child healthy development. In addition, it ignores the principle that Article 12 should be realized at any cost; whether or not the rights recognized in Article 12 should be realized should not depend on the balancing of interests gained and those lost.

## **Chapter 15 Remedies available in cases of violation of the rights recognized by the Convention**

### **A. The Volunteers for Children's Rights Protection has not been improved at all since 1998.**

In the Concluding Observations of 1998, the Committee on the Rights of the Child (CRC) recommended the government to “take the necessary steps to establish an independent monitoring mechanism, either by improving and expanding the existing system of ‘Civil Liberties Commissioners for the Rights of the Child’ or by creating an Ombudsperson or a Commissioner for Children's Rights.” (para. 32)

In the consideration of the First Report of Japan, CRC expressed several concerns on the Volunteers for Children’s Rights Protection. The members of CRC stated that the Volunteers lacked the independency in exercising their powers, appropriate persons were not appointed, they do not receive sufficient training, they do not have offices and staffs, and they are not accorded with sufficient power. In the Concluding Observations, CRC expressed the concerns that stated “the monitoring system of "Civil Liberties Commissioners for the Rights of the Child" in its present form lacks independence from the Government as well as the authority and powers necessary to fully ensure the effective monitoring of children's rights.” (para. 10)

In the Second Report of Japan, the government repeats what it reported about the Volunteers – which was translated as Civil Liberties Commissioners for the Rights of the Child in the First Report – in its First report, and gives no information on how the government reacted to the recommendation from CRC, what kind of difficulties the government faced in revising the system, how the system worked, or what kind of prospect the government has in improving the system.

In the dialogue with CRC on the First Report of Japan, the government said that the Council on Promotion and Protection of Human Rights established under the Ministry of Justice planned to examine how the system for providing remedies to the cases of violations of children’s rights should be, and the government was waiting for the Council’s conclusion. But, the Summery Records or the Concluding Observations were not submitted to the Council for consideration.

**B. The establishment of an Ombudsperson or a Commissioner for Children's Rights was not considered.**

The Second Report of Japan gives no mention to an Ombudsperson or a Commissioner for Children's Rights, of which establishment the government was recommended by CRC to consider.

The Council on Protection and Promotion of Human Rights submitted its report titled "How the Remedies of the Cases of Human Rights Violation Should Be" to the Minister of Justice in May 25, 2001. Though the government said to CRC in 1998 that the Council would consider the independent monitoring mechanism for children's rights, the report said nothing about the special system for giving remedies to the cases of children's rights violations. In this report, the Council proposes the establishment of "the Commission on Human Rights," the system which responds the cases of human rights violations in general, but, the Commission is to be under the control of the Minister of Justice and thus lacks the independency.

**C. The monitoring system for children's rights have been established and developed in some municipalities.**

Though the government totally neglected the concerns and recommendations expressed or issued by CRC in 1998, some municipalities have taken initiative in establishing or developing the monitoring systems for children's rights. Though these systems have some weakness in their independency and professionalism, they have their own offices, staffs and financial resources, and showed some progress in giving remedies to children who had their rights violated. The government should have learned from the experiences of these systems working at the local communities and should have given information on how the government evaluates these initiatives taken by the municipalities in the Second Report of Japan.

We will introduce three examples of Kawanishi city, which is small city in rural area with the population of 158,000 and 5900 families, Kawasaki city, which is one of 12 major Cities in Japan, with the population of 1,230,000 and 560,000 families, and Saitama prefecture with the population of 6,926,000 with 2,576,000.

1. The Ordinance of Children's Rights Ombudsperson adopted by Kawanishi city in Hyogo prefecture

Kawanishi city in Hyogo prefecture enacted the Ordinance of Children's Right Ombudsperson in April 1999. Three Ombudspersons, appointed by the Mayor of the city, take the charge of protecting children's rights in the city. Though they are re appointed by the Mayor, some measures

are introduced in the Ordinance to assure their independency. Under the Ordinance, the officials of the City including the Mayor are supposed to respect the independency of the Ombudspersons. The Mayor cannot fire them without the grounds that their physical or mental health problems prevent them from carrying out their responsibilities or that they violate their duties. The Ombudspersons are accorded with the investigation power of requiring the related organs and officials of the city to give explanations or to submit copies of related materials. When necessary, they can submit recommendation to the related organs and officials of the city to reform practices or existing laws. They can also require the organs and officials of the city which receive the recommendation to submit the report on how they revise the systems and practices within a certain period. The Ombudspersons are provided with their office and staffs, three investigators and two secretaries.

In the year of 2000, the Ombudspersons had consultations on 167 cases for 482 times, conducted investigation on 6 cases for 76 times, and conducted information campaigns for 79 times in which 3,009 people took part. When they have consultation with children or adults who lodge complaint to them, the Ombudspersons act on the principle that they should empower children through help children or related persons analyzing what causes the problem and what is the major difficulty to overcome. The Office of Children's Rights Ombudsperson in Kawanishi city says that, after receiving consultations, children tended to tackle with the problems by themselves. Among 6 cases in which the Ombudspersons started investigations, they finished the procedure in two cases. In one case which was on the separation of children from their parents authorized by the related city's organs, the Ombudspersons issues the recommendation to reconsider the separation on the reason that it was against the best interest of the children. Two city's organs responded to the recommendation by submitting their reports, and in the end, they changed their decision. The Ombudsmen are now preparing the recommendation which require the city to reconstruct the system for providing assistance to child rearing. The other case in which the Ombudspersons issue the recommendation was on the school accident where a junior high school student was died of heat exhaustion during extra-curricular sports club activity in a school. The Ombudspersons recommended the school board of education of the city to reform the way in which the school authorities investigate school accidents so as not to make delay in identifying the cause of accidents, to take preventive measures for school accidents, and to submit the report on how the school board responds to the recommendation.

It has been said that three Ombudspersons respond with three investigators and secretariats are not sufficient to fulfill their responsibilities. Furthermore, it has been pointed out that the independency of Ombudspersons from the Mayor is not sufficient. As the Children's Rights Ombudspersons in Kawanishi city is the entrepreneur of the independent mechanism which provides remedies to the cases on the violations of children's rights, there need an objective research on how they worked and what are left to be improved.



## 2. Ordinance on Human Rights Ombudsperson in Kawasaki city

In April 2001, the Ordinance on Children's Rights was enacted in Kawasaki city. To complement this Ordinance on Children's Rights, the Ordinance on Human Rights Ombudspersons was enacted in April 2002, under which two Ombudspersons appointed by the Mayor with the consent of the Local Assembly work as an independent organs for providing remedies to violation of gender equality and children's rights. The Ombudspersons in Kawasaki have their own office and they have several investigators and secretariats. They cannot treat the cases of which legal issues have been already resolved by the courts.

Since the Ombudspersons in Kawasaki city have not had sufficient experiences yet, it is not time for evaluating the system in the city in a conclusive way. But still, considering the fact that it is difficult for three Ombudspersons in Kawanishi city with three investigators and a few secretariats to respond to the complaints coming from the population of 158,000, it will be impossible for the Ombudspersons in Kawasaki city to effectively respond to the issues coming from the population of 1,270,000, which is 8 times larger than that in Kawanishi city. Furthermore, the limits put on their jurisdiction - - they cannot handle the cases of which legal issues have been already solved by the courts --, will hinder them to appropriately raise the issues on children's rights because the courts rule case frequently without giving due consideration to the children's rights.

## 3. The Ordinance on the Committee on Children's Rights Protection in Saitama prefecture

The Ordinance on the Committee on Children's Rights Protection was enacted in April 2002 in Saitama prefecture. Under this ordinance, the Committee on Children's Rights is established as the subsidiary organs of the Mayor, and three members who are appointed by the Mayor work for children's rights.

Because the Committee is the subsidiary organ of the Mayor, children or residents should lodge complaints to the Mayor, and the cases will be referred to the Committee for investigations. As is the Ombudspersons in Kawasaki city, the Committee cannot handle the cases of which legal issues have already been resolved by the courts. The Committee is accorded with the authority to require the related officials and organs of the prefecture to submit materials and to give explanation on the cases. Based on the investigation, the Committee may submit recommendation to the prefecture and the related officials and organs of the prefecture owe the obligation to respect the recommendations. The Committee can also require the officials and organs of the prefecture to submit the report on how they react to the recommendation.

As the Ombudspersons in Kawasaki city, the Committee on Children's Rights Protection in Saitama prefecture has just began its work, it is not a time for giving conclusive evaluation on it. But still, it

was being afraid that the Committee, without the independency from the Mayor, cannot give remedies to the violations of children's rights by the prefectural officials or organs.

## **Chapter 16 National Plan of Action neglected the Concluding Observations of 1998**

### **A. The “Guideline on Promotion of Youth Development” adopted by the Committee for the Promotion of Youth Policy**

In the central government, there is no mechanism which is powerful enough to coordinate effectively specific policies adopted by each Ministry or agency. The only central governmental organ which takes charge of the coordination is Director-General for Policy Planning in the Cabinet Office. Under the Director-General is established the Committee for the Promotion of Youth Policy in which the chiefs of relevant bureaus or heads of the divisions being in charge of children’s issues at the Ministries and the Agencies take part in. This organ was supposed to draft and adopt the “Youth Plan” of which aim is to carry out the policies on children and youth in more comprehensive way as early as possible in the fiscal year of 2003. But, it has not adopted the plan yet. In February 28, 2001, it adopted the arrangement on “the agendas and the prioritized items the government should address” to carry out the policy on healthy development of youth and prevention of problem conducts. Based on this arrangement, it adopted “the Guideline on Promotion of Youth Development.” This Guideline is the only national plan of actions concerning children, if it was worth being called as such.

The Guideline, which is the only comprehensive plan of actions concerning children, should integrate or should be based upon the provisions and principles of the Convention. Actually, the Guideline states “Bearing in mind that the development of the child should be realize from their early childhood for the healthy development of the youth, the policy on youth should be based upon the Convention on the Rights of the Child and should be aimed at promotion and protection of the rights of the child.”

But, looking closely at what are stipulated in the Guidelines, we should say that the Guideline is not guided by the Convention. The Guideline mostly neglects the concerns expressed by CRC in its Concluding Observations of 1998. Even when the Guideline sets some items which have something to do with the concerns of CRC, in those items, the Guidelines set measures which are against the recommendations from CRC.

The table below compares the Concluding Observations of CRC in 1998 and the Guidelines. “Nothing” means that the Guideline do not respond to the Concluding Observations at all, “A Little” means that Guideline respond only partially to them, and “Contrary” means that Guideline adopts the measures which will hamper the realization of the rights of the child.

Table: Comparison of the Concluding Observations of 1998 and the Guideline on the Guideline on Promotion of Youth Development by the Committee for the Promotion of Youth Policy

the number of paragraph in the Concluding Observations of 1998	the issue raised in the paragraph	what the Guideline says about the issue	What is lacking in the Guideline? Or Why is the Guideline contrary to the Convention?
28	withdrawal of reservations and declarations to the Convention	(nothing)	
29	invocation of the Convention on the Rights of the Child and other human rights treaties before domestic courts	(nothing)	
30	strengthening the coordinating machinery	(a little)	The Guideline is reluctant to establish the coordinating machinery which has sufficient power. This may be because the powerful machinery would deprive the Ministries and Agencies of their authorities.
31	establishment of data collecting system and the indicators	(a little)	The Guideline lacks the plan to establish indicators for evaluating the degree to which the Convention is implemented.
32	establishment independent monitoring body	(nothing)	
33	to take the measure to disseminate the information on the Convention	(nothing)	
33	organizing systematic training and retraining programmes in the rights of the child for all professional groups	(nothing)	
33	integration of the Convention into the curriculum of all the educational institutions	(nothing)	
33	translation of the Convention into the languages of the minorities	(nothing)	
34	cooperation with NGOs	(a little)	The Guideline see NGOs as the recipients of the governmental policies, not as the partners to have dialogue with.
35	making the general principles of the Convention guide the policy-makings and be reflected in in any legal revision, judicial and administrative decisions	(a little)	The Guideline only refers to the name of the Convention and never integrates its general principles into the plan.
35	amendment of the related law which discriminate against the child born out of wedlock	(nothing)	
35	eradicating the discrimination against children belonging to the minority groups	(nothing)	
35	eradicating the difference of the marriage ages between boys and girls	(nothing)	
36	to take measures to protect the right to privacy of the child in school, families and child welfare institutions	(nothing)	
37	to take measures to protect children from the harmful information	(a little)	The Guideline asserts to strengthen the police regulations on sources of information and never considers the educational measures including education for media literacy.
38	to take the necessary steps to ensure that the rights of the child are fully protected in cases of intercountry adoptions	(nothing)	

38	to consider ratifying the Hague Convention of 1993	(nothing)	
39	enforcement of the system for providing the alternative family environment	(nothing)	
40	collection of detailed information and data regarding cases of child abuse and ill-treatment, including sexual abuse, within the family	(nothing)	
40	investigation of cases of abuse and ill-treatment of children, application of sanctions to perpetrators, publicity of decisions taken, and establishment of an easily accessible and child-friendly complaint procedure	(a little)	The Guideline does not specify the detailed measures to be taken to strengthening the system of notification and investigation.
41	to make efforts to ensure practical implementation of the existing legislation, and take alternative measures to institutionalization of children with disabilities in light of related international standard	(nothing)	
41	awareness-raising campaigns to reduce discrimination against children with disabilities and encourage their inclusion into society	(nothing)	
42	prevention of suicides and incidents of HIV/AIDS among adolescents	(nothing)	
42	launching of awareness-raising campaigns, reproductive health education and the establishment of counselling services	(nothing)	
43	to take appropriate steps to prevent and combat excessive stress and school phobia	(contrary to the Convention)	All the measures proposed in the Guideline, which are in line with the recent educational policy based upon Libertarianism, will make the competition fiercer.
44	inclusion of human rights education in the school curricula in a systematic manner	(nothing)	
45	making of a comprehensive programme to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying	(contrary to the Convention)	The Guideline lacks the measure to eradicate the corporal punishment by teachers. The Guideline proposes the reinforcement of the punitive approach to students who bully others.
45	monitoring the implementation of a comprehensive program	(nothing)	
45	legal prohibition of corporal punishment in the family and in child-care and other institutions	(nothing)	
45	awareness-raising campaigns to ensure the alternative forms of discipline consistent with the child's human dignity and the Convention	(nothing)	
46	carrying out a comprehensive plan of action to prevent and combat child prostitution	(a little)	The Guideline proposes only the police regulation of dating service websites.
47	strengthening the efforts to prevent and combat drug and substance abuse among children	(a little)	The Guideline propose the reinforcement of police regulations on substance dealers.
47	devising rehabilitation programmes for child victims of drug and substance abuse	(a little)	The Guideline asserts the enhancement of the rehabilitation programmes, but, it never refer to how the programmes should be organized and delivered to children who need them.
48	a review of the system of juvenile justice in light of the principles and provisions of the Convention and of other United Nations standards	(contrary to the Convention)	The Guideline makes no mention to the related international standards on juvenile justice. The Guideline asserts the punitive approach in this field.
48	establishment of alternatives to detention	(nothing)	
48	establishment of the monitoring and complaints procedures	(nothing)	
48	reforming the conditions in substitute prisons	(nothing)	
49	making the initial report and written replies presented by the State party widely available to the public	(nothing)	
49	publication of the report, the relevant summary records and the concluding observations	(nothing)	
49	generating debate and awareness of the Convention and of its implementation and monitoring within the Government, the Parliament and the general public	(nothing)	

Among 38 recommendations clarified in 22 paragraphs of the Concluding Observations of 1998, 28 are not treated at all in the Guideline. In other words, 71.2% of the recommendations in the Concluding Observations are neglected in the Guideline. The Guideline reacts to nine recommendations in some way or another. But, some of them react to the recommendations only partially, and others propose the measures which are in conflict with the Convention.

For example, with regards to the establishment of data collecting system and indicators recommended in Paragraph 31 of the Concluding Observations, the Guideline proposes only the activation of researches on youth problems. With regards to the recommendation to make the general principles of the Convention guide the policy-makings and be reflected in any legal revision, judicial and administrative decisions in Paragraph 35 of the Concluding Observations, the Guideline only refers to the name of the Convention and never integrates its general principles into the plan. With regards to the protection of children from harmful information recommended in Paragraph 37 of the Concluding Observations, the Guideline asserts to strengthen the police regulations on sources of information and never considers the educational measures including education for media literacy. With regards to the recommendation to devise a comprehensive programme to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying in Paragraph 45 of the Concluding Observations, the Guideline does not make mention to the corporal punishment by teachers. Furthermore, the Guideline proposes the reinforcement of the punitive approach to students as the measure to tackle with the issue of bullying.

Paragraph 48 of the Concluding Observations recommends the government to review the system of juvenile justice in light of the principles and provisions of the Convention and of other United Nations standards. The same paragraph recommends to establish the establishment of alternatives to detention and the monitoring and complaints procedures, and to reform substitute prisons. But, the Guideline neither makes mention to the related international standards on juvenile justice nor raise the issues of detention, monitoring and complaint mechanism, and substitute prisons. Instead, the Guideline asserts the strict application of the punitive approach to juveniles who committed heavy crimes and the reinforcement of the power of police offices and public prosecutors.

## **Chapter 17 Plans of actions adopted by the local governments: the cases of Kawasaki city and Tokyo Metropolitan Government**

Some municipalities adopted the plans of actions or the guidelines on childhood policy. Among them, the “Comprehensive Plan for Children” adopted by Kawasaki city in October 1998 and the “Plan on Mind Revolution” adopted by the Tokyo Metropolitan Government got the strong attention. This is because the plan of Kawasaki city was expected to reflect the spirit and idea of the Convention, and, to the contrary, the plan of Tokyo proposed the anti-thesis of the Convention. As to the plan of Kawasaki city, the serious debate is going on whether it breaks down the principles of the Convention. In the following, the plans of Kawasaki city and Tokyo will be analyzed.

### **A. The case of Kawasaki city; Plan of Actions and the Ordinance of Children’s Rights**

The plan adopted by Kawasaki city proposed the enactment of the Ordinance of Children’s Rights. Actually, the Ordinance was adopted in 2000, and enacted in 2001. The Ordinance lists up the rights of the child and establishes the Children’s Rights Committee as the advisory body attached to the Mayor. The members of the Committee are appointed by the Mayor. The Committee is to give its advice or recommendation on certain issues based upon the rights listed up in the Ordinance when the Mayor asks it to do so.

But, it is under serious debate whether the plan and the Ordinance are conducive to realize the children’s rights as conceived by the U.N. Convention on the Rights of the Child. Some researchers and activists are critical of the Ordinance on the ground that the Ordinance sees the right to self-determination as the essence of children’s rights and thus neglects the importance of the right of the child to development. In its preamble, the Ordinance makes mention to the general principles of the Non-discrimination, Best Interest of the Child, and the Respect for the View of the Child of the Convention, but not to the Survival and Development. The Ordinance explicitly introduces the right to self-determination in the part in which it lists the rights of the child. And at the same time, the Ordinance lists the rights of children to participate in political process and school management but never makes mention to the right of the child to enjoy interactive relationship with parents and adults working for them. In other words, the Ordinance sets limits on the meanings of the “Respect for the Views of the Child.”

The critics assert that, by highlighting the right to self-determination as the essence of children’s

rights and by neglecting the right to development and the right to enjoy the interactive relationship with adult working for them, the Ordinance opens up the gate for the city to reform policies concerning children based upon the principle of Libertarianism. In April 2003, Kawasaki city abolished its after-school day-care system, in which staffs at after-school day-care centers provided children with the environment like family, and, instead, introduced the open school facilities system, under which such school facilities as libraries, empty classes, and grounds are made available to children regardless of their need to have after-school day-care service and adults workers only manage time and safety. Not only the officials at the city but also the member of the Children's Rights Committee of the city say that the new policy for after-school day-care service is compatible with the Ordinance. Since the debate is going on, we will reserve our conclusion on the plan and the Ordinance of Kawasaki city.

### **B. The case of Tokyo Metropolitan Government: "Tokyo Revolution on Mind"**

If it is allowed to say that the plan of actions and the Ordinance in Kawasaki city are based on the point of view that the essence of children's rights is the right to self-determination, and thus lead the way to Libertarian reform of policies concerning children, the plan of actions and related measures taken by the Tokyo Metropolitan Government is typical of the plan based on the point of view that the essence of childhood is the obedience to the authoritative adult figures. This plan of Tokyo justifies the recent government's policy articulated upon the principle of Neo-nationalism.

In August 2000, the school board of education of Tokyo Metropolitan Government adopted the plan of action on child rearing, titled "Plan of Actions for Tokyo Revolution in Minds." In this plan of actions, the Tokyo Metropolitan Government characterized children as 1) being selfish and losing the sense of respect for rules and compassionate feelings, 2) having their power to restraint their desires or temptations undeveloped and not having sufficient power to solve problems by words, 3) losing the sense of pride. And the plan set followings as the aims of child rearing; 1) make children observe social rules and keep promises, 2) make them have compassionate feelings to others, 3) make them conduct themselves in a disciplined manner, 4) make them have sense of responsibility and sense of justice, 5) make them find delight in contributing to others and the society.

Based upon this plan, the school board of education of Tokyo revised "Aims of Education of Tokyo Metropolitan School Board of Education" in January 2001. The former "Aims of Education" stipulated the first aim of the education, of which title was "promotion of education for human rights," as follows; "Based upon the spirits of the Japanese Constitution and the Fundamental Law of Education and respecting the idea of the U.N. Convention on the Rights of the Child, we will promote the education for the human rights through whole school education and community education." But, in the revised "Aims of Education," the refers to the Japanese Constitution, the



Fundamental Law of Education and the Convention were deleted, and the emphasis was given on the “development of the spirit of the social contribution” (in revised First Aim of Education) or on education with a view to “nurture Japanese who live in the international society with respect for Japanese history and culture.” (in newly added preamble to the revised “Aims of Education”)

The aims of education sent out in the revised “Aims of Education in Tokyo” have strong tense with the aims of education recognized in the Convention. The aims of Tokyo see the education as a tool for bringing up children into persons who are obedient to the political authorities and thus willing to contribute to the orders from them. To making children having this kind of personality, Tokyo Metropolitan Government asserts the authoritative approach to children. But, the aims in the Conventions see education as a tool to let children develop into individuals who contribute to the civil society by exercising their unique individuality and the Convention emphasizes the right recognized in Article 12 as the essential measure to let children develop their unique individuality.

## Chapter 18 Coordinating machinery

In Paragraphs 8 and 30 of the Concluding Observations, the CRC expresses its concerns that the Committee for the Promotion of Youth Policy has limited mandate and the insufficient measures adopted to ensure effective coordination between different governmental departments.” It recommends that “the State party strengthen coordination between the various governmental mechanisms involved in children’s rights, at both the national and local levels, in order to develop a comprehensive policy on children and ensure effective monitoring and evaluation of the implementation of the Convention.”

In the administrative reorganization carried out in 2001, this recommendation was not complied with. The Gender Equality Office was established with the responsibility for the elimination of impeding factors as well as the promotion of the gender equal society, which is in a marked contrast to the child affairs. The Second Report of Japan makes it clear that the government has no intention to comply with the recommendation, asserting that “we have no plans to establish a new system for coordinating these measures within the Government” (paragraph 19).

Though the Report states, “in close contact with relevant ministries and agencies, ...we have been implementing measures for children comprehensively and effectively,” the coordinating functions has actually been weakened as the jurisdiction on coordinating youth policy was shifted from Juvenile Problems Section in the Prime Minister’s Office to the Committee for Promotion of Youth Policy in the Cabinet Office. The authority was limited to general coordinating works instead of inventing new tasks to tackle with new issues identified by its own surveys.

Actual situations of the in-service training and the information activities on the Convention organized by the central and local governmental organs in Gunma prefecture (from the interviews conducted by the Organization for the Convention in Gunma prefecture)

name of organs	in-service training on the Convention	information activities on the Convention	other
Family Court at Maebashi	"We cannot answer to the survey being conducted by organizations other than public organizations."	"The Court has never disseminated the information on the Convention. But, in the week for Human Rights, the Court makes mention to the	
District Legal Affairs Bureau in Maebashi	"The Convention was an item of in-service training organized by the Court."	(no answer)	"We always fulfill our responsibilities by taking the Convention into consideration. But, we feel as if we fought a lonely fight."
Child Consultation Center	"We have not organized in-service training of which main theme was the Convention." "The Concluding Observations are not made available for	(no answer)	"We think it necessary to provide in-service training on the Convention to new staffs of child welfare institutions."
Social Welfare Center at Gunma Prefectural government	"The Convention has not been included in the in-service training even as an item."	"We are not sure whether we receive the order to disseminate the Convention."	"In this home, children can lock the doors of their rooms. The staffs read the letter to children with their consent. We allow children to take part in the activities outside the home."
children's home A	"We have not provide any in-service training on the Convention."	"We have received guidance from the local government to disseminate the information on the Convention."	"In this home, children cannot lock the doors of their rooms. With the consent of children, we have them read their letters to the staffs. We allow children to take part in the activities outside the
children's home B	"We have not organized the in-service training on the Convention. But, the in-service training reflects the spirits of the Convention."	"We have not received guidance from the local government to disseminate the information on the Convention."	"In this home, children cannot lock the doors of their rooms. We allow children to take part in the activities outside the
children's home C	"The Convention has been an item of in-service training. We have organized the discussion on the Concluding Observations of 1998 and the Observations	"We have received guidance from the local government to disseminate the information on the Convention."	"In this home, children cannot lock the doors of their rooms. The staffs and children discuss whether children should hand their letters to the staffs. We allow children to take part in the activities outside
children's home D	"We have organized discussion on the Concluding Observations of 1998 and the Observations are made available in the home."	"We have received guidance from the local government to disseminate the information on the Convention."	"The staffs read the children's letters with their consent. When children would like to take part in the activities outside the home they are required to submit their plans."
children's home E	"The Convention has been an item of in-service training. We have organized the discussion on the Concluding Observations of 1998. But, the Observations are not made available in	"We have received guidance from the prefectural government to disseminate the information on the Convention."	"The staffs read the children's letters with their consent. When children would like to take part in the activities outside the home they are required to submit their plans."
The Board of Education of Gunma prefectural government	"The in-service training has not included the Convention. In the in-service training on human rights, we raise the issue of discrimination and issues of special	"We distribute the pamphlet on the Convention to school teachers six or seven years ago. That's all."	
Youth and Child Section of Health Division of Gunma prefectural government	"We have not organized the in-service training on the Convention. But, the in-service training reflects the spirits of the	"We organize the open lectures for the public on child abuse. We are now preparing for the open lectures on bullying."	

A NGO concerned with the Convention on the Rights of the Child in Gunma Prefecture made a survey on publicity and in-service training concerning the Convention on the related offices and facilities in the Prefecture. The result of the survey is summarized in the Table in a next page. Although the themes of the survey were limited to publicity and in-service training, it has turned out that there are remarkable differences among related public bodies with regard to the recognition on the implementation of the Convention and attitude toward cooperation with non-governmental organizations. Those differences are derived from the governmental attitude that with regard to the implementation of the Convention, it is sufficient enough just to coordinate measures concerning the Convention entrusted to and undertaken by related offices and facilities. Maebashi Family Court showed such an extremely bureaucratic attitude stating, "We cannot answer to the survey being conducted by organizations other than public organizations." The Court has not the slightest intention of implementing the Convention in cooperation with the non-governmental organizations.

There are some municipalities that have worked out positive and comprehensive strategies on implementation of the Convention and

actually carried out some projects worthy of appreciation. Unfortunately those efforts are not so widely spread all over Japan as expected. It has been pointed out that the difficulties to coordinate various efforts are partly derived from the relatively independent status of each municipal education board, which often disturbs the concerted efforts among related bodies.

## Chapter 19 Data collecting system

Paragraph 9 of the Concluding Observations of the CRC states: “The Committee notes with concern the insufficient measures to collect disaggregated statistical data, including data related to the registration of complaints from children, and other information on the situation of children, especially those belonging to the most vulnerable groups, including children with disabilities, children placed in institutions and children belonging to national and ethnic minorities.” Furthermore, paragraph 31 states as follows. “The Committee recommends that the state party take measures to develop a system of data collection and to identify appropriate disaggregated indicators in order to address all areas of the Convention and to facilitate the identification of sectors where further action is needed and the assessment of progress achieved.”

As a matter of fact, the above-mentioned recognition and recommendation are essential for the effective implementation of the Convention. The Japanese government, however, did not refer to this issue in its First Report. In 1998, being asked by the CRC, a representative of the Japanese delegation replied as if the government had taken all necessary measures, stating “The Japanese government has collected, investigated and analyzed innumerable data from various standpoints.” The delegate even dared to add that he could not understand the reason why the Committee kept sticking to the point. Regarding collection of statistics and promotion of the effective utilization of the collected statistics, the Second Report of Japan only states, “See the Answer to the question from the Child Right Committee for Reviewing the Initial Report.”

It seems problematic that each ministry and/or office of related bodies collects and publishes the data on the child arbitrarily and divergently according to respective administrative jurisdiction. For example, although the statistics concerning school non-attendance had been once based on the 50 days of absence from school, they were unilaterally shortened to 30 days in 1998. With regard to the medical examination, the items for measurement of physical strength and capacity have been changed since 1997 (Basic Report 103). The statistics on juvenile delinquency has been limited only to physical restraint since 1999. Thus it has become impossible to observe continuously the data. Data on the physical conditions of disabled children are collected only in Tokyo Metropolis and there have been no data in other prefectures (Basic Report 103). With regards to corporal punishment in school, the government publicizes only the result of its survey in which a school submits the report on the number of cases of corporal punishment through a board of education. But the government does not collect or analyze the information given in the reports on school

accidents including corporal punishment which a school submit to a board.

There are no accurate basic data on “Amerasian”—children born between American soldiers and Asian ladies-- (Basic Report 2) and “Ainu” (Basic Report 13) (See Chapter 23).

It is necessary to establish a system in which the detailed indicators necessary for implementing the Convention are examined (regardless of the convenience of administrative agencies but) for the benefits of the child. The system should enable to add some indicators if necessary and to continuously collect data concerning the child. It is urgently needed to establish the procedure how to attain the goal. Up to now, the government has never attempted to make such efforts. There seemed no promise of doing so. It is reported that the Republic of Korea, a neighboring country of Japan, has decided upon those indicators through a variety of efforts supported by the whole nation and succeeded in collecting necessary data. Such a successful example should be taken into consideration.

## Chapter 20 Cooperation with NGOs

It is noteworthy that the government of Japan has taken a step forward toward the cooperation with NGOs. Though the Second Report states “we intend to keep promoting the implementation of the Convention...in cooperation with private organizations,” it is not so remarkable progress but only a step forward. Despite the exchange of views at the tripartite meetings prior to the submission of the government Report to the CRC, the Second Report is nothing but a mixture of reports of relevant administrative bodies. It neither reflects views of the NGOs expressed at those meetings nor refers to the efforts made by municipalities. The government has never provided NGOs with opportunities to express their views on the Report in advance. It would take much more time to have constructive dialogue between the government and NGOs. By comparing the government Report and reports of NGOs including this Report, anyone can see the big difference of attitude between them.

NGOs have in their own ways extended activities for the implementation of the Convention. Those activities are printed in detail in Basic Reports. Followings are two distinguished and unique campaigns among them. One of them is a campaign to compose of a suite for chorus and to give a series of concerts of the suite. In order to disseminate the spirit of the Convention through music, a production committee of a suite for chorus “We Have Something to Look for” was established in February 1998. The committee continued its activities for the composition of a suite and in October 1999 a suite composed of nine pieces of mixed four parts chorus of children and adults was finished up. On November 20, 1999, the Committee gave the first performance of the suite in Osaka City. Up to March 2003 since then, the Committee organized 43 concerts across Japan and made efforts for the dissemination of the Convention. (Basic Report 5)

The other one is the production of a play film and staging of the film all around Japan. With the aim to restore the rights of children and their parents who are distressed for being unable to go to school, a production committee for a film entitled “I Saw a Rosy Sky” was inaugurated in October 1998. With the participation of children, the film was finished filming on October 25, 1999 and the first preview was convened in January 2000. Since then, the film has been screened in many parts of Japan. The committee aims to have more than 100,000 audiences.

One of typical efforts of NGOs is a continuous campaign to conduct questionnaire survey concerning the implementation of the Convention on the central and local government offices. One of the aims of the survey is to make those offices remind their responsibilities for implementing the

Convention. An Association on the Convention of the Rights of the Child, Miyazaki Prefecture sent on February 2001 copies of questionnaires concerning the publicity of the Convention to 45 municipalities in Miyazaki Prefecture and received replies from 32 municipalities. (Basic Report 1) South Hokkaido Network for the Convention on the Rights of the Child conducted the questionnaire survey which covered 27 neighboring municipalities, 104 schools and 47 nursery schools during the period from October 2001 to March 2003. The network received replies from 23 municipalities, 47 schools and 16 nursery schools. (Basic Report 7) The Gunma Committee on the Rights of the Child likewise conducted the questionnaire survey on the stances of all municipalities in Gunma concerning the implementation of the Convention in 1999 and 2000. The Committee received replies from 57 municipalities (80%). Based on the survey results, the Committee visited 10 municipalities and had dialogues and familiar talks with the responsible persons there from 2000 to 2001. The Committee conducted questionnaire survey and hearing survey on 7 public offices and 5 facilities mainly concerning the actualities of training sessions concerning the Convention on the Rights of the Child. (Basic Report 37)

In the process of these campaigns, it has turned out that a certain institutions, including Maebashi Family Court as mentioned earlier, refused to reply the questionnaires from local non-governmental organization, stating “unable to answer to the survey being conducted by organizations other than public bodies”. Not a few municipalities openly refused to cooperate with non-governmental organizations. The attitude of responsible organs toward non-governmental organizations is, regrettably, not so cooperative as stated in paragraphs 27 and 31 of the Second Report of the government.



## **Chapter 21 Reduction in budget allocation to social expenditures for children**

The White Paper on the Youth issued by the government carries budget amounts allocated to policies regarding children by each ministry and agency regarding, but individual allocated sum by policies are not made public. The government's report shows a total amount of the general budget and the sum of budget on youths from 1996 to 2000. The rate of the budget for policies concerning children among the total government's budget has been decreasing as is shown in Paragraph 33 of the Second Report of Japan. The government also shows its intention of cutbacks in various subsidies. The reduction is mainly targeted on policies concerning children, indicating that the government gives the primary consideration to the Best Interest of the Child. This trend of decline is incompatible with the following statement made by the government in "the Guideline on Promotion of Youth Development" adopted by the Committee for the Promotion of Youth Policy.

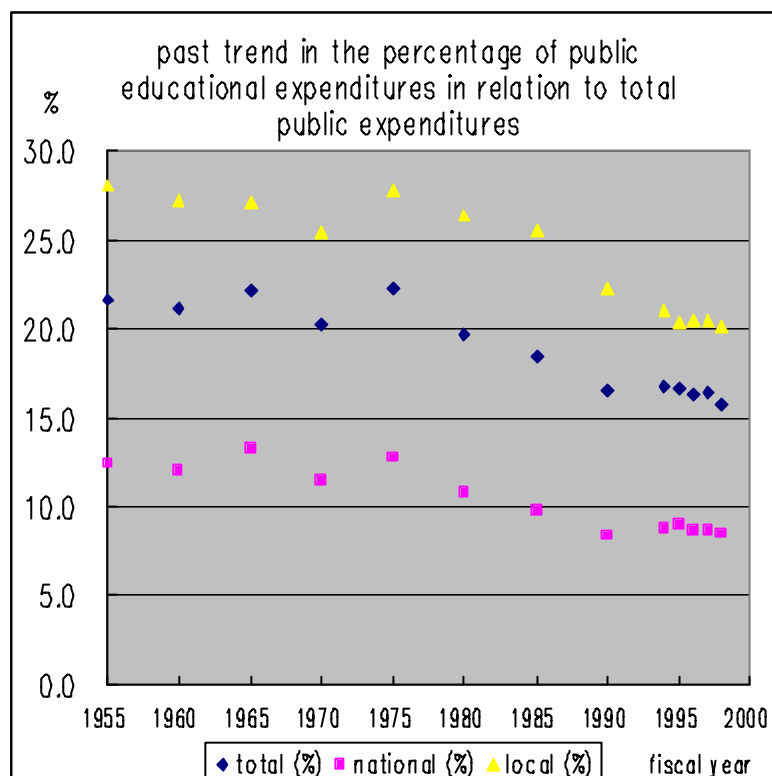
"At the threshold of the 21st century, Japanese society has been during a transition of history, and surroundings of young people such phenomena as declining number of children, excessive information, internationalization, and the surroundings of local community are greatly changing, too. Under these circumstances, recurrence of young peoples' felonies, drug abuse, incidents caused by students, child abuse and so on have become more serious, and the countermeasures against them are national tasks to tackle."

In the following, overviews on budgets trends in the field of education, day-care service for children, and allowance for children of single mothers will be given. The trend towards budgetary cutbacks are closely related with the trend towards lowering the various national standards concerning children, more detailed information on the standards will be given in the part of the Best Interest of the Child (See Chapter 36-42).

### **A. the decrease of national expenditure on education**

In 2003 fiscal year, the budget of the Ministry of Education amounts to 6,322 billion yen. This shows a drop of 257.08 billion yen compared to last year (a 3.9% decrease). (See Table and Chart below)

fiscal year	total (%)	national (%)	local (%)
1955	21.6	12.4	28.1
1960	21.1	12.0	27.2
1965	22.2	13.3	27.1
1970	20.3	11.5	25.4
1975	22.3	12.7	27.8
1980	19.7	10.8	26.4
1985	18.4	9.7	25.5
1990	16.5	8.4	22.3
1994	16.7	8.8	21.0
1995	16.6	9.0	20.4
1996	16.3	8.7	20.5
1997	16.4	8.7	20.5
1998	15.8	8.5	20.1



The percentage of public educational expenditure to total public expenditure has reduced consistently for the past 50 years since World War 2. The percentage of public educational expenditure by both national government and local government, the total amount of public expenditure for education has reduced for the past 5 years since 1994.

The government’s recent plan of cut in various subsidies will surely enhance this trend of reduction of national expenditure for education. The central government plans to reduce its sharing in school teachers’ salary, and in school textbooks.

(See Chapter 40, 116, 117 and 118 for detailed information)

### **B. Expanding child day-care service without budget increase under “New Angel Plan”**

The Second Report of Japan says, “The New Angel Plan formulates specific programs designed to deal with declining birthrate. It includes improvement of child care services and increasing employment opportunities. The government, in line with this plan, is trying to appropriate more funds for the programs for children and family benefit.” (para. 34) It also says, “The Plan is intended to improve children’s measures rich both in quantity and quality such as accepting low-age children at day nurseries, long-hour care, childcare on holidays, and childcare after leaving school.”

(para. 35)

However, these measures do not meet the needs of increasing-number of children who are qualified to use day-care services. The children waiting for vacancy in day-service stand at 39,881 as of April 2002 (up 4,737 over the previous year), an increase for three years in a row. The number of day nurseries continued to decline year by year from the peaking 22,899 in 1985, but in 2001 it increased a bit to 22,722, still with 627 below in the peaking year. In fact, many municipalities manipulate the number of the “waiting children” to make it seem less than actual number by excluding those under care at unauthorized day-care centers. Therefore, the actual number of the waiting children is supposed to be 10,000 more than 39,881.

Furthermore, as the plan does not envisage the increase in the national budget for day-care services, it results in expanding the service by incurring serious lowering of level of childcare services. The ratio of government’s share of operation expenses of day-care service in the national general budget declined from the peaking 0.83 percent in 1977, down to 0.52 percent in 2003. In the 1970s, the ratio remained 0.7 ~ 0.8 percent, so the decline was very large. The government is considering the plan to transfer the present government’s sharing system for expenses of daycare service from the “national treasury” to the “general budget.” When the subsidies come from the “national treasury,” the municipalities are supposed to use them for the purpose for which subsidies are provided. But, when the subsidies come from the “general budget,” the municipalities are allowed to use them for purposes other than that for which subsidies are provided. If the plan was carried out, municipalities might use the day-care service subsidies from the government for other purposes, and it is likely to lead to virtual cutback in the management expenses of those facilities.

### **C. Childcare after leaving school under New Angel Plan**

Paragraph 34 and 35 of the Second Report of Japan refer to improvement of services of childcare after leaving school. The Child Welfare Law was partly amended in 1997 to authorize after-school day-care centers --childcare clubs--. In line with the new Angel Plan, the number of clubs increased, and the ratio of one club to one elementary school has reached 53.5 percent. The result itself is a highly evaluated. But, the minimum standards for their facilities have not yet been established. Even in large cities with enough finances, sufficient budget are not secured for them. Due to the small capacity and high fees, only 40 percent of children who have left day-care centers one-fourth of children of working parents are admitted to clubs, creating a large number of “waiting children.” Due to the lack of the budgets, some municipalities have incorporated this club service in the “Open-School ground Program” which is open to all school children. This recent policy of some municipalities resulted in substantially lowering the quality of service provided to children whose parents work during day-time. (See Chapter 93-H)

#### **D. Support for Underprivileged Families**

Paragraph 36 of the Second Report of Japan Government Report refers to child-rearing-allowance as economic support for fatherless families. In Japan, discrimination against women in terms of wage still exists today. Average annual income for single-mother families is mere 30 percent of that for normal families. But the government in August 2002 revised the ordinance of child-allowance, and lowered the amount from ¥2.048 million down to ¥1.3 million in the recipient's annual income to be payable an allowance of monthly ¥42,300. The government took this step on ground that, due to increasing number of fatherless families, its share of financial burdens has grown bigger. This is another proof that shows government cold-blooded policy for children's wellbeing.

## **Chapter 22 Dissemination of the information on the Convention to the public and training of professionals on the Convention**

### **A. Dissemination of the information on the Convention**

The Second Report of Japan refers to the translation of the Convention into languages other than Japanese, provision of information through its Internet's Home Page and Fax services, and integration of the Convention into the National Course of Study. (Para. 41 to 43)

To our regret, the Second report of Japan lacks the self-critical analysis of how effective the government's information activities during the past five years were; how much the Convention and its spirits have been made known to, understood by, or used by the people in their daily life. The information activities only through Internet or Fax services are insufficient to make the convention fully known to the people. In the consideration of the First Report of Japan by CRC, the government could not answer the questions from the members of CRC concerning the actual effects of the activities; how children's and adults' consciousness was changed, and what changes were made in citizens' daily life. So insensitive to the concerns of the international society, the government repeats its mistake in its Second Report.

We should also say that the information activities by the government for these five years retreat from those from 1994 to 1998. The First Report of Japan referred to following activities of the government: Many government departments published pamphlets to inform the people including children of the convention (Paragraph 30); The government tried to make the Convention known to the people through government PR magazines, TV and radio. (Paragraph 31); The government issued 90,000 copies of the Convention and distributed to local boards of education, welfare services offices, child consultation centers and other civic organizations (paragraph 31); the government printed one million copies of posters to distribute to all kindergartens, schools, child welfare facilities, and public libraries (Paragraph 31); Ministries of Justice, Labor and Welfare, Education took individual measures (Paragraph 32 to 34). But the Second Report of Japan makes no mention to these activities. This shows that the government has not conducted these activities since 1998 when CRC considered the First Report of Japan. The government should conduct information activities continuously because the new generations, which are the target of the information activities of the government, come up continuously. The government ignored its responsibility for the continuous information activities.

Furthermore, the government totally neglected the recommendation by CRC to organize the information activities with the view to “generate debate and awareness of the Convention and of its implementation and monitoring within the Government, the Parliament...” (Para. 49) In the past few years, the Juvenile Law was revised and the government is now considering the revision of Fundamental Law of Education. But, in the process of the debates on the revision of these two laws, the government has never input the Convention, the Concluding Observations of 1998, or the summary records of the meetings.

According to the survey conducted by some NGOs, the awareness of the Convention by children becomes smaller than that in 1998. The questionnaire survey conducted in February 2002 by a citizens' group in Miyazaki Prefecture (in southern Japan) on “Convention on the Rights of the Child,” of 32 municipalities which responded to the questionnaire, 11 municipalities -- 34 % of them -- said that they took no measures to inform the residents of the convention (Basic Report 1). Another result of a questionnaire survey done (from October in 2001 to March 2002) by “Children's Network in South Hokkaido (northern Japan)” show that, of 23 municipalities which responded to it, 11 municipalities -- 48 % of them -- took no publicity steps on the Convention. (Basic Report 7)

The same network conducted another survey during the same period on the Convention. In the questionnaire survey for college students who were formerly young children, of 112 students who answered, 57 students, or 50.8 % of them, said that they only knew the name of the Convention, and of the 57 students, only 6 students, or 5 % of all the 112 responding students said they knew about the contents of the Convention. (Basic Report 7) Further, citizens' group on promotion of the Convention in Hachioji City (in Tokyo) conducted a questionnaire survey on the knowledge on the Convention for 277 primary school children during the period between September and October 2002. The result was that only 33 students -- 14 % of them -- said, “I know the Convention,” whereas 168 students -- 69 % of them --, said, “I do not know.”

## **B. Training on the Convention**

The Second Report of Japan says the government carries out training on 9 paragraphs (44 to 52). But, many of these contents are about the acquisition of skills of actual work, and it is doubtful whether the trainings are being conducted with the viewpoint of specifically making the most of the Convention and its principles. As regards the school teachers, training on human rights is traditionally restricted to the rights of ostracized villagers who are discriminated against, and there is some doubt whether it really concerns children's rights.

It is true that “trainings” have been conducted in every ministry and agency, but whether the contents are suited to implementation of the Convention is unknown from the description. It is also

impossible to comprehend from the description whether or not they have brought together cases of success and failure which they experienced in the process of implementing the Convention, and have shared the cases for all the trainees.

## **II. Non-discrimination**



**Part 1 Overview on the Issues of General Principle of**  
**Non-discrimination**

## **Chapter 23 “Old” issues and “new” issues on discrimination**

### **A. While old issues still remain to be solved, new issues have recently come up.**

The issues on discrimination in our country have been becoming more serious since 1998 when the Committee on the Rights of the Child considered the First Report of the government.

The discriminations against the children to which CRC expressed their concerns have still existed. CRC stated that the children of Koreans living in Japan, children of Ainu, and children born out of wedlock are discriminated against in Japanese society. In addition to these groups, recently, there have arisen new groups whose children are discriminated against in the society or given disadvantageous treatments by the national laws. As those new groups, the immigrant workers, returnees from China, and Amerasian, those who were born among American and Asian, can be pointed out.

In 1998 CRC also gave its concern to the national law which set the different marriage ages between boys and girls. The difference in marriage age between boys and girls represent the gender biased views embedded in the existing national laws. The abolishment of this kind of law will symbolically show the government’s positive attitude towards the gender-bias free society. But, recently, the backlash against the women’s rights in general has been led by the government and the influential politicians. This backlash has targeted the educational activities in schools and the educational materials, which positively evaluate the women’s movement or enhance the sexual education.

The discriminations against children of Koreans living in Japan and children born out of wedlock are largely given rise to by the national laws which impose disadvantages to these groups of children. What is required for the government is to withdraw the provisions in those national laws or change the ways in which these laws are applied, but, it has not taken any measure.

The discriminations against Amerasian children, children of immigrant workers, and returnees from China have gotten attention only recently. All of them are caused by the fact that the government, on the one hand, adopt the policy to accept people from abroad based on some reasons, but, on the other hand, it has not taken comprehensive measures to protect and ensure the rights of their children.

In the case of Amerasian children, children’ fathers are soldiers the U.S. troops the government has

accepted based upon the Security Treaty. In the case of children of immigrant workers, the government changed its policy to strictly close the labor market from foreign people and began to accept immigrant workers in 1990. In the case of returnees from China, the government has carried out the project to return Japanese who were left in China after World War 2 for more than 20 years. In some cases, returnees returned to Japan with their children or grand children who are at school age. In all of these cases, the government has neither conducted comprehensive survey on the situation of those children nor adopted comprehensive policy to eradicate discriminations.

In the following, the overview on specific issues will be given.

## **B. “Amerasian” children**

Amerasian children are children of American fathers who are soldiers of the U.S. troops in Asian countries and Asian mothers. The word of “Amerasian” has been recently used in Asian countries. Amerasian children face special difficulties when their parents divorce. This is because they frequently lose their education provided by the international schools in the site of the U.S. troops, and have difficulties in continuing learning English or American cultures even though they were brought up as an American.

There are Amerasian children in Okinawa, where the U.S. troops are. Most of them have both the nationality of Japan and the U.S. Since they hold the Japanese nationality, as a matter of fact, they are entitled to enjoy the rights recognized in the Constitution of Japan including the right to education. But, according to the data collected by the local government of Okinawa prefecture, there are 716 Amerasian children with the nationality of Japan who are at the age of compulsory schooling. With regards to 61 out of them, whether or not they receive compulsory education is unknown. This means that 8.5% of Amerasian children at the age of compulsory schooling are suspected not to receiving compulsory education. The nationwide rate of children who do not receive compulsory education even though they are entitled to is 0.002%. Compared with this nationwide figure, the figure of Amerasian children are extremely high. This figure implies that there is discrimination against Amerasian children. Nevertheless the government and municipalities haven't taken appropriate measures including carrying out survey on them or providing remedial education.

Amerasian who hold both the nationality of Japan and the U.S. are obliged to choose one nationality by 22-year-old.(Article 14, Paragraph 1 of the Law on Nationality) If he/she happens to evade the choice of nationality, Japanese nationality is withdrew. (Article 15, Paragraph 3 of the Law) This legislation is in strong tense with the right to reserve their nationalities and identity.

### **C. Immigrant workers' children and returnees from Child**

The government has not established comprehensive policy on rights of foreigner's children. There are growing gaps between municipalities which are active in reacting to the issue of their rights and municipalities which are not. When the municipalities do not take active measures, the NGOs are substantially the only actors which work for the rights of foreign children. There are many issues to be tackled with in this field.

One of them is that there estimated to be many number of children who are not registered, and thus cannot enjoy their rights including the educational rights and the rights to social security, welfare services, preventive health services and medical treatment. Some of them are not registered because their parents overstay in Japan. The legislative measure should be taken to make them registered regardless of the fact that their parents overstay.

Even when foreign children are registered, many of them face several difficulties in realizing their educational rights. First, many of registered children do not attend schools. In some cases, their parents do not know about the school system in Japan, they give up sending their children to school from the beginning. In other cases, even when parents receive the notification on schooling issued by the municipalities, because the notification is not written in their own languages but in Japanese, they cannot realize that their children will be accepted by the public schools in Japan. Second, because the education is sometimes provided only in Japanese and there is no such class as "Japanese as Second Languages," they have difficulties in keeping up with the curriculum. Third, though in some municipalities the remedial classes where their mother languages are used are provided, no regular class is provided where they can learn in their mother languages. Furthermore, there are many foreign children who refuse to go to school due to bullying. They tend to be bullied because of handicap in Japanese, appearance, and cultural difference.

### **D. Children of Ainu**

CRC expressed its concern on the fact that the general principle of Non-discrimination is not sufficiently incorporated into the national policies on children belonging to vulnerable minorities, including Ainu. But, there has been no progress made by the government in realizing the rights children belonging to Ainu. The Second Report of Japan states that the Ministry of Justice has organized the campaign to raise awareness of Ainu by people. But, the government has not recognized Ainu people as indigenous people yet. Therefore, the government has not taken sufficient measures to realize their rights recognized in Article 30 of the Convention. The measures taken by the government for Ainu people have give their focus not on their rights as indigenous

people, but on the preservation of Ainu cultures. Thus, the program on multicultural education both for Ainu children and others has not been developed.

### **E. The educational rights of children of Koreans living in Japan**

In the Concluding Observations of 1998, CRC expressed the special concern on the discrimination against graduates of Korean ethnic schools from the opportunity to enter higher education. As to the ways in which the government reacts to the concern expressed by CRC, two points should be raised. The first is that the government has not adopted any legislative or administrative measures to eradicate this discrimination. The second is that the government planned to strengthen this discrimination against children of Koreans living in Japan, by giving the qualification to enter higher education in Japan only to foreign children who graduate “international schools,” whose students are mainly from European countries and the U.S. Widely criticized by people, the Ministry of Education withdrew this plan.

### **F. Children born out of wedlock**

In its Concluding Observations of 1998, CRC expressed its concern on the discrimination against children born out of wedlock. But, the government has not taken any legislative measure to eradicate this discrimination, which is given rise to by the related provision in Civil Law. Moreover, the government repeats the same ground based upon which it has justified the discrimination. The government argues that legal proportion of legacy of children born out of wedlock is set half of the legal proportion of children born within wedlock because the couple of legal marriage and children born in a legal family should be protected.

### **G. Gender equality**

The realization of gender equality is still an important challenge for the Japanese society.

The government has not taken any measure to revise the provision in Civil Law, which differentiates the age of marriages of boys from that of girls. This revision is important because it means the eradication of gender biased view in the national laws. But, the government did nothing for it. As other example of the gender biased view incorporated in the national law, we can point out the related provisions in Civil Law which only admit the common surname for husband and wife. Whether to revise the related provisions in Civic Law with the aim to introduce the separate family names for married couple has been the political issue. If the separate family names are legally

recognized, it will eradicate not only the discrimination against women, but also that against children born out of wedlock. But, the government repeats the argument that this will weaken the tie between parents and children.

Moreover, as something social which is strengthening the gender biased view, the commercialization of sexuality can be pointed out. The tendency of commercialism to target the sexuality of girl children becomes stronger and stronger. The many pieces of information which see female only as objects of sexual intercourse have been widely spread through magazines filled with child pornographies and comics filled with pictures on men's violent activities against women.

In school education, there still exists the education which reproduces gender biased views. In some textbooks on home economics authorized by the Minister of Education, there are descriptions or illustrations which emphasize the stereotyped view on the role division between men and women. This kind of descriptions or illustrations can be seen also in the textbooks on moral education. Furthermore, sometimes, extracurricular activities are sometimes organized based on the stereotyped views.

Moreover, sexual harassment in school is a serious problem. The cases of sexual violence by adults (teacher) sometimes caught attentions of the public. In the background of these cases exists the facts that there is no changing room for the upper grades, or teachers make girl children to walk with only swimsuit in school buildings. The tendency to overlooks jokes filled with sexual metaphors or teases with sexual words also constitutes the background of sexual harassments by teacher.

## **H. Disabled child**

See Chapter 75 to 81

## **Part 2 Gender Equality**

## **Chapter 24 Overview on the current situation of gender equality**

### **A. The current situation; “gender backlash”**

Gender issues have entered a new stage since the submission of the Japanese Government’s first report in 1996.

In the high development boom period centering on the 1960s, Japan engaged in a high degree of industrial and economic advancement, without much change in the fixed gender-biased roles within society. This was based on the following assumptions: first, because the roles of housework and child raising could be given to the dedicated housewife (*sengyo shufu*) the labor pool consisted mostly of men, freed of household duties and available to work 24 hours a day. Second, the model of a home was fixed as “the woman inside, the man outside.” Third, these housewives in fact formed a reserve labor pool. Before marriage they generally worked at low-paid full-time work, and they retired after marriage to rear children and care for the house. After their children reached an age where they no longer needed the complete attention of their mothers, the women then took up full or part-time positions which did not interfere with the upkeep of the home. Fourth, the availability of the free labor of the housewives and the extension of their duties to care for the elderly allowed the development of a practical childcare system and social welfare systems to care for the increasing aged population to lag behind. The government made good use of social patterns of male and female roles and resulting “models” of the home to serve its own purposes.

However, in the International Year of the Woman (1975) and the ensuing United Nations 10 years of the Woman, the status of women began to rise within society. The lowered birthrate of this period raised a number of issues, among them a lowered forecast for the size of the labor pool in the future. It became necessary to allow women to continue to work and have careers through their childbearing years, and have children while continuing to work outside the home, putting their children in some form of daycare. International pressures also came into play; be that as it may, the Japanese government instituted a major social plan, calling it the “cooperative participation of men and women in society (*danjo kyodo sankaku*).” (1990)

In spite of various advances linked to the CPMWS, while Japan’s Human Development index places it 9th among 162 countries, the Gender-Related Development Index places Japan in the 11th place among 146 countries, and the Gender Empowerment Index leaves it 31st among 64 countries. The CPMWS headquarters placed the goal for the number of women members of parliament at 30% by



2005. In 1981 there were 5.2%, in 1991 11.3., increasing to 24.7. by 2001. However the goal itself is low. The higher levels of the civil service above the 9th level have only 1.3% women (March 2001). The percentage of women members of parliament is only 7.3% in the upper house, with the lower house having 15.5% (July, 2002).

These statistics indicate how difficult it is for women to participate in society, economically and in the legislative process.

After the bursting of the bubble economy, the projected shortage of labor was revised, and although the lowering of the birthrate continues, the legislative “hardware” of gender issues—allowing husbands and wives to have different last names, for example—have been put on the back burner. The First Government Report occurred just at the beginning of this period.

Compared to the ragged pace of gender issues in the political sphere, experimental efforts in the field of education have occurred all over the country at a great pace, with many positive results. In this report we will attempt to introduce these efforts as much as possible.

Although Japan remains a third-world country in gender issues overall, some advances are occurring, and local efforts in gender education are producing many positive results. However in 2002 there occurred a strong “gender backlash,” aimed mostly at these very efforts. This consisted of attacks from the conservative political spectrum, which felt that Japan was under cultural threat from the change in consciousness of gender-related issues. The government and local authorities have shown little resistance to this movement. In fact the government has gotten on the bandwagon of the gender backlash, and has taken the opportunity to plan the retraction of clauses of the education law regarding equal educational opportunities for girls and boys and coeducation.

The chapter 25 of this part covers this period of gender backlash, and gives details of conservative attacks and the government reaction, and details the relation to the decreasing guarantees of the rights of children.

## **B. The difference in the legal age for marriage between boy and girls and discrimination against children born out of wedlock**

The Convention on the Rights of the Child forbids children to be discriminated against because of their name, and the names of their parents or guardians shall not be used against them. In the First Report of Japan, there was no mention of problems with gender issues, though there was brief mention of constitutional guarantees of freedom from discrimination because of family names. The report failed to mention numerous gender issues which exist and do affect children in this country,

and stated flatly that the difference in the legal age for marriage between men and women is not discriminatory.

CRC condemned Japan's laxity in gender issues in their 1998 Concluding Observations, saying that

“the general principles of non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12), are not being fully integrated into the legislative policies and programs relevant to children, in particular in relation to children from vulnerable categories such as ... children born out of wedlock.” (para. 13)

“The Committee is particularly concerned about legal provisions explicitly permitting discrimination, such as article 900 (4) of the Civil Code which prescribes that the right to inheritance of a child born out of wedlock shall be half that of a child born within a marriage, and about mention of birth out of wedlock in official documents. It is also concerned at the provision of the Civil Code stipulating a different minimum age of marriage for girls (16 years) from that of boys (18 years).” (para. 14)

CRC recommended the government that “legislative measures should be introduced to correct existing discrimination against children born out of wedlock” and “the same minimum age for marriage of boys and girls.” (para.35)

The Japanese government ignored the committee's recommendations and has taken no action on these issues between the first and second reports. Instead, with regard to the legal age for marriage, the government report says that

“We also consider that there is a general difference between males and females with regard to the age at which they become marriageable physically and mentally. We believe that the difference employed by our national law between males and females in the prescribed minimum age of legal competence for marriage is reasonable, since it reflects the above-mentioned difference in the degree of physical and mental development between males and females. Therefore, we believe that such difference does not violate Article 2 of the Convention.” (para. 86)

With regard to children born out of wedlock, the Second Report of Japan says that

“A legitimate child is, in principle, presumed to be the child of his/her mother's husband at the time of gestation, while there is no such presumption for an illegitimate child, and the child's legal father is identified by affiliation ... (and therefore) while a legitimate child assumes the common surname of his/her father and mother, an illegitimate child assumes the surname of his/her mother (para. 138)

The presumption that the mother and father will be sharing the same name is given as a prerequisite

for designating the last name of the child. Not only are archaic customs of inheritance and naming made into a burden on children born out of wedlock, laws require men and women to share a common last name (usually that of the man). It is disgraceful that the government has allowed issues related to the names of the parents to affect the naming of the children and thus expose illegitimate children to discrimination. The government claims that the sharing of names by spouses is to protect the inheritance and profits of the children, but there is no evidence to support this.

Chapter 26 of this part on gender equality goes into problems relating to legislation affecting the rights of children.

### **C. Reproductive health education and campaign for raising awareness of sexuality**

In 1998 Concluding Observations, CRC expressed its concern about “the insufficient access by teenagers to reproductive health education and counseling services, including outside schools, and the incidence of HIV/AIDS among adolescents.” (para. 21) And CRC recommended that “the State party take all necessary measures to prevent suicides and incidents of HIV/AIDS among adolescents, including the collection and analysis of information, the launching of awareness-raising campaigns, reproductive health education and the establishment of counseling services.” (para. 42)

The most characteristic measure taken by the government related to the reproductive health and sex education is the publication of the pamphlet titled “Love and Body Book for Adolescents” in 2002 by the Japanese Mother-and-Children Hygiene Study Group, an affiliate of the Ministry of Health, Labor and Welfare. This pamphlet was planned to be distributed to all the students at junior high schools. But, as influential politicians criticized this pamphlet in the Diet, the plan was cancelled. This is the reason why the Second Report of Japan does not give any information on reproductive health education or sex education distribution. In Chapter 25, the information on the gender backlash will be given, and the information on the actual situations of reproductive health education and of the influence of mass media on the issues of sex will be given in Chapter 27 and 29.

### **D. The measures taken by the government to realize the gender equal society**

The general Comment No.1 on the aims of education, which was adopted by CRC in April 2001, states “Discrimination on the basis of any of the grounds listed in Article 2 of the Convention, whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities. ...(G)ender discrimination can be reinforced by practices such as a curriculum which is inconsistent with the

principles of gender equality, by arrangements which limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls' participation.” (para. 10) It also states “the school environment itself must thus reflect ... equality of sexes, ....” (para. 19)

As mentioned earlier, the government began to carry out the comprehensive plan to realize the “gender equality.” The Second Report of Japan gives information on its policies on gender equality which have been taken since the First Report of Japan in 1996. Especially, the detailed information on the Basic Law for a Gender-Equal Society and other administrative measures which were adopted after the World Conference on Women is given. But, it only lists the laws adopted and policies implemented, and it does not either analyze the causes of gender inequality or show how it should revise the policies to make them more effective.

Among the problems in the Second Report of Japan, the most serious is that it totally lacks the information on what kind of measures the government took to improve the quality of reproductive health education or sex education in the school system so as to bring up both boys and girls to persons who can be creative subjects of the civil society and exert their individuality and ability. Though the “strengthen the education which enhance the gender equal society and enable children to enjoy more diverse choices” is listed as one of the eleven goals in the “Master Plan of Gender Equal Society” adopted by the Cabinet Meeting, the Second Report of Japan does not refer to this.

There is much room for the government to realize the gender equality in the field of education. For example, there are significant difference between boys and girls in deciding which faculty in university they will enter and whether they will go to professional senior high schools. The government should take measures to correct this kind of gap between boys and girls. The sexual harassments of girls by teachers in all levels of schools from kindergarten to universities have recently gotten public attention. The government can conduct the national survey on the issue and devise the plan to prevent sexual harassments in schools.

In chapter 28 of this part, the information on the actual situations of gender equality in schools and the government’s policy on education for gender equality will be given.

## **Chapter 25 The 2002 Gender Backlash**

### **A. New Conservatism emphasizes the difference between boys and girls**

Japanese Society for History Textbook Reform is part of a new conservative movement to create a new style of civic and moral development in Japan, centering on the education of young people. This society and others like it have begun expanding their efforts from attempting to rewrite history and teach the rewritten version to children through textbooks, to attempting to drum up a movement which centers on a protest against the complete abolition of discrimination against women as required by the Peking Rules. This society managed to gain approval for their history textbook by the Ministry of Education through the textbook approval system, though it was filled with historical revisionist sections. The textbook was only taken up by two schools, one of which cancelled its selection due to the protests of the parents of the students, and the other is a school for severely disabled children whose textbook is chosen not by an education committee, but by the governor of Tokyo. After the society's attempt to get its textbook into schools failed, it expanded its efforts to parliament, attempting by various means to get its views heard and, by achieving the cancellation of various pamphlets and side readers produced by the government and not subject to the textbook approval process, has begun a slow change in the overall policy of the government with regards to gender issues. These are linked to the new conservative movement, which includes a gender-biased sense of history, including false treatment of the "comfort women" issue and a general attempt to deemphasize or deny Japanese war crimes. However the first open attacks on the government's policy of an egalitarian society began when the Japan Ladies Society was formed in September, 2001. This society is connected to the new conservative movement.

A concerted attack began on local government ordinances pertaining to the enactment of the government policy of gender equality in education in 2002. These attacks, consisting of criticism and negative debate, occurred throughout the country almost simultaneously at Prefectural and local levels. In education, Home Economics was particularly targeted because sex education, gender studies and a variety of issues related to the roles of the sexes are addressed in this subject. Home Economics textbooks were held up for criticism of overall content, but particularly those sections or texts pertaining to sex education and gender studies (gender free education). The attacks on local government ordinances occurred in such towns as Utsunomiya and prefectures as Chiba. In Utsunomiya, the conservatives managed to add the following phrases to the preamble of the Ordinance on gender Equal Society: "that men and women should, in manly ways and feminine ways..." and "that housewives (housewives dedicated to caring for the home: sengyo shufu) should

not be discriminated against...” In Chiba, the debate centered on Article 16 of the Ordinance, used to read as follows: “The prefecture guarantees that men and women shall, in schools and all other places where learning occurs, be respected, respect each other, and without reference to their sex will be guaranteed the chance to exercise their individuality and their talents to the fullest. The prefecture promises to support this effort, not only by the creation of suitable environments for study, but also by stating its willingness to support the equality of men and women and enact legislation to that effect.” “Without reference to their sex” was excised, and in its place the phrase “while recognizing each others’ differences...” was inserted. Article 17, which had read “The prefecture guarantees that all men and women, while respecting each others’ different characters, shall be given enough sex education to understand more deeply the roles of men and women in sex, childbearing and childrearing and be able to make their own informed choices on these matters....” The final phrase was excised and not replaced.

These subjects were debated in the Diet, and it became clear that the government is retreating from its commitment to fully implement its policy of gender equal society. This paper will introduce a portion of the parliamentary debate on this subject, and relate it to the relevant sections of the Convention on the Rights of the Child. In this way the actual attitude of the Japanese government on this question should become quite plain.

[Reference] Basic reports 16, 18, 110.

## **B. The government’s negative attitude toward changing the social consciousness**

In the Second Report of Japan, it is stated that “a major barrier to the effective implementation of equal participation in society by men and women is the traditional division of labor according to sex, which has a long history and which is very strong in the minds of the people. This fixed consciousness of the sexually discriminated division of labor is changing slowly, but it still remains very strong in the minds of the individual citizens. To teach people a new way of thinking is a long drawn-out process; however the government is attempting to educate the people about the equal participation of men and women in society through publications, posters, and other effective means.” (para. 95)

However when Yamatani ERIKO, member of the Diet, criticized a pamphlet on childrearing, “The New Support for Childrearing: the Key to the Future,” published by the Japanese Women’s Studies Group (a government affiliated study group), the government merely stated that overall gender-based differences in society and specific gender-based differences in education must be differentiated, and there is no need to eradicate the latter. This was an entirely passive reaction to the strong criticism of a government publication.

The following is a summary of the parliamentary debate about Key to the future.

(Summary of the minutes of the Special Committee on Youth Issues)

Member Yamatani questioned the government in a questioning session regarding the pamphlet published by the Japan Women's Studies Society, and used her question session to state that in her opinion the text denies traditional Japanese cultural gender roles. She pointed out that picture books are sometimes redrawn and stories rewritten according to new ideas of gender, leading to cultural destruction, and equated the New Support for Childrearing: the Key to the Future with the rewriting and erasing of traditional culture, and asked the government its views on this issue.

The government replied through the minister in charge of Japan's equality plans, Minister Fukuda, who stated that while the societal inequalities of the genders must be remedied, the education of children requires a stronger concentration on teaching the differences between men and women and how their differences lead to differences in their lives in society. <sup>1</sup>

### **C. Gender equal society means the society where only equal opportunities are secured.**

The following debate points out that the government interprets "gender equality" in a very limited sense. The government seems to understand gender equality as "equal opportunity," offering the same opportunities to men and women, without any attempt to guarantee that these opportunities are equally taken up, or that women are compensated for various handicaps such as the need for daycare for children, etc. The following parliamentary summary presents this concept as proposed by Member Kamei. Member Kamei is known to be critical of the efforts of the Ministry of Agriculture to implement a more cooperative model of farm management for family owned farms, and has also expressed criticism of Chiba prefecture's system of inspections of companies for compliance with government rules on equality in the workplace, which appeared to place "equal results" (equal pay, equal treatment and conditions in the workplace, equal perquisites) in place of "equal opportunity," which does not necessarily bring equal results.

Member Kamei, in a questioning session, asked for confirmation of the government's meaning on certain points. In particular, Member Kamei wished confirmation that the government meant "men and women shall each understand and recognize their differences, and at the same time promote opportunities for each other and work together" when it spoke of the "plan for the promotion of an equal opportunity society." Member Kamei also wished to confirm that his understanding of the

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<sup>1</sup> Japanese Parliament minutes summary of the 154th session of parliament, special committee meeting on youth issues, volume 3 April 11 2002.

basic law of equal opportunity was that it did not guarantee absolute equality between men and women, but equal standards and conditions, in the form of opportunity. If equal opportunity was the meaning of the law, then “manliness and womanliness” as shown in classic culture should not be denied within textbooks and education. He also stated criticism of Chiba Prefecture’s inspection procedure, stating that it was attempting to place “equal results” in the place of “equal opportunity,” and called the standards of the inspection of companies for compliance “inappropriate.”

The government replied to this issue, stating that it was not going to debate “manliness and womanliness” from the viewpoint of gender, stating simply that “manliness and womanliness” were simply statements of the biological differences between men and women, and that “as periods change, the stance of society changes, and there will be differences in the concepts to a greater or lesser degree. However in any age it is not possible to deny the biological differences between men and women.” The government went on to promise not to deny these differences, nor to fail to provide opportunities to all individuals equally.

With respect to how to take the meaning of the concept of equality, while recognizing that stereotyping “manliness and womanliness” and thus affecting the viewing of individuals and the provision of opportunities for the use of their talents negatively, the concepts are strongly influenced by societal conditions, and should not be taken to have a fixed meaning. The government finished by stating that what was meant by an equal opportunity society is one that “an environment is provided in which in which there are many opportunities for everyone, and men and women can easily participate in society.” The government reiterated that “equal opportunity” was meant in this sense, and would make every effort to confirm that it was not the intent of the law to force inappropriate rules on anyone.<sup>2</sup>

This indicates that the government is not fully implementing the UN standards for getting rid of discrimination throughout its law structure, programs and projects.

#### **D. The Ministry of Education and Sex Education.**

Although the Government says that it has developed positive measures about sex education, AIDS education and prevention of youth pregnancy, it has determined not to reprint the pamphlet Love & Body Book for Adolescents made in 2002 by the Japanese Mother-and-Children Hygiene Study Group, an affiliate of the Ministry of Health, Labor and Welfare. This pamphlet was cancelled as a direct result of criticism in Parliament.

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<sup>2</sup> 155<sup>th</sup> session of Parliament, Cabinet Committee meeting, volume 3, December 11 2002.



This shows that the Ministry regards sex education as a kind of moral education and regards the negative criticism of the pamphlet as a reason to regard the contents as a problem, and to recall the pamphlet promptly. This kind of stance by the ministry results in substantial retardation of the effort to improve sex education.

Member Yamatani asked the Government to correct and recall “Love & Body Book for Adolescents.” She asked the government to describe the side effects of the pill and to recall the pamphlet, saying that it was the government’s responsibility to correct the errors of its affiliated groups. Moreover she requested that the Ministry of Education take over the responsibility for monitoring supplementary textbooks, which until now have not been subject to the government’s textbook authorization system, and recall supplementary textbooks which (she stated) recommend free sex. She noted that there is little internal government correspondence in between the Ministry of Health, Labor and Welfare and the Ministry of Education on these matters.

The Ministry of Health, Labor and Welfare responded that it has a plan to strengthen the control of the contents of supplementary textbooks, but that the recall of the booklets in question was and should be the responsibility of the Foundation which published them, not of the government.

The Ministry of Education, however, responded to Member Yamatani, agreeing that sex education is moral education and that unsuitable supplementary textbooks should be recalled.

### **E. Coeducational concepts at risk**

The government’s policies on coeducation (men and women learning together) are slowly becoming indefinite, contrary to United Nations’ advice and reports requesting the increasing implementation of coeducation and sex education at an early stage. The slow distortion of the concept of equal participation in society by men and women can be seen in parliamentary debate. These sometimes focus on the denigration of internationally accepted terms used to describe these issues.

A major barrier to the full understanding of gender issues is a linguistic one. The word “gender” has been used in Japan for roughly thirty years, in its usual meaning of issues related to the different sexes, especially those not necessarily of biological but of social origin. One of the major social policies of Japan in the 20th century has been “joint participation in society by men and women.” However, this is not equated in Japanese with “sexual equality,” or with the increasingly prevalent English term of “gender equality.” It is thought that the borrowed term, gender equality, communicates a different concept than what is meant by the Japanese terms used to describe these issues. The term came into common usage through social science after the majority of laws pertaining to sexual equality had already been put into place. Laws created after that time followed

the old laws in matters of language; this is used by conservatives to indicate that “gender issues” are not issues at all in Japanese society.

The following is a summary of The 156th Parliament Lower House session Education, Culture and Science Committee, in which Mariko Bando, the chief of the office for gender equality in the Management and Coordination Agency, replied to questions concerning the term “gender free” during parliamentary debate.<sup>3</sup>

Committee Chief Bando: I am not in the position to make a responsible answer. Because we cannot find the word of gender-free in fundamental laws or fundamental plans so I cannot explain about the definition. As we said in the former Parliament, the definition is different from the way we use the word gender-free. Some use it in the meaning of release from oppression and discrimination by gender. Some use it in the meaning of no distinction between male and female, being completely the same. So we don't use the word gender-free with many definitions officially.

Consequently the government has chosen to avoid the term called gender-free and a term called gender, if possible, because of its multiple meanings.

The government has asked foundations such as the Japan Women's Studies group to avoid the terms “gender” and “gender free” where possible, and encouraged the use of equivalent terms in Japanese and not make use of a foreign loan word. However it is very difficult to express gender using a single Japanese term, and therefore most groups have continued to use “gender” as a loan word.

However, conservative movements and the government have made use of this squabble over linguistic definitions to deprive the citizens of the advantages of using the newest social concepts for the formation of policies guaranteeing equality of men and women. The refusal of the government to make use of this word in official documents, or to come up with an official meaning for the term, not only represents an extreme reluctance to make use of the well-known adaptability of the Japanese language and its ability to absorb new words and concepts easily, but it also threatens citizens' freedom.

This issue is important to the revision of the Fundamental Law of Education which is being currently carried out. According to a public report of the Central Council for Education (March 20, 2003), it is proposed that in Article 5 the term “coeducation” be deleted, and in Article 1 and 2, which stipulate the aims of education, the term “contribution to the joint participation in society of men and women” should be inserted. In a recent public hearing about the revision of the Fundamental Law

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<sup>3</sup> The 156th Parliament Lower House session Education, Culture and Science Committee, Parliamentary minutes, vol. 02, February 2 2002.

of Education, a woman conservative took the podium, and she spoke of the need to revive the traditional image of the home and spoke critically of the over-quick progress of implementation of the concept of “contribution to the joint participation in society of men and women.” In the deliberations of the Central Education Council, the influence of the “gender-backlash” trend of 2002 is seen in the way that the idea “contribution to the joint participation in society of men and women” has been taken up not only in the context of losing the imbalance of the sex ratio in society but in the context of not asking for “equal rights for men and women” but for “the joint participation in society of men and women.”

The Central Education Council is concerned with revising the Fundamental Law of Education; therefore its debates on gender issues pertain to the rights of children. The current trend within the government is towards “separate but equal” education for boys and girls, or rather to allow separate education to be permitted where it does not interfere with the equal participation of men and women in society. This moves against Article 10 of Convention on the Elimination of Discriminations against Women, which asks for the elimination of all forms of discrimination against women, and encourages the implementation of coeducation with the aim of the abolition of concepts, such as the stereotyping of men’s and women’s roles, throughout educational systems

Japanese society still suffers from a deep-rooted resistance to the idea of sexual equality, although the concept has long been accepted internationally, though conditionally in many cultures. However it appears that, though Japan made progress in the 20th century in this field, there is now a conservative backlash which threatens the establishment of even more modern and internationalized educational policies.

In the Central Education Council (September 21, 2002) representatives of the Japan Federation of Bar Associations stated the clear necessity for coeducational regulation, in view of the present condition of children's consciousness. It is pointed out in Basic Report 7, section 77 that children are experiencing discrimination by sex at home and at school. Gender bias exists firmly even now in the world of the child; boys must “have courage” and it is all right for “girls to cry.” (Basic report 77) Therefore, the necessity of making positive advances to change the consciousness of gender issues and to further implement coeducation in public schools at least is clear. And the revision of the Fundamental Law of Education with the deletion of Article 5 is unnecessary. The government, however, presupposes that many schools are already coeducational, which assumption does not show any attempt to further existing reforms.

Under the reactionary attack on the equal participation in society of men and women which occurred in 2002, the attack on the coeducation system itself is performed on the basis of the opinion that the differences between men and women are the most important factor in determining suitable environments for education, and the authorization and selection of educational materials. This flies

in the face of statistical evidence that in the case of single sex schools, schools for boys in general see their graduates enter universities at a much higher rate than equivalent schools for girls. Saitama Prefectural public schools are an example of this: public high schools with high rates of successful entry into universities continue to be boys' schools. Stratification of high schools on the basis of entrance rates into tertiary education has been one of the obstacles in developing gender equality in education.

Positive steps in coeducational schools have recently begun to be retracted as well. In Tokyo city public schools, mixed name lists of boys and girls are now separated according to sex; students are asked to stand in line according to their student numbers, in name order at assemblies and group activities, and therefore always stand separately, boys and girls (Basic Report 4). The government has to show a firm attitude promoting coeducation vigorously, and has to take the measures to make sure that discriminatory rules and regulations are not made into law, in spite of reactionary attacks on educational policy.

## **Chapter 26 Gender discriminations in legislations and social systems**

### **A. Difference in legal age of marriage between boys and girls**

In the Civil Code, men may marry if they are aged 18 or over, and women may marry if they are aged 16 or over. There is thus a gap of 2 years in the age for legal marriage. The Second Government Report paragraph 86 says that the reason of this gap is that there is a difference in the degree of maturity of men and women, both physically and mentally, and that the age gap therefore does not conflict with Article 2 of the Convention. However, the reason given by the government for the age gap does not stand up to rational analysis. The degree of maturity required for marriage is not only physical and mental, but must also be partly the degree of social maturity. There is not very much social difference between men and women (boys and girls) at this age. The government policy is based on the thought that a woman isn't required to have social maturity since she is engaged in housekeeping, child-rearing at home, and on the assumption that a man works outside the home and a woman works at home. The government policy promotes stereotyped social roles for the sexes, which is clearly against Article 2 of the Convention, and also against the Convention on the Elimination of Discriminations against Women, which urges the establishment of the same legal age for marriage of men and women.

A reform bill to amend the civil law, unifying the legal age for marriage to 18 years for men and women, was submitted to the Legal Systems Investigation Commission in February, 1996. But this reform bill has not yet been presented to Parliament.

### **B. Discrimination against children born out of wedlock**

The Second Government Report, paragraph 138 states that the Civil Code describes the differences between "legitimate" and "illegitimate" children. A child born out of wedlock may inherit property on the death of a parent, but may only inherit half the amount due to a legitimate child. The Second Government Report states that "the difference in the portions of inheritance is set for the purpose of protecting a family consisting of a legally married couple and their children, which is not unreasonable discrimination." Why is the family, which consists of husband and wife, a unit materialized by legal marriage, and their child, "protected"? We may ask conversely, why is the child who is not legitimate unprotected? A rational reason for this doesn't appear to exist. Since discrimination by a child's birth and discrimination of the child by parents' status are clearly

forbidden in Article 2 of the Convention, it is clear that the protection of the family unit at the expense of the protection of the child has to be stopped. The government continues to insist that a real difference exists between a “legitimate” child and an “illegitimate” child and that the difference does not equate with discrimination. However, though the government by this seeks to protect the inheritance rights of legitimate family members, the greater risk to the child born out of wedlock has nothing to do with money, but with name and honor. A child born out of wedlock risks being labeled as such by society because of the conditions of the family registry system and the use of family names, and this label of illegitimacy affects a child throughout his or her life.

The Second Government Report mentions this issue, stating simply that the difference in the handling of a family register for “legitimate” and “illegitimate” children is not irrational. However when a child is born out of wedlock, the illegitimacy must be registered with the local authorities, and the child may not take the name of his or her father. Therefore a child who has the same name as his or her mother, different from the father or step-father, anyone can surmise that the child is “illegitimate.” Therefore, the privacy of the child’s personal data related to his or her birth will become public knowledge, and the child will not be protected from discrimination.

The difference between a legitimate child and an illegitimate child’s inheritance should be revised, and the discrimination in the handling of family register should also be canceled. In the reform bill of the Civil Code there is mention of a clause to revise “illegitimate” child’s inheritance and make it equal.

### **C. Compulsory single surnames of husbands and wives**

To secure the rights of children, it is important to revise the regulation which forces compulsory single surnames of husbands and wives and instead, to accept different surnames for married couples as an alternative. This point is not mentioned in the Second report of Japan. The overwhelming majority of women change their family name after marriage; it is discrimination against woman to make the change compulsory. The voices of women have been heard on this point, and the reform bill contains a repeal of the regulation. Seven years have passed but the bill has not been presented to the Diet. The reason is the policy of the party in power, the Liberal Democratic Party. The party policy is that a family's bonds become weaker when a country faces serious matters. The compulsory use of a single family name (the man’s name) could be carried out by revising the Family Registration Law, without changing the Civil code, according to the Liberal Democratic Party. This idea also has its opponents; according to Justice Minister Mayumi Moriyama, “while there may be some convenient points to having a family register name and a common name with a spouse, it would perhaps cause very much confusion and it may be used in a criminal activity.” (Lower House Standing Committee on Justice April 10, 2002)

The surnames of parents have a very important meaning when applied to the discrimination involving “illegitimate” or “legitimate” birth. These debates on the rights of legitimacy and illegitimacy have a long social history, and it appears that they are not over yet.<sup>4</sup> A child born out of wedlock may only take his or her mother's surname and not the parents' common surname. This allows discrimination against children born out of wedlock, who cannot hide their “illegitimacy” since it is revealed by the fact that most children are called by their father’s name, but illegitimate children are called by their mother’s name even if she is married. If different surnames for husbands and wives are realized, it will become not unusual for the surname of the parent to be different from the child’s. Discrimination by society will decrease. The existence of married couples with different surnames protects not only the privacy of the child’s birth, but also protects the privacy of the parents with regard to their marital status. It will no longer be easy to tell whether a child’s parents are married or common-law husband and wife, or divorced.

As mentioned above, in spite of the fact that the reform bill has been submitted to investigation by a government committee, the bill has not been brought before parliament. The reason for this is that the government has not made much effort to persuade governing party to view the issue from the viewpoints of women’s rights or children’s rights. The Second Government Report simply states the existing facts of legitimacy and the family register system and states that it is not ‘unreasonable discrimination’. Such a governmental attitude towards children’s rights should not be allowed.

#### **D. Converting the units of social welfare systems from Families to Individuals**

The government is gradually changing the main unit of social welfare and social systems into individual units (individual people) and away from family units. This is in line with the social master plan of allowing cooperative participation of men and women in society. The government has specifically designated that individuals’ lives and life-styles should become the new base for a gender-neutral system. Directives have been made to various legislative councils to change legal terminology away from the “household unit” and toward such terms as “per individual” in pensions and taxes.

However, although the “per individual” correction rectifies unfair taxes on “single parent homes” and rectifies unfair pension differences, it risks lowering the access of women and children to some

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<sup>4</sup> In Edo, and later in Meiji and Taisho and pre-war Showa eras, illegitimate children had a very different spectrum of rights than legitimate ones. In Pre-WWII Japan, there was an *ie* or house system. Under this system, a legitimate male child could inherit the house (his father’s property) but an illegitimate child could not. When a legitimate male heir was not available, an illegitimate child could be legally adopted into the family proper, and become the legal heir.

social services, as well as raising taxes overall.

In spite of this need to keep taxes, especially taxes on single parent families as low as possible, the first modification the government performed on the tax system was to abolish the deduction for spouses. This was accomplished without raising the basic individual tax deduction to compensate. The result is that there are fewer simple deductions available to two-parent families, and no advantage has been passed on to single-parent families. This results in the weakening of the economic strength of the home, which is children's life base. This is only one example of the way in which the use of the "individual" unit is being poorly implemented, resulting in a gradual worsening of conditions in households.

The use of the "individual" in social planning can only be accomplished by giving all people, single people, single parents, married people and married parents, the same rights to self-sufficiency, social security, and appropriate income support when needed. Issues such as a higher minimum wage, better working conditions and terms of employment for part-time workers, and more effective social services are all related to this. In this field the government's activities have not only been insufficient, they have also created many problems.

#### **E. Security of a single-parent home**

For the single parent and a child who are forced to live a restricted and depressed life, the "child rearing allowance" currently paid to single-mother households, can be said to be a lifeline. However, the government changed the child rearing allowance system as outlined in the Second Government Report. The yearly income limit, above which a household may not receive a child allowance, was raised from 3 million yen to 3.65 million. The amount paid was lowered for each income classification within this limit. Now, a single parent with an annual income of 2 million yen has had his or her child allowance reduced to 12,000 yen a month. By this the income of 330,000 single parents (mostly women) was reduced. At the end of 2002 the system changed yet again, for the worse; originally a child allowance was given until a child was 18. Now the allowance stops when a child reaches the age of 5, except in the case of disabled children. In 2003 the child allowance rate was adjusted downward to reflect the fall in consumer prices. Such a slash in welfare to single-parent homes must bring down the basic lifestyle of children and disturb their development.

#### **F. "Lost profits" benefits when a child is accidentally killed**

When a child is killed accidentally, the compensation given to the surviving family is very different



for boys and girls. This is related to the difference in the lost profits, or the projected profits that the child would have made if he or she had grown up, worked, and earned wages. The level of compensation is different as a matter of course in the judicial precedents. The calculation of a boy's lost profits is based on men's average wages, and in the case of a girl, it is calculated on women's. The wage differential between men and women in Japan is remarkably large, compared with many other countries, a woman's average wages being about half a man's. In a sense it is inevitable that there should be some difference in the calculation of lost profits for girls and boys, since it is simply the result of the gender gap in wages which exists among adults. But the surviving relatives of a girl cannot be convinced of the rationality of a different price for the life of a girl and a boy. This situation is clearly irrational sexual discrimination.

In recent years some lower courts have made some decisions in which the average wages of "all laborers" instead of just those of women were used as the basis of calculation of the lost profits of a girl and a sign of improvement was seen. But in July, 2002 the Supreme Court dismissed petitions to revise judgments using the average wages of women, and instead to use the average wages of all workers. This decision failed to uphold the trend of calculating the lost profits for a girl according to the wages of all laborers, and instead indicates approval for the calculation of lost profits using the average wages of women only.

Because the Supreme Court has the mission to uphold the constitution and to realize equality under law, the judgment should have shown that all laborers' average wages should be used, thus lessening the gap between girls and boys. Under the present circumstances there is a gap between the average wages of men and women; however, whether a child is a boy or a girl, there should be no artificial limit set on the potential wages such a child might earn in the future. Logically the lost profits calculations for both boys and girls should be based on the wages for all laborers. However, in spite of the Judicial System's attempts to implement in-service training on the Convention and related children's rights issues as mentioned in Paragraph 50 of the Second Report of Japan, the above judgment indicates that the training is still very inadequate.

## **Chapter 27 Education for human sexuality**

### **A. The factors that make youth sexually active**

According to the 2002 survey conducted by a group of teachers in Tokyo who study sex education, the rate of the 12<sup>th</sup> graders girls who had experienced a sexual intercourse increased to reach 45.6%, whereas that of the boys came down slightly to 37.3%. The rate of the girls has constantly surpassed that of the boys since 1996. The reason may be that a senior high school girl is regarded as an object of sexual interest by many men, and has many chances to have sexual intimacy. For example, the girls' rate of having sexual intimacy "with students in upper grades" is 7.1%, while that of the boys is only 1.4%. The rate "with adults" reaches as much as 12.3% for girls, much higher than the 4.3% rate for boys, while there is little difference between the rates "with high school students," girls reporting 50.7% and boys 54.2%. (Basic Report 45)

Another issue is the number of sexual partners. The Health and Welfare Ministry HIV Infection Research Team has revealed that among women, the younger generation has a stronger tendency to have several sexual partners than the older. Also, the survey revealed that young girls are unlikely to have sexual intimacy with sexual workers, something more common in men in their 30s and 40. A variety of social problems arises with such a sexually active youth population.

To analyze those problems, we must consider the excessive amount of information about sex which is easily available to youth through modern technology and how this influences the healthy growth of children.

Dating service websites are a serious problem. An increasing number of sex-crimes and adult intercourse with minors has occurred through acquaintances struck up through dating service websites, which exist on the internet and are accessible through computers or mobile phones.

The Mainichi Newspaper (evening edition, August 22, 2002) reported that there were 793 cases of sexual misconduct involving minors related to dating service websites or other websites in the current year from January to June, and that the number of the crimes showed a 2.6 times increase over the same period of the previous year. Half of the cases amounted to child prostitution, an increase of 3 times, and murders and burglaries also occurred. The number of female victims was 647 out of 692 (more than 90%), including 335 senior high school girls and 173 junior high school girls.

Admitting the benefits of websites that allow new relationships between people, it is clear that the internet threatens certain populations, in particular female children.

The younger generation is much more positive in using the internet, while the older generation is awkward in its use, which makes older people and people in authority somehow reluctant to control young people in this field. It is an urgent task for adults to become experienced in using the system, and to establish ways of educating youth in the safe use of the internet. (Basic Report 18)

There are several sources for youth to get information about sexual matters. Most high School students get such information from friends. Elementary school students get information mostly from school. Boys get it from magazines and the mass media, a fact which shows the strong influence of the mass media in matters of sex.

Dr. Junko Uchiyama, professor at Mejiro University investigated all the cases of “rapes” and “indecent assaults” that the Police listed up from October 1997 to January 1998, trying to make clear profiles of those who committed such crimes. According to her research, we can see that 50% of juveniles arrested on the case of rape and 48% of cases of indecent assault commented that they were trying to imitate some pornographic film. This shows the shockingly great influence of pornographic films on juveniles, compared to adults.

Another issue is compensated dating, or *enjo kosai*. This is an ambivalent issue, because it appears in many instances that the young women involved initiated the contact. It is a kind of dating in which an adult man gives his partner a small allowance or gifts, and in return she gives him company, often leading to a sexual encounter. This is classed with child prostitution, and the girls involved in it are labeled as “immoral” and “only in it for the money.” While some of the young women may be guilty of entrepreneurial child prostitution, and should be treated under the relevant articles of the juvenile law, the surface facts do not reveal what is actually going on

It is safe to surmise that girls in this situation often have personal troubles, based on their lives, their schools, or their families. They lack the self esteem which should have become naturally theirs through sound upbringing, education and contact with friends. There is some evidence that some of them have experienced some kind of sexual abuse at a younger age. Such an experience cannot be overcome unless it is revealed to trusted people and spoken of to others (though it requires great courage to do so), so such trauma tends to be stored secretly inside of the victim and causes various psychological problems. Victims, who try to make themselves believe their disgusting experiences to be nightmares, have the potential to have nervous diseases.

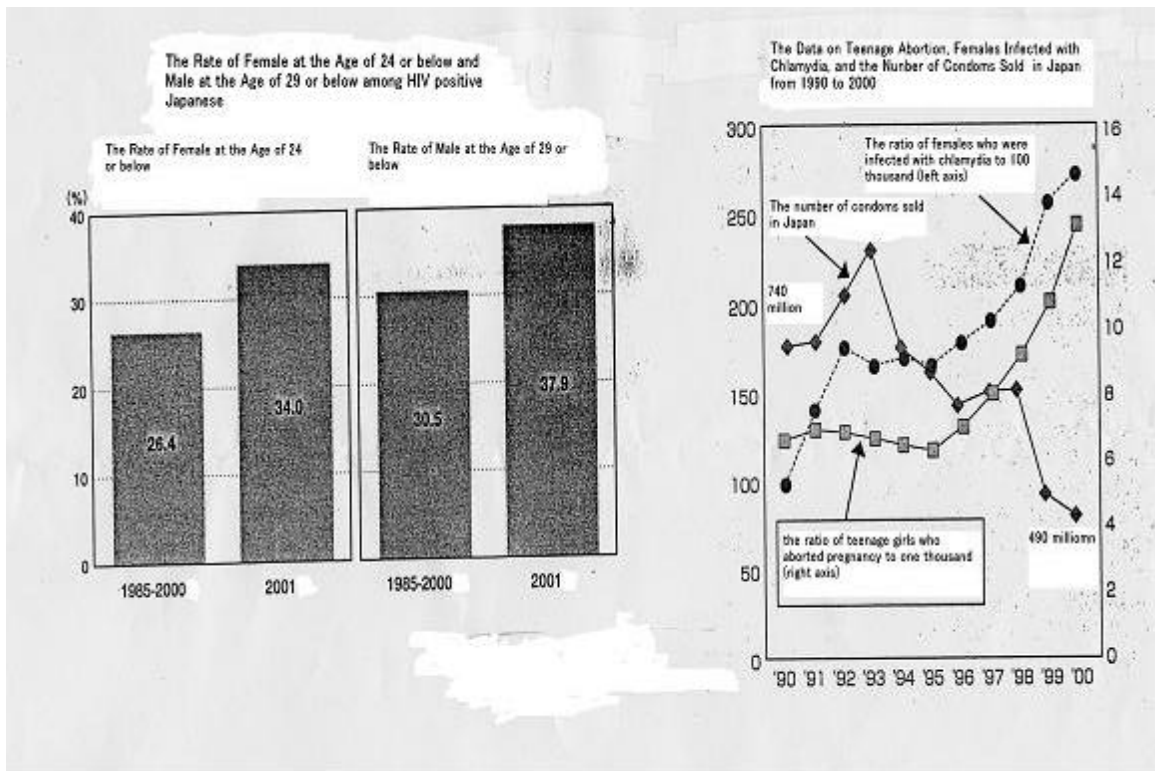
Some of the victims even tend to be sexually active in spite of the fear and disgust they feel related to

sex. They may look like they feel positive about sex, but are actually negative. Rather than communicate with others through sex or other means, and have a single steady partner, they tend to escape from steady relationships and change partners frequently. Sometimes they seem addicted to sex, with the condition that it is always with different partners and has no emotional relationship. This leads not to healthy sexual maturity, but to an unhealthy and immature sexual development which hides psychosis. This only highlights the need to keep all children safe from abuse and to allow them to grow up healthy, without being pressured for sex.

## **B. Increase of sexually transmitted diseases**

As the juveniles are becoming more likely to have sexual intercourse they become more likely to contract sexually transmitted diseases. The Chart on the next page shows us the increase of STDs among juveniles, especially Chlamydia. The causes of the increase are that the juveniles tend to experience sexual intercourse earlier, and to have more sexual partners than before, and they rarely make use of condoms or other protective devices. While some juveniles appear to know that condoms prevent pregnancy, they do not use them and thus there are ever increasing numbers of abortions in young women. Very few youth appear to know that condoms also help prevent the transmission of sexual diseases.

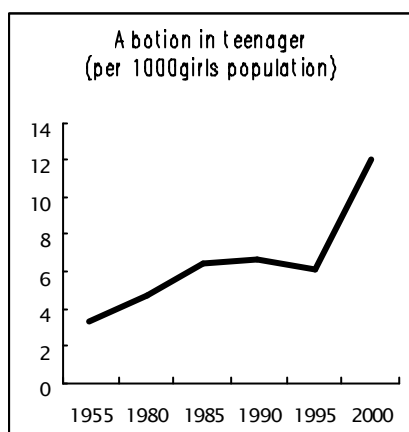
STDs are still generally labeled as being diseases of prostitutes and those who have contact with them. This prevents young people from going to a medical institution when they think they have a problem. It is necessary to create an atmosphere in which youth know what to do, and that the issue is not considered a moral problem but one of health sanitation. Young people must become informed and able to protect themselves from contracting STDs.



The table above shows the number of HIV positives Japanese classified by sex and age 1985 – 1998. Considering the fact that the incubation period is 8~10 years, around 30% of them are considered to have contracted the AIDS virus as teenagers. Many of them were not aware of their being infected, spent years in ignorance and had more sexual intercourse. They not only didn't have any concept that they needed to use preventative measures or refrain from contact, and thus have helped widen the spread of the disease.

Most people are ignorant of the reason for the increase of HIV positives. Very few people realize that the cause was adults who neglected to inform youth of the danger, or insist on protective measures. STDs have spread among youth as a direct result of the actions of adults (Basic Report 18)

## C. Abortion



The chart on the left shows the recent increase of abortions carried out on young women. Teenage girls know how difficult it is to raise a child, and choose abortion for this reason in many cases. However, the pregnancies would have been avoidable if young women were informed of methods to prevent pregnancy and allowed to use these methods, and given enough self esteem to insist that their partners use them as well.

The reality is, though the rate of using contraceptives is decreasing, young people are experiencing ever more sexual intercourse. The number of incidents of Chlamydia and that of abortions are increasing almost at the same rate. The sales of condoms continue to drop.

The main reason for this phenomenon is inadequate knowledge. Only about 30% of senior high schools have classes to teach how to use a condom. On the other hand, as Masahiro and Masako Kihara mentioned in their report (Health Study February 2003), some local authorities actually have rules which prohibit the easy access to condoms, removing vending machines (Basic Report 45)

The obstacles for teenagers to get condom are many. In rural districts, the clerks in shops are often neighbors. There are many schools that prohibit students to carry condoms specifically. Mistaken local barriers and lack of consideration by adults may be another reason for the current decrease in condom use.

There is another factor much more important, which relates to the theme in the next chapter, which is the unequal power relation between males and females. This leads to cases of unwilling or compelled sexual intercourse, broken down roughly into sexual abuse by a family member or person in authority, unwilling intercourse which is compensated with money or gifts, and rapes, including date rape. The fact that senior high school girls who have intercourse frequently have it with an adult, a person with greater economic power and physical strength suggests existence of inequality.

Gender bias is considered to be the cause of the inequality. There are, of course, some differences between the sexes, in feeling and expressing sexual desire, which are cultivated in society. In spite of those differences, females, as well as males, should be allowed to express their own wills more clearly. The most important tool for them to do so is sex education, not only in schools but in the home, and the thorough teaching of how to negotiate for using contraceptive devices, not only to prevent pregnancy but to prevent the transmission of STDs (Basic Report 45).

### D. Increase of sexual abuse

The Mainichi Newspaper reported that there is a rapid increase in cases of indecent assault, with a data of 9,326 cases in 2001 (26% higher than 2000), three times higher than ten years before (July 28, 2002). As for rapes, more than 2,000 cases occurred both in 2001 and 2002. The victims are frequently teenagers: 41% of the victims of indecent assaults are 13~19 years old and 21% is elementary children. 44% of the victims of rapes are 13~19, much higher than other age groups.

The Table below shows the number of child abuse cases which were counseled and managed at child guidance centers. The fact is becoming clear that “home” is not always a safe place to live any more. The number more than doubled within two years from 1997. The rate of physical abuse is

The number of cases of child abuse handled by Child Guidance Center 1997 to 1999

	total	physical abuse	neglect	sexual abuse	psychological abuse
1997	5,352	2,780	1,728	311	458
	100%	51.90%	32.30%	5.80%	8.60%
1998	6,932	3,673	2,213	395	650
	100%	53.00%	31.90%	5.70%	9.40%
1999	11,631	9,337	3,441	590	1,627
	100%	51.30%	29.60%	5.10%	14.00%

remarkably high. The rate of sexual abuse is low. But, considering the fact that the victims of sexual abuse have strong tendency to hide the case, this figure show the pit of the iceberg. There are still a much greater number of hidden cases.

Takako Yoshida, in her book titled “Children Victimized by Sex Crime and Abuse,” describes certain patterns in sexual abuse in Japan. Chart 2 and Chart 3 are taken from her research, which was based on data gathered by the Physical and Psychological Health of Children and Family Members Research Group.

The Table in the next page (on the left) shows that 15.6% of females and 5.7% of males experienced some kind of sexual abuse when they were under the age of 12. These are only the revealed cases, which leads to the assumption that there are a very large number of cases of sexual abuse of minors in Japan.

the number of females and males who had an experience of sexual abuse before they graduated elementary schools

Do you have an experience of	the number and the rate of children who said yes to a question	
	girls	boys
being peeped at when you took bath?	28 2.20%	9 3.00%
being showed someone's nixed body or genital organs?	117 9.10%	4 1.30%
being touched by someone on your body in a train or a bus?	25 2.00%	1 0.30%
being touched by someone to your breast against your will?	65 5.10%	0 0.00%
being taken photos of your naked body or body with underwear?	1 0.80%	0 0.00%
being showed by someone pornography or adult video?	3 0.20%	2 0.60%
being kissed by someone against your will?	26 2.00%	0 0.00%
being touched by someone on your genital organ against your will?	49 3.90%	1 0.30%
being forced to touch his/her genital organ?	22 1.70%	0 0.00%
being forced to watch their sexual intercourse?	1 0.10%	0 0.00%
coming near to be raped?	8 0.20%	0 0.00%
of bein raped?	3 0.20%	0 0.00%
the number of elementary school students who said yes to one or more of above questions	200 15.60%	17 5.70%

What type of sexual abuse did most seriously affect you?

	girls	boys
being peeped at when I took bath	0 0%	0 0%
being showed someone's naked body or genital organs	26 22.20%	2 50%
being touched by someone on myr body in a train or a bus	11 44.00%	0 0%
being touched by someone to my breast against my will	25 36.70%	0 0%
being taken photos of my naked body or body with underwear	0 0.00%	0 0%
being showed by someone pornography or adult video	0 0.00%	0 0%
being kissed by someone against mu will	2 7.70%	0 0%
being touched by someone on my genital organ against my will	20 40.80%	0 0%
being forced to touch his/her genital organ	5 22.70%	0 0%
being forced to watch their sexual intercourse	0 0.00%	0 0%
coming near to be raped	3 37.50%	0 0%
of bein raped	2 66.70%	0 0%

The Table at the upper right shows some of the inner feelings of those who have experienced sexual abuse. Rape is the worst of the experiences reported a fact not at all hard to understand. However the second worst item is touching the body of the victim. This kind of action is often overlooked in society, and is the sort of crime which is frequent in daily life. Recently, however, owing to police campaigns, more people are beginning to regard those indecent assaults as crimes. More positive steps must be taken, however, such as providing more counseling to victims to help them recover their psychological health, and stop the vicious circle of the abused people becoming abusers in the future.



### E. Backlash against Education for bringing up children into individuals who can independently exercise their sexual rights

What should the sex education be?

the rate of teenagers who agree to a proposal	
Teachers should teach what is dangerous as dangerous candidly.	88.90%
Teachers should not hesitate to teach sexuality.	87.20%
If teachers tell us their own experiences, class will be more interesting.	78.10%
Teachers should teach us where we can see counselors or which hospital we should go.	77.10%
Teachers should be more serious.	74.40%
The message that junior high or high school students should not have sexual intercourse does not reflect the reality.	62.60%
Students should receive sex education repeatedly.	55.00%
Teachers should teach us the correct way to use condom	50.30%
Boys and girls should receive sex education separately.	27.20%

The Table on the left shows data collected by the Ministry of Health, Labor and Welfare. Young people stated that current sexual education is not effective, mainly because it relies on teaching them not to have sexual intercourse, instead of recognizing the actual lives and lifestyles of the teenagers.

In 2002 some conservative groups in cooperation with some newspapers began a movement to criticize the current sex education curriculum. They insist that it is wrong to explain matters of sex to young children and blame youth sex on sex education in schools. For example, a paper devoted an article to an opinion of a parent, who censured a school for teaching the name of sex organs like “penis” and ”vagina” and for explaining sexual intercourse to children. It was quite strange that they didn’t collect data, nor had interviews to the teachers who had organized the class. Not only papers but also some

local assemblies called the matter to question.

It is not wrong, of course, to discuss matters of education in public, but it is very dangerous to censure the schools on their curricula without asking teachers’ opinions. In fact, the current movements have influenced schools already, as some teachers have become reluctant to teach sex education because of the controversy.

These attacks on sex education have some purpose, which may be seen through an analysis of the actions of various conservative groups over the last year. The kick-off was an attack in parliament by Eriko Yamatani on “Love and Body Book for Adolescents.” The book was criticized as if it were a dangerous new publication, though it had been published and used for two years. The central controversy was the explanation of the contraceptive pill for women, and the book was accused of encouraging its use, though the book actually informed readers that it was not available without a prescription. Member Yamatani also insisted that the book encouraged children to be sexually active. The Minister of Education agreed to ask the group which published the book to withdraw it voluntarily. The book was subsequently withdrawn.

This was followed by a concerted series of attacks on sex education at the Prefectural and local levels, which have begun to interfere with local government efforts to implement rules encouraging greater gender equality for children and adults. Most attacks center on the idea that the differences between the sexes should be given greater emphasis, and that this will result in abolishing existing inequalities. The movement now has shifted its attack strategy and is focusing on banning abortion, often the last resort for young women who have not been given access to contraceptives or informed of their correct and appropriate use. This amounts to an attack to the right of choice.

The content and the term of this kind of attack are closely related a theory of education based on stoicism, meaning that it is enough to simply tell children to abstain from sex until marriage. This and the proposal to ban abortion are similar to American Republican Party policies. The reforms proposed are based on a ‘traditional’ view of the female, which in Japan is generally one in which normal women do not take initiative in sexual matters. A return to “traditional” values in Japan means a return to a man-centered society, in which the sexual initiative of women is suppressed and the sexual feelings of children are not recognized. This is beginning to have a seriously negative impact on sex education, and threatens the rights of women and children at the expense of the rights of men. It is important to educate children about their bodies and sexuality, give them autonomy and the power of choice, and the ability to protect themselves from abuse and sexual disease, and not to deprive them of any education or other human rights.

The Ministry of Education would rather restrict than to recommend the development of education for human sexuality at school. The Government’s Course of Study is often referred to in cases of restricting certain educational efforts. Although the document is being interpreted as providing only a minimum of guidance these days, teachers now face criticism for any deviation, and called extreme if they teach other materials. When the Ministry, boards of education and principals criticized by parents or the general public, they tend to simply defend themselves and act to restrict the criticized program or textbook. It seems as if the Ministry itself is without any standards.

A more effective way to deal with criticism is to discuss these matters sufficiently, in public, and to and support valid educational efforts. The Ministry should permit teachers to do their own research, and further develop their abilities and knowledge of their subject, as very few have been given the chance to train in the field of sex education. These teachers are facing the reality that many teenagers are sexually active, and there are many cases of unwilling conception and contraction of sexually transmitted diseases. It is a most urgent task to improve sex education, for the sake of the children.

## **F. Understanding of Sexual Minorities**

There has been until recently that people are clearly divided into only two sexes, and any other sexual orientation has been labeled as deviant. It has been believed that sexual interest only occurs between the sexes, but now it becomes clear that various types of sexuality exist. It is not only the case of adults, but of children. It means that we should aware that children have with various types of sexuality.

We should consider it as a new subject of education for human sexuality, to prevent prejudice and discrimination. There are many people who have a complex about their gender identity, or hide their true feeling for fear of being discriminated against. To our regret, this kind of problem is not considered seriously even at school, and sometimes cases of infringement of human rights do occur. Estimation of variety of sexuality is a new and important aim for us to achieve.

## **Chapter 28 Schools lead to the return of gender bias**

### **A. The return of gender bias in the restructuring of junior and senior high schools**

When the post World War 2 period of restructuring of schools came to a close, there were still separate public schools in the North Kanto, Tohoku and Chubu regions. In the 1970s the number of students continuing to tertiary education increased dramatically, which caused an increase in the number of new schools constructed. At this time a trend to turn public schools coeducational began. (Hashimoto Noriko, Historical Research on Separate Education of Boys and Girls. Otsuki Shoten, May 1992) This trend gathered momentum through the 90s, and at this time about 85% of schools are coeducational. (Basic Report 57). However, Gunma and Saitama Prefectures have lagged significantly behind this trend.

The recent policy on the diversification of high school education has reproduced gender bias in education. As the measure to diversify the high schools, the credit-system high schools were introduced to evening high schools in 1988 and to ordinary high schools in 1993. And the general-curriculum high schools were introduced in 1994. More girls than boys tend to go to these new types of high schools. This is compared with boys, who make up the greater number of those who work after graduating from Junior High Schools or attend night schools or other part-time institutions. In the Polytechnic schools girls continue to be the majority in commercial schools whereas boys fill places in industrial arts schools. The gender bias in career development in the school system has been strengthened as the diversification policy has been carried out. Tokyo metropolitan government is now considering abolishing the quota system in which the seats in each high school are allocated equally for boys and girls, and instead introducing the system in which all the seats are allocated only based on the test scores. This plan will result in losing the balance between the number of boy and that of girls in each high school.

There still remains the gender bias in career development of boys and girls. For example, the number of boys who continue to graduate from University was 187,569 and girls 124,881; boys graduating from High School were 135,196 whereas girls were 109,309 in 2002. The government needs to stop its policy on diversifying the educational system, and include on its agenda better systems for assuring that more girls are able to graduate from high school and enter university, to address this clear statistical bias.

## **B. Returning some curricula to separate classes for boys and girls**

There are many issues still to deal with involving gender bias in school curricula and textbooks at the junior and senior high school levels. Gender bias is a major drag on the momentum for bettering education and schools.

In the 1990s some steps were taken to give girls and boys sex education classes and home economics classes coeducationally. These were only the first steps in what should have been a growing tendency.

Against the background of the increase in AIDS, teenage sex and abortion, the revised Course of Study of 1989 set sex education to be addressed in elementary school health programs, junior high school health and PE programs, and in high schools in the combined Health, PE and Home Economics departments. The curriculum was set to cover menstruation, fertilization and childbirth, without actually mentioning sexual intercourse or the names of the sex organs. The curriculum hesitated to cover the issue of sexual intercourse as pleasure, and thus treated the issues of abortion and miscarriage as well as AIDS slightly. Instead, the importance of life and motherhood were taught as items of major importance. The revised Course of Study of 1999 adopted the same approach. In this environment it is not surprising that 33% of schools in Osaka prefecture give separate instruction to boys and girls on sex education and health matters.

When the government ratified the Women's Conventions, it made home economics coeducational in 1985. But in 1989 the law was adjusted to allow schools to permit separate instruction and even separate curricula for boys and girls in this subject. High Schools developed a set of elective courses, called Ordinary Domestic Science (4 credits), Ordinary Lifestyle Science (4 credits) and Lifestyle Techniques (4 credits). The latter two curricula emphasize techniques for improving the overall lifestyle of the students, at the expense of teaching about the importance of life and families. These were taken up by boys' schools, whereas girls tended to be advised to take Ordinary Domestic Science. (Society for Promoting Coeducation in Home Economics Studies, Home Economics, Girls and Boys Too. Domesu Shuppan, August 1997)

In 1998 Ordinary Domestic Science became Basic Domestic Science, and the number of credits offered dropped from 4 to 2. Lifestyle Techniques was retained, and a new subject, General Domestic Science, was added (4 credits). Schools preparing children for universities generally dropped the number of credits for home economics courses to 2 and lowered the overall offerings. Home economics was seen as a subject unrelated to academic advancement, but also reflected the tendency of schools to show little concern about the overall lifestyles of their students. Junior High Schools frequently have no teacher specifically for industrial arts or home economics. Of the two, industrial arts teachers are employed more frequently, and often schools are unable to offer home

economics instruction at all.

Physical education is a major area in which gender bias exists and in which boys and girls are frequently separated for purposes of instruction. Girls' PE curricula were limited after World War 2 on the grounds that females (future mothers) should be protected. PE became centered on a "better, stronger, faster" mentality, and Western sports emphasizing male competitiveness and sports for boys were given priority. This trend was to some extent redirected in 1989 when school systems were given the option of making a variety of alternative subjects available on an elective basis in PE, to both sexes. Dance, martial arts and other activities could be taught to both boys and girls. However this system has not been put into practice in many areas. This may be the reason that girls tend to state that they are not good at PE (9.0%; boys are 5.4%) or say that PE is their most hated subject (9.0%; boys are 4.4%). More boys than girls have experience of team sports (Junior High boys 76.1%, High school boys 67.0%; Junior high girls 68.3%, High school girls 43.3%). The gap between the sexes is obviously widening. (Basic Report 57)

### **C. Gender Gaps in School Subjects**

At the University level, much improvement has been achieved in narrowing gender gaps in a number of specialized subjects. However in the hard sciences and technology, only 7.5% of women students enroll in this subject whereas 31.2% of male students study this area. In Literature and the humanities 30.2% of women students enroll, whereas only 8.7% of male students take this subject. 29.3% of female students major in Social Sciences, whereas 46.1% of male students major in this subject (Basic Report 57). Girls still consider themselves to be bad at or dislike subjects such as math and be good at English, Japanese Language and Art, whereas boys are "bad at" Japanese language but 'good at' math, geology, social science and the hard sciences.

The background for this is the different expectations placed on girls and boys by society. Girls are still thought to be "boyish" or strange if they like science, whereas boys are expected to like science since they may someday become scientists and have jobs related to science. (Basic Report 57) This may lead to the expectation that children are taught this societal expectation, but such is not the case. It is simply that girls are expected to need education of their emotions and their words, whereas boys need training in logical thinking and science.

### **D. Gender Bias in School Rules and Customs**

In the past it has been the rule in coeducational schools to list boys and girls separately on attendance and records lists. This custom was changed, and as of 2000 46.6% of elementary schools, 28.7% of

Junior high schools and 55.3% of high schools listed students in syllabic order without dividing boys and girls into separate lists. (Women's Department, Japan Teacher's Union, 2000) Reports have mentioned that the mixed lists have been having the effect of allowing boys and girls to exercise their talents appropriately within school life and settle into roles they can fulfill without reference to their gender. (Basic Report 4) It is hoped that Junior high schools, where education occurs as students are becoming aware of sex and gender, will make progress in implementing this effective means of relieving gender bias as soon as possible.

Dress codes show a degree of gender bias. Dress codes were meant to replace mandatory school uniforms with the opportunity to dress relatively freely for school. However dress codes in practice are administered pretty much the same way that the uniform systems are. Girls are required to wear skirts, and boys long pants. This basic gender division is applied at a time when teens are becoming aware of gender and sex, and places undue emphasis on traditional gender stereotypes and social roles. Recently, when some girls petitioned schools or school systems to wear trousers or jeans to school instead of skirts, the schools not only refused to consider their request, but the local authorities took up the question and the opinion was aired that students were not ready for dress codes yet, and the system converted back to uniforms.

Boys find little controversy about their clothes; they are only ever given the option of wearing trousers. This reflects the current social stereotype that "it is mostly the boys who go to work," and the boys are the future economic soldiers. Boys are thus taught their gender roles from Junior high school, almost as part of the curriculum. In order to cultivate gender equality from a young age, we feel that school systems should have the courage to get rid of school uniforms, and replace them with dress codes, under which students may actually wear their own clothes freely without the forced application of gender stereotypes. Positive action on this question has not been made, either by local authorities or by the Ministry of Education.

Gender bias also appears in the student councils and other aspects of student self-government. A Benesse survey of students asked about "roles good for girls or boys." (Benesse Education Research Institute, Monograph High School Students, 1997 vol. 50; additional information from Women's Data Book, 1999 issue.) The survey revealed that students feel that boys do better in roles such as collecting cardboard boxes for use in the school festival, head of (coed) clubs, Student Council President, Yearbook Council Chairman, doing computer work (supporting student activities). Girls, on the other hand, are "better at" Student Council Vice President, Class Committee Vice Leader, decorating the classrooms for the school festival, correcting and editing student publications. Leadership roles and roles requiring strength or running computers or machinery go to boys; performance, language and art related roles go to girls, along with subsidiary roles. There is little instruction from schools about this. In club activities, female 'managers' are required to take care of the needs of the male "members," and there is little consciousness among the children themselves

that this may be unfair. (Basic Reports 57 and 45).

In Toyama City in 2002, the city instructed city schools to serve larger rolls and pieces of bread to boys than to girls in the school lunches. The boys' portions were larger than the federally prescribed norm; the girls' portions were somewhat lower.

Students receive counseling and instruction about their futures from school staff. At this point the lack of ambitions for their daughters is evident among parents, making a clear divergence in the paths of girls and boys from junior high school. Roughly 64% of parents want their boys to go on to tertiary education, whereas only about 43% wish their daughters to do so. Other related data indicate that schools do not make efforts to promote girls entering 4-year institutions.

### **E. Gender Issues Not Addressed in the National Course of Study**

The lack of treatment of gender issues in textbooks is directly related to the Education Ministry's lack of gender awareness in the National Course of Study. This lack was mentioned in the Ienaga Textbook Trial as being part of the apparent unconstitutionality of the current textbook approval system. The resulting textbooks show a general lack of the history of people, and the roles of the weak and the victims, roles usually filled by women, are rarely treated. The history of families, human rights and other issues are related and likewise given relatively scant treatment.

This did not change with the Revised National Course of Study of 1998. There was an increase in the treatment of lifestyles, daily life and family history in world and Japanese history textbooks, thanks to the Revised National Course of Study. However these do not amount to treatments of gender issues, rather amount to supporting evidence to help understanding of "comparative cultural studies" or "special aspects of Japanese traditions and culture." Family issues are only taken up in relation to other issues, such as the low birthrate/ aged society, and not given special treatment separately. Home Economics limits itself to describing modern family structures, and does not go into the history which explains how the present structure came about or its advantages or flaws.

History curricula touch on famous people in history in the 6th grade of elementary school, but only 3 of the famous people treated in official textbooks are women, and those from ancient or medieval history. Junior high schools are just as lacking in gender role analysis or the history of women and families. One part of civic history seeks to teach students "the importance of the individual within family structures and true equality of the sexes," but in practice this becomes local history studies or the social roles of families. Another part of the Course of Study indicates that schools must teach "the unique aspects of our culture...and help them realize their importance as citizens." This becomes in practice the teaching of Japanese traditional culture, which is then overlaid by Western



culture, without any attempt to analyze related gender issues. The abolition of discrimination against women and the Convention on the Rights of the Child are not mentioned in the National Course of Study. Home Economics has a section called “Families and Family Life” but teaching “the self, growing up in a family and relating families to family life” is the overall goal, and the concentration is on babies and young children and how families cope with them. No attempt is made to introduce relevant gender issues.

## **F. Gender Bias and the Approved Textbooks**

The textbook approval process changed somewhat under the new directive. In 2001, History and Civics textbook approvals were put in a very bad light by the approval of the Japanese Society for History Textbook Reform’s History and Civics textbooks. Examples of extreme gender bias appeared in both volumes. In the history text, there was evidence of a twisted vision of women and attempts to rewrite history. In particular aspects of the old Imperial system which left modern social problems such as discrimination of women as a carry over from the old family system, public prostitution, female war labor, comfort women, were pointedly rubbed out. No mention is made of the government’s major social plan for Gender Equality, or of the Women’s Convention. Some mention is made of human rights, but the rights to gender equality are not treated. The civics textbook indicates that it is natural for people to divide labor according to sex, and “though housework is unpaid, it represents the creation of connections with people, which cannot be bought with money; women are the ones who bear this burden.” The books are imperialist, and nationalistic, and in this way would only provide impetus to the gender backlash and increase gender bias.

The books were not taken up in schools, but they had the effect of beginning a very strange trend. The comfort women issue is now only treated in one approved history textbook; all other publishers have excised the issue. (Basic Report 1) This was not an action on the part of the Minister; the companies took the step on their own. Textbooks are becoming all of a kind through the self censorship which fears even the slightest air of controversy; the textbooks are becoming unanimous in avoiding gender issues, human rights and peace issues, which relates directly to the gradual decrease in serious treatment of gender issues.

Similar problems exist in Home Economics textbooks in sections related to men and women taking part in family life together, children’s welfare, care of the aged. These issues are treated lightly, and mostly from the legal or practical side, and this leads to limitation on the treatment of human rights in relation to families and family life. In the textbook approvals in 1997 and 2001, many textbooks received disapproval of certain sections involving family structures, and books were criticized for mentioning the public movement to approve different names for husbands and wives, and a family

centered philosophy was forced on the publishers.

### **G. The Hidden Gender Bias in Textbooks**

The problem is not only with the National Course of Study, but also in the places where textbooks are constructed, in the publishers and the societies that originate them. The majority of these have a heavy degree of gender bias. The number of female editors is very low; so is the number of writers of books or sections thereof. The writers of these textbooks are often University professors, and there are a low number of women in tenured positions. However textbooks also make use of sections prepared by fellow researchers and actual teachers, so the number of women being low in this segment of the textbook construction process points to a problem.

Textbooks tend to present subject words for boys (*boku, ore, etc.*) while allowing the subject to disappear for women. In translated subjects, such as Chinese classics, the translations are almost exclusively from texts written by men. Illustrations are generally of men and male activities. (Basic Report 57)

### **H. Corporal Punishment and Gender**

Although teachers are banned from using corporal punishment in Japan, there are still cases in ordinary school life. Particularly in cases involving well-built junior-high and high school male student, teachers tend to use corporal punishment in order to reform their bad conduct, often answering violence with violence. (Basic Report 45) The reasons why teachers resort to corporal punishment is the fact that there are a significant number of bullying cases in the schools and schools are frequently resorting to suspension from school as a punishment, and when they cannot they have to deal with the student within the schools.

Regarding bullying, if we look at the figures of bullying occurring at primary schools in the fiscal 2000, there are no clear differences between genders at the sixth grade level; 1421 cases were committed by boys while 1228 cases by girls. But in the eighth grade, there were 4052 cases by boys and 2960 cases by girls. That means 57 % of the total eighth grade bullying cases were by male student. And in the ninth grade, the proportion of male student rises to 65% of the total cases, with 916 by boys and 415 by girls.

Suspension measures are taken when it is proved that bad conduct of a student causes any inconvenience educationally to fellow student. The figures reported in fiscal 2000 are 49 cases of boys (89.1%) and 6 cases of girls (10.9 %). (Primary & Secondary Education Bureau, Current Issues

regarding conduct of student & Policies of Ministry of Education, 2002). It showed that nine times as many boys as girls were suspended. The gap between genders corresponds with the results of the data taken in and after 1985.

As for the violent intimidation used on boys by teachers, their teaching style itself has to be questioned first. In the process of doing so, it is vital for teachers to discover why boys aged over 12 years old feel more stress at school and to implement more effective measures to help those student to clear the stress as quickly as they can.

### **I. Sexual Harassment at School: Lagging Preventative Actions**

Sexual harassment against women at the work place was recognized as a problem some time ago, and the government enacted the revised Equal Employment Opportunity Law in April 1999 as a measure to curb the problem. The Education Ministry followed up with the Education Ministry's Provisions to Stop Sexual Harassment at Schools and instructed schools to deal with the problem at last. The reality at schools is coming to light. 115 teachers in the fiscal 1999 and 141 in the fiscal 2000 were dismissed for acts of obscenity. The reported figures are high and increasing but they are just the tip of the iceberg. (Basic Report 44)

So far student claims vary: body checks including inappropriate actions; touching; kissing; bullying and intimidation from a teacher or teachers; being forced to remove underwear, teachers "checking" underwear, clothing, and belongings; violence from a teacher/s; attempted rape; rape. (Kadono Haruko, Sexual Harassment at schools – Broken hearts and bodies of children. Gakuyosha, 1990, and Basic Reports 16 and 114)

Specific cases from Basic Report 44

- 1) A high school teacher repeated an act of obscenity against a girl. After she refused it, the teacher lowered her grade from 8 to 1 on the scale of 10.
- 2) A third grade teacher ordered seven girls in his class to take off all their clothes as a punishment for not looking serious in his art class and told them "if you can't think by yourself, you are no better than animals."

It is distinctive that sexual harassment such as touching; kissing; bullying and intimidation from a teacher or teachers; being forced to remove underwear, teachers "checking" underwear, clothing, and belongings; are intertwined with daily activities at schools.

School officials in Japan put high emphasis on student' conduct; especially at junior-high and high schools, it is notable that checking clothing and belongings are routine practices of teachers in the

name of education. Using shame as a tool to punish a student in the presence of all students is seen as a way of teaching a student a lesson by intruding on the student's privacy. There are also cases where a teacher scapegoats a student intentionally or unintentionally in order to control the class, usually 40 students, which sometimes might get out of hand for a teacher. Not allowing teachers to take enough time to teach required materials leads to teachers' inability to cope with students who are active in the class, or who cannot understand the materials as quickly and well as other students. These out of the norm students are often the teacher's scapegoat.

Teachers tend to think of body contact as nothing special, only one more part of education; they use body contact to express ordinary affection to students. They put students on their laps to admonish them gently for their faults at primary schools; they support students physically in gymnastic hours. In extra-curricular activities at junior-high schools, giving massages to students who do hard sports is often a requirement. Physical support by teachers in extra-curricular sports activities are becoming a matter of concern. It is needed for teachers to be conscious of the consequence of their unconscious body contact with students. It is our concern that teachers tend to neglect to explain why such body contacts are necessary and to ask for permission from students for such body contacts.

As this is rooted deep in the Japanese school culture, it is not enough to help teachers understand about sexual harassment. It is a must to instruct teachers in personal rights in detail, and to inform them of the importance of valuing the student's will and to respect students as humans even while remonstrating with their bad conduct. Such training in rights and humanity is very rare in this field. (Basic Report 44)

There is no system at schools for student to appeal when they become victims of sexual harassment. This lays bare the lack of a system to convey student opinions to school administrations. Setting up a neutral third party to stand between teachers and students is required as soon as possible. At present the situation at schools means that very few students can resolve sexual harassment cases happened in their schools by themselves.

#### Specific cases

A case of a male PE teacher (A), teaching sophomores at a high school, involving both sexual harassment and violence that lasted for two years.

A touched a certain female student's body parts, other than the arms and legs, for a quite long time during the swimming lessons and said to her "I am imagining what you and your boy friend do" while touching her in the pool. A showed off his physical strength to her by wrestling a well-built male student to the floor in the presence of all the students with his best technique and asked the student for a total submission to him.

Two female students stood up for the girl. Soon they collected 101 signatures out of 270 fellow sophomores in order to demand the resignation of A. They brought it to a female instructor teaching them at the school, which brought the problem to light. The high-school principal had known about the problem but had turned a blind eye for a long time. With legal advice of a lawyer, the girl's parents and PTA members had to confront the school board of education numerous times. And at last the principal took action and settled the case by moving A to other school.

As the principal transferred to other school, a new principal came to the school.

The new principal had meetings both for parents and student and series of meetings and training for teachers but failed to come up with measures that could convince all the three parties. The student council set up a "human rights desk" and demanded the principal to do a "student poll on sexual harassment." Some of the teachers in the teachers union set up a "special council for human rights: sexual harassment and other infringements on personal rights" and did their own investigation about the case. They then presented a "Guideline to stop human rights violation including sexual harassment" to the staff meeting. The guideline was accepted and the council officially started their activities at the school.

As we learned in this case, school authorities and the board of education did nothing but close the case by moving the teacher in question to another school. Teachers in question are transferred to a special school for children with disabilities or to another school, where they are given academic duties without being given responsibility for a homeroom.

As for school sexual harassment, the most pressing business is to make school authorities and the Ministry of Education deepen their understanding that sexual harassment is a violation of human rights. Upon this understanding, school principals should set up a consultation corner within the schools as well as put greater emphasis on training of teachers in order to deal better with human rights issues.

It is causing other problems to move teachers in question to special schools for children with disabilities. The teachers in question work closely with academically challenged children and children with disabilities who are in a sense much more vulnerable than other students. It is vital to provide care programs for victims and rehabilitation programs for perpetrators, and not depend on such make-shift measures as moving the teachers in question to somewhere else.

## **J. Lack of protection of human rights including the right of privacy at school**

The background of corporal punishment and sexual harassment cases at school is insensitivity to the human rights including privacy. Restroom layout is one of the proofs. In fact, separate restrooms for boys and girls were a product of teacher's union activists who worked hard to make such restrooms the rule across Japan after World War II. There are a few schools that still have unisex restrooms. There were other problems about restrooms, even after separate restrooms were constructed; the layout is not fit for privacy. For example, in a boys' restroom, as toilets and urinals are fixed in the same space, boys feel it difficult to use such restrooms when they defecate.

In primary schools, there are no changing rooms. Boys and girls in turn use their classroom as a changing room before they take a PE class. While in most high-schools, although they have separate changing rooms they are usually located far away from class rooms. As it takes time to get there, students seldom use the facility because they have to change in a very limited time. This problem originates in the fact that there is no clause about restrooms in school building standard (Basic Reports 15 and 18)

Physical constraints from school facilities and the lack of privacy affect the minds and emotions of the students who use the facilities on a daily basis. Insensitivity to personal rights among teachers, students and school staff is one such effect. The Education Ministry's time management is another factor keeping school facilities from being upgraded. The Education Ministry manages school hours by having schools submit weekly plans; if schools try to do what the ministry asks them to, teachers have to make the schedule up to the minute. As a result of this practice, teachers have no other choice but to pressure students to act as units, as quickly as possible, and cram students with lessons and materials. Then whole school becomes pressed for time. Bad conditions, such as lack of changing time for PE classes or giving boys only a half time for health checkups, result from this time management imposed by the Education Ministry. If we wish to change schools to places where the personal rights of children are guaranteed, we have to call for radical alteration to the present policies of Education Ministry that has put emphasis on controlling teachers rather than respecting the spirit of education that places children in the center of the activities.

### **K. Policies for teachers to overcome their gender bias**

So far we have pointed out flaws in the policies of the Education Ministry, but it is also vital to mobilize teachers' enthusiastic participation in creating a new kind of education that could build the base to overcome any gender bias by teachers. In order to achieve this goal, teachers need to enhance their understanding of gender bias and to shape their sensitivity to gender bias. And further, teachers need to sharpen their powers of observation against infringements of the human rights. Group teaching and training sessions do exist, and we do not mean to deny the validity of such efforts. Rather it is a question of how teachers can take in such ideas, and put into action

respecting each student's privacy and protecting each student's personal rights in teaching en masse, in the actual and very crowded, busy classroom.

To change teachers' awareness, school management must be challenged. Today there are 15.7% women principals at primary school level, and women vice-principals are 22.4%. These numbers drop to 3.8% and 7.7% in junior-high schools and 3.6% and 4.4% in high schools. It is true that the figures have increased more than double compared with the figure of 1975. However the figure is still small compared with the proportion of female teachers. According to the 2001 Basic School Survey, the figures are 94% in kindergarten, 62.5% in primary school, at junior-high school 40.6% and at high-school 26.1%. (Basic Report 57) School management tends to assign female teachers to lower grade classes and does the opposite for male teachers. Also female teachers are asked to take charge of school business such as school lunch supervision, health guidance, or school beautification and seldom assigned as a head teacher, a more important position in a school. (Basic Report 57)

In a case of Aichi prefecture, at its public high school level, the proportion of female teachers assigned as a head teacher accounts for only 7% of all the head teachers. On the other hand 30% of the male teachers are assigned as head teachers. Areas including Home Economics, library or school health, and grade-level class groups are headed characteristically by female teachers. 38% of the male teachers and 23.7% of the female teachers have no homeroom. (Education Ministry, School Teachers Survey and Report, 1995) As the figure shows that more male teachers are exempted from home room responsibility, male teachers tend to have more scope to take management positions. There is a clear gender-subject relation: more female teachers teach subjects such as Home Economics, English, and Japanese Language while more male teachers instruct Sociology, Mathematics, Science and PE. These gender specific divisions at school limit teachers' minds and awareness.

Regarding working conditions of female teachers, there are many reports of infringements; pregnant teachers must teach swimming or are asked to do weeding in school yards and gardens; female teachers feel it difficult to take child-care leave or time off for child rearing. There are fewer teachers available due to the cut-back of new employment and from the lack of scope of teachers to cover up each other.

Sexual harassment against female teachers has surfaced recently, according to a survey done by the Aichi Teachers Union. The general understanding of the definition of the term has in the past been limited only to sexually explicit words and behavior; some teachers are thus insensitive to their words and behavior. The following acts are not considered sexual harassment: putting up a nude or semi-nude poster at a work place; picking up age, marital status, pregnancy or looks as a topic of conversation; calling a female teacher girl or aunt or grand mother, and calling a male teacher boy or

uncle or grand father. In after-school socializing, unwanted requests like singing a duet in a Karaoke bar or going out for dinner, and pointing out or criticizing clothes, hair style, or makeup are not considered sexual harassment. Some teachers try not to take such acts as sexual harassment but as a necessary evil to keep a “good” relationship with other staff at school. Deepening understanding of sexual harassment is a must. As for the perpetrators, even in cases where a male is victimized, it is overwhelmingly committed by a male. Regarding sexual harassment among teachers, Prefectural Boards of Education and school authorities take a long time to deal with such incidents. Appealing or reporting incidents tend not to improve victims’ conditions, and instead may invite unwanted consequences. It is often pointed out that management just does not function in a sexual harassment case. 90% of the teachers don’t now where to go and 70% of the teachers said that they would not go to the consultation desk for sexual harassment even they knew where it is. (Aichi High School Teachers Union, female department-sex and life council, ‘Heading for a work place where human rights are valued’, Survey and Reports of Polls on Sexual Harassment, September 2000).

To curb these situations, school management must organize necessary training systematically and ensure opportunities for teachers to participate in such training, in order to better understand the concepts of gender, and gender and sexual harassment issues at school. Needless to say school management must assure teachers’ autonomous learning in training to be held at each school. Educational administration as well are expected to help teachers do such learning and to take necessary measures in order to get better understanding about schools’ and teachers’ efforts in these matters from parents and local community enthusiastically.



## **Chapter 29 Media and gender**

### **A. Increasing influence from media**

The media does play a critical role in strengthening gender bias in children's minds today. Hours that children watch TV are at primary age and upper level more than 1 hour a day. As children of primary and secondary school age have only limited time at home after school, their viewing of TV for more than one hour has significance. It takes up most of their available free time. Hours for reading have been decreasing year by year, and even when they have time to read, they tend to read something like Harry Potter series, that they saw on TV or other media.

The diffusion of Video games and portable game machines rose 80 % among boys and 60% among girls in 2001. (Council for children's activity, Opinion poll for educational potential of local community, Ministry of Education, 2000.)

One of the current trends of media is collaborated marketing; the same story or series is marked in a large variety of forms, including movies, animation, books, comic books, children's story books, and games of various levels. There are often interconnected ancillary items such as cards and toys and clothing. The same story is pushed out in great volume into the market.

Influence of information that children take in via a cell phone and the Internet is increasing. Children who have a cell phone consist, at the third grade, 10% , at the eighth grade, 20% of the boys and 30% of the girls, and at eleventh grade, about 72% of the male students while 80% of the female students.

There is a gender gap; boys tend to use video games more while girls use a cell phone more. Chapter 127 of this report discusses the relation between cell phone and enjo kosai, or compensated dating. There is a slight relevance in the gender gap in sexual activities and ownership of a cell phone which is believed to be used for compensated dating.

### **B. strengthening of gender bias in the media**

Strengthening sexual stereo-types including a violent man image, and sexual relations must be pointed out as problems. We take as our examples two world famous animation series, Pocket

Monster and Pretty Warrior Sailor Moon.

The theme of Pocket Monster is a friendship between Pocket Monster and his friends who travel all together. The main character is a heroic boy who is a passionate and wild person with undiscouraged spirit. One of his friends is described as a caring person who wants to be an animal breeder. The friend man makes advances whenever he sees a beautiful woman, which is something the freer boy seldom does. The friend is a sissy all for the sake of contrasting with the hero.

In Pocket Monster, women are portrayed as follows; enemy women share characteristics of prototypical bad woman, like the wicked queen in Snow White, greedy for material wealth and beauty. They are even unsuccessful at this, being constantly defeated by the hero's team of friends. A "good" girl travels with the group. She is portrayed as a caring and understanding person who encourages the hero from time to time when he feels down. When she comes across a frightening monster, she screams for his help or when she comes across a cute little thing, she adores it, expressing her abundant love of small and cute things. It is simple and easy to read such representation in those animation movies.

Sailor Moon deals mostly with a love story of the heroine and friendship with the other girls related to her love story. Battles are shown as factors interfering with love and friendship. Tsukino Usagi, the heroine, is always troubled with her love, and not much concerned with the lessons of battle. While in boys-favorite Pocket Monster, the hero is fighting for his dream and learns a lot in the process of battle. He develops his ability to full potential. For boys, fighting for success and a great job is a life, while for girls; life is portrayed as being all about dreaming of marrying someone nice and achieving love and friendship in the face of all interference. Both animated series do, in their favor, promote fairness and respect between friends, recognition of the valid differences between people, and refrain from explicit violence.

Chapter 29 of this report discusses how adult videos and adult magazines play a critical role in strengthening violent male images and coerced sexual relations with women, here we would like to discuss female and male images portrayed in comics in more detail. In analyzing 1221 comics printed in 332 magazines, including some adult magazines, published in June, 1989; violent scenes with no sexual content were 325 scenes in the 234 comics. In scenes where the person who uses violence is a male character, the victims were 31 female and 206 male each. It can be said that there are more scenes in which a man employs violence against a man.

Scenes with sexual content rose to 2113 in 608 magazines; scenes of sexual intercourse were 453. 253 scenes, or 12 % of the total scenes had violent sexual expressions, among them, 167, or 66% of them were scenes in which women were targets of a violent man or men. Most were scenes of sexual intercourse or petting. (Tokyo metropolitan government: "A research on Commercialized

Sex,” Tokyo Women’s Issues Research Report, 1990 and the third edition of Inoue, Teruko & Ehara, Yumiko: Data book for women, Yuhaiaku, 1999)

Based on these points, it can be said that these comics create the visualization that men are allowed to use violence rather than words to settle things, or to use violence in sexual relations with woman.

### **C. Gender-oriented viewpoints are a must in media literacy**

Other than the above, for example, the fact that many ads in trains and buses or TV commercials use young and sexy girls was pointed out. It is still a long way to go before gender-oriented view points are used to check the media. However employing gender-oriented view points in media literacy is crucial. And it is important to make children see new images of female and male characters in the media.

***Part 3 Educational Right of Children of Immigrant Workers, and***  
***Returnees from China***

## Chapter 30 New two categories of vulnerable groups: immigrant workers and returnees from China

This Part treats the issues on the educational rights of children belonging to two vulnerable groups: immigrant workers and returnees from China. The issues concerning these two groups have gotten attention only recently, because the number of people belonging to these groups began to increase since the mid 1980s in case of returnees from China and 1990 in case of immigrant workers.

### A. Composition of foreigners living in Japan: immigrant workers are on the increase

The total number of foreigners living in Japan is 1,778,462 in 2001. It constitutes 1.4% of the total population in Japan.

Table 1. The number of alien registration in Japan

year	the number of alien registration	rate in total population in
1974	745,565	0.68%
1979	774,505	0.67%
1984	840,885	0.70%
1989	984,455	0.80%
1990	1,075,317	0.87%
1994	1,354,011	1.08%
1999	1,556,113	1.23%
2000	1,686,444	1.33%
2001	1,778,462	1.40%

Table 2. The number of refugees accepted in 2001

country	country	country	country
Australia	4,464	France	9,700
Belgium	1,157	Germany	22,719
Costa Rica	2,226	India	546
Denmark	2,021	U.S.A.	28,304
Russia	134	Ecuador	443
		Egypt	4,137
		England	19,110
		Canada	13,336
		Italy	2,102
		Japan	26

As is shown in Table 1 on the number of alien registration from 1974 to 2001, the number of foreigners living in Japan has begun to sharply increase since 1990. The number of special permanent residents, those who came from colonized areas before 1945 and their descendants, has been around 500,000. The number of refugees accepted by the government has been extremely small (26 in 2001, see Table 2). The increase of the number of alien registration is caused by the fact that more and more immigrant workers have been flowing into Japan since 1990 when the revised Immigration Control and Refugee Recognition Act was enacted. The law was revised with the aim to accept more immigrant workers and overcome the shortage of work force for physical labor.

As the government has accepted more immigrant workers, it should revise the comprehensive policy

on the rights of immigrant workers and their children. Under the International Covenant on Social, Economic, and Cultural Rights, the Covenant on Civil Liberties and Freedom, and the Convention on the Rights of the Child, it is the obligation of the state parties to treat foreigners as equally as people of its nationality. But, the government has taken actually no measure to ensure and protect their rights; the government has only utilized them as labor force. There is no comprehensive policy that secures language, education and medical care for foreign residents. There is no comprehensive survey on the actual conditions of immigrant workers and their children. There is no law that describes the duties of the government and municipalities to guarantee their rights. As the number of immigrant workers increases, problems become more serious.

## **B. Children of returnees from China**

After World War 2 ended, most of Japanese who settled in colonized Manchuria returned back to Japan. But, several thousands of Japanese children were left behind in China and they were brought up by Chinese. Since the restoration of the diplomatic relation between China and Japan in 1974, children left behind China after World War 2 have returned back to Japan every year. As they were in China for more than 30 years, they did not understand Japanese or Japanese customs. Some of them returned back to Japan with their families including their children and grandchildren, who neither understand Japanese or Japanese culture. The government did not taken sufficient measures to help their settling in, and returnees from China and their children could not help but tackle with their difficulties by themselves. This is the problem so called as “problem of returnees from China.”

From 1972 to 2002, 19,898 returned from China by public fund. It is estimated that several times more people returned by their private fund. According to the statistics collected by the Ministry of Education, the number of returnees’ children who receive education in the Japanese school system is 576 in 1990, 434 in 1991, 558 in 1992, 392 in 1993, 355 in 1994, 430 in 1995, 421 in 1996, 393 in 1997, 277 in 1998, and 181 in 1999. According to the survey on “The Actual Situations of Returnees from China” conducted by the Ministry of Welfare on December 1, 1999, 47% of returnees from China have children at the age of schooling. 17% of the children attend elementary schools, 16.3% junior high schools, and 24.7% high schools.

## **C. The Second Report of Japan shows the lack of strategies and policies.**

In the Concluding Observations on the First Report of Japan, the Committee on the Rights of the Child (CRC) expressed its concern on the rights of the child belonging to national and ethnic minority group. CRC stated, “The Committee is concerned that the general principles of

non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12), are not being fully integrated into the legislative policies and programmes relevant to children, in particular in relation to children from vulnerable categories such as those belonging to national and ethnic minorities, especially Ainu and Koreans, children with disabilities, children in institutions or deprived of liberty and children born out of wedlock.” (para.13)

In its Second Report, the government responds to this concern in Paragraph 255. It states, “In Japan, non-Japanese students who learn at “schools” defined by the School Education Law are basically educated in the same way as Japanese children. In actually accepting non-Japanese students into Japanese schools, each school is making the efforts and contriving the means to help them adapt to the school, in consideration of their original language and customs. Special lessons are provided individually to non-Japanese students outside their original classes in accordance with their aptitude and ability, and at general schools “team-teaching” has been carried out under the cooperation of more than one teacher. The Government is also: preparing and distributing teaching materials to study the Japanese language and guidance materials about non-Japanese students; training teachers in charge of education to them; sending those with knowledge of the students’ native languages as collaborators to schools; and posting extra teachers to school which admit them. The Government, moreover, designates some local governments as “pilot local governments” to promote the study of methods to accept non-Japanese children. In extracurricular activities, no restrictions have been imposed in offering non-Japanese students the opportunities to learn their own languages and culture. Such opportunities of learning are actually given in several local governments. ”

The government is repeating almost the same comment as the First Report. This means the government has not taken any new measure to realize the rights of foreigners in Japan. In the following, we will show that the existing measures taken by the government fall short of responding to the actual conditions of the educational right of children who belong to the new vulnerable groups: immigrant workers and returnees from China.

## **Chapter 31 Inaccessibility of public education for children of immigrant workers and returnees from China**

### **A. Probably many children of foreigners are not registered and are deprived of their rights.**

The exact number of unregistered foreign children is not known. But, it is estimated that many children are not registered from several reasons. Newborn babies of unregistered parents will not be registered either. In other cases, if children came to Japan with their unregistered parents, they won't be registered. All these unregistered foreigners, especially children, are excluded from administrative services, including rights to welfare and education. In addition to the right to enter schools, the rights to have vaccination and physical checkup which are concerned with their fundamental welfare are not secured.

To guarantee the children's rights, the Government should direct local governments to accept all the children's registrations, regardless of whether their parents legally stay or overstay. In order to do so, NGOs or child welfare officers should be allowed to become legal guardians of unregistered children, and submit application for the registration. Furthermore, those who become legal guardians should be afforded the right to keep silent about the parents of those children.

### **B. Public schools are not accessible even for registered foreign children.**

#### 1. information on opportunities for education is not sufficiently disseminated

There are lots of foreign students who didn't enter and don't go to schools. This is partly because the government does not take measure to assure that all the foreign parents receive information about opportunity for education. Usually, the local governments send "Guidance for Entering Schools" to all the registered foreign parents with children who reached the age to enter schools. But, some local governments don't do. The government has not taken measure to assure all the local governments to do it. The government even has not conducted survey on the situation.

Even when "Guidance" is sent to all the parents, some guardians cannot read it because the guidance is not written in their mother tongues. Sometimes the guidance is not delivered because on the doorplates written a name different from that on "Guidance." Some foreign guardians give up



sending their children from the beginning, because they don't know about Japanese education system and school schedules.

It is indispensable to give them necessary information in their mother tongues in order for foreign residents to understand how their children can enter schools. It is convenient to give them information when they come to the city halls to register themselves as alien. But, in fact, this doesn't happen because there is little cooperation between Immigration Bureau and boards of education. The government should direct local governments to guide and encourage foreign guardians in their mother language, when children are found not going to school. Such information concerning schools should be shared among local governments, education boards, schools and post offices.

2. Absence of policies based on the actual situations of children who didn't enter and don't go to school

In May 2001, 14 cities and towns, like Hamamatsu city where there are lots of Japanese-Brazilians, established "Conference of Municipalities Where Many Foreigners Live" to exchange information and to cooperate with each other. The issue of children who didn't enter and don't go to school is a serious problem for these cities, and the Conference conducted survey on this problem and published its results in 2002. Table 3 shows the un-enrollment rate of foreign registered children at school age in 11 cities and town. 27.1% of foreign registered children at school age don't go to school.

Table 3. Un-enrollment Rate of Foreign Registered Children (6 ~15 years)  
in 11 Cities and Towns

name of city and town	number of registered children at school age	number of children enrolled in public schools	number of children enrolled in ethnic schools	number of children not enrolled either in public or ethnic schools	Unenrollment Rate
	A	B	C	D = A - (B + C)	D/A
Furukawa city in Shizuoka	1,556	873	358	325	20.90%
Iwata city in Shizuoka	270	118	91	61	22.60%
Fujinomiya city in Shizuoka	274	191	0	83	30.30%
Toyohashi city in Aichi	1,100	644	250	206	18.70%
Kaji city in Gifu	258	91	74	93	36.00%
Mitsukami city in Gifu	238	110	74	54	22.70%
Yokkaichi city in Mie	461	274	109	78	16.90%
Suzuka city in Mie	497	167	50	280	56.30%
Chita city in Guna	502	233	91	178	35.50%
Chizuri town in Guna	646	313	109	224	34.70%
Utsunomiya city in Nagano	195	149	0	46	23.60%
total	5997	3163	1206	1628	27.10%

Other than this data, there is no data available on the numbers of children who didn't enter and don't go to school. Japanese government is responsible to investigate the actual situations of all the foreign children, whether they are registered or not. It is essential to grasp their nationalities, mother languages, languages used in their families, school enrollment and necessities of Japanese language education, and to adopt appropriate policies in accordance with the result.

**C. Equal access to public education is not realized because the government and municipalities don't take into account the difficulties foreign children have.**

Because foreign children have difficulties unique to them, only when those difficulties are solved, they will be secured the equal access to public education. The government and municipalities tend to apply existing rules to foreign children without taking into account their special necessities. Equal access to public education is substantially denied in the following ways.

## 1. Mechanical application of regulation on compulsory school age

When foreign children apply to enter junior high schools, some of them are refused because they are too old even if they have not finished 9 years of compulsory education. This often happens when some countries and regions have regulations that children enter school at the ages over 6 or school years start in months different from that in Japan. There are many cases where local governments and education boards refuse their application because of this regulation.

According to the survey conducted by the Study Group of Tokyo Night Junior High School in 2002, there were 34 foreign children and children of returnees in Tokyo who were refused to enter day junior high schools because they are over age of 15, which is the end of compulsory schooling in Japan, and had to choose night schools. Table 4 shows the details of cases.

Table 4 34 cases of refused children as of December 13, 2002

case number	date when interviewed by night school staff	nationality	age	children of returnees from China or of foreigner	address (ward or city)	who refused him/her A= a board of education B= uni or high school C= both
1	April-98	Mongol	15	foreigner	Toshima	
2	May-97	China	15	foreigner	Kojich	
3	May-97	China	15	foreigner	Kojich	
4	April-98	China	16	returnee	Suruga	
5	April-98	China	16	foreigner	Suruga	
6	April-98	China	15	foreigner	unknown	
7	September-98	Vietnam	15	foreigner	Toshima	
8	September-98	China	17	foreigner	Suruga	
9	December-98	China	16	foreigner	Higawa	
10	March-99	China	16	foreigner	Higawa	
11	April-99	China	15	foreigner	Higawa	
12	April-00	China	16	foreigner	Nakano	
13	April-00	China	15	returnee	Toshima	
14	June-00	China	16	returnee	Suginami	
15	July-00	China	17	returnee	Adachi	C
16	August-00	China	16	returnee	Adachi	
17	August-00	China	17	returnee	Adachi	
18	September-00	Singapore	16	foreigner	Nakano	
19	September-00	Mongol	15	foreigner	Saitama	
20	October-00	Mongol	16	foreigner	Shibuya	
21	October-00	China	15	foreigner	Musuro	
22	November-00	China	15	foreigner	Suruga	B
23	January-01	China	14	foreigner	Shinjuku	
24	January-01	China	16	returnee	Nerima	
25	March-01	China	15	foreigner	Shinjuku	
26	September-01	China	16	foreigner	Bunkyo	
27	October-01	China	16	returnee	Adachi	B
28	January-02	China	16	foreigner	Shinjuku	
29	March-02	China	15	foreigner	Shinjuku	
30	August-02	China	15	foreigner	Higawa	C
31	August-02	China	15	foreigner	Shibuya	
32	September-02	China	16	foreigner	Adachi	
33	September-02	Peru	15	foreigner	Orma	
34	October-02	China	15	foreigner	Higawa	C

National newspapers picked up this issue sensationally. The article, titled “Japan-Isolated Nation? Refusal for Overage Foreigners, Only Night School Open Its Door,” appeared on Evening Edition of Mainichi Newspaper on January 27, 1999. The article reported, “Many foreign children over the age of 15 are refused to enter day junior high schools in Tokyo, and they have to choose night schools instead. It is up to local education boards whether they allow over-aged children to enter schools, but they often refuse the applications. Many teachers criticize that education boards apply the regulation mechanically, excluding eager foreign children.”

Tokyo is no peculiar exception. The survey conducted by Settlement Encouraging Center for People Returning from China shows that foreigners and returnees from China are often refused. The Center sent questionnaire to the prefectural board of education nationwide, and asked whether they admit foreigners or children of returnees over the age of 15 to junior high schools. Table 5 shows the results.

Table 5. Ceiling of age to enter day junior high school for foreigners, A nation-wide investigation by Center for Returnees from China, December, 2002

prefecture	answer
1 Hokkaido	Local education boards are supposed to judge
2 Aomori	No ceiling
3 Iwate	As a rule 15, but some local education boards admit overage
4 Miyagi	Local education boards are supposed to judge
5 Akita	No ceiling
6 Yamagata	No ceiling
7 Fukushima	No ceiling
8 Ibaraki	Local education boards are supposed to judge
9 Tochigi	Local education boards are supposed to judge
10 Gunma	Local education boards are supposed to judge
11 Saitama	Local education boards are supposed to judge, but it is difficult for over-age to enter
12 Chiba	Admit them if they are at compulsory school age in their native
13 Tokyo	Local education boards are supposed to judge
14 Kanagawa	Not open to the public
15 Niigata	Not open to the public
16 Toyama	No case
17 Ishikawa	Not open to the public
18 Fukuoka	Not open to the public
19 Yamaguchi	Not open to the public
20 Nagano	case by case
21 Gifu	Apply the regulation in Japanese
22 Shizuoka	Local boards are making efforts to admit as flexibly as possible
23 Aichi	Local education boards are supposed to judge
24 Mie	case by case
25 Shiga	Basically apply the regulation in Japanese
26 Kyoto	Local education boards are supposed to judge
27 Osaka	Not open to the public
28 Hyogo	Not open to the public
29 Nara	Basically apply the regulation in Japanese, but it depends on local
30 Wakayama	Local education boards are supposed to judge
31 Tottori	Local education boards are supposed to judge
32 Shimane	Local education boards are supposed to judge
33 Okayama	No ceiling
34 Hiroshima	Local education boards are supposed to judge
35 Yamaguchi	No ceiling
36 Tokushima	No ceiling
37 Kagawa	As a rule 15, but some local education boards admit overage
38 Ehime	Not open to the public
39 Kochi	No ceiling
40 Fukuoka	Local education boards are supposed to judge
41 Saga	Basically apply the regulation in Japanese
42 Nagasaki	No ceiling
43 Kumamoto	Basically apply the regulation in Japanese, but it depends on local
44 Oita	No ceiling
45 Miyazaki	Local education boards are supposed to judge
46 Kagoshima	case by case
47 Okinawa	No ceiling

Of 47 prefectures, only 10 answered that there is “No ceiling.” Most of the prefectures answered “Local education boards are supposed to judge” and “Not open to the public.” Considering the fact that there are 34 cases of non-admission in Tokyo, which answered “Local education boards are supposed to judge,” this answer probably equals to “apply the regulations in Japan.” In 37 prefectures which did not clearly answer “no ceiling,” children could be refused to enter day junior high schools.

The Ministry of Education should direct local education boards and schools to admit all the children's enrollment even if they are over-aged, when they have not finished compulsory education in their native countries.

## 2. Mechanical incorporation and promotion in public schools

When foreign children are incorporated into Japanese schools, they face a difficulty. There are some cases where children are incorporated into lower grades than their ages because of their low abilities in Japanese. But, they cannot change their grades even after they have caught up with the upper grades.

One student was 18 years old when he graduated from a junior high school because he was incorporated into lower grades than his age.

On December 3, 1996, Ministry of Public Management gave the Ministry of Education a recommendation concerning “Education for foreign and returnee children under the era of internationalization.” It says, “The Ministry of Education should take following measures to smoothly admit foreign children who need Japanese language education.... The Ministry of Education should direct local education boards to specially incorporate foreign children into lower grades than their ages taking into account their Japanese language abilities, and to restore them to the grades of their ages according to their advancement in Japanese language abilities.”

The Ministry of Education should adopt the measure to publicize this recommendation to local education boards and encourage them by providing with subsidies for textbooks, etc.

## 3. In order to enter senior high schools, they have to pass the same selective examination as the children of Japanese nationality are required.

Few prefectures have provided special seats, or take special affirmative action for admission to high schools for the children of foreign nationality and children returning from overseas (See Table 6 and 7). Therefore entrance examination has become a barrier and it is very difficult for them to enter high schools. That is why admission rate to high school is very low among the children of foreign nationality (See Table 8).

Tokyo metropolitan full-time high schools have special seats for both students returning from China and other foreign students. As for students returning from China, 11 schools provide them with 110 special seats in total, which means all students that hope to enter can enter high schools. But, for

Table 6. Special seats for foreign students living in Tokyo in the entrance examination of Tokyo Metropolitan International High School

fiscal year	1999	2000	2001	2002	2003
number of special seats	15	15	15	20	20
number of applicants	68	65	71	59	72
number of successful candidates	23	19	21	23	22
ratio of total applicants to successful	3	3.4	3.4	2.6	3.3

foreign children living in Japan only Metropolitan International High School has the special seats, which is far from sufficient. Therefore, many foreign students fail to enter every year (See Table 6).

Table 7 shows the result of the survey carried out by Settlement Encouraging Center for People Returning from China. The Center sent questionnaire to prefectural

and metropolitan governments in December, and asked whether they have some kind of affirmative action for admission or special seats in the entrance examination for the sake of students of foreign nationality and students returning from China. The survey clarified that many prefectures neither provide special seats nor take affirmative actions. A lot of foreign children and children returning from China have to take high school entrance examination under the same condition as Japanese children whose ability in Japanese cannot stand comparison with theirs. Nothing is more unfair than that.

Admission rate to high school is very high in Japan as a whole. According to the survey by the Ministry of Education in April, 2002, 97.0% of the graduates from junior high schools advanced to high schools. On the other hand, admission rate of the children of foreign nationality is very low, which we can see from the data in Table 8. This data was collected by “Conference of Municipalities Where Many Foreigners Live.” In 14 cities and towns which are the members of the “Conference,” only 53.1% of foreign children entered the high schools in April 2002.

Table 7. special affirmative action in high school entrance examination taken by prefectural high schools for students returning from China and students of foreign nationality

	prefecture	day-time high school				night high school			
		returnees from		foreign students		returnees from		foreign students	
		affirmative actions	special seats	affirmative actions	special seats	affirmative actions	special seats	affirmative actions	special seats
1	Hokkaido	x	x	x	x	x	x	x	x
2	Aomori	x	x	x	x	x	x	x	x
3	Iwate	x	x	x	x	x	x	x	x
4	Miyagi	.	x	.	x	.	x	.	x
5	Akita	?	x	?	x	?	x	?	x
6	Yamagata	.	x	.	x	.	x	.	x
7	Ihokuni	?	?	?	?	x	x	x	x
8	Ibaraki	.	.	?	?	.	.	?	?
9	Tochigi	?	x	?	x	?	x	?	x
10	Gunma	?	?	?	?	x	x	x	x
11	Saitama	x	x	.	.	x	x	x	x
12	Chiba	.	.	.	.	.	.	x	x
13	Tokyo	.	.	x	.	x	x	x	x
14	Kanagawa	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose
15	Niigata	x	x	x	x	x	x	x	x
16	Tochigi	x	x	x	x	x	x	x	x
17	Ishikawa	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose
18	Fukui	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose	not disclose
19	Yamanashi	.	.	.	.	.	.	.	.
20	Nagano	.	x	x	x	.	x	x	x
21	Gifu	.	x	.	.	x	x	x	x
22	Shizuoka	x	x	.	.	x	x	x	x
23	Aichi	x	.	x	.	x	x	x	x
24	Mie	.	.	.	.	.	x	.	x
25	Shiga	.	x	.	x	.	x	.	x
26	Kyoto	.	.	x	x	.	.	x	x
27	Osaka	.	.	.	.	.	x	.	x
28	Hiroshima	.	x	.	x	.	x	.	x
29	Nara	.	.	.	.	x	x	x	x
30	Wakayama	.	.	x	x	.	.	x	x
31	Tottori	.	x	.	x	.	x	.	x
32	Shimane	.	x	.	x	.	x	.	x
33	Okayama	x	x	x	x	x	x	x	x
34	Hiroshima	.	.	.	.	x	x	x	x
35	Yamaguchi	.	.	x	x	.	.	x	x
36	Tokushima	?	x	?	x	?	x	?	x
37	Kagawa	.	x	.	x	.	x	.	x
38	Ehime	.	not disclose	.	not disclose	.	not disclose	.	not disclose
39	Kochi	.	x	.	x	.	x	.	x
40	Fukuoka	.	x	.	x	.	x	.	x
41	Saga	.	x	.	x	.	x	.	x
42	Nagasaki	x	.	x	.	x	.	x	.
43	Kumamoto	.	x	.	x	.	x	.	x
44	Oita	x	x	x	x	x	x	x	x
45	Miyazaki	.	x	.	x	.	x	.	x
46	Kagoshima	.	x	.	x	.	x	.	x
47	Okinawa	x	x	x	x	x	x	x	x

Special arrangements for foreign children and children of returnees are required to promote their attendance in high schools. The arrangements should include followings: to establish the special framework for admission for foreigners or people returning from China, to extend examination time, or to indicate pronunciation on top of kanji in the entrance examination. And it is also inevitable to introduce curriculum on Japanese language education and vernacular classes in senior high schools. Furthermore, scholarships and school expense subsidies should be provided to them.

Table 8. Admission rate to high schools of the students of foreign nationality who live in 14 municipalities. April, 2002

	the number of children who graduated junior high	the number of student entering high schools	rate of high school admission
Hamamatsu city in Shizuoka	62	38	61.30%
Iwata city in Shizuoka	10	4	40%
Kosai city in Shizuoka	10	5	50%
Fuji city in Shizuoka	11	7	63.60%
Toyohashi city in Aichi	48	26	54.20%
Toyoda city in Aichi	41	22	53.70%
Ohgaki city in Gifu	12	9	75%
Kaji city in Gifu	5	1	20%
Mino-kamo city in Gifu	9	2	22.20%
Yokkaichi city in Mie	9	6	66.70%
Suzuka city in Mie	13	3	23.10%
Ohta city in Gunma	11	2	18.20%
Ohizumi town in Gunma	12	8	66.70%
Hida city in Nagano	7	5	71.40%
total	260	138	53.10%

4. Ministry of Education and science has to take a leading part in order to establish at least one or more evening junior high schools in every prefecture.

At present more than one million and several hundred thousands of Japanese elder than 15 years old are said not to have completed the 9-year compulsory education. (In 1985, prime minister Nakasone said in his answer in the Diet that about 700,000 people have not completed the compulsory education) And it is said that there are many foreigners living in Japan who have not completed the compulsory education.

According to the survey carried out by All Japan Organization for Study of Evening Lower Secondary School, 3031 students are registered and studying in evening junior high schools throughout Japan, in September 2002. (Among those 167 students are between 15 and 19). Among 3031 students, 671 are of Japanese nationality and 2,360 are of foreign nationality. (from 42 countries and regions) Students of foreign nationalities are students returning from China, refugees, second or third- generation Japanese Latin Americans, member of families who came to Japan on business or marriage.

Some foreign students have exceeded the age of 15, because they could not continue to go to Japanese elementary school and junior high school owing to the lack of Japanese language education,



vernacular education and so on.

Some students were rejected to enter junior high school for they were already elder than 15 when they came to Japan. Among those 2360 foreign students are such students. (This has already been mentioned in detail)

For teenagers it is inevitable to get qualification of junior high school graduation in order to advance to high school, technical school or to take national qualification examination.

But only 8 prefectures out of 47 have established evening lower secondary schools, which are in total 35, those who have not completed the compulsory education living in 39 prefectures are actually excluded from basic education.

In such situations, Ms. Makiko HIRAGI, a member of Settlement Encouraging Center for People Returning from China, studied about the second and third generations of people returning from China and presented the result of her study. She summarizes her survey as follows. “People returning from China at the expense of the Government learn Japanese language and so on at the Settlement Encouraging Center for 4 months, and after that they settle in various places in Japan. I surveyed the education of children between 16 and 21 who registered at school from June, 1991 to June 1996, and 58 children out of 325 (18%) had not completed primary education. After settling in Japan only 20 children entered junior high schools, and 38 didn't. Even though they want to enter evening junior high schools to fulfill their hope for future, in many cases they cannot enter school because evening schools are not near their residence. We should improve conditions for their assurance of right to learn.”

Those who have not completed compulsory education and people who are concerned with this issue lodged their complaint to the Human Rights Committee of Japan Federation of Bar Associations. They assert that the Ministry of Education should establish at least one evening junior high school in all 47 prefectures.

Ministry of Education has so far been repeating that municipal board of education is responsible for establishing evening secondary lower schools, and would not listen to the request for increasing those under the control of Ministry of Education, which people concerned to evening junior high schools have been asking for several decades. There are some voluntary evening junior high schools by volunteers, and they teach people who have not completed compulsory education at the places like public hall, etc. But such voluntary school is open only once or twice a week, and they cannot get the graduation qualification. So it will never be an essential solution. Therefore people who have something to do with voluntary evening junior high schools themselves have long been working for the establishment of public evening junior high schools.

The Ministry of Education should listen to people who have not completed compulsory education, people who work voluntarily or in public evening junior high schools. And the Minister should take action and exercise strong leadership in order to assure right to learn for both Japanese and foreign people including children in their late teens.

## **Chapter 32 Measures to be taken to fulfill the educational needs of children with foreign nationalities and children of returnees from China**

### **A. The government should conduct survey on the educational needs of foreign students and returnees from China.**

The government has not sufficiently carried out research on the educational needs of children who have foreign nationality and on the special measures which are necessary to meet the needs. As a result, the Course of Study has only quite insufficient amount of account about the direction of those children.

The Revised Course of Study which became effective in 2002 states in its General Rules that children who come back from abroad shall be helped to adjust themselves to school life and be appropriately directed. The “Commentary” on the Course of Study has an account about the direction of children who have foreign nationality, as an item which should be given special consideration in practice of curriculum. This could be regarded as progress made in recent years; however, because they have no account of the aims, curriculums and teaching materials, there are disparities in aims of teaching, teaching materials and teaching methods, among municipalities, schools and teachers.

In addition, because the Course of Study has no account concerning the aims of teaching children who have foreign nationality, it might not be regarded as part of direction which schools should practice.

The government should begin the research, and consequently, add an item about the direction of children who have foreign nationality, and have an account of the aims, the teaching materials and the teaching methods.

### **B. The government should carry out more surveys on the need of foreign students for Japanese language education**

Even an insufficient research shows that there are a large number of children who are not given Japanese language education. Further scientific research should be carried out to reveal the needs.

Ministry of Education has conducted a research on “foreign children who need Japanese language education.” Following is the data compiled from the research.

Table 9 The number of foreign children who need Japanese language education and those among them who are not given Japanese language education—compiled from data by Ministry of Education

	The number of foreign children who need Japanese language education			
	<The number and percentage of children among them who are not given Japanese language education>			
year	1999	2000	2001	2002
elementary schools	12,383	12,240	12,468	12,585
	<2,083> <16.7%>	<2,117> <17.3%>	<1,792> <14.4%>	<2,064> <16.4%>
junior high schools	5,250	5,203	5,694	5,507
	<1,073> <20.4%>	<1,080> <20.6%>	<928> <16.3%>	<1,069> <19.4%>
high schools	901	917	1,024	1,131
	<232> <26%>	<305> <33.3%>	<268> <26.2%>	<269> <23.8%>
special schools for handicapped	51	72	64	50
	<31> <60.8%>	<46> <63.9%>	<43> <67.2%>	<31> <62%>
total	18,585	18,432	19,250	18,734
	<3,419> <18.4%>	<3,548> <19.2%>	<3,031> <15.7%>	<2,891> <15.4%>

As seen in the description of “The number of foreign children who need Japanese language education,” the criteria used in the research are not clear, but it still shows that there are a large number of children who do not understand Japanese language and need appropriate guidance. Every year, about 3,000 children, at the lowest estimate, are left alone without Japanese language education.

Moreover, even when a child's Japanese language teacher or his/her guardians grant that the child needs Japanese language education, the final judgment whether it is necessary or not was made by the child's homeroom teacher or the vice-principal. It implies that the above-mentioned figures are limited to the case where the school decided that the child needed Japanese language education. It is expected that the actual number will be greater.

And also, there are a lot of children who are not regarded to be in need of Japanese language education, because they do not have difficulty in daily-life language, even if they have insufficiency in learning language. Their Japanese language instructions are discontinued, which often causes them to fall in underachievement and maladjustment.

After all, it is supposed that there are a considerable number of children who are not actually given necessary Japanese language education even if the child or his/her guardian wishes or his/her learning language is insufficient, for they do not appear as figures on statistics owing to the ambiguity of the criterion of “children who need Japanese language education.”

A complete research should be conducted on children who have foreign nationality, and on their need for Japanese language learning. It is desirable that the research should be conducted from two viewpoints: whether the child or the guardian wishes it, and whether the child's Japanese language ability is sufficient.

### **C. Conditions necessary to carry out Japanese language education are not satisfied.**

To carry out the Japanese language education, the following measures should be taken.

#### 1. to develop Japanese as Second Language (JSL) curriculum

The Ministry of Education is now carrying out its project on the development of “Japanese as Second Language curriculum.” This could be the progress made by the government. However, needs of children who have foreign nationality is quite diverse. Therefore, educational support to them is indispensable to strengthen the effectiveness of JSL curriculum. The teaching methods should be also developed and the in-service training on them should be provided to teachers. Teaching methods and the training on them are quite insufficient at present.

#### 2. Establishing Japanese language education as a specialized job

An overwhelming majority of teachers who are in charge of Japanese language education have not had a specialized training of Japanese language education. In many cases, a teacher of a common subject is unexpectedly posted as an additional teacher, to the position without any training. The richer a curriculum or teaching materials are, the more specialized knowledge and skills are required of teachers. Therefore, a teacher in charge of Japanese language education should be regarded as somewhat a specialized job and that should be taken into consideration when the teacher is transferred or posted.

#### 3. Setting up a Japanese language class and posting Japanese language teachers

Tokyo Metropolitan Government, on its own budget, sets up a Japanese language class when there are more than 10 children who need Japanese language education in a school, and posts two teachers to the class. But, such an example is an exception.

On the other hand, the government recommends that local school boards post an additional teacher when there are a certain number (5-10) of children who have foreign nationality or who need Japanese language education. If an additional teacher is posted, the cost is to be covered by the government’s budget. However, when the number of such children is less than that, an additional teacher is not provided.

Some local school boards send a Japanese language teacher in such a case, but usually the total number of Japanese language lessons is small. In some cases no Japanese language teachers are sent, and the children, the guardians, and the homeroom teachers have a great difficulty.

It is desirable, however, that primarily the government set standards, set up a Japanese language class according to the number of children who need Japanese language education, and post a sufficient number of specialized teachers. Considering that most schools have only one or two children who need Japanese language education, the government should draw up a budget which enables every school, regardless of the condition of its area, to provide Japanese language education even when such students do not reach a certain number, for example, by sending a part time teacher. It is also necessary that Japanese language teachers be added according to the increase of children who have foreign nationality.

In connection with these things, the Management and Coordination Agency issued the following recommendation in December, 1996, and demanded improvement but there has been no significant improvement until now. “The Ministry of Education needs to take the following measures, from the viewpoint of promoting improvement of education and teaching system at schools accepting foreign children who need Japanese language education. a) For the purpose of promoting effective acceptance and education of foreign children who need Japanese language education, to take measures such as: setting up a center school which accepts them, and setting up a JSL (Japanese as a Second Language) class at the center school and cooperating schools in areas where there are comparatively many foreign children), or, improving education and teaching system of children who need Japanese language education, for example, by making use of part-time teachers in areas where foreign children are scattered.

#### 4. Establishing “Japanese as a Foreign Language” as a subject of study

For children whose mother language is not Japanese, Japanese language is a second language. Therefore, their curriculum, aims, and teaching materials must be different from those of “Japanese Language” which are taught to Japanese children. In the U.S.A., “ESL(English as a Second Language)” is established as the subject of study.

In Japan, too, such a subject (JSL) needs to be newly established, and its aims, contents, methods need to be stated in the Course of Study. It is also desirable that good examples of educational practices be made widely known through the project on “Development of JSL Curriculum at School,” which is now carried out by the Ministry of Education.

#### 5. Revision of Teacher's License Law and establishment of JSL teacher's license.

At the same time, “Japanese as a Foreign Language” license needs to be introduced by the revision of Teacher's License Law.

#### **D. Opportunities to study the mother language are not offered to foreign students.**

As more foreign people have settled down in Japan, wider communication gaps are emerging between children who forget their mother language and their guardians who make poor progress in Japanese language. Not a few families even face family disintegration. In order to avoid such a problem, Hamamatsu City and some other municipalities began to provide children of foreign nationalities with the opportunity to learn their mother language in classes run by NGOs.

Also from a viewpoint of the right to learn mother language, the government should actively push ahead with offering opportunities for studying a mother language to inhabitants of foreign nationality, and take legislative, administrative and financial measures.

#### **E. Insufficient development of multicultural education at schools**

At schools where children of foreign nationality are enrolled, cultures and nationalities of the pupils and students have got diversity in a short time, and as a result, these children are often bullied or discriminated.

The 1997 November issue of Hiragana Times, an intercultural communication magazine, had a nine-page feature under the title of “When Foreign Children Are Bullied.”

In this feature, very serious examples such as the following are introduced: a Filipino who was hit in the face and was told in a lesson of social studies, “This is your country--how dirty!,”; a Korean elementary pupil who was told “Koreans are bad,” teased by parodying his name, and was finally refused to go to school; a Cambodian senior high student who was continuously sent a message on his beeper “Come to school tomorrow--you'll be killed!”

So many examples where children of foreign nationality were bullied are reported by various people. We could even say it is becoming common phenomenon. In order to get rid of bullying of children of foreign nationality, to encourage children and guardians of the area to understand different cultures and to enable coexistence of inhabitants of different cultures, multicultural education needs to be promoted to all children and guardians. It is desired for the government to promote multicultural education and to draw up plans to support local actions.

#### **F. Necessity of establishing counseling offices**

Children and parents of foreign nationality have many educational problems such as un-enrollment

or non-attendance to school, bullying, and advancement to higher school. In many of these cases, support in their mother language is necessary. It is impossible for their homeroom teacher to deal with all these problems. Then, it is urgently desired for each municipality to establish counseling offices or hot lines in their mother languages. It is also desired to send visiting instructors (counselors or caseworker, etc.) to families and schools which have children of foreign nationality.

### **G. Necessity of support to schools and teachers that accept children of foreign nationality**

Support to schools which accept children whose mother language is not Japanese plays a very important role in solving the problem. These children's education cannot be substantial without support to schools and teachers, such as posting additional teachers, sending full-time or part-time teachers who teach Japanese language, offering training opportunities of Japanese language teaching and opportunities of foreign languages studying, and offering teaching materials and information.

It is urgently desired to establish resource centers equipped with experts, teaching materials, and so on. It is desirable that teaching materials and various kinds of information be available in the library there or on the home page. It is also desirable that the educational practices be widely introduced and promoted so that local volunteer groups and universities can support schools and teachers.

All of these things are still unsettled problems, and they are comprehensively suggested in "Hamamatsu Declaration and Proposals" adopted by "Conference of Municipalities Where Many Foreigners Live" in 2001. Let us introduce it as the end.

'Proposals to the government, municipalities, and the organizations concerned

1. Improvement in teaching system of Japanese and other languages at elementary and junior high schools

(1) Along with linguistic teaching in Japanese language classes and that by visiting teachers, it should be considered to compile teaching manuals and to give financial support to increase the number of additional teachers and to post interpreters, so that careful instruction, such as understanding different cultures, can be given in the educational systems.

(2) It should be considered to admit children flexibly to an appropriate grade according to their level of mastery in Japanese language and other subjects.

(3) It should be considered to ensure children's chances for the future, such as giving more options when they go on to school of higher level or get a job.

(4) It should be considered to post specialized counselors or other experts in administration who can speak children or their guardian's mother languages, in order to support communication between



schools and families.

## 2. Improvement in assistance of school attendance

- (1) It should be considered to aid the establishment and management of schools (or classes) for children who are not enrolled, who do not attend school, or who cannot understand the lessons.
- (2) It should be considered to strengthen cooperation with schools for foreign children, and to make an exception, from its public missions, in establishing a school corporation.
- (3) It should be considered to support life and Japanese language learning of children who are not enrolled to school, and to improve their guidance about customs and social rules.

## 3. Other things to be considered

- (1) Places where foreign children can live a comfortable life should not be asked only at school, but also in local communities. Therefore, it should be considered to establish such facilities.
- (2) It should be considered to organize a network of various support, such as financial and human support from the national government, prefectural governments, and companies which accept foreign people, with a view to the improvement in various phases of educational environment, not only that of children but also that of adult foreign inhabitants.

**Part 4 Rights of Korean Children Living in Japan to Their Ethnic**

**Education**

## **Chapter 33 Overview on the actual conditions of the right of Korean children living in Japan to ethnic education**

At present, there are nearly 700,000 South and North Koreans settling down in Japan. Most of them are people who were taken to Japan for forced labor during Japanese colonial domination of Korea or their descents. After having lost Japanese nationality, a part of them returned to Korean Peninsular after the postwar liberation of Korea, but, majority of them was compelled to reside in Japan. That is because Korean Peninsular was divided into two countries, i.e. into South Korea and North Korea and the political circumstances became so critical. Soon after World War 2, Korean residents in Japan began to join their efforts for the establishment of facilities to provide Korean ethnic education to their children. Living far away from the homeland, they wished to make their children acquire identity as Koreans through education.

Their wish to establish ethnic Korean schools muddled through a variety of difficulties from the very beginning. Since the Ordinance to close down Korean schools in 1948, the Japanese government regarded ethnic education provided in those schools as an object to disturb “public security” and continued to label the education as “anti-Japan” education. The fact that a “Bill on Schools for Foreigners” was presented seven times to the Diet symbolically shows how the Japanese government felt against ethnic Korean education.

Even under a successive crucifixion, the torch for ethnic education has not been turned off. Owing to strenuous efforts of interested persons, all Korean schools obtained the status of “miscellaneous schools” prescribed in Article 83 of the School Education Law in 1970s.

Ethnic education for Koreans, with the above-mentioned history, is now faced with various disadvantages derived from the legal status of a Korean school as “miscellaneous school.” Human rights of students of Korean schools are often infringed in the way as follows: 1) As Korean schools are not officially recognized as schools prescribed by Article 1 of the School Education Law, graduates from Korean junior high schools are not qualified for high school entrance examinations. Likewise graduates from Korean high schools are not qualified for university entrance examinations. 2) Since the minimum qualification of candidacy for various occupations are high school or university graduation, Korean school graduates who are unable obtain any qualifications, have to choose their occupations from extremely restricted range. 3) Korean schools are exempted from the application of the Law for Provision of Grant for the Promotion of Private Schools due to the fact that they are not qualified as school prescribed in Article 1. They are granted certain amounts of

subsidies only from local governments. 4) Korean schools are not exempted from tax concerning contributions by parents and others.

In particular, disqualification for entrance examination to Japanese high schools and universities compel students in Korean schools to choose precarious future courses. Insufficient public subsidies compel parents of those students to spend much more money for education. As a result, the student population in Korean schools has been decreasing year by year. With the political trend to criticize Democratic People's Republic of Korea concerning "abduction" and "development of nuclear weapons," Korean schools are exposed to severe criticism of the citizens. Female students in Korean schools wearing traditional ethnic uniforms have often exposed to unreasonable violence and harassment on their way to and from schools. If such circumstances continue, it is concerned that ethnic education in Korean schools might be even more on the decline and finally snuffed out.

This part aims to inquire into critical situation of ethnic education as mentioned above in the light of the Convention on the Rights of the Child. The right to ethnic education is established by some international laws on human rights including the Convention on the Rights of the Child. Therefore, we would like to make it clear that Korean children living in Japan are naturally entitled to fully enjoy the right.

## **Chapter 34 Right to education of foreigners living in Japan**

### **A. Can a foreigner living in Japan be a subject of the right to education?**

Before considering the right of ethnic education, we would like to examine whether the right to education prescribed in the Constitution of Japan is applicable in general to whole foreigners living in Japan.

Paragraph 1 of Article 26 of the Constitution of Japan prescribes, “All people shall have the right to receive an equal education correspondent to their ability, as provided by law.” The Fundamental Law of Education was enacted in accordance with the spirit of the Constitution of Japan. Article 3 of the Law also prescribes, “The people shall all be given equal occasions of receiving education according to their ability, and they shall not be subject to educational discrimination on account of race, creed, sex, social status, economic position, or family origin.” The point at issue here is whether the right to education and the opportunity for education in the above-mentioned laws are assured not only to the Japanese people (= people with Japanese nationality) but also to foreigners living in Japan. Researchers on the Constitutional Law set this issue as “whether human rights prescribed in the Constitution can be applied to foreigners living in Japan.” Both the prevailing theory in academic circles and the Supreme Courts argue that whether a certain human right is guaranteed to foreigners depends on the nature of the right. This argument states whether the subject of a certain right is prescribed in the Constitution as “the Japanese people” or “all people” is not relevant in deciding the issue. Therefore, the crucial point is whether the fundamental human rights can be guaranteed also to foreigners living in Japan.

With regard to this point, we have to take into account the fact that education is a private act originated from private education at home. Education should be recognized primarily as “human education” for realizing the development of children as human being and the guaranteeing humane growth and development of individuals and for maintaining, as well as the succession and reproduction of culture, rather than “civic education” for bringing citizens or members of the state under the framework of the nation state. In other words, education is a humane practice standing aloof from state and nationality. Even today when education is systematically provided as “public education,” this is true. It can be said that present public education mainly provided through school system is a socially organized function of originally private acts of child rearing. Therefore education is socially organized “private” acts and “public” is constituted by the accumulation of “private.” “Public” is often understood as the “State” and “public education” is claimed to be

“education with the initiative of the State.” “Public education” does not, however, necessarily mean education supervised by the State. It is nothing but the “public” nature (so-called “civil public nature”) of education that has been compiled by “private” acts of child rearing.

On the understanding of public education as mentioned above, it is reasonable to think that the right to education should be accessible to all members of civil society, regardless of nationality. There are not slightest reasons to exclude foreigners’ right to education.

In case of foreigners who have settled down in Japan, following should be taken into consideration in addition to the reason mentioned above. That is public education is funded by tax levied equally also from foreigners who have settled down in Japan. And municipalities, which have “resident” foreign population, are entrusted to establish public schools. From this standpoint, those foreigners who have settled down in local communities and become their constituents should be guaranteed the same right to education with Japanese residents.

In this connection, international human rights instruments prescribing the right of education stipulate subjects of the right as follows;

- .Universal Declaration of Human Rights, Article 26. 1: “Everyone”
- .International Covenant on Economic, Social and Cultural Rights, Article 13. 1: “everyone”
- .Convention for the Elimination of All Forms of Racial Discrimination, Article 5: “Everyone”
- .Convention on the Right of the Child Article 28: “the right of the child to education” and “every child”

Thus the international human rights instruments stipulates the subject to receive education as everyone (every child) not restricting to the people of the state concerned. This should be taken into consideration in considering the issue.

## **B. On free compulsory education**

In response to Paragraph 1 of Article 26 of the Constitution of Japan which stipulates “the right to receive education,” Paragraph 2 of the article refers to obligation of all people for the right and free compulsory education. Article 4.2 of the Fundamental Law of Education also stipulates on no tuition fee for compulsory education in schools established by the state and local public bodies. Thus at least primary education is required to be free and compulsory to everyone by the Constitution and the Fundamental Law of Education. This is in accordance with the current standards of international human rights. For example, Article 26.1 of the Universal Declaration of Human Rights states as follows: “Education shall be free, at least in elementary and fundamental stages. Elementary education shall be compulsory.” The Convention on the Rights of the Child

demands States Parties in Paragraph 1 (a) of Article 28 to “make primary education compulsory and available free to all.” Paragraph 2(a) of Article of International Covenant on Economic, Social, and Cultural Rights has the same content.

In Japan, primary education and lower secondary education are made compulsory and available free to all. As a matter of course, foreign children should be given the right equally. Authorities are required to make at least ethnic primary education available free in accordance with the Constitution, Fundamental Law of Education and the Convention on the Rights of the Child. Therefore, the current situation in which it is not achieved on ethnic school education is against the Constitution as well as the Convention on the Right of the Child.

It is noteworthy that the Committee on the Convention for the Elimination of All Forms of Discrimination” notes in its “Concluding Observations” on March 20, 2001 that, with regard to children of foreign nationality residing in Japan, elementary and lower secondary education is not compulsory. It recommends the Japanese government “to ensure that the rights contained in article 5(e) [right to education and training] are guaranteed without distinction as to race, color, or national or ethnic origin.”

### **C. Opportunity to receive secondary/higher education**

The Convention on the Rights of the Child requires in Paragraph 1 of Article 28 requests States Parties to do followings:

(b) “Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need”; and

(c) “Make higher education accessible to all on the basis of capacity by every appropriate means.”

The International Covenants on Social Rights also has similar provisions in Article 13.

From these provisions, it is easily understood that the international society agrees to make secondary education accessible to “every child” by the progressive introduction of free education. On this point, the existing discriminative system against resident Korean students is evidently not in compliance with the Convention. That is because refusal of entrance or transference of Koreans students into Japanese high schools (upper secondary education) deprives their opportunity to the access to upper secondary education as well as that to free education.

The School Education Law stipulates in its Article 47 qualification for entrance examination to Japanese high schools. It states that those who have graduated from junior high or equivalents

schools, those who have completed former part of unified secondary school, and those who have attainments equal to or higher than junior high school graduates are given qualification for entrance examination to Japanese high schools. With regard to “those who have attainments equal to or higher than middle school graduates,” Article 63 of the Enforcement Rule on the School Education Law stipulates as follows:

1. Those who have completed nine year course of school education in foreign countries
2. Those who have completed proper course of overseas educational institutions which are granted by the Minister of Education and Science as having equal course with Japanese junior high school course
3. Those who the Minister of Education and Science specifies
4. Those who are granted to have attainments equal to or higher than junior high school graduates by the Regulations on the qualification for those who have been exempted from compulsory schooling
5. Those who are granted by authorities of high school to have attainments equal to or higher than middle school graduates.

Among above-mentioned stipulations, the last one is important. For example, according to the stipulation, for any high school established by prefecture, education board of the prefecture is entitled to admit qualification for entrance examination. In case of private high schools, principals are entitled to decide the qualification. In other words, the approval of qualification is at the discretion of education boards and on the school concerned. At present, however, education boards of 40 prefectures (excluding Tokyo Metropolis) have not approved qualification of the graduates of Korean middle schools for entrance examination for Japanese public high schools. This situation is clearly not in compliance with the Convention on the Rights of the Child.

With regard to higher education (university education), “everyone” has to be guaranteed equal opportunity to higher education “by every appropriate means” under the Convention. The Convention requires States Parties to exclude any other forms of selection concerning the access to higher education than selection based on capacity, e.g. entrance examination. On this point also, current situation to disqualify graduates from Korean high schools to university entrance examination is against the Convention, shutting down the door to higher education without trying to identify their capacity.

Concerning the qualification for university entrance examination, Article 69 of the Enforcement Regulations of the School Education Law prescribes “those who have attainments equal to or higher than graduates from high schools” stipulated in Article 56. 1 of the Law as follows:

1. Those who have completed 12 year course of school education in foreign countries or corresponding persons who the Minister of Education and Science specifies
2. Those who have completed proper course of overseas educational institutions which are granted



by the Minister of Education and Science as having equal course with Japanese institutions which are granted by the Minister of Education and Science as having equal course with Japanese high school course.

3. Those who the Minister of Education and Science specifies
4. Those who have passed qualifying examination for entrance to university
5. Those who are admitted university entrance in accordance with Article 56. 2 and granted to have attainments appropriate for receiving university education in another university which the applicant concerned wishes to enter
6. Those who are regarded by universities as reaching certain ages of maturity and having attainments equal to or higher than high school graduates

Among above-mentioned prescription, the last one is particularly important. In the same manner as high schools, the approval of qualification for university is at the discretion of authorities of universities. As of 2002, 34 municipal universities (about 68%) and 228 private universities (about 53%) qualify graduates of Korean high schools to submit applications according to this stipulation. Contrary to this, even one out of 95 national universities does not open the door to graduates of Korean higher schools (see the Table below). The reason why they do not approve qualification despite legal capability is derived by the “instruction” from the Ministry of Education and Science. It must be pointed out that such a situation also clearly not in compliance with the Convention.

Table. Answers to the question "Do you admit ethnic school graduates take the entrance examination?"

	total	national univ.	municipal univ.	private univ.
Yes	232 (42.4%)	0	34	228
No	226 (36.6%)	79	16	131
others	44 (7.1%)	0	8	36
no answer	86 (13.9%)	16	8	62
valid response	532	79	58	395

The data was collected by "the National Conference to Improve Treatment of Ethnic Schools."

## **Chapter 35 Right of Korean residents to ethnic education**

This part has thus far examined whether the right of resident foreigners to education can be guaranteed or not. In the followings, the right of Korean residents to ethnic education, the main subject in question, will be examined. The point of the examination lies in how the international laws on human rights, in particular, the Convention on the Rights of the Child regards ethnic education, to which majority of Korean residents entrusted their wish to transcend racial identity to their children.

To begin with, it should be ascertained how the Convention on the Rights of the Child regards the problem of “identity” to children. Paragraph 1 of Article 7 of the Convention states, “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.” Paragraph 1 of Article 8 also stipulates, “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.” As evident from these, the Convention recognizes importance to preserve identity of the child (according the translation of Japanese government, “items relating to social standing”), i.e. “who I am” and “where I belong to.” Therefore, “identity” includes such knowledge as “to what race I belong to.” (It should be noted that “race” does not mean “state” as political community but historically formed cultural community.) To preserve such a racial identity has a particular significance to children of Korean residents. At present, approximately 90,000 those children attend to Japanese schools and 90% of them call themselves in Japanese family names while hiding their own “race.” Most of them come up against the wall of “race” when they graduate or seek employment. It is said that they have to go through sorrows and sufferings concerning their identities. The loss of identity made two Korean students attending to Japanese high schools commit suicides in 1985. The psychological state in which one is unable to be aware of “who I am” drives a child into a tight corner, sometimes even to death.

Then how do the international laws on human rights prescribe the preservation of such a racial identity through education? To begin with, the Universal Declaration of Human Rights stipulates on the matter in Paragraph 3 of Article 26. It states, “Parents have to prior right to choose the kind of education that shall be given to the children.” In relation to this matter, the Convention on the Rights of the Child prescribes as follows. “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to

enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.” It might be said that this Article is re-prescribed one of Article 27 of the International Covenants on Civil and Political Rights in the light of the recognition that child is the subject to exert the right. Paragraph 1 (c) of Article 29 of the Convention on the Rights of the Child refers, as one of educational goals, “the development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.” Paragraph 2 of Article 29 of the Convention is the provision to be related to ethnic education. It states, “No part of the present article 28 shall construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.”

What should we do with those stipulated articles? Let us begin with “parental right of choice in education.” The right can be understood to include the parental right to transmit their own racial languages and cultures to children. Although the Universal Declaration on Human Rights has no legal binding force, it certainly suggests the righteous direction to which the right to ethnic education should be promoted. Both Article 30 of the Convention on the Rights of the Child and Article 27 of the International Covenants on Civil and Political Rights guarantees the right of racial minority residing in foreign countries to preserve their own cultural identity, language, values through education. Paragraph 2 of Article 29 of the Convention on the Rights of the Child states on the liberty to establish private schools and it can be interpreted that the paragraph includes the liberty of foreign residents to establish an ethnic school.

As was mentioned above, the right of ethnic education is fully recognized in the international laws on human rights. Therefore, the right of Korean residents should be recognized as well in conformity with those laws.

We have a problem to examine here. That is how we should interpret the provision written in paragraph 2, Article 29 of the Convention on the Rights of the Child. The provision requires those educational institutions to fulfill two requirements. They are to be a) “subject always to the observance of the principles set forth in paragraph 1 of the present article” and also subject to b) “the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.” The point here is how the minimum standards mentioned in b) should be interpreted. That is because one of the reasons why the Japanese government has not recognized Korean ethnic schools legal status based on Article 1 of the School Education Law has been that those schools do not fulfill the standards of public education in Japan prescribed in the National Course of Study.

This problem should be understood as follows.

In the first place, the hub of the problem lies in the state of affairs of public education in Japan that is severely restricted its contents by the National Course of Study and screening system of school textbooks. The principle that education administration should not interfere in the contents and methods of education is stipulated in paragraph 1, Article 10 of the Fundamental Law of Education. It states, “Education shall not be subject to improper control, but it shall be directly responsible to the whole people.” With regards to judicial precedents, the Grand Bench of the Supreme Court showed judgment on the case of nation wide achievement tests (May 21, 1976). It states as follows: “Under party politics, decision-makings made by majority principle are, as a matter of course, affected by various political factors. The government should refrain from interfering into educational contents as far as possible, for political power might endanger education, a cultural act which essentially concerns with inner values of human beings and should not be affected by ideas and interests of party politics.” It is commonly understood by academic circles concerning education laws that education administration is only permitted to provide instructions and advises without legal binding force on educational contents and that it can exert legal binding force only on the outlines of contents. The present public education in Japan breaks far away from these criteria and education administration authorities have taken high-handed measures to interfere into educational contents. The government has rejected to grant the legal status as “school” to Korean ethnic schools on the ground that they do not observe the national standards, especially the National Course of Study. But, this ground is premised on the unconditional approval of the government’s unconstitutional intervention into educational contents. Such an attitude should be severely criticized, because it makes ethnic education of foreigners living in Japan to obey it forcibly.

In the second place, the “minimum standards” stated in the above-mentioned provision should be understood to be outlines of curriculum. At present, the curriculum used in Korean schools is mostly based on that used in school education in Japan, though partially exceeds curriculum in Japanese schools. In that sense, the curriculum in Korean schools satisfies the “minimum standards” more than enough.

In the third place, regarding one of the provision stating “subject always to the observance of the principles set forth in paragraph 1,” the paragraph itself guarantees the right to “education to respect racial identity.” If the Japanese government regards “ethnicity” of education in Korean schools not to be in conformity with the criteria set forth by Japanese laws, such government’s standings contradict with the commonly accepted understandings of the Convention. The characteristic of ethnic education lies in the very difference in curriculum from general curriculum in a country they live (Japan).

On the basis of the above-mentioned, it can be concluded that ethnic education in Korean schools in Japan is not guaranteed the rights enshrined in the international laws on human rights, particularly the Convention on the Rights of the Child. The UN Committee on the Rights of the Child and the Committee on Social Rights published similar views on this matter. The views cited below should be understood as serious warning of the UN Committees toward the Japanese government which is reluctant to guarantee the right of ethnic education.

“The Committee is concerned that the general principles of non-discrimination (...), the best interests of the child (...) and respect for the views of the child (...) are not being fully integrated into the legislative policies and programmes relevant to children, in particular in relation to children from vulnerable categories such as those belonging to national and ethnic minorities, especially Ainu and Koreans....” (Concluding observations of the Committee on the Rights of the Child, 24 June 1998)

“The Committee is also concerned that about the fact that minority schools, such as Korean schools, are not officially recognized, even when they adhere to the national education curriculum, and therefore neither receive central government subsidies nor are able to provide qualification for university examination.” (Concluding observations of the Committee on Economic, Social and Cultural Rights /CESCR, Principal subject of concern, 24 September 2001)

“The Committee further recommends that the State party officially recognize minority schools, in particular Korean schools, when they comply with the national education curriculum, and consequently make available to them subsidies and other financial assistance, and also recognize their school leaving certificates as university entrance examination qualifications.” (ditto)

Before concluding this article, reference should be made on the significance of ethnic education for foreign residents in Japan.

As stated thus far, “ethnic education” does not mean education provided to the people of nation states but such an education as to preserve “ethnic” identity formed historically and culturally. In that context, the ethnic education being provided in Korean schools is worthy to be called true ethnic education. That is because, in those schools, students with South Korean nationality as well as those with North Korean nationality are provided education as “Koreans” together. Though Korea was originally a unitary state of Korean race, it has a tragic history to be divided into two states in South and North. And the unification of Korean race has been commonly desired by whole Korean people regardless of the states in which they belong. Therefore, we should recognize that ethnic education in Korean schools in Japan is extremely positive and significant activity to assume historical responsibility for achieving unification of Korean race. It is not too much to say that the Japanese government, who is responsible for having given sufferings to Korean race, should assume

the responsibility to pay respect for such an ethnic education and guarantee appropriate conditions for it.

### **III. Best Interest of the Child**

## **Chapter 36 Libertarianism attacks Article 3 and 4 of the Convention**

The children- related new laws and policies made for the last five years are generally found having the feature that, when they were drawn up, children's rights were not given the first priority, but on the contrary the policies based on Libertarianism and Neo-nationalism were given priority over children's rights. They were given just the second consideration compared to policies based on Libertarianism, and improving the level of the national standards concerning welfare of children has been put off. Moreover, the idea of the children's rights have been regarded as inconsistent with Neo-nationalism and regarded with hostility by the government, and measures and remarks to deny children's rights have been repeated by the government and influential politicians.

In the following, firstly we are going to point out the trend and problems of Libertarianism in the field of day-care service, after-school day-care service, child welfare institutions, and education (See Chapter 37-40). Then, we are going to show problems on the status of workers (teachers, nurses for a day-care center, etc) who work and struggle for children's rights under the policies based upon Libertarianism and Neo-nationalism. (See Chapter 41 and 42).

The policy grounded on Libertarianism was started in 1997 in the name of "structural reform" and has been given a position as leading principle applicable to all the state policies. The "structural reform" aims to overcome state financial crisis by cutting down official expenses for social welfare for people and by relaxing regulations imposed on business enterprises to activate business activities. In any case, it has resulted in easing or abolishment of various standards and regulations provided for people's welfare.

Existent regulations or standards are classified into several categories according to their aims. One is for putting the state under an obligation to provide official expenses and equip facilities in order to realize social rights including rights related to education and welfare, another is for prevent negative influence resulted from competitiveness or the like in order to secure equality in children's rights, and the last one is for protecting people's lives from harmful influence private enterprises could give.

Under the "structural reform," while reinforcing standards which needs to step up the level of official expenditure has been left over, on the contrary they have been lowered, the standards of expenditure for providing equality to all the people by the state has been eased, and official expenses have allotted selectively to the domains which is compatible with the economic policy the government supports.



Besides, measures to allow profit-making corporations, which have been so far unable to supply their services related to education and day-care service, to do so have been introduced. Denial to let profit-making corporations supply services to educational and welfare circles, or denial to introduce personnel management of theirs to these circles so far aimed to establish “humane relationship” between the workers and recipients by allotting enough financial resources to personnel expenses. Letting profit-making enterprises participate in welfare and educational undertakings which require a lot of personnel expenses will lead them inevitably to cut down personnel expenses, and to reduce full-time workers and increase part-time workers. Workers are in danger of evading establishing “humane relationship” with children.

Furthermore, the working conditions of workers who work for children has not been improved and kept low even when they work for the facilities provided by the state or local governments. In addition, teachers and nursery teachers of day-care centers whose status used to be higher compared to other workers working for children are now working under the reformed personnel management in a style of personnel affairs done in private enterprises in order to curb personnel expenses. In case of education, teachers are classified into two parts; management class and working class, and the former is paid higher than the latter, or in case of day-care, full-time workers are reduced and part-time workers are increased.

Article 3 (3) of the Convention specifies that the State Parties are obligated to establish various standards, such as standards of welfare and educational services, security standards in welfare and education, standards of facilities, standards related to the status of workers working for this field. This obligation puts the governmental duty into effect specified in Article 4, which says that the government should allot the available maximum resources for materialization of social human rights. Easing or deregulating these standards based on Libertarianism deteriorates the level of education and welfare. It results in the fact that the poorer family children are from, the bigger difficulties they face when they try to enjoy rights related to social welfare. The policy based on The Libertarianism cannot avoid extreme tensions with Article 3 (3) and Article 4.

## **Chapter 37 Deregulation in the day care center system**

### **A. New Angel Plan resulted in expanding day-care service with lower quality**

The Second Report of Japan says, “The New Angel Plan formulates specific programs designed to deal with declining birthrate. It includes improvement of child care services and increasing employment opportunities. The government, in line with this plan, is trying to appropriate more funds for the programs for children and family benefit.” (para. 34) It also says, “The Plan is intended to improve children’s measures rich both in quantity and quality such as accepting low-age children at day nurseries, long-hour care, childcare on holidays, and childcare after leaving school.” (para. 35) However, these measures do not meet the needs of increasing-number of children who are qualified to use day-care services. Furthermore, as the plan does not envisage the increase in the national budget for day-care services, it results in expanding the service by incurring serious lowering of level of childcare services.

### **B. Decrease in national budget for day-care centers**

The ratio of government’s share of operation expenses of day-care service in the national general budget declined from the peaking 0.83 percent in 1977, down to 0.52 percent in 2003. In the 1970s, the ratio remained 0.7 ~ 0.8 percent, so the decline was very large. The government is considering the plan to transfer the present government’s sharing system for expenses of daycare service from the “national treasury” to the “general budget.” When the subsidies come from the “national treasury,” the municipalities are supposed to use them for the purpose for which subsidies are provided. But, when the subsidies come from the “general budget,” the municipalities are allowed to use them for purposes other than that for which subsidies are provided. If the plan was carried out, municipalities might use the day-care service subsidies from the government for other purposes, and it is likely to lead to virtual cutback in the management expenses of those facilities.

The children waiting for vacancy in day-service stand at 39,881 as of April 2002 (up 4,737 over the previous year), an increase for three years in a row. The number of day nurseries continued to decline year by year from the peaking 22,899 in 1985, but in 2001 it increased a bit to 22,722, still with 627 below in the peaking year. In fact, many municipalities manipulate the number of the “waiting children” to make it seem less than actual number by excluding those under care at unauthorized day-care centers. Therefore, the actual number of the waiting children is supposed to

be 10,000 more than 39,881.

Unauthorized day-care centers which fall short of the care standards are increasing. Authorized day nurseries are 22,272 with 1,879,349 inmates (as of April 2002), while 9,645 unauthorized centers accommodate 221,022 kids (as of March 2002). Accidents occur at unauthorized day nurseries in large number. Many authorized nurseries, as a matter of fact, don't meet the care standards. Care standards provide that, as a minimum, in terms of allotment of staff, one nursery teacher for 6 one-year-old children, and one teacher for 30 four-or more year-old children, and in terms of floor space, 1.65 or 3.3 square meter-crawling space for infants. However, no step to increase staff or improve facilities has been taken so far.

### **C. Lowering the low standards of day-care centers**

Many authorized nurseries, as a matter of fact, don't meet the care standards. Care standards provide that, as a minimum, in terms of allotment of staff, one nursery teacher for 6 one-year-old children, and one teacher for 30 four-or more year-old children, and in terms of floor space, 1.65 or 3.3 square meter-crawling space for infants. However, no step to increase staff or improve facilities has been taken so far. As the government is now requiring day-care centers to be staffed by as many children as possible, even the existing low standards are not maintained and substantially lowered. (Basic Report 6, 52, 82, 90, 122, 128, and 201)

### **D. Privatization of day-care service**

Many of deregulation plans carried in the field of childcare can be said to be the measures intended to pursue financial efficiency and establish the market of childcare. Relaxation of the regulation on establishers of nursery schools in 2000 was epoch making, and lots of proposals to promote the participation of enterprises have since been put into practice. For example, encouragement of the method of public-establishment and private-management makes it possible for profit-seeking enterprises to get into the field of childcare by getting great reduction of their investment of setting facilities at the early stage. The introduction of Private Finance Initiative (PFI) system is the same. Relaxation of regulation on part-time nursery school teachers has much effect of curbing personnel expenses, which sometimes account for more than half of the whole expenditure of a nursery school, and making profit-securing easier.

The system of evaluation by outside third party which started in 2002 was proposed as one of essential frameworks to structural reforms of social welfare. Under this system, what is to be evaluated is not the status of staff or conditions of facilities which strongly affect the quality of

childcare. Instead, the third party is going to check such trivial things as whether nursery schools have various manuals or not, or whether nursery teachers and managers of nursery schools have positive attitudes. But, the government uses this system as an excuse for ignoring its obligation to raise the standards on staff and facilities by saying that this system will improve the "quality" of childcare.

(See the Basic Report 118)

## **Chapter 38 Lowering the quality of after-school day-care center**

### **A. Minimum standards on day-care center should be improved.**

Paragraph 34 and 35 of the Second Report of Japan refer to improvement of services of childcare after leaving school. The Child Welfare Law was partly amended in 1997 to authorize after-school day-care centers --childcare clubs--. In line with the new Angel Plan, the number of clubs increased, and the ratio of one club to one elementary school has reached 53.5 percent. The result itself is a highly evaluated. But, the minimum standards for their facilities have not yet been established. Even in large cities with enough finances, sufficient budget are not secured for them. Due to the small capacity and high fees, only 40 percent of children who have left day-care centers one-fourth of children of working parents are admitted to clubs, creating a large number of “waiting children.”

### **B. Introduction of “Open use of school ground and facilities” as a measure to provide after-school day-care service in exchange of the abolishment of public childcare clubs constitutes the setback from the status quo.**

Due to financial difficulties, more municipalities, instead of building new childcare clubs, are trying to have all the children, lower or higher grades, do sports on the athletic grounds of school or plat in the empty class, in line with the “Project of Open Use of School Grounds.” In doing so, they try to do away with children unable to enter childcare clubs. In some municipalities, the open use of school grounds and facilities are introduced in the exchange of the abolishment of all the public childcare clubs. Kawasaki city, which is famous for enacting the Ordinance on Children’s Rights, strangely enough, is among those municipalities.

In all of this kind of projects, the important role that club instructors take in day-care services have been made little of. Their chief roles are just regarded as timekeeper to let children stay and go home safely after a day’s care, keeping an eye on them against accidents, maintaining facilities, and dealing with emergencies. Even their interaction with children is considered as mere clerical work. They are employed on a part time basis, the day’s work hours being few. Therefore, it seems difficult to establish a relationship of mutual trust between instructors and children.

Club instructors and parents have exchanged a notebook telling children’s daily behavior at the club and home with the aim of improving child rearing. However, in the projects of open use of school

grounds and facilities, this kind of cooperation between instructors and parents does not exist.

The core of lessons that childcare clubs have learned in their past activities is that children grow up through emotional and trustworthy interactions, daily close contacts and sharing impressive experiences between them and club instructors. But the government and local authorities do not take into account such lessons. The introduction of open use for school grounds and facilities as a measure of providing after-school daycare services in exchange of the abolishment of public childcare centers surely constitutes the setback from the status quo, which is forbidden by the international human rights instruments. (Basic Report 8, 39, 194 and 244)

## **Chapter 39 The Minimum Standards for child welfare institutions are kept low.**

In the Concluding Observations, which was adopted after the consideration of the Initial Report of Japan in 1998, CRC expressed its concern on the fact that the privacy of the child in the child welfare institutions was not protected. In order to protect the right to privacy of the child living in child welfare institutions, the government should revise the “Minimum Standards for Child Welfare Facilities,” which was adopted in 1948, to secure the sufficient living place and revise the standards on financial support to the renovation of facilities of child welfare institutions.

But, the government has not revised the Minimum Standards and the following standard on living place is still effective; “the capacity of the room is less than 15 children, the space is more than 3.3 . for a person (article 41(2)).” The Ministry of Construction adopted “the 7th Five Years Plan of the Residence (from 1996 to 2000)” and clarifies “the Minimum Standards of Residence,” which should be secured by all households to realize a healthy, cultural life.” According to this minimum standards established by the Ministry of Construction, “As for children who are 6 to 17 years (from elementary school to high school), one room shall be shared by no more than two person,” and “As for the person who is more than 18 years old, they shall have to single room (7.5 ).” The “Minimum Standards for Child Welfare Facilities” is lower than the “Minimum Standards of Residence.”

The government subsidy to child welfare institutions run by private corporations is not sufficient to encourage them to renovate the facilities so as to expand living place. Article 56-2 of the Child Welfare Law stipulates that “as for the child welfare institutions which are established by other than the state, the prefecture or the city, the 3/4 of the total expenses which is cost by found, repair, reform, expansion or equipment can be subsidized.” This means that a corporation of child welfare institutions must pay the 1/4 of the total expenses. Tough it is necessary to improve resident room conditions for protecting privacy of the child, it is difficult to do this due to the lack of financial resources on the side of a corporation. The improvement of resident room conditions mostly depends on the government subsidy.

## **Chapter 40 Libertarianism in education**

### **A. Educational equality being dismantled in three aspects; educational finance, school system and contents of education**

The Japanese educational system has been criticized as “highly competitive” by CRC. It used to have, however, a positive aspect keeping a single -track school system in which all the students go up straight from primary school to junior and senior high school and students as many as possible are provided with high level education. The reason why it is competitive on one side whereas it is egalitarian on the other came out of the fact that it took a role to create massive number of workers with high quality and to supply them to domestic manufacturers.

Recently, however, as the competitive ability of Japanese domestic manufacturers in the world market has got deteriorated and it has been impossible for Japan to win global economic race, the Japanese government decided to change Japanese industrial structures into ones led by multi-national enterprises and IT industries, and to reform education as a means of the change. Then it decided to slim the existent educational system which had imposed a heavy financial burden because of a purpose of creating a great number of workers with high quality. It has now put emphasis on creating a small number of elite students who could win a global great race by investing in them, and it has started to implement the policy to cut down educational expenses for the rest of a great number of non-elite students. This policy distinguishes some schools for elite students from ones for non-elite students to double-track the school system at such an early stage as primary school, and plans to provide different contents of education for the two groups. The government plans to dissolve egalitarian educational system in the three aspects of educational finance, system and contents of education and the plans has already begun to be implemented at present.

(See Chapter 99 for detailed information)

### **B. National standards on educational facilities are kept low.**

For the past five years, the government has ignored its responsibility to raise the quality of education by improving the national standards. This negative attitude of the government toward this responsibility is shown best by the way in which the government has responded to the strong demand of the public to revise the national standard on class-size, which stipulates that up to 40 students should be staffed into one class. The law on standards of class organization and teachers’



number provides 40 student-class, and when local governments didn't observe the standards, the central government cut its subsidies to them. But because of pressure of public opinion, the central government reluctantly revised the law. Under the revised law, local governments can organize a class fewer than 40 students at their discretion. However, local governments have to form small-size classes without necessary subsidy by the central government. This has caused various undesirable behaviors making shift with keeping the total number of staff, such as not reducing the class size but teaching a small group consisting of only smart students, or making another type of class classified by student's attainment, which ends in omitting students who are "not well at school," or cutting off necessary additional personnel to small sized schools. Furthermore it is seen problematic that teaching staff's status has become insecure because of appearance of temporary employed teaching staff. (Basic Report 1, 92, 95 and 110)

Subsidy to private schools is also kept low by the government. As regards parents' share of school expenses, parents for private schools pay 2.7 times as high as those for public schools; ¥492,308 for private schools and ¥179,400 for public schools. For reference, in foreign countries, parents' burden of public senior high schools is almost zero, and as for the burden of private senior high schools is not so heavy. Unable to bear the expenses, 2,035 students left private high schools halfway in 2000. Expansion of subsidy to private schools and scholarship programs are matters to be urgently solved. (Basic Report 80)

The following demands of the public to the government reflect the fact that the government has ignored its responsibility to improve the standards: to allocate school nurse, librarian, dietitian, and school counselor, to let government bear expenses for students' traveling, school textbooks and supplies, to renovate old and rotten school buildings and equipments, and to install air-conditioning systems, and to improve special facilities for disabled children, to constitute a law on compensation for school accidents, and to prolong period of payment of medical benefit by Japan Physical Education & School Health Center. (Basic Report 92, 56, 109 and 110)

(See Chapter 97 for detailed information)

### **C. The standards lowered by the central and local governments**

As the example of standards lowered or planned to be lowered by the government, the revise of scholarship fund, the planned reduction of the central government's expenditure on public elementary and junior high school teachers salary (See also Chapter 117-E).

Article 28-1-(c) of the Convention stipulates, "Make higher education accessible to all on the basis of capacity by every appropriate means." In order to accomplish the aim, scholarship programs are very effective and important. In Japan, however, the Japan Scholarship Fund, established by the

government, was dismissed and merged into another organization in June 2003. The present organization in principle gives scholarship to students in a form of loans, besides, mostly to students with high grades. Formerly, the persons who have got positions in education and research services after college graduation were exempt from paying the funds back, but under the new system, this privilege has been limited to honor students. (Basic Report 48) (See Chapter 119-A for detailed information)

The government's recent plan of cut in various subsidies will surely enhance this trend of reduction of national expenditure for education. The central government plans to reduce its sharing in school teachers' salary, and in school textbooks.

#### **D. Reduction in public spending on education based on national or regional standard and increase in budget for elite training**

The national and local governments are curbing format funding of education (budgeting according to the standards set out by the government); but, at the same time, they are prioritizing schools that raise "elite" children in budgeting. Many municipalities have planned and implemented abolishing or integrating part-time high schools, which have contributed to providing educational opportunities for dropouts and children who refused to go to school, who are the victims of heated competition imposed by the government. Despite the facts that the number of dropouts is increasing due to financial reasons, the government has taken no measure to solve such situation. (Basic Report 42 & 212) On the other hand, the government has decided to pay extra for the high schools which provide science-focused education, naming them as "Super Science Schools." Some municipalities have started to place extra budget on unified elementary and junior high schools (Shinagawa Ward). (Basic Report 10, 56, and 109) (See Chapter 118 and 119 for detailed information)

#### **E. Abolishing regulations intended to curb competitiveness**

The CRC expressed its great concern about the fact that Japanese educational system is "highly competitive" in its Concluding Observations adopted after examining the First Report of Japan. The educational system in Japan is characterized by its forcing all the students without exceptions to participate in the competition. But still it provided some regulations to curb intensification of the competitiveness. First, it maintained its single-track education system and that of the double-track to select children from an early stage according to their future vocation was denied. Second, under the school district system, children go to school in the district where they live with their family.

Under the school district system, children enter the only one public primary school or junior high school located in the district where they live. As for high school, more expanded school districts where some senior high schools exist in each are provided, and each child takes entrance exam of the high school which he or she wants to enter and is admitted to enter if he/she passes the exam. The Japanese educational system has been called as “highly competitive,” which is caused by two reasons. One is that despite high school capacity enough to accept all the students, the policy with fixed ratio of the students who go on to senior high school taken by education board has caused to generate students who are not admitted to enter senior high school intentionally. Another one is that because of ranking schools within one district, children compete for entering high ranked school. Therefore if some measures were taken which enable all the students who want to enter a high school to do so, and if one senior high school was arranged for one school district, there would be much less competition.

Nevertheless, the Japanese government on the contrary removed two regulations intended to curb competitiveness to make competitive educational system more competitive. Firstly, it plans to select children from early stage by shifting the single-track education system into substantially double-track school system. It revised the School Education Law to enable it to found one continuous school with junior and senior high school. It also recommends local governments to make one continuous school with primary and junior high school. Secondly, the school district system from primary school stage is to be abolished. The newly revised School Education Law could enable local governments to lift school district system for senior high school at their own discretion. The Tokyo metropolis government abolished the school district system for senior high school according to the revision. Some local governments have started to nullify the school district system for primary school and junior high school and to introduce a school selection system.

Substantial introduction of double-track school system and abolishment of the school district system beginning from the stage of primary school will make competition begin when children enter a primary school. For a while present competitive education system will be more competitive. The competition, however, beginning from the early stage will clearly advantage children with rich family, and in the future disparity in wealth of their parents will decide the level of the school each child goes to. It is expected that the education system will be very hierarchical.

(See Chapter 114 and 115 for detailed information)

**F. Contents of education becoming stale by the National Course of Study, purchasing exam-taking technique at private expense, and intensifying standards of educational contents aiming at indoctrinating ideologies**

The National Course of Study is another systematic reason to cause the Japanese education system to be competitive. The Ministry of Education has insisted that the governmental curriculum guidelines decided by the Minister of Education has legally binding force. It has been stuffed with massive educational contents and it has forced children to work too much. In order to reform such a negative situation, it has been demanded that the National Course of Study be re-characterized as just a guide for helping teachers without legal binding to enable teachers to educate children according to children's wishes and demands.

However, keeping insisting for the last five years that the Course of Study has legal binding force, the Ministry of Education have taken measures not to allow teachers to teach beyond what the Course of Study requires, regarding the contents of the Course of Study as minimum essentials. This means that both what children learn at school and the government's responsibility for children's academic ability formation are to be minimized. This has intensified the tendency to make children go to a cram school at private expense and to buy necessary exam-taking techniques from it.

Children cannot enjoy learning and they are required to acquire necessary exam-taking skill at cram school. Under this kind of situation, a strange phenomenon, that children—who do well at school—in Japan are very good at getting high marks in exams but do not like studying itself, is seen. This phenomenon would attract global attention as Japanese type of high academic ability. Recently more and more children develop a tendency to have just this kind of academic attainment. (See Chapter 97-E for detailed information)

The Ministry of Education, while reducing their own responsibility for children's formation of academic attainment, has intensively interfered in children's forming their world views. Firstly, it forced so called a new view of scholastic ability. A new evaluation method was introduced; when evaluating students, teachers do not evaluate on the ground of their grade of understanding the subject but evaluate on the basis of children's desire to study or interest and attitude toward the subject shown during class without any relation to their understanding the subject. Forcible introduction of such an evaluation standard by the Ministry of Education has caused children to prefer behaving as a good student to trying to understand the subject.

Secondly, the Ministry introduced "time for comprehensive learning." Its original purpose was to let children study the issues on the modern society in an interdisciplinary way. But recently it has become just a class in which students are forced to learn ideologies concealing the unethical results of "the law of the jungle" triggered by social welfare deterioration under the neo-nationalism and neo-libertarianism policies. (See Chapter 97-E for detailed information)

## **Chapter 41 Problems in the status of persons who work for children in day-care centers and child welfare institutions**

The current national policy which combines the libertarianism and neo-conservatism has negatively affected the status of persons working for children. The status of teachers in schools and that of nursery teachers in day-care centers, which were relatively higher than the status of others working for children, have been lowered. And the government has taken any measure to improve the status of instructors in after-school day-care centers and workers in child welfare institutions, and leaves it low as it was before.

The status of adults working for children in these institutions is critical in realizing children's rights, because the stable, humane and interactive relationship between these adults and children is indispensable in realizing the healthy development of children. As stated in Article 12, the interactive relationship where adults respond to the wishes and demands of children is the key of the child development. The number of adults per child, their status – whether they are full-time or part-time - and their working conditions such as length of working hours and their salary directly affect the way in which children are reared and educated. Thus, the status of adults working for children should be regarded as the basic conditions for child development.

The current policy which tends to lower the status or keeps the status low as before does not meet the demands of Paragraph 3 of Article 3 of the Convention, and has strong tense with the Convention. In the following, we will examine how the current policy has affected the status of adults working for children in the field of day-care centers, child welfare institutions, and schools.

### **A. The status of nursery teachers in day-care centers under the policy of quantitatively expanding day-care service without the increase in the national budget**

As states in Chapter 37, the government is now trying to enroll more children who are in need of day-care without increasing the budget. This policy deteriorates the child environment in day-care centers. The standards on facilities and management are now being lowered to the Minimum Standards set out by the Ministry of Welfare about 50 years ago.

The most serious issue concerning the status of nursery teachers is that the government has recently encouraged the use of part-time nursery teachers as the measures to fulfill the expanding needs for

day-care service. The qualification of nursery school teachers was legalized according to the partial revision of the Child Welfare Law in November, 2001. The legalization of qualification of nursery school teachers itself was to be evaluated because it will lead to the improvement of the status of nursery school teachers. The problem was the change of the ways to count the number of nursery school teachers. Before the revision, full-time nursery teachers were required to be placed in nursery schools as a matter of principle. Employment of part-time teachers was an exception and, had been allowed under the condition of within 20% of all the teachers.

But the regulation was almost abolished in 2002 on the ground that whether teachers are full-time or part-time does not matter so long as they are qualified as nursery teachers under the law. Its purpose is to cope with need for extended day-care as well as to cut personnel expenses. This will obviously lead to degrading of the quality of childcare. Teachers who care children staying longer hours in schools will be frequently changed as more part-time teachers work in schools. This will cause unstable emotional tie between children and teachers as well as bad influence on the cooperation between parents and teachers. This situation is against Article 12 of the Convention.

These policies will favor profitable organizations which run nursery schools, because schools with more part-time teachers cost less. This tendency to depend more on part-time teachers will make light of the efforts to ensure children's development through establishing stable relationship between children and teachers who are in the places of parents. These policies will eventually give negative impact on private nursery schools as well as public ones, making it difficult for children to express their wishes freely.

(See Chapter 87-92 for detailed information)

## **B. Low status of child-care workers in Children's Homes**

Child-care workers and nursery teachers are required to be placed in children's home where children deprived of their family environment live. There are three problems concerning the status and working conditions of persons working in children's homes: qualifications for child-care workers, insufficient standards on the number of persons, and their short length of service.

The first is that the qualification required for becoming child-care workers in children's homes are lower than those required for nursery teachers. To become a child-care worker, one has to get bachelor degree on sociology, education or psychology. Different from the qualification for nursery teachers, it is not required by the related laws to receive certain subjects or specially tailored curriculum. Because the related laws do not stipulate the standard on the ratio of child-care workers to nursery teachers, more child-care workers with less qualification tend to be placed in children's homes.

The second is the standard on the number of staff stipulated in the related laws is insufficient to meet the needs of children living in children's homes. The Minimum Standards for Child Welfare Facilities (Ministerial Ordinance) prescribes that "as for the total number of child care worker and nursery teacher in its entirety, they should be set not less than one person per two babies under 3 years old, not less than one person per four children over 3 years old, not less than one person per six children from 6 to 18 years old" (article 42-3). Considering the 40 working hours a week set out by the Labor Standards Law, the number of children per one worker is 8.4 as for children under the age of 3, 16.8 as for the children from 3 to 6 year of age, and 25 as for the children above the age of 6. One worker must take care of nine children under 3 years old, when this Minimum Standards is followed

The Minimum Standards prescribes that the worker on the night duty, namely "the worker who lives together with children" should be set "at least one child care worker or one nursery teacher" regardless of the capacity of the facilities (article 46). But practically, it must be needed two workers at least on the night duty, to correspond the case of emergency trouble such as the child's sudden illness or running away.

The third problem is the severe working conditions in children's homes. Many workers quit their job in a few years. In 1988, 1991 and 1994, the percentage of child care workers who had worked for less than five years is 46.8% in 1988, 47.4% in 1991, and 52.2% in 1994. And that of nursery teachers is 64.0% in 1988, 60.8% in 1991, and 60.5% in 1994. In contrast to ordinary Japanese workers enjoy "life-long employment," workers in child welfare institutions leave the workplace in a short period. This short length of service by worker has negative impact to children, because this makes it difficult for children to establish close and stable relationship with care takers workers, which is indispensable for child's emotional development.

As the background of short length of worker's service years, the severity of work in Children's Homes can be pointed out. As the more abused children are admitted to Children's Home, the more severe the work will become, because abused children need special care or medical treatment. Moreover, due to the short length of worker's service years, the experiences and knowledge are difficult to accumulate and transmit. And this will result not only in making elder workers, who has longer experiences, busier, but also in put younger workers, who do not have sufficient experiences, under strong pressure. This situation will, then, intensify the risk of mal-treatment of children in Children's Home, including child abuse. (See also Chapter 69)

## **Chapter 42 The status of teachers attacked by both Libertarianism and Neo-nationalism**

The Ministry has actively controlled the contents of education whereas it has been negative in arranging educational conditions. It has imposed on teachers an obligation to teach according to the National Course of Study and to use textbooks approved on accordance with the Course of Study by the Minister of Education. On the other hand it neglected to reduce class size or to improve the national standard, 40 students per class. Other than these two aspects, namely the professional autonomy of teachers and the class size, the working conditions of teaching staff were relatively good, especially compared with those of workers in Children's Homes. Teachers at public schools were relatively better paid, the status was secure and their working hours was not so long.

However, under the recent national policy based on Libertarianism, a policy to make the status of teachers hierarchical and to diversify the wage and employment in accordance with the hierarchy has been introduced, and a new personnel evaluation system in order to decide which stratum each teacher should be placed in has begun to be introduced. The new stream; hierarchical teachers' organization, discriminatory wage structure, diversified employment, reinforced personnel assessment, is considered to aim at curbing personnel expenses.

This stream also aims at making teachers more obedient. Under the Neo-nationalistic policy, teachers are obliged to indoctrinate children with the ideologies favored by the state, and the professional autonomy of teachers has been more weakened. Furthermore, a revised law positions the staff meeting as a subsidiary organ to school principal, which is in order to smoothly fulfill the educational reform based on Libertarianism and Neo-nationalism which is very problematic in terms of children's rights.

Teachers' working hours has tended to be longer and longer in and after 1990's. This is caused by the fact that, though the Ministry of Education introduced such new policies on educational contents as "the new view of scholastic achievement," a five-day school week and also the "time for comprehensive learning" one after another, it did not provide teachers with necessary material conditions to meet newly introduced educational contents. At school, teachers should spare their time to have meetings to prepare teaching activities to meet the new educational policies and there have generally been seen teachers doing the rest of their work at home.

See Chapter 10, where more detail information about this trend is given.



Here we would like to point out the fact that All Japan Teachers and Staffs Union submitted an allegation to the ILO that the recent Japan's national policy toward teachers is against the Joint Recommendation on the Status of Teachers issued by ILO and UNESCO and the allegation was accepted by the ILO. The union insists that the Tokyo Metropolitan government's introduction of an assessment system of teachers without conferring with the union violated the Recommendation. It is very important how the international society will respond to this allegation, because their opinion will decide whether the decline of teachers' status in and after 1990s carried out by the government policy could be staved off or be left to take its own course.

(See Chapter 101 and 107-113 for detailed information)

## **IV. Survival and Development**

## **Chapter 43 Protection of children from the environments harmful to their mental, physical and social development**

To realize the healthy development of the child, three things are indispensable: providing conditions for the child development, protecting children from what is harmful to their development, and enhancing the humane and interactive relationship between children and adults in such places as a family, a school, and child welfare institutions. When analyzing the actual conditions of the child's right to survival and development, we are required to see the situations from these three points of views: "provision," "protection" and "interactive relationship."

In this Part on the general principle of the child's development, we give our focus on "protection" from the social environments harmful to the child development (this Chapter) and the issues of child's survival (Chapter 43). We have already seen the situation of "provision" in the part of the Best Interest of the Child (from Chapter 36 to Chapter 42). In the next part (Chapter 45 to Chapter 49), we will analyze the situation in which children face difficulties in exercising their right recognized in Article 12 and how the situation results in the developmental disorder of children. Article 6 and Article 12 are closely intertwined together because the child development can be realized only through the humane relationship which is embedded in Article 12. Unfortunately, in Japan, it is difficult to realize the humane relationship embedded in Article 12 in a family, a school and a child welfare institution. Furthermore, adults – and the government - who are caught up by the prevailing value which gives the highest priority to economic success or allegiance to "public" tend to suppress the wishes or demands of children as "selfish" or "childish." These situations, which constitute the central difficulties in realizing children's rights in Japan, will be analyzed in the next part.

### **A. Need for protecting children from harmful effect of mass media and devices generating electromagnetic waves**

Media's negative impact on child's mind and body is now getting strong attention from researchers. In the following, the academic or medical researches on this issue are to be introduced.

#### **1. Rapid increase of the number of children who have oral retardation**

Prof. Dr. Naoki KATAOKA reported that the number of children who have oral retardation has been increasing rapidly. As video are widely popularized, parents let infants at the age of 1 or 2 watch video repeatedly and sometimes make them watch video for early education. As a result, children watch video longer and longer. According to the survey on “Infants and TV watching” conducted by the Research Institute on Broadcasting Culture of NHK, published in June 2002, (<http://cgi.nhk.or.jp/bunken/nl/n052-yo.html#000>) 83% of children at the age of two watch video daily, 85% of children at the age of three, 77% at the age of four, and 69% at the age of five and six. In recent years, children tend to watch video longer. Children at the age of three or lower watch video longest. Children at the age of two watch video for 57 minutes a day. He reported that this is the cause of oral retardation.

## 2. “TV game affected brain”

Prof. Akio MORI at Faculty of Arts and Science in Nihon University and Prof. Ryutaro KAWASHIMA, who are researchers on brain, reported that, when children play TV games, the activities of frontal lobe which control human emotion and behavior and administer creative thinking declines. The longer children play TV games, the longer it take for front lobe to become active as it is before children started TV games. ([http://kodansha.cplaza.ne.jp/broadcast/special/2002\\_10\\_30/](http://kodansha.cplaza.ne.jp/broadcast/special/2002_10_30/))

## 3. Electromagnetic wave

How the electromagnetic wave cause disease has got strong attention from medical professions. In 1979, Dr. Wertheimer warned that electromagnetic cause “childhood leukemia three times more probably.” In 2001, WHO announces that low frequency and electromagnetic wave “possibly” cause cancers. WHO has been conducting epidemiological study on the relationship between cellular phone use and brain tumor in 14 countries until 2005. In 2002, Japanese Society for Protecting Children, in its report titled “More and more male babies were born dead,” clarifies that twice as many male babies as female have been born dead since 1975 by analyzing “Dynamic Statistic of Population for These 100 Years” published by the Ministry of Welfare. The Society suspect that the cause of this phenomenon is the electromagnetic waves coming out from remote-controlled color TV sets which begun to be produced and sold from 1972. The Society asserts that NGOs should organize and activate scientific researches on this issue.

## 4. TV game and personal computer cause child’s near sight

Prof. Hitomi TAKAHASHI conducted her survey on child’s short eye in Kouchinagano city, Osaka, in 1996. In her survey, she tested eyesight of 1040 elementary school students in this city. 31.3% of the first graders have slight disorder in their eyes, and 14.1% of the first graders have trouble in reading textbooks. She said that, considering the fact that when we watch objects within

one-meter length more than one hour adjustability functions of eyes lowers, this tendency of child's short eye may be caused by the popularization of TV games and PCs."

5. The government response to "Pokemon" incidents.

So called "Pokemon" incident occurred in December 1997. More than 1,000,000 children who watched "Pokemon" got dizzy, went into convulsion, and fell unconscious due to the lightning stimulus. After this incident occurred, it became evident that the similar incidents, though much less serious than "Pokemon" incident, occurred all over the World, and they had been made known to the concerned persons in broadcasters before "Pokemon" incident occurred. TV industry was criticized as being insensitive to the issue of lightning stimulus. But, three months after the incident, NHK and National Association of Commercial Broadcasters in Japan (NAB) adopted the "Guidelines on Visual Expressions Including Animation." (<http://www.nab.or.jp/hm/aud/fanime.html>) Owing to this self-regulatory measure taken by NHK and NAB, the same incident has not occurred yet. But still, some people creating animation pointed out that the guidelines are so complicated, and the guidelines are not made widely known among producers and staffs.

6. Need for establishing research institute on media and health

"Pokemon" incident revealed that the TV industry and the government were insensitive to the issue of media and child's health. Compared with the serious concerns expressed by the academic researchers on "TV game affected brain," or "electromagnetic wave", this insensitivity or indifference to this issue is still strong. But, the self-regulatory activities quickly taken by NHK and NAB showed the possibility. We need an independent research organization to make research on the issue of media and children, to draft secure guidelines, and to make guidelines known among media and children. (See also Chapter 57)

**B. Need for protecting children from the social environment harmful for their sexual development**

1. The youth became sexually active

According to the 2002 survey conducted by a group of teachers in Tokyo who study sex education, the rate of the 12<sup>th</sup> graders girls who had experienced a sexual intercourse increased to reach 45.6%, whereas that of the boys came down slightly to 37.3%. The rate of the girls has constantly surpassed that of the boys since 1996. The reason may be that a senior high school girl is regarded as an object of sexual interest by many men, and has many chances to have sexual intimacy. For

example, the girls' rate of having sexual intimacy "with students in upper grades" is 7.1%, while that of the boys is only 1.4%. The rate "with adults" reaches as much as 12.3% for girls, much higher than the 4.3% rate for boys, while there is little difference between the rates "with high school students," girls reporting 50.7% and boys 54.2%. (Basic Report 45)

Another issue is the number of sexual partners. The Health and Welfare Ministry HIV Infection Research Team has revealed that among women, the younger generation has a stronger tendency to have several sexual partners than the older. Also, the survey revealed that young girls are unlikely to have sexual intimacy with sexual workers, something more common in men in their 30s and 40. A variety of social problems arises with such a sexually active youth population.

## 2. Dating service websites

Dating service websites are a serious problem. An increasing number of sex-crimes and adult intercourse with minors has occurred through acquaintances struck up through dating service websites, which exist on the internet and are accessible through computers or mobile phones.

The Mainichi Newspaper (evening edition, August 22, 2002) reported that there were 793 cases of sexual misconduct involving minors related to dating service websites or other websites in the current year from January to June, and that the number of the crimes showed a 2.6 times increase over the same period of the previous year. Half of the cases amounted to child prostitution, an increase of 3 times, and murders and burglaries also occurred. The number of female victims was 647 out of 692 (more than 90%), including 335 senior high school girls and 173 junior high school girls.

Admitting the benefits of websites that allow new relationships between people, it is clear that the internet threatens certain populations, in particular female children.

The younger generation is much more positive in using the internet, while the older generation is awkward in its use, which makes older people and people in authority somehow reluctant to control young people in this field. It is an urgent task for adults to become experienced in using the system, and to establish ways of educating youth in the safe use of the internet. (Basic Report 18)

## 3. Compensated dating, or enjo kosai

Another issue is compensated dating, or *enjo kosai*. This is an ambivalent issue, because it appears in many instances that the young women involved initiated the contact. It is a kind of dating in which an adult man gives his partner a small allowance or gifts, and in return she gives him company,

often leading to a sexual encounter. This is classed with child prostitution, and the girls involved in it are labeled as “immoral” and “only in it for the money.” While some of the young women may be guilty of entrepreneurial child prostitution, and should be treated under the relevant articles of the juvenile law, the surface facts do not reveal what is actually going on

It is safe to surmise that girls in this situation often have personal troubles, based on their lives, their schools, or their families. They lack the self esteem which should have become naturally theirs through sound upbringing, education and contact with friends. There is some evidence that some of them have experienced some kind of sexual abuse at a younger age. Such an experience cannot be overcome unless it is revealed to trusted people and spoken of to others (though it requires great courage to do so), so such trauma tends to be stored secretly inside of the victim and causes various psychological problems. Victims, who try to make themselves believe their disgusting experiences to be nightmares, have the potential to have nervous diseases.

Some of the victims even tend to be sexually active in spite of the fear and disgust they feel related to sex. They may look like they feel positive about sex, but are actually negative. Rather than communicate with others through sex or other means, and have a single steady partner, they tend to escape from steady relationships and change partners frequently. Sometimes they seem addicted to sex, with the condition that it is always with different partners and has no emotional relationship. This leads not to healthy sexual maturity, but to an unhealthy and immature sexual development which hides psychosis. This only highlights the need to keep all children safe from abuse and to allow them to grow up healthy, without being pressured for sex.

#### 4. The ruling parties’ proposal to criminalizing “soliciting” sex and attempting to arrange for “compensated dating” by young female

The ruling parties are now drafting the bill to criminalizing “soliciting” sex and attempting to arrange for “compensated dating” by young female. Steps will be taken to forbid access to such sites to juveniles, for their protection and to make them conscious of the evil of prostitution. A junior high or high school girl applying to the website could be accused of the new crime of “soliciting compensated dating” if she makes an arrangement to meet a partner.

These efforts do not address the issue of the sexual misconduct of female children and its root causes. It is doubtful that the sole purpose that juveniles have for site access and soliciting supported dating is the desire for money. Although some juveniles may look on the use of sites and possible prostitution as a profitable part-time job, it is very unlikely that simply criminalizing such behavior and increasing the severity of penalties will improve conditions.

“Dating service websites are hotbeds of crime,” “it is inexcusable that juveniles solicit supported

dating,” “Children these days have no idea of good and bad”: these are the popular feelings which have led to increased police enforcement of the ban on dating service website access for juveniles. Actually police surveys on the subject showed that over 80% of those polled agreed with the ban on juvenile’s access to meeting sites, and over half of those polled agreed with the criminalization of access.

However, closer examination of the 93.8% of cases in which girls accessed these websites reveals that the desire for money was not the reason most often given for attempts to arrange meetings with adults. In cases of actual sexual misconduct, most often it can be clearly blamed on the persuasions and offers of the adults, and thus classed as child prostitution. Even if a child’s sense of values has been distorted to the point that the “desire for money” was the main reason given for accessing websites and going on dates, it is questionable that criminalizing this moral flaw will help the child reform. Education and reform measures, such as have been carried out in equivalent cases until recently, appear to be far more effective. Japanese society is choosing, increasingly, the act of making juveniles wear the Scarlet Letter of their crime in the form of full criminal penalties, rather than trying to understand the problems surrounding the juvenile, untangling internal factors and environmental influences and providing the chance to reform.

Adults who profit from child prostitution or sexual activity must pay for their crimes, and criminalizing their behavior is unavoidable. However, aligning the punishment of juveniles with that of adults only obscures the issue. Adult society must examine the message being sent to them from juveniles who misbehave, and seriously ask why they are going to sites and soliciting supported dating, and take responsibility for setting up appropriate facilities and systems for treatment.

#### 5. Sources for youth of information about sexual matters

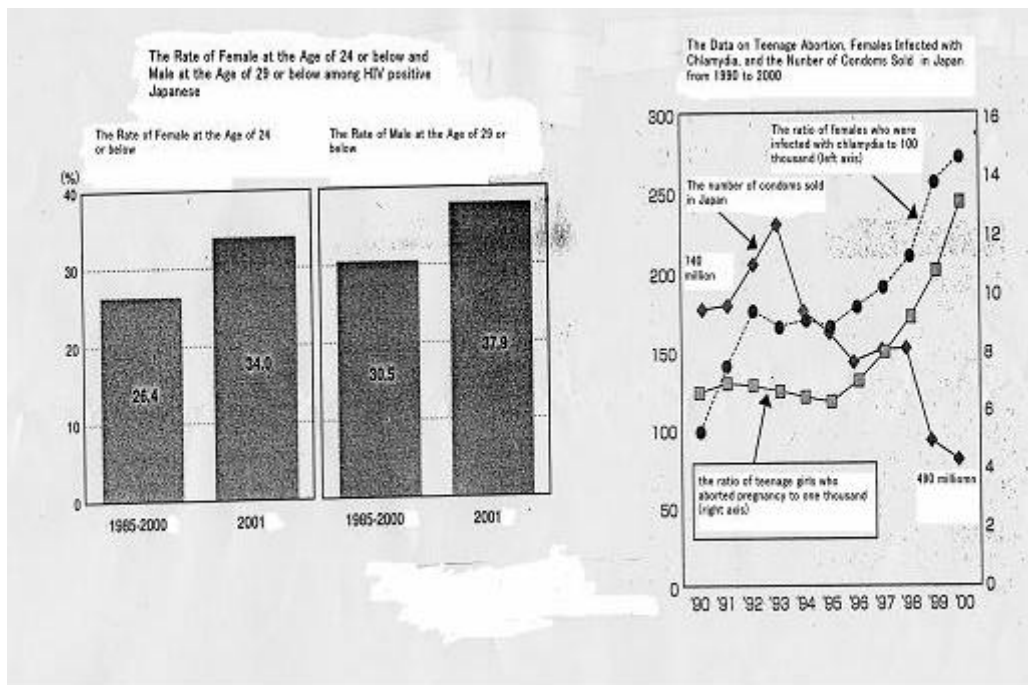
There are several sources for youth to get information about sexual matters. Most high School students get such information from friends. Elementary school students get information mostly from school. Boys get it from magazines and the mass media, a fact which shows the strong influence of the mass media in matters of sex.

Dr. Junko Uchiyama, professor at Mejiro University investigated all the cases of “rapes” and “indecent assaults” that the Police listed up from October 1997 to January 1998, trying to make clear profiles of those who committed such crimes. According to her research, we can see that 50% of juveniles arrested on the case of rape and 48% of cases of indecent assault commented that they were trying to imitate some pornographic film. This shows the shockingly great influence of pornographic films on juveniles, compared to adults.



### C. The need to protect children from STD

As the juveniles are becoming more likely to have sexual intercourse they become more likely to contract sexually transmitted diseases. The Chart at the lower right shows us that, accompanying with the increasing number of male venereal disease gonorrhea patients has drastically expanded since 1996, sales of condoms has been decreased. The causes of the increase are that the juveniles tend to experience sexual intercourse earlier, and to have more sexual partners than before, and they rarely make use of condoms or other protective devices. While some juveniles appear to know that condoms prevent pregnancy, they do not use them and thus there are ever increasing numbers of abortions in young women. Very few youth appear to know that condoms also help prevent the transmission of sexual diseases.



STDs are still generally labeled as being diseases of prostitutes and those who have contact with them. This prevents young people from going to a medical institution when they think they have a problem. It is necessary to create an atmosphere in which youth know what to do, and that the issue is not considered a moral problem but one of health sanitation. Young people must become informed and able to protect themselves from contracting STDs.

The Chart at the upper left shows the number of HIV positives Japanese classified by sex and age 1985 – 1998. Considering the fact that the incubation period is 8~10 years, around 30% of them are considered to have contracted the AIDS virus as teenagers. Many of them were not aware of their being infected, spent years in ignorance and had more sexual intercourse. They not only didn't have any concept that they needed to use preventative measures or refrain from contact, and thus have helped widen the spread of the disease.

Combining reproductive health education with HIV/AIDS education is necessary to prevent the expansion of HIV/AIDS and STD disease among teenagers. Condoms are regarded as an effective product to prevent HIV/AIDS, but teaching the use of condoms at school has still been controversial in Japan. Furthermore, the price of condoms is still expensive for teenagers, so most of them hesitate to purchase them. Japan needs to take steps, regarding the secure of availability for condoms such as free distribution or purchase at vending machine, as quickly as possible.

## Chapter 44 Problems in the survival of the child in Japan

### A. The infant mortality rate and the mortality rate of children under the age of five

In Japan, the infant mortality rate was 3.2 per 1,000 in 2000. As the World Summit for Children in 1990 asked the governments to reduce the infant mortality rate to two third of that in 1990 until 2000, the government has to reduce the rate to 3.1 per 1,000. The government did not realize this aim, but, the infant mortality rate in Japan has been decreased year by year and achieved the highest standard in the world.

The mortality rate of children under the age of five was 89.9 per 100,000 in 2000. The rate has not

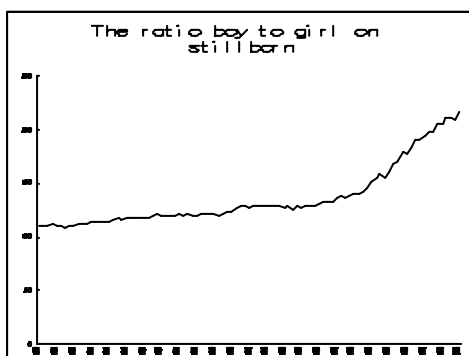


reached the goal of 82.3 per 100,000. (see the Chart on the left) The most frequent reason of death is unforeseen accidents. Within death by unforeseen accidents, traffic accident (33.8%) and drowning accident (22.5%) constitute the half of the reasons. We expect the government to establish comprehensive measures to decrease the death of child due to this kind of accidents. (Reference: Annual Report of Child Physical and Mental Health in 2002).

#### 1. The mortality rate of pregnant women

The mortality rate of pregnant women was 6.6 per 100,000 as of the year 2000. The rate has not reached the goal of 4.1. The mortality rate in Japan is in the highest standard in the world. .

#### 2. The sex ratio of stillbirth



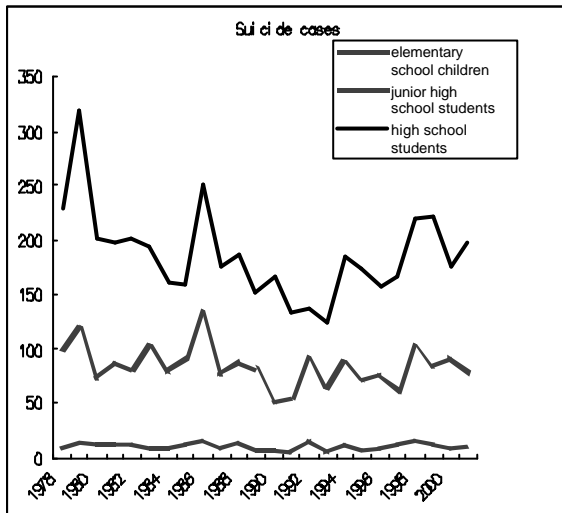
In Japan, "Population Survey" has been issued every year since 1899. The stillbirth in boy been rapidly increased since 1975 (see the Chart on the Left) in comparison with the stillbirth in girl. While we have not identified the reason for the change, endocrine-disrupting chemicals can be some reasons. Japan, remote controlled color TV and instant noodles cased in plastic cup as been developed since 1975.

(Reference: Annual Report of Child Physical and Mental Health in 2002).

## B. Child death caused in the Japanese society

### 1. Child death rate from the age of 5 to 19 and its causes.

For the child from the age of 5 to 19, the death rate has not reached the targeted goal of the summit.



However, we are pleased to report that the rate has been decreasing year by year. Among the children from the age of 10 to 14, unforeseen accident (22.3%), cancer (17.6%), and suicide (9.9%) were top three causes. Among the age 15 to 19 of children, unforeseen accident (43.9%), suicide (19.7%) and cancer (9.9%) were the top three causes. The ratio of unexpected accident and suicide has been increased as the age has increased.

#### 1. Cases of Child Suicide

As mentioned above, suicide was high cause of child death between the ages of 10 to 19. In the elementary and junior high school students, there has not been difference in the number of suicide. The suicide rate among high school students has been gradually increased since 1993. (Reference: Annual Report of Child Physical and Mental Health in 2002)

As an example, a 16 years old high school student has joined hand with his friend for cheating in a second period examination. As a punishment, the boy was forced to stay home for a certain period. Under the stress, the boy cannot help but smoking. The schoolteacher found the boy smoking. In the end, the schoolteacher notified that he was not allowed to go to school permanently. After nine hours later of the notification, he committed suicide. His parents said that he was under the high pressure. The school said that they did not know his anxiety.

#### 2. Child Abuse

In 2000, 17,725 cases were reported to the Child Consulting Center. But this figure is nothing but a pit of iceberg. There still exists the belief that punishment can be conducted as a form of upbringing. This leads pushing back early detection. Even in the places such as school, kindergarten, and nursery school, officials tend to hesitate to report the cases because they are afraid to be accused by their parents.

Last year, 11 abused children ends in died even the center got involved in solving the problems. It shows that Child Consulting Centers did not stop the child death. We think that there were at least three reasons. First is the quantity matter. There are only 175 centers nationwide and always lack of staffs. Second is the quality of staffs. Since they are always transformed among several public centers, they are not trained enough to provide appropriate measures. They should have high level specialty to deal with children's matter. Thirdly, support program in the center is inadequate.

For the children treated in the center, they have difficulty in adjusting themselves to the atmosphere where they are brought up in a group of peers. They easily get in a panic such as laceration to him or other. School refusal is also seen. There is no school to provide comprehensive support program for them. Program for parents has also not established. If children went back to their parent by the parents' request, parents might repeat same abuse. They always have to feel insecure worrying that they might go back the center.

[Reference] Basic Report 1 and 54.

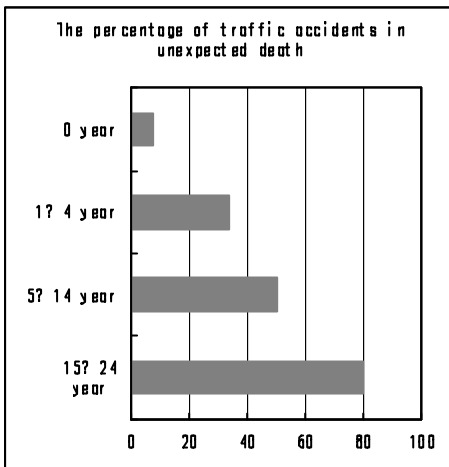
### 3. Sunstroke/heat-stroke

There has been a noticeable increase of death caused by "sunstroke/heat-stroke" in high school or technical collage. The accident was mostly happened during physical exercise on a hot summer day. Since idea of patience is highly regarded in the field of sport, students tend not access enough water and hardly have rest time. In addition, the number of child who cannot control their body temperature has been increasing. Their body temperature can easily go up and over the limit.

The government requested all public schools to install air-conditioner. Due to the global warming, the class room temperature often exceeded the standard points (28c). The request has not been realized though, their approach to deal with new situation were highly regarded.

While the elementary and junior high school has set environmental standards, in the kindergarten or nursery school, there are no such an environmental standard. Since children got to nursery school in hot summer days, they are exposed to danger in hot and narrow playroom. Effective measures against sunstroke caused by the global warning and development disorder of body temperature have to be taken.

#### 4. Traffic accident



The most frequent reason of death in Japan was “unforeseen accident” at any age. Within the unforeseen accident, the percentage of traffic accident become higher, the older they grow. (see the Chart on the left) For children at the age of 12 or below, they get involved in a traffic accident mainly while they are working. For children at the age of 15 or over, motorbike accident has been increased. The high priority given to the automobiles and low implementation of traffic accident education or measures has not been improved.

## **V. Respect of the Views of the Child**

## **Chapter 45 Three factors that create the difficulties for children in exercising their right to freely express their views: Libertarianism, Neo-nationalism and people's attitude**

Article 6 and Article 12 are closely intertwined together because the child development can be realized only through the humane relationship which is embedded in Article 12. The following concern expressed by CRC in the Concluding Observations of 1998 implies that children in Japan lose the humane and interactive relationship, which is the core condition of their healthy development, and thus they are deprived of the development as human being; “The Committee is particularly concerned about ... the difficulties encountered by children in general in exercising their right to participate (Art. 12) in all parts of society, especially in the school system.” Looking back at the situation of the past five years, we should say that the difficulties not only remain but also has being strengthened. It becomes more and more difficult to realize the humane relationship embedded in Article 12 in a family, a school and a child welfare institution than five years ago.

There exist three factors which make the situation worse. The first factor is that parents and persons working for children are facing more difficulties in establishing the interactive relationship with children. They are in the place of reacting to the wishes children express in daily life. But, due to the government policy based on Libertarianism, the working conditions and the status of persons working for children in schools and such child welfare institutions as day-care centers and children's homes have been lowered. As the government relaxes the existing regulations on working conditions or profit-seeking companies do not observe the labor regulations in pursuit of profit making, the parents go through severer working conditions. The part of this situation, namely how the government has reduced its responsibilities in assuring the social rights and how the working conditions and the status of persons working for children have been lowered is analyzed in the part of the Best Interest of the Child. (Chapter 36 to Chapter 42)

The second factor is that, in the Japanese society, which is organized based upon the principle of “economic development,” the value which prioritizes “the contribution to profit-seeking or economic success with the sacrifice of the self” and neglects “the realization of individuality” penetrates deeply into the mind of adult people. Thus, it is difficult for them to see allowing children to express their wishes freely as essential to the child development. They tend to see the spirit of Article 12 as spoiling children or bringing children up into “useless people.” Adults influenced by the dominating value force children to “kill their desires and wishes,” “be obedient to superiors” or “contribute to the public or the economic success.”



This shows that how important it is for the government to raise the public awareness on the importance of Article 6 and Article 12 of the Convention or how these two articles are intertwined with each other. But, on the contrary, the government, which sticks to the “revival of strong Japanese economy” through deregulation and reduction of the state’s responsibilities in realizing the social rights, is now carrying out the policy which constitutes just the anti-thesis of Article 12.

The recent government’s structural reform plan based upon Libertarianism will give rise to the national and international society which is governed by “law of jungle.” This society will bring about such “immoral” results as expanding the gap between the rich and the poor in both the national and the international society. The Libertarian policy needs to be accompanied by the policy to indoctrinate people with the values which see the immoral results as a matter of fact. The government has recently asserted a new unique view on the child development, which argues that, in order for children to be socialized, they should be obedient to the authoritative adult figures and have their irrational desires and wishes kicked out from their mind. And the government has reinforced its indoctrinating functions in the educational system. This government’s recent movements, which can be called as “Neo-nationalism,” constitute the third factor which hinders the realization of Article 12 of the Convention.

In the following we will see the actual situation of Article 12 in the family (Chapter 46) and in the educational system (Chapter 47-49). In the chapters on education, the overview will be given on how the government, school authorities and some of mass media showed the hostile attitude towards the children who exercised their right recognized in Article 12 (Chapter 47), how the government reinforce its indoctrinating function in the educational system (Chapter 48) and how the new view on the child development asserted by the government contradicts with the spirit of Article 12 (Chapter 49).

## **Chapter 46 Family environment where children can enjoy intimate relationship has been disappearing.**

The “loss of childhood” in Japan has been caused by the society which is organized on the principles of efficiency and competition. As these principles are now penetrating into family life, children are deprived of the family environment, the place where they can feel secure and confident under the humane relationship with the members of a family.

In the background of this situation, there exist three problems. Firstly, stress of highly competitive educational system has penetrated into family life. Secondly, parents are deprived of the fundamental condition for forming humane relationship with their children by the long working hours or overtime work without pay, which is called as “service overtime work.” Thirdly, on one hand, the authoritative attitudes of parents toward children are being strengthened in family life, and, on the other hand, more and more parents throw up their responsibilities in child rearing and let them alone.

To what degree is the right of the children to express their views freely respected in the family?

Children go to cram schools from their early age. According to the survey by the Study Group on Children’s Experiential Activities under the sponsorship of the Ministry of Education, the percentage of children who attend cram schools is 30% in third grade in primary school, 39% fifth grade, and 50% eighth grade in junior high school. The percentage of students who has been to some special lessons and sports clubs is 69% in third grade, 71% in fifth grade. Children are deprived of time during which they can cultivate human relationship with parents.

The parents themselves realize that they lose time to keep in touch with their child. According to “Basic Survey on Social Welfare in Tokyo, 2002 – Children and Families; The situations of Families Which Rears Children under the Age of Twelve,” 55.1% of father is worried that there is few hours to keep in touch with the child, 70.5% of mother is worried about taking care of the child. The number of working father who comes home after 9 o’clock is 46.8%, only 13% of father is able to go back to home before family has supper. This situation also prevents the parents and children from building the intimate relationship, and makes it difficult for children to enjoy the human relationship where they can be accepted as they are.

Busy working parents can’t prepare adequate meals for children (Basic Report 61), and can’t even

care about children's health. As a result, many infants are left alone watching TV without parent's care, having few opportunities to learn language. Some infants, without gaining attachment toward their parents, often get symptoms of autism. Unless immediate care is taken, they are feared not to get necessary ability for communication and become defective-character persons or "borderline persons." (Basic Report 78)

This phenomenon of lack of communication is possibly related to increasing children who were diagnosed as developmental disability or attention-deficit hyperactivity disorder (ADHD). Those children, not in mental disorder but in "gray area," who are hard to deal with, have increased in number in large cities. At a care center in a city near Tokyo, the number of users last year doubled in ten years.

As mentioned above, lack of attachment toward parents during the infancy are carried over to adolescence and youth. Children in adolescence send adults such messages as "Look at me!" or "I'm offended" through problem behaviors, for instance, violence or shoplifting. These are exemplified in the recent cases in juvenile prostitution by means of cell phones and internet. Desperate and solitary sentiments such as "Nobody cares about what I do." and "I can't do it anyway." will often drive children to violent behavior. (Basic Report 127)

It is pointed out that "Many children are imposed a certain type of values which is prevailing in the society, especially the value on meritocracy, and they are always compared with others. As a result, children lose a life in which they can be as they are and feel relaxed, and they also lack the experience of concentrating on what they are interested in." (Basic Report 20) Children are not able to acquire a feeling or a view of self-respect, and children are actually not able to form an ability to communicate with each other. The children's right to express their views freely is realized only in the relationship with adults where adults accept children as they are. In the present family, this relationship is hard to realize.

According to the survey conducted by the Osaka Suita branch of New Japan Women's Association, which covered 400 junior high and high school students in Suita city, many of them answered that their home cannot be comfortable places for them because parents are bothersome and always angry with them. (Basic Report 97) Children receive one-sided talk from their parents. The realization of the interactive relationship between children and parents is still a huge challenge for the Japanese society.

The followings are anecdotes from Basic Report, which show that, in some cases, children are forced to obey parents and never allowed to express their wishes. Some children were threatened by such parent's words as "Who do you know owe to that you can live and eat here in this house?" and what is worse, they are often spanked by their parents. (Basic Report 165) A college student reportedly

attempted a suicide because he was frequently hit by his father at home under the pretext of “discipline.” Looking back at his experience, he said “Children have no capabilities to live independently in society, and without parent’s care, they find no place to live. Children are not mascots nor marionettes for parents, and should be treated as respectable persons. Homes are a place where children can live at ease and grow up properly, free from any hindrance.” (Basic Report 166)

## **Chapter 47 Hostile attitude of the national and local governments, politicians, boards of education, school officials and mass media towards children who are against the “educational reform”**

### **A. Frame-up by mass media followed by accusation by politicians against children, tightening supervision of school administration ending up with punishing teachers**

The current educational reform would raise various serious problems, so it has invited criticism from children. Two tendencies can be pointed out as the reaction of the governments and school officials in the past 5 years. First, for all the growing concerns of children about the government’s policy, more and more school principals are forcibly enforcing the governmental orders and policies. They are even neglecting the school rules that guarantee children to participate in the school management. Second, there now is a chain reaction that threatens children’s movement. Mass media sensationalizes the children’s protest against the government’s policies. Based on reports by mass media, politicians accuse children. As a result, the educational administration unreasonably punishes teachers who provide children with support and advice.

### **B. Fabricated article in Syukan Bunsyun insulting children’s representatives of DCI in 1998**

There is one incident that triggered the trend of above chain reaction of scorning and trampling children’s movement. In October 1997 and May 1998, Japanese children’s representatives of DCI-Japan Youth Committee made a presentation to CRC, emphasizing that opinions of children in Japan were often neglected, having cited the case of a school where the school principal decide to introduce uniform code by himself and compelled students to wear school uniforms. The presentation made in 1997 was treated favorably by the mass media, however, soon after the presentation of 1998, in a weekly magazine, “Syukan Bunsyun,” a million of which copies were sold, appeared an article titled “Childish High School Students Scolded by the UN for Demanding the Abolishment of School Uniforms.” This article, with the real name of the student who made the presentation, contained a lot of faked information, such as the words not actually mentioned by the member of CRC. It also included a comment by professor Ribo Hatano, “Convention on Rights of the Child is for children in developing countries. So, the demand of the Japanese high school students is irrelevant.” No confirmation was made about whether or not the writer of this article was actually at the presentation. Despite the uncertainty of the article, several local news papers also wrote the similar article. DCI Japan office demanded the Foreign Ministry make a public

announcement that the article was forged, but the Ministry neither made such announcement nor made efforts to verify the article.

### **C. Principal suppressed children's activity to support HIV/AIDS lawsuit**

In 1998, Ryuhei Kawada made public the fact that he had been infected with HIV-virus from virus-tainted blood products and filed a suit against the Ministry of Health and Welfare for not having revoked permission for the sales of the products. Having sympathized with Ryuhei's appeal, many young men and women joined the movement. The article in *Syukan Bunsyun* was, in a way, a backlash against the expanding children's movement. This backlash had already started in 1994, when the government ratified the Convention. Having heard the Ryuhei's story in a Japanese class in November 1994, some students voluntarily launched a signature campaign to support HIV/AIDS lawsuit (the lawsuit against the government for not having revoked permission for the sales of the blood products despite its awareness of their danger). On December 5 that year, the principal questioned the Japanese teacher if she had made students take part in the signature campaign. Although the teacher answered "No, the movement rose among students," her request to remain employed as a part-time teacher after her retirement in March 1996 was turned down because of the "signature collecting activity during her class." (This teacher is in the process of a lawsuit demanding the cancellation of the employment denial.)

### **D. The case of Tokorozawa High School (children's expression of opinion on the issue of national flag and anthem)**

Here are two cases to reveal how the school principals ignored the school rules which assure every student to participate in school management and how boards of education punished the teachers who had been supportive to the students in order to fulfill the government order. Both cases were about which should come first, the government order or children's voice. The Japanese government revised the National Course of Study in 1989 to oblige every school to fly "*Hinomaru*" flag and to sing "*Kimigayo*" song during school ceremonies. In 1999, the flag and the song officially became the national flag and anthem as the government stipulated so in a statute. In the 1990s, the Ministry of Education made the boards of education to check if the government order was followed by every school in their jurisdiction. Especially, since 1999, the government has become stricter in implementing the National Course of Study. The following two cases well illustrate the trend explained above 5(1).

The principal of Tokorozawa High School in Saitama prefecture insisted that the national flag be displayed and the national anthem be sung at the entrance ceremony in April 1997; students and

teachers, on the other hand, were against the idea. Their reasons were as follows: first, the school rules state clearly that the student council and the teachers' meeting should be involved in deciding how the graduation and entrance ceremonies to be held; second, the political controversial issue of whether or not "*Hinomaru*" should be the national flag and "*Kimigayo*" the national anthem should not be brought in the ceremonies celebrating students entrance or graduation. The issue of "*Hinomaru*" and "*Kimigayo*" constitutes a politically controversial issue in Japanese society, since they served as a symbol of the imperialism and militarism during the World War 2.

The student council and the teachers' meeting concluded that the argument should be kept out from the ceremonies so that the ceremonies could be more inclusive and the student council stressed that such an idea should be respected in accordance with the school rules. The principal, however, placed "*Hinomaru*" in front of him and played the recorded "*Kimigayo*" during his speech at the entrance ceremony in April 1997. He decided to hold the graduation ceremony at his sole discretion in March 1998 and the student council also decided to hold a "graduation festival." Only 20 students attended the principal's ceremony, whereas every student participated in the festival. The principal threatened the parents of the fresh students of that year, saying that their children would not be admitted to the school if they did not attend the entrance ceremony held by the principal (from the legal point of view, this was irrelevant since there was no regulation giving such authority to the ceremony). The student council again decided to welcome the new first graders by having its own party. 60 percent of the first graders attended the entrance ceremony, while all of them went to the welcome party. The Minister of Education at that time commented on the event by saying that "it should be the principal who makes the final decision, and this should not be neglected even though the student initiative should be respected." Saitama issue of Yomiuri Newspaper wrote, "Boycotting the ceremonies is the wrong way of demonstrating democracy" on April 11. On the same day, Saitama Newspaper wrote, "taking initiatives is different from going wild." Amid a flurry of various sorts of information, one teacher told the parents that teachers would like to respect school rules, to oppose to a principal-controlled ceremony, to make every effort to avoid confusion even if there would be two ceremonies: one by the principal, and the other by the students. This teacher was reprimanded for having ruined the public trust in public servants. This teacher filed a complaint against such reprimand to the personnel committee of Saitama prefecture and the commission recommended revocation of the punishment.

### **E. The case of Kunitachi Dai-ni Elementary School**

This case is about the graduation ceremony held in March 2000. Having followed the traditional practice, the students' executive committee discussed how the ceremony would be held and decided to have a graduation ceremony without neither "*Hinomaru*" flag nor "*Kimigayo*" song. On the very day, however, the school principal flew "*Hinomaru*" on the roof of the school building without prior

consultation with teachers and students. After the ceremony, children asked the principal why he did not tell students anything about displaying “*Hinomaru*.” As the principal did not have a convincing answer, the meeting between the students and the principal went on for two hours. Parents and teachers conveyed the children’s message that they would like the principal to apologize for his behavior and the case was settled with his apology. The board of education of the city demanded a report on the case. On April 5, although the report had not yet been publicized, Sankei Newspaper wrote an article based on the report with a sensational headline, “30 pupils dragged down the national flag forcing the principal to kneel down.” Right-wingers made an unwelcome visit to the school on April 6, the day of the entrance ceremony. On April 19, a congressman called for the punishment on the involved teachers and the Minister of Education responded “if they violated the regulations, they should be punished.” The Tokyo governor, Shintaro Ishihara said, “Education at Kunitachi is strange. It’s grotesque” and demanded stricter control over schools by the government. 13 teachers were punished for having protested against the principal’s behavior and having said inappropriate words to the principal in front of the pupils.

#### **F. Hostile reaction of Tokyo metropolitan government against the students’ protestant against the abolishment of part-time high schools**

The Tokyo government decided to consolidate existing part-time high schools, causing an opposition movement from the students (some of them are over 20). Students of part-time high schools voluntarily formed a “commission to protect part-time schools” and requested for negotiation with Tokyo board of education. The chief who met with the students turned down the request on October 3, 2002. The reasons were: the school principals must be involved: those protesting were the minority: the board of education was aware of the students’ opinion: students should be under control of the school principle, which was agreed upon signing a letter of content at the time of entering school: the students might well be expelled from school for having such a campaign.



## **Chapter 48 The governmental intervention in formation of the world view by children is strengthened and deepened.**

### **A. The current education reform requires the indoctrination of various ideologies to children**

As the education reform is carried out, it becomes clear that the ways in which the government controls children are changing. The control of children by using corporal punishment and school rules, which has been the most typical, becomes less notable, and the control of the personalities of children through the subjects learning, extracurricular activities, and comprehensive learning, has become more notable.

The reason this change has happened is that, in order for the government to remake Japan the nation which would win the economic mega-competition, the government seek to force future citizens to internalize the new ideologies. In the existing educational system, the internalization of the value of “societal obedience” was emphasized with the aim to produce large amount of obedient laborers. But, the indoctrination of this value alone is not satisfactory to the new industries trying to achieve victory in the global economy and “new nation” that supports the industries.

The “new nation” will produce a variety of problems internationally and domestically. Competitive global economy will enlarge the gap between rich countries and poor countries. Within Japan, reduced governmental responsibility on welfare and education will inevitably widen gap between the rich and the poor. Under the new industrial structure, many workers’ quality of life will deteriorate as the Japanese-style employment system, of which characteristic are which are consist of on the job training, life-long employment, and seniority wage system, will be abandoned. While a few candidates for elite receiving privileged treatment, all others left out, and the unfair educational system will first intensify competition, then the system will eventually be hierarchized along the lines of social classes. As the educational system provides the losers, or those of lower social class who are anticipated to be losers, with lower quality education only, there is no question that dissatisfaction will build up followed by expression of grievances by children in the form of delinquency, school violence, and school refusal. What is needed is new ideologies that can explain all the unethical which the “new nation” will arise as “a matter of course” and indoctrination of children with the ideologies.

The ideology proposed under the present “educational reform” that is to be internalized by children

can be sorted into “new nationalism,” “new meritocracy,” “charity spirit,” and “punitive approach” to children: Japan has the great tradition as well as the history, and so, will have to be a victor of the mega-competition. Japanese citizens must pledge allegiance to such nation (“new nationalism”). Inequalities in the international society and domestic society reflect the differences in abilities each country or an individual has. A winner is superior to in its ability to a loser. An individual or country must bear responsibility for any drawback resulting from an act based on one’s own judgment (“new meritocracy” and “self-determination /self-responsibility.”) As long as the cause of poverty lies on the ability of a nation or an individual, governments or corporations are not responsible for the inequality. Helping hands for the weak should be offered by citizens with charity spirit in a voluntary manner (“charity spirit”), and those who still disturb social order by lodging objection should be faced with severe punishment (“punitive approach”). The government paraphrases the “new nationalism” into “nation-loving heart” or “strong-spirited Japanese;” “new meritocracy” into “development of autonomous human being who aspire after self-fulfillment;” “charity spirit” into “rich heart” and “principal of severe punishment” into “new ‘public.’”

### **B. Time for comprehensive learning and “Notebook on Mind”**

In the current education reform, the government plans to organize the educational activities where these new ideologies are indoctrinated and to assess how each student internalizes the ideologies. The reason why the Ministry of Education identified “international understanding” and “welfare” as the issues to be treated in the time for comprehensive learning is that the Ministry would like to indoctrinate the ideology of “charity spirit” through the time for comprehensive learning. In “Notebook on Mind,” which is published by the Ministry and copies of which are distributed to all the elementary and junior high school students, the emphasis is given to the lesson that “who is responsible for your low ability is yourself” or “you should not blame the government that, due to the fact that the government sustain the laissez faire society and let the law of jungle work, you suffer a loss.” The time for comprehensive learning and “Notebook on Mind” will be used as a forum or a tool for the indoctrination of the ideologies. As the indoctrination goes on, the children who are left behind will be implanted the sense of powerlessness because they are forced to believe that their failure is due to their low ability.

### **C. Enforcement of the salute of the flag of “Rising Sun” - “*Hinomaru*”- and the sing of the song of “the reign of His Imperial Majesty” - “*Kimigayo*” - as the way to indoctrinate “new nationalism”**

Among the government supported new ideologies, the government carried out the inculcation of “new nationalism” in the most intensive way. Compared with its strongly reluctant attitude towards

the implementation of the Convention, the Ministry' has strongly and eccentrically devoted itself to the inculcation of this ideology.

In 1989 revision of the National Course of Study, the Ministry changed the ways in which the national flag and anthem are treated in school ceremonies. Before the revision, it was stipulated that "it is desirable for schools to salute the national flag and make children song the national anthem in unison when school ceremonies are held in national holidays." But, after the revision, it was stipulated that "School shall salute the national flag and direct students to sing the national anthem in unison." Every year after 1989, the Ministry asks the prefectural school boards of education to collect the statistical data on in how many public schools the flag was saluted and the song was sung in unison in a graduation and entrance ceremonies. This requirement by the Ministry to the school boards of education of conducting survey constitutes the substantial pressure on each school to follow the revised National Course of Study.

In 1999, the law on the national flag and anthem was adopted and the flag of "Rising Sun" - *Hinomaru*- and the song of "the reign of His Imperial Majesty" - "*Kimigayo*"- were authorized as the national flag and anthem by positive law for the first time in the modern history of Japan. After 1999, the Ministry set as the target to make 100% of public schools salute the flag and direct students sing the song in school ceremonies.

the ratio of schools using the national flag and song in graduation and entrance ceremonies

	nation wide						Tokyo Prefecture					
	saluting the national flag			singing the national anthem			saluting the national flag			singing the national anthem		
	elementary	junior high	high	elementary	junior high	high	elementary	junior high	high	elementary	junior high	high
Graduation ceremony in March 1999	98.4	98.1	96.4	87.3	83.6	74.9	98.4	99.5	70.5	83.8	81.2	4.8
Entrance ceremony in April 1997	98.4	98	97.5	85.6	83.6	77.3	98.2	99.5	83.7	81	82.1	4.3
Graduation ceremony in March 1998	99	98.5	98.1	88.2	84.8	80.1	98.9	99.4	84	85.8	85.3	3.9
Entrance ceremony in April 1998	98.8	98.4	98.1	86.6	84.7	80.6	98.6	99.1	85	83.8	86	3.4
Graduation ceremony in March 1999	99	98.6	98.8	90.6	87.1	83.5	99.4	99.8	92.3	87.7	88.4	7.2
Entrance ceremony in April 1999	99	98.6	99	89.2	87.2	85.2	99.4	99.8	95	85.6	87	5.9
Graduation ceremony in March 2000	99.7	99.3	99.7	95.4	93.6	95.2	99.9	100	99	93.2	94.9	88.6
Entrance ceremony in April 2000	99.6	99.4	99.8	94.7	94	98.1	99.7	100	100	91.8	95.6	99
Graduation ceremony in March 2001	99.9	99.9	100	98.8	98.2	99.5	100	100	99	98.6	99.5	100
Entrance ceremony in April 2001	99.9	99.9	100	98.7	98.4	99.6	100	100	100	98.9	100	100
Graduation ceremony in March 2002	99.9	99.9	100	99.3	99.2	99.8	100	100	100	100	100	100
Entrance ceremony in April 2002	99.9	99.9	100	99.2	99.3	99.8	100	100	100	100	100	100

But, whether or not to recognize "*Hinomaru*" and "*Kimigayo*" the national flag and anthem constitute the politically controversial issue in Japan. Those who oppose to the idea that the flag and the song should be recognized as national ones argue that they were the symbol of "Empire of Japan" before 1945 of which sovereignty was resided in the Emperor, and the lyrics of "*Kimigayo*," which hopes the eternal reign by the Emperor, is against the principle of sovereignty of people which was established by the 1947 Japanese Constitution. Another argument against the use of the flag and song in school is that it will allow the government to convey its one-sided argument. It is also argued that, even if the government is allowed to order the schools to use the flag and the song, the

children should be allowed to exercise their right to refuse saluting and singing based on their right to freedom of conscience and thoughts.

The Ministry has never clarified what kind of rights children can enjoy under Article 13 of the Convention vis-à-vis the national flag and anthem issue, and strongly devoted itself to realize the 100% use of the flag and song in school ceremonies. The following table is on the ration of schools using the flag and anthem in graduation and entrance ceremonies.

The Table in the previous page shows that, though schools, especially high schools, were reluctant to use “the reign of His Imperial Majesty” – “*Kimigayo*”-, of which relic is against the principle of sovereignty by people, until 1999 when the law on the national flag and anthem was enacted, after 1999, schools have been forced to use the national anthem. This table includes the data on Tokyo prefecture. As the reason why the ratio of high schools in Tokyo rapidly raised since 1999, it can be pointed out the fact that Tokyo metropolitan school board of education has been urgently carried out the policy on restricting the professional autonomies of teachers, and as a results, by excluding teachers from school management, school principal easily enforce the national policy on the national flag and anthem.

#### **D. Assessment of the patriotism of each student**

In October 9, 2002, there appeared the report titled “In the city open to Asia, schools graded patriotism of each student from A, B, to C” in Nishinihon Newspaper. According to the report, 69 elementary schools, about the half of all the elementary schools, in Fukuoka city, introduced the item of “How is he/she willing to respect the tradition and history of Japan to have patriotism toward the state, and to have awareness as Japanese who hope peace?” in a report card and graded the patriotism of each student as from A, B to C. The fact that the patriotism was graded shocked sound shocking. According to the survey conducted by Asahi Newspaper, the number of elementary schools which graded the patriotism in record card was 172, and these schools spread over 11 prefectures and 28 cities or towns.

The reason why the item of patriotism was introduced in these schools was that, in the National Course of Study which was revised in 1998 and implemented in 2002, “to cultivate the patriotism” was stipulated as one of the “aims” of “social studies” for 6<sup>th</sup> grade in elementary school. To implement this new aim, in the notice to prefectural school boards of education issued in April 27, 2001, the Ministry of Education suggested to that the grade on patriotism be recorded in school record. Some prefectural school board of education, overreacting to the suggestion, recorded the grade of patriotism in report cards.

Grading of patriotism is based on the idea that the aim of education is narrowly identified as bringing up “Japanese future citizens.” This narrow identification of the aim of education will not only result in making the public school more exclusive toward foreign students who are not “citizens” of Japan, but also in bring about the strong tense with the freedom of thought and conscious of all students including Japanese and foreign nationalities. Because of the strong reaction from the people, some school principal said that they will delete the grade of patriotism. But, the Ministry of Education has never announced that it will reconsider its policy which triggered this issue.

### **E. Issue on “history text book reform” movement**

With regard to the issue on the indoctrination of the “new nationalism,” we would like to point out one more issue, namely the “history textbook reform” movement. This movement has been organized by Japanese Society for History Textbook Reform, which is led by the so called “revisionist” intellectuals who deny the existence of Nanjing massacre or the governmental confederate with the comfort girls during the Anti-China war. They criticized existing textbooks on Japanese histories, which tend to self-critically describe the modern history of Japan, as “masochistic.” They started this movement in 1996 to publish a history textbook which will lead students to be proud of Japan and to make the Ministry of Education approve this textbook in the textbook authorization. In April 2000, this organization submitted a history textbook edited by the revisionists to the Ministry for getting authorization as a junior high school textbook. In April 2001, the Minister made decision to authorize it. Then, this organization actively raised the campaign for making city school boards of education and prefectural boards to adopt their history textbook.

This characteristics of the way in which this organization describes the modern history of Japan are two hold. First, the organization legitimizes the Japan’s invasion of Asian countries as Japan’s endeavor to maintain its economic interests. Second, the organization criticizes the European countries and U.S.A.’s policies toward Japanese Empire until the end of World War 2 as “white-dominated.” This way of describing the modern history of Japan will hide its true meaning; Imperial Japan succeeded in establishing the status as an imperialistic country in Asian area, then, clashed with other European imperialistic countries, and at last lost World War 2. In the textbook edited by the organization, the aim of World War 2 is described as the liberation of Asian people who were colonized by Western Imperialistic countries. It describes the intent of Japan’s declaration of war against the U.S.A as protecting Japan’s interests in Asia. This textbook raises the question of whether Nanjing massacre did really exist. It has no explanation on the comfort women.

After the Minister authorized the book as a junior high school textbook, whether or not cities’ school boards of education and prefectural boards should adopt it for the use in class rooms became a huge issue. Owing to the strong movement against its adoption, only two prefectural boards decide to

use it only in schools for handicapped or classes for children living in hospitals. (But, this decision should be criticized on the ground that these boards imposed this textbook to the weakest children.) The number of this history textbook used in schools constitutes only 0.0039% of the total number of history textbooks used all over the country.

We can raise three points with regards to the Ministry's response to the issue of "history textbook reform" movement.

First, by authorizing this history textbook, the Ministry approved the government's attitude towards World War 2, namely, its failure to show self-critical observation on World War 2 or to compensate the damages it gave to Asian people during the war. There raised the argument that the government should have decided not to authorize this book as a textbook. But, the real problem is that the textbook authorization system could give the government the power to officially approve or strengthen a certain national policy or thought, whatever a policy or thought is. What cannot survive in the free market of ideas can survive with the government's official approval given through this system. The government should have considered the abolishment of this system itself.

Second, due to the textbook adoption system under which cities' school board of education or prefectural boards can decide by itself or jointly with other board can decide which textbook can be used in school which they control, a textbook which, if teachers were allowed to adopt a textbook in collaboration with parents and children, would not have been adopted, were adopted.

Third, the government encouraged the concentration of the power of adopting textbooks in the hand of a few people. The Japan Association for History Textbook Reform anticipated that its book would not be adopted and it organized the grass-roots movement to submit a petition to a council of a local government asking the strict application of the existing law which endows the power to adopt a textbook to a school board of education and the abolishment of the local rule voluntarily adopted by a board which assured teachers' participation in the process of adoption. As the result, 33 councils of prefectures and 222 councils of cities, town and villages adopted the petition, and 18 prefectures decided to abolish their local rules which assured the teachers participation. The Ministry issued no official statement to this trend toward excluding teachers from the adoption process on the ground that the Ministry would like to respect an autonomous decision by each local government. But, when the movement against the adoption of this textbook were activated, the Minister of Education officially said "I am afraid that active organized movements from outside can hamper the fairness of the decision of textbook adoption" and then issued the notification to local school board of education which asked the boards to adopt textbooks "without being affected by the movement from outside."

Taking advantage of the movement for history textbook reformation, the Ministry not only hardened the base for implementing its policy on indoctrinating "new nationalism" by giving official approval

to the revisionists' history textbook, but also strengthened its power to control the content of education by un-democratizing the textbook adoption process.

## **Chapter 49 “Notebook of Mind” edited by the government based on the biased view on child development presented by the National Commission on Educational Reform**

### **A. A biased view on child development proposed by the government**

The Ministry of Education has laid out measures one after another to “reform” education. Ironically, it is such efforts that are raising the number of students who refuse to go to school, bullying, violence among students or against teachers, or property damage by students; since such measures did nothing but deteriorated quality of education, increased control over personality, and made school life busier. The Japanese government should have interfered less with contents of education, letting students and teachers decide what to learn, and also, they should have abolished high school entrance exams. The Japanese government, on the contrary, presented a strange idea about how children should grow and concluded that children would never cause problems as long as their “minds” were well managed. What the government basically said was that difficult children would be obedient to school and society if their “minds” were cured. The following was cited from the report submitted to the Prime Minister in December 2000 by the National Commission on Educational Reform; it should be noted that this commission was headed by a former prime minister, Mr. Mori, who drew attention internationally by saying that “Japan is a divine nation having the emperor as its pivot.”

“At the threshold of the 21st century, however, the reality is that Japanese education is deteriorating, and this cannot be overlooked. Continued occurrences of bullying, students who refuse to go to school, school violence, classroom disruption, violent juvenile crimes and other problems concerning education have become serious.

We, citizens and NGOs, share the same concern, but we do not blame children’s “minds” for the phenomena as the National Commission on Educational Reform does as follows.

Japanese people have been able to enjoy a period of long-sustained peace and material affluence. How education should respond to some of the consequences of this affluent age is now being questioned. Children tend to be weak-willed and unable to control their desires. Adults who are responsible for raising children do not look at life with their feet firmly on the ground but have selfish values or a simple-headed sense of justice. They are sometimes unable to make the distinction between fiction and reality. Also, Japanese people have lost their ability to think and create by themselves, they have lost their spontaneity and courage in taking initiatives, their capability to endure hardships, their consideration for others, and the ability to show self-control when necessary.



How the problems should be dealt with? The answer that the National Commission on Educational Reform made was to install “software” in children so that they can control their desire and recognize the reality. How the “software” installed? It can be installed through, what they call, “counseling” that corrects distorted minds, or through punishment that expels “wrong ideas” out of children’s minds. The National Commission proposed an “education to teach the basic way of living a human life.” The Commission recommended compulsory social service and strict punishment on problem children. In line with the report, the School Education Law was revised in July 2001. The law now allows principals to suspend students who disturb the peace and order from school. The law also forces every school to make efforts to have children experience social services.

## **B. “Notebook of Mind”**

Surprisingly, the Japanese government had a group of psychiatrists draft a book called “Notebook of Mind” and published it under the name of the Ministry of Education, and distributed them to every elementary and junior high school across Japan. This book is recommended to be used not only in moral lessons but also in classes of other subjects. This book is all about self-control and doing what families, schools and the governments expect children to do.

Because the bullying or school refusal reflects the distortion in the social or human relationship children have, for solving these issues, it is necessary to reorder these relationship with participation of children, namely, children should be allowed to raise question to these distortions and should be empowered to reorder them. Because children by alone cannot understand the reason why the distortions have arisen, and think out how they can be solved, it is quite important to let children make access to mentors and have interactive dialogue with mentors. We understand that Article 12 of the Convention guarantees the right to have a mentor and to express their view free to them. All the more because children are not given these rights, their views cannot help but being expressed in the forms of “escaping” from and “attacking” schools. This book does not tell a single word about Convention on the Rights the Child; nor does it tell this basic idea of the Convention.

## **VI. Civil Liberties and Freedom**

**Part 1 Civil Rights and Liberties**

## **Chapter 50 Children's rights to name, nationality and identity**

### **A. To register a child born out of wedlock as “illegitimate,” or to refuse family registration of a child?**

Registration should be made within 14 days after birth. (Article 49 of Family Registration Law) A problem of birth registration lies in that the law requires residents to write “legitimate” or “illegitimate” in the column of “relationship with parents.” This description should be deleted in order to correct discrimination against children born out of wedlock. There are some couples who do not register birth of child as they don't like to follow the law discriminating a child born out of wedlock. As regards this, the Ministry of Public Management in 1989 issued a notice “Children without family registration should not be on residents' registration.” Because of this notice, there exist children who are not registered in residents' cards.

[Reference] Basic Report 19

### **B. Double nationalities of “Amerasian children,” children of American soldiers staying in Asian countries and Asian mothers.**

Amerasians children, children of American soldiers staying in Asian countries and Asian mothers are children with double nationality of Japan and the United States. But the national law of Japan provides that persons with double nationalities should choose either nationality before the age of 22. It means that they, at age 22, are obliged either to become Japanese by abandoning foreign nationality, or become a foreigner by abandoning Japanese nationality. But this obligation of choosing nationality for double-nationality persons goes against Article 9 of the Convention “the right to hold an identification matter including nationality...”

[Reference] Basic Report 2

## Chapter 51 Freedom of expression

### A. Insufficient conditions for expressive activities

To realize children freedom of expression, it is essential to provide them sufficient facilities and conditions for expressive activities. In Japan a lot of amateur music bands have been formed by junior- & senior school students. But they have to pay much money when they rent a studio. To hold a concert at a live-house costs them too much. In order to offer them places for their expression, it is necessary to guarantee free places

[Reference] Basic Report 9

### B. School-rules

The Second Report of Japan states, “As regards school-rules, it is important to constantly review them on the basis of actual conditions of children and parents’ view. From this standpoint, the Ministry of Education has been guiding boards of education across the country.” But in fact, the things around school-rules haven’t improved anyway, as is mentioned in the following.

School-rules of most junior-& senior high schools, on the whole, don’t guarantee students civic rights and liberties as stipulated in the Convention. New Women’s Association of Japan in November 2001 conducted a questionnaire survey on school rules, seeking answers from mothers having primary, junior-& senior high school students. The result says; the common answer was “There are too detailed rules, which have not still been improved.” For elementary school children, most responded, “Wearing of school-uniforms and helmets is compulsory.” For junior-& senior high school, many answered, “Too minute rules exist, but actually most students don’t observe them.”

When children violate the rules, they are often subject to discipline or corporal punishment. In the case of elementary school, children are “spanked” or “scolded standing in the front of classroom.” For junior high school, students are forced to “sit on the floor of classroom,” “be hit,” “be shouted,” or “to stand on the hallway.” For senior high school, they are ordered to “be suspended from school,” “be confined to their house,” or “be expelled from school.”

In junior high school, recently, color of student's hair causes troubles. In primary school, there are no rules on the color, but in junior high, students with red-dyed hair often give rise to trouble, often involving their parents. Some of them refuse to attend school.

A senior high school teachers' union sent out questionnaire on school-rules to students in June 2002. Most respondents said they felt strong frustration against the rules. Only 10.2 % of them said, "There should be school rules," while 32 % answered, "No rules are OK, we want freedom."

Students are not guaranteed to give opinions on decision of school-rules. Some schools impose school-rules by corporal punishment.

In the case of schools without "designated uniform," they mostly recommend students to wear "standard uniform." Since the latter is not obligatory for students, they are "free" to wear anything. But virtually the "standard uniform" has become "designated uniform."

Some schools periodically make "checking of uniform." Students are compelled to gather in school's gym, and not only their uniform but hair color, finger-nails, lengthy pants and skirts are "checked." When they are found violating the rules, they are to stay on for "discipline."

Few schools today force students to have their hair cropped closely, but a junior high school in Kumamoto Prefecture (southern Japan) still compels them to do so.

[Reference] Basic Report 40, 43, 49, 81, 100, 125, 149, 159, 160, 161, 162

### **C. Case of cutting part of contribution in student-council bulletin**

A retiring teacher of public senior high school in Gumma Prefecture (in central Japan), contributed an article to student-council's bulletin in 1996. In the article, he wrote about a memory of his many years' teaching at school as well as his view on such political issues as Japan-U.S. Security Treaty and military bases in Okinawa. The principal, immediately before handing out the bulletin to freshmen, ordered one teacher to cut part of his article, regarding the part as "inappropriate," and then distributed it. The principal's act clearly infringes upon Article 13 of the Convention, which provides the child's "freedom of getting every kind of information and opinion."

[Reference] Basic Report 3, 36

## **Chapter 52 Freedom of thought, conscience, and religion, and freedom of association and peaceful Assembly**

### **A. Issues related to Enforcement of the National Flag and the National Anthem**

#### 1. Reinforcement of pressure for Exercise of the National Flag and the National Anthem

In August 1998, the Law of the National Flag and the National Anthem was formally enacted. When the Diet examined the draft law, the Japanese government repeatedly announced that this law would not force to salute the National Flag and to sing the National Anthem in the school ceremonies like graduation ceremony. However, the Boards of Education have given strong pressure to the heads of schools for sticking out the National Flag and singing the National Anthem in the school ceremonies as duty, and this pressure for enforcement of the National Flag and the National Anthem has become stronger. The detail is mentioned in Chapter 47 and 100 of this alternative report.

[Reference] Basic Report 144, 149

#### 2. The case of the Tokorozawa High School in Saitama

In the Tokorozawa High School, the Head of School tried to enforce the National Flag and the National Anthem in the Entrance ceremony, but the student body opposed the Head's plan on the reason that whether the flag of "Rising Sun" and the Song of "Kimigayo" – "Reign of Emperor" -- should be recognized as the National Flag and the National Anthem is still controversial issue. The Head of School and the Head of the Saitama Board of Education asserted that, if the freshmen do not attend the entrance ceremony officially organized by the Head, they will not be admitted to the school. And he delivered the official paper to freshmen and their parents informing his assertion. The detail is mentioned in Chapter 47 and 100 of this alternative report.

[Reference] Basic Report 144, 149

#### 3. The case of Kunitachi Daini elementary school in Tokyo

In the elementary schools in Kunitachi, Tokyo, the graduation ceremony had been held without the National Flag and the National Anthem. However, in March 2000, 11 schools of them stick out the National Flags on the roof on the day of the graduation ceremony. In Kunitachi Daini Elementary School, the Head of the school locked out other teachers from the school building, and he alone stick out the National Flag on the roof in the morning of the graduation ceremony. In August 2000, the

Tokyo Board of Education gave disciplinary measures to these teachers. The detail is mentioned in Chapter 47 and 100 of this alternative report.

[Reference] Basic Report 4, 144

## **B. School report**

At each stage of schools from the primary school to the high school, the school evaluates the pupil's learning performance, makes the cumulative record of education and delivers the result as the report card to each student and its parents every term. Concretely, students are evaluated in each subject from the 4 points of view, 'Interest, Will and Attitude,' 'Thinking and Judgment,' 'Skills and Expression' and 'Knowledge and Understanding.' In the stage of the primary school there are three grades, and in the stages of the junior high school and high school, there are five grades. The children, who are evaluated, must give a great attention to how to grade their activities. This grading-system is a great pressure for the children, and causes children's stress. This unconsciously binds their freedom and makes them atrophied. Additionally, in this grading-system, especially the grading on 'Interest, Will and Attitude' there is a great risk that the evaluator's value judgment directly pushes to students. The detail is mentioned in Chapter 97 of this alternative report.

[Reference] Basic Report 7

## **C. "The Notebook on Mind"**

In 2002, the Ministry of Education delivered "the Notebook on Mind" to all pupils of the elementary schools and students of the junior high schools in Japan by spending about 730 million Yen from the national annual budget. This has four volumes for the 1st and 2nd grade pupils of primary school, for the 3rd and 4th grade pupils of primary school, for the 5th and 6th grade pupils of primary school, and for the students of junior high school. "The Note on Mind" is a kind of official moral education material by the government, and this is against one of the important fundamental principals of democracy that the government must not force a moral to people. The detail is mentioned in Chapter 97 of this alternative report.

## **D. Grades of "patriotism" in Report Cards**

In the City of Fukuoka, Fukuoka, about a half of the elementary schools have introduced a grading topic in the pupils' Report Card how much pupil respects for Japanese history and tradition, love



Japan and has consciousness of Japanese as hoping peace in the world. “Loving Japan” or “Consciousness of Japanese” touch upon individual thought and conscious. Introduction of this grading topic in the Report Card, which originally aims to report individual achievement of learning, is intended that a particular value will be pushed to pupils. The detail is mentioned in Chapter 48 and 98 of this alternative report.

[Reference] Basic Report 110, 147, 149

## **Chapter 53 Right to privacy**

### **A. Intrusion into privacy of students**

‘The Project Group on the International Convention on the Rights of the Child’ in ‘the National Centre for The Rights of Child, Education and Culture’ collected questionnaire from about 3000 students of the junior and high schools nationwide. Most of the schools have routine checks of their appearance, hair- style and belongings, and violate against their privacy. The detail is mentioned in Chapter 104 of this alternative report.

[Reference] Basic Report 112

### **B. Privacy in Child Welfare Institutions**

The privacy of children who live child welfare institutions needs to be considered from two aspects, between staff and child, and between children. In the former aspect, the staffs go into their room without children’s permission or presence. In the latter aspect, each child must always pay attention to others. These cases are strongly related to conditions of child’s rooms and the staff’s consciousness on the rights of the child. In 2000, 52.5% of the rooms are for more than four children per a room. Only 1013 children can have their own private room. The detail is mentioned in Chapter 68 of this alternative report.

[Reference] Basic Report 119

## **Chapter 54 Other issues concerning the civil rights and liberties: access to Information, and corporal punishment**

### **A. Poor conditions of school libraries**

The Japanese government reported there is a school library in each school. However, practically, many of school libraries only play a role of storeroom for books. By revision of the Law of School Library, by the end of March 2003, all schools, except schools with less than 12 classes, must employ, at least, a school librarian who manages library with special knowledge and skills. However, in schools with less than 12 classes, there is no official guarantee for employment of school librarian.

[Reference] Basic Report 117

### **B. Mass media published fabricated articles on the presentation by Youth Committee of DCI-Japan to CRC in 1998**

In 1998, some of mass media presented distorted reports on the presentation by Youth committee of DCI-Japan to CRC. For example, some of their headlines said: “Enforcement of the school uniform: The UN Committee on the Rights of the Child comments that you are happier, because you have a school uniform” (On May 30, 1998, Sankei Newspaper), “A Girl tried to take advantage of the UN Committee for abolition of school uniform, by contraries she was scold” (On June 18, 1998, Weekly Bunshun) and “The cool Response by the UN Committee on the Rights of the Child makes a girl disappointed, because it comments “you, who appeal for school uniform as violation against human right, are happier than children who are suffering from extreme poverty or abuse”( On June 18, 1998, the Kumamoto Nichinichi Shuinbun, A local newspaper). These reports were based on an article by the Jiji-Tushin. (Basic Report 50) The detail is mentioned in Chapter 47 of this alternative report.

### **C. Corporal punishment**

There is no improvement on remove of corporal punishment in schools. The detail is mentioned in Chapter 105 of this alternative report.

[Reference] Basic Report 7, 9, 40, 100, 110, 122, 125



**Part 2 Mass Media and Children**

## **Chapter 55 Problems in the Second Report of Japan: the government is not serious about the issues concerning mass media and children.**

The information on Article 17 given by the Second Report of Japan is largely on the measures taken to protect children from harmful information. The Report is concerned only with the strengthening of regulations and controls over mass media, and thus lacks the attention on the important issues surrounding mass media and children.

First, the Report does not give any information on how the government realized the children's right to make access to media and useful information. Second, it lacks the critical analysis of the commercialism, which resides in the background of the flood of information harmful to children. Third, it lacks the analysis or evaluation of how hard NGOs have endeavored to change the ways in which mass media work toward children. Forth, as to the regulation of "harmful information," the Report states the government is promoting "self-regulatory measures" (para. 156) and lists the self-regulatory measures developed by business world, it lacks the analysis of effectiveness of ineffectiveness of those measures. Furthermore, it lacks the information on the government plan to adopt a law which will strengthen the government intrusion into mass media so strongly that "self-regulatory measures" will become "unnecessary." Fifth, the Report does not cover the issue of the negative impact of mass media on child's mind and body, even though the incident of "Pokemon," where children had convulsive seizures when they watched Pokemon, was raised by CRC in its consideration of the First Report of Japan. People worry about the impact of mass media on children's mind and bodies as the more stimulating mass media equipments flow into houses and children spend more hours by using these equipments. Sixth, it lacks the information on the surveys conducted by the government itself.

In sum, the Second Report of Japan does not reflect the real conditions of the right of the child concerning mass media. This is not only because the government neglects the seriousness of the issue concerning mass media and children, but also because it has never stopped mass media's stampede into the life of children for these 30 years.

In 1969, the study group on information, established under the Economic Council of the Ministry of Industries and Economics, published its report titled "The Information Society in Japan: visions and challenges." In this report, the study group warned as follows. "The flood of information will endanger the subjectivity of people, and it will divide people along the lines of communities, generations and subcultures." "Communication between parents and children is becoming less and less. Parents know the opinions of children by watching the reactions children show to TV shows.

As the face-to-face communication, which is sometimes irrational and ineffective but warm, is fading away, the humane solidarity among people is withering. This will lead to the spread of the social pathological phenomenon, and the loss of humanity.”

The government has been neglecting this warning, and never taken appropriate measures to prevent the warning from coming up for these thirty years. The government promotes the project to introduce more mass media equipments into families and school, and describes this project as making a rosy life. The government is going to repeat the failure.

## **Chapter 56 Actual conditions of mass media surrounding children**

### **A. Children are surrounded by mass media equipments**

Child's life is greatly influenced whenever new media equipments, such as TV, video, TV game, personal computer and cellular phone appear.

According to the summary of survey on the youth and the violence in TV and TV games published by the Management and Coordination Agency in December 1998, 12% of families own 1 TV set, 53% own 2, 27% own 3, 25% own 4 or more. (<http://www.op.cao.go.jp/youth/kenkyu/tv.htm>). In 25% of families, children own their own TV. According to the survey conducted by the Director-General for Policy Planning of the Cabinet Office, average children watch TV for 2 to 3 hours a day, 29.44% of girls from the age of 12 to 14 use cellular phones, and 84.7% of boys from the age of 12 to 14 own TV games. According to "International Comparative Survey on Children and Families" published by the Youth Affairs Administration of the Ministry of Public Management in December 1995, 70.2% of Japanese children enjoy "watching TV" during free time, 56.0% "playing with friends", and 45.5% "talking with family."

Some serious problems have given rise to with this wide spread of mass media equipment and this long exposure of children to mass media equipments.

### **B. Violence in programs**

Broadcasters Council for Youth Programs was established in April 2000 by Nippon Hoso Kyokai (NHK) and National Association of Commercial Broadcasters in Japan. This council receives critical opinions from people, and, based upon consideration of opinions, the council submit recommendation to broadcasters. Among the opinions they received from October 2002 to March 2003, 172 were about vulgarity and immoral, 58 about sexual expression, and 33 about violent expression in drama and animation.

According to the summary of survey on the youth and the violence in TV and TV games published by the Management and Coordination Agency in December 1998, the number of times young people watch violent scenes on TV per month is 113.5. This survey concludes "The more times people watch violent scenes, the more they tend to admit violence. Similarly, this survey states "The



longer people do TV games, the more likely they engage take delinquent conducts.

After the “Pokemon” incident in December 1997 and the “butterfly knife” incident where a student attacked his teacher with butterfly knives in January 1998, producers in broadcasters asked staffs creating cartoon programs to refrain from using expressions with light stimulus, or extremely violent or sexual expressions. Nevertheless, many programs for children are still filled with the violent scenes or with the theme of “fight against enemies.” “Pocket Monsters” is typical. In these cartoons, the messages of “the only solution is to fight,” “stronger power leads to victory,” “only getting new items you can knock down the enemy,” “man is hero, woman is heroine to help man lovely” are repeatedly sent. Being tied up with toys and TV games, these messages which emphasize militant violence and a gender bias are amplified.

### **C. Commercialism dominates mass media and TV programs for children.**

In the background of violent expression in mass media, there exists commercialism. In Japan, commercialism targets children, contaminates TV programs, controls child’s life, and exploits children by driving them to be consumptive.

For example, almost all the TV cartoon programs in commercial broadcasters are sponsored by profitable companies which sell games, toys, stationeries, soft drinks, snack for children. TV programs have commercial breaks in which character goods are advertised. TV programs for children are produced based on the idea that “program as a whole is a commercial.” Sometimes, programs for children are designed only for product promotions. Programs compete for captivating more children, and this drives producers to use more exciting and violent expressions. When “Pokemon incident” occurred, and when exciting, violent sexual expression were taken up, some producers pointed out this extreme commercialism and TV rating race as the root cause. However, the government and media companies ignored this opinion. Japanese children have been constantly the target of the highly sophisticated advertisement strategy -- media-mix --, which connects programs, stories, characters, and such products as toys and TV games. Children are continuously stimulated its desire to buy toys and games. As their desires will be never satisfied because they are stimulated continuously, children are always frustrated.

The role of commercial is forcing viewers to buy products rather than giving correct information about products. Commercials which target children started from broadcasting of “Astro Boy,” which is the earliest TV cartoon program. Commercials and programs dominated by commercialism repeatedly tell children that consumption is virtue. They repeat beautifully, happily, and coolly the message that the product in Braun tube is the most valuable, those who buy it first is smart, money is needed to buy it, to get money it is important to go to better schools and better

companies, and to win the competition it is sometimes inevitable to kick out others. This situation can be in strong tense with Article 32 and 36 of the Convention. Of course it depends on the definition of “exploitation” whether this situation can be reviewed in light of Article 32 and 36. But, still, this situation can be reviewed, at least in light of Article 3 of the Convention. The situation in Japan is peculiar compared with Britain where programs for children are without commercials or other countries where characters in programs for children are not used in commercials.

## **Chapter 57 Media's negative impacts on child's mind and body**

Media's negative impact on child's mind and body is now getting strong attention from researchers. In the following, the academic or medical researches on this issue are to be introduced.

### **A. Rapid increase of the number of children who have oral retardation**

Prof. Dr. Naoki KATAOKA reported that the number of children who have oral retardation has been increasing rapidly. As video are widely popularized, parents let infants at the age of 1 or 2 watch video repeatedly and sometimes make them watch video for early education. As a result, children watch video longer and longer. According to the survey on "Infants and TV watching" conducted by the Research Institute on Broadcasting Culture of NHK, published in June 2002, (<http://cgi.nhk.or.jp/bunken/nl/n052-yo.html#000>) 83% of children at the age of two watch video daily, 85% of children at the age of three, 77% at the age of four, and 69% at the age of five and six. In recent years, children tend to watch video longer. Children at the age of three or lower watch video longest. Children at the age of two watch video for 57 minutes a day. He reported that this is the cause of oral retardation.

### **B. "TV game affected brain"**

Prof. Akio MORI at Faculty of Arts and Science in Nihon University and Prof. Ryutaro KAWASHIMA, who are researchers on brain, reported that, when children play TV games, the activities of frontal lobe which control human emotion and behavior and administer creative thinking declines. The longer children play TV games, the longer it takes for frontal lobe to become active as it is before children started TV games. ([http://kodansha.cplaza.ne.jp/broadcast/special/2002\\_10\\_30/](http://kodansha.cplaza.ne.jp/broadcast/special/2002_10_30/))

### **C. Electromagnetic wave**

How the electromagnetic wave cause disease has got strong attention from medical professions. In 1979, Dr. Wertheimer warned that electromagnetic cause "childhood leukemia three times more probably." In 2001, WHO announces that low frequency and electromagnetic wave "possibly" cause cancers. WHO has been conducting epidemiological study on the relationship between

cellular phone use and brain tumor in 14 countries until 2005. In 2002, Japanese Society for Protecting Children, in its report titled “More and more male babies were born dead,” clarifies that twice as many male babies as female have been born dead since 1975 by analyzing “Dynamic Statistic of Population for These 100 Years” published by the Ministry of Welfare. The Society suspect that the cause of this phenomenon is the electromagnetic waves coming out from remote-controlled color TV sets which begun to be produced and sold from 1972. The Society asserts that NGOs should organize and activate scientific researches on this issue.

#### **D. TV game and personal computer cause child’s near sight**

Prof. Hitomi TAKAHASHI conducted her survey on child’s short eye in Kouchinagano city, Osaka, in 1996. In her survey, she tested eyesight of 1040 elementary school students in this city. 31.3% of the first graders have slight disorder in their eyes, and 14.1% of the first graders have trouble in reading textbooks. She said that, considering the fact that when we watch objects within one-meter length more than one hour adjustability functions of eyes lowers, this tendency of child’s short eye may be caused by the popularization of TV games and PCs.”

#### **E. The government response to “Pokemon” incidents.**

So called “Pokemon” incident occurred in December 1997. More than 1,000,000 children who watched “Pokemon” got dizzy, went into convulsion, and fell unconscious due to the lightning stimulus. After this incident occurred, it became evident that the similar incidents, though much less serious than “Pokemon” incident, occurred all over the World, and they had been made known to the concerned persons in broadcasters before “Pokemon” incident occurred. TV industry was criticized as being insensitive to the issue of lightning stimulus. But, three months after the incident, NHK and National Association of Commercial Broadcasters in Japan (NAB) adopted the “Guidelines on Visual Expressions Including Animation.” (<http://www.nab.or.jp/hm/aud/fanime.html>) Owing to this self-regulatory measure taken by NHK and NAB, the same incident has not occurred yet. But still, some people creating animation pointed out that the guidelines are so complicated, and the guidelines are not made widely known among producers and staffs.

#### **F. Need for establishing research institute on media and health**

“Pokemon” incident revealed that the TV industry and the government were insensitive to the issue of media and child’s health. Compared with the serious concerns expressed by the academic

researchers on “TV game affected brain,” or “electromagnetic wave”, this insensitivity or indifference to this issue is still strong. But, the self-regulatory activities quickly taken by NHK and NAB showed the possibility. We need an independent research organization to make research on the issue of media and children, to draft secure guidelines, and to make guidelines known among media and children.

## **Chapter 58 Development of self-regulatory measures by broadcasters**

### **A. Regulations by the government or self-regulations?**

TV industry was criticized as triggering such serious issues as “Pokemon” incident in 1997, and “Butterfly knife” incident where a junior high school student, who was influenced by TV drama in which a central character used butterfly knife, killed his teacher by the same type of knife. Recently, criticism against media has been enlarged. As more children use cellular phones and internet, they make access to dating service web sites or harmful information. Sometimes children become victim of prostitution or violence. Liberty Democratic Party, which is one of the ruling parties in Japan, proposed the regulations on media by the government be strengthened. LDP drafted the “Bill on Protection of Social Environment of Youth.” This bill allows the government to intervene into the freedom of expression and authorizes the censorship by the government. Owing to the movement against this bill has not submitted to the Diet yet.

What is needed is the development of the self-regulatory measures by concerned broadcasters and organizations. Actually, in these four years after the consideration of the First Report of Japan by CRC in 1998, the development has been realized. In the following, some of the achievements will be introduced.

### **B. The development of self-regulatory measures taken by the TV industry**

In May 1998, the Ministry of Post and Telecommunications established the “Study Group on Youth and Broadcasting” and asked the group to propose the reform measures. In drafting the proposals the group was asked to taking into consideration the following three points.

1. Measures should be appropriate for the country as Japan which has developed broadcasting system and ratified the Convention on the Rights of the Child.
2. Self-regulatory measures by TV industry are favorable.
3. Measures should strengthen the trustworthy relationship between broadcasters and viewers.

In December of the same year, the group published its seven proposals: enhancement of TV programs for youth, improvement of media literacy, development of researches and surveys on media and youth, active use of independent organs, reconsideration of broadcasting hours, enhancement of information activities on TV programs, and installation of Violence chip in

Television

sets.

([http://www.soumu.go.jp/joho\\_tsusin/pressrelease/japanese/housou/981207j701.html](http://www.soumu.go.jp/joho_tsusin/pressrelease/japanese/housou/981207j701.html))

To break down these proposals, the Ministry of Post and Telecommunications, NHK, and NAB established ‘Experts’ Meeting on Youth and Broadcasting’ in January 1999. In July of the same year, this meeting published its report, which clarified the detailed measures which will be taken by the Ministry, NHK and NAB.

([http://www.soumu.go.jp/joho\\_tsusin/whatsnew/youth\\_specialist/report9906-index.html](http://www.soumu.go.jp/joho_tsusin/whatsnew/youth_specialist/report9906-index.html))

Based upon this report, Broadcasters Council for Youth Programs was established in April, 2000. (<http://homepage2.nifty.com/kojokyo/youth/>) It receives more than 2,000 opinions from people through phones and e-mails per year. On November 29, 2000, the Council published ‘Opinions on Variety Programs’ and the broadcasters, responding to its opinions, took measures to betterment the programs. (<http://homepage2.nifty.com/kojokyo/youth/kenkai.html>)

As the violent and shocking film or live footages on ‘September 11’ repeatedly broadcasted, the influence of the violent and shocking footage on child development became an controversial issue. The Council started its consideration, and published its proposal, titled ‘Consideration of Impacts on Children in Reporting Violent and Shocking Incidents.’ In this proposal, the Council suggested broadcasters to consider the negative impacts on children in using shocking footages, to give explanations of incidents understandable for children, and to make programs which will enhance care for children victimized in incidents. ([http://homepage2.nifty.com/kojokyo/youth/jiken\\_i.html](http://homepage2.nifty.com/kojokyo/youth/jiken_i.html))

Under the economic recession, as many companies discontinued their sponsorships, more and more consumer finance companies sponsor TV programs. As a result, commercials on consumer finance companies frequently appear on TV, which hide the real figures of those companies. But, these companies tend to offer loans at exorbitant interest rates, or collect money by suing violence. The broadcasters have been criticized as hiding the truth on these companies by broadcasting their commercials. The Council published ‘Opinions on Commercials on Consumer Finance Companies’ on December 20, 2002. The Council asked the broadcasters to voluntarily refrain from receiving sponsorship from those companies and from broadcasting commercials on them, on the ground that the commercials could distort their sense of money values.”

But, the broadcasters negatively responded to the Opinions, and still depend on those companies. NAB, which consists of the executive officers of broadcasters, adopted its opinion on this issue on March 11, 2003, which only recommends the broadcasters exclude the expression which will enhance easy borrowings from commercials and exclude such commercials from TV programs for children. This reveals that, because they are deeply affected by commercialism, NAB itself cannot respond to the issue. This shows the reason why we need independent organs.

### **C. Enhancement of TV programs for children**

In the report adopted by “Experts’ Meeting on Youth and Broadcasting” in July 1999, there listed the projects to enhance the programs for children. What is interesting is that the report recommends NHK and NAB not only to create programs in which children can express their opinions, but also let children take part in the creation of programs, to enhance the media literacy of children.

The followings are the titles of TV programs which NHK and NAB jointly created based upon the recommendations. “How children face TV?” (created by NHK and aired in January 2000), “Dictionary on TV” (created by NTV, aired in July 2000), “I want be on TV” (created by NHK, aired in March 2001), “TV should be like this in 21<sup>st</sup> Century” (created by TBS, aired in May 2001), “Let’s Make Commercial! You Can Understand How TV Industry Works” (created by NHK, aired in December 2001), “Let’s become Iron Producer!” (created by FTV, aired in June 2002), “Let’s become a Reporter” (created by NHK, aired in February 2003).

But, sadly speaking, children did not know about these programs and did not watch them. The more efforts should be made to make these programs popular among children.

### **D. Development of research activities by broadcasters on media and children**

Broadcasters Council for Youth Program started its research on “broadcast and Youth” from February 2001. The aims is to clarify how TV affects the child development by tracking and monitoring children who were at the age of 5 in 2001 for five years. At the same time, the research will clarify how children change their attitudes toward TV as media changes.

Research Institute on Media Culture of NHK started its research on “Media and the child development” from November 2001, of which aim is to clarify how infants start and develop their contact with mass media and how mass media affect the child development, by tracking and monitoring 1000 infants for twelve years. (<http://www.nhk.or.jp/bunken/news-jp/bnl-yo-s.html>)



## Chapter 59 Media literacy

The development of media literacy among children is a serious and urgent issue. Children should understand media deeply, and raise his/her ability not to be misled by mass media. Efforts to develop media literacy have been strengthened since ‘Study Group on Youth and Broadcasting’ established by the Ministry of Posts and Telecommunications set the development of media literacy as a new challenge in May 1998. But, the need for media literacy is not widely understood among people nationwide, and the efforts have been made by only a small number of people.

The Ministry of Education establish the subject on “information” as a regular one from 2003. One of the aims of this subject is the development of media literacy. The Ministry of Public Management subsidizes educational material development. The reason why the educational activities on media literacy are not activated is that the government does not train sufficient number of instructors or provided equipments and facilities. Moreover, the subject matter of “information” give its focus on teaching children how to operate media equipments, rather than on developing media literacy.

The present main actors in organizing educational activities for media literacy are broadcasters. In 1999, NHK announced to “Experts’ Meeting on Youth and Broadcasting” that NHK would create programs which will enhance the understanding of the relationship between broadcasters and viewers, and to air such programs created by foreign broadcasters. In its report on “Progress Made in 2002 to Realize the Guidelines Adopted by Experts’ Meeting on Youth and Broadcasting,” NHK stated that it created seven programs to enhance the media literacy in 2002.

NAB started Project on Media Literacy jointly with Graduate School of Information at Tokyo University from 2001. (<http://www.nab.or.jp/htm/ethics/2001mlp.htm>) The aim of the Project is to “create a place in community where broadcasters and viewers to learn about mass media together.” They started the projects in Nagano and Aich in which students create programs by receiving advice from local TV stations and TV stations air them. They expect that, through this kind of projects, students will develop their media literacy and future leaders on this issue will be brought up.

The educational activities for media literacy organized by local TV stations have some positive aspects: they can easily catch children’s interest, they can provide better media equipments to children, and the footages on the educational activities can be aired. They are evaluated as an effort to raise awareness of media literacy by people. But still, too much dependency on broadcasters should be reconsidered because people should sometimes criticize them. Moreover, in these

projects, a small number of students who are selected can participate in the educational activities. There is a need for the educational activities which are effective and open to all the students at the same time.

## **Chapter 60 Children's rights to make access to mass media**

Though some effort were made to realize the participation of children in mass media, the relationship between mass media and children is still on-sided; the information largely only comes from mass media to children, only a little from children to mass media. Mass media should stop seeing children as targets for business, and should stop giving sexual, violent, and gender-biased information to children. In light of Article 3, 17 and 29 of the Convention, mass media should give information which will be useful for the child development

The ruling parties are now trying to enact the ‘Basic Law on Protection of Social Environment for Youth’ and furthermore, they are now drafting the ‘Law for Regulating Dating Service Web Sites. (<http://www.npa.go.jp/safetylife/syonen7/f4.pdf>). By enacting these draft laws, the government will strengthen its power to regulate the free expression by people. These draft laws will violate the freedom of expression of people and mass media.

According to the draft law concerning the dating service web site, children who made access to the sites and asked dating will be punished. We are against the punitive approach taken in this draft law. What is necessary is to change the quality of relationship between children and mass media, and enhance children to have constructive relationship with mass media.

Broadcasters Council for Youth Program held the symposium on ‘‘Think about the Future of TV with Junior High School Students’’ in July 2002. (<http://homepage2.nifty.com/kojokyo/symposium/sympo.html>) In the first part of this symposium, representatives of five junior high schools made speech on their opinions to TV. One representative, in her speech titled ‘‘Pitfalls of Commercials,’’ pointed out the fact that the commercials on consumer finance companies lack the information on interest rates, and proposed the interest rate be on commercials. Her speech was aired, and triggered the criticism against the broadcasters. The Council suggested the reform, and at last, the broadcasters decided to air the information on the interest rates in commercials. But, they air only the maximum interest rate only for three seconds.

As is mentioned in the chapter on, after Broadcasters Council for Youth Program started to work, NHK and commercial broadcaster made some efforts to let children take part in the creation of programs of let them express their opinions in the programs. These efforts are valuable, but, they include only a small number of ‘‘selected’’ children. How can we assure all children the right to make access to masse media? This is a new challenge for the government, municipalities, schools,

communities, and broadcasters.

## **Chapter 61 Activities of NGOs on the issue of media and children's rights**

NGOs have been actively organized the movement to change the relationship of children with mass media. In the following, main NGOs working for media literacy or on the issue of media and children will be introduced.

“Project on Children and Media” was established in May 2000 under National Center for Children. The Project is a coalition group of NGOs and individuals. It organizes study meetings for exchange opinions among concerned NGOs, researchers and citizens. It seeks for mass media which will protect and ensure the rights of the child recognized in the Convention. Chapter 55 – 62 were prepared by this project.

Institute for General Study on Media was established in March 1994 by researchers on communication media in cooperation with those who want to take part in mass media as viewers or readers. (<http://www.mediasoken.org/>) The feature of institute is to conduct researches on mass media from the view point of citizens, to disseminate their results, and to exchange opinions among organizations of audience and media user. This institute published “Seven Proposals” in June 1999, which are 1. to allocate 0.1% of broadcasting income to “child program” fund, 2. to promote media literacy, 3. to establish independent organs to check mass media, 4. to consider air time, 5. to reexamine commercial of tobacco and alcohol, 6. to establish guidelines and ethical codes on programs, 7. to make broadcasters disclose information. (<http://www.mediasoken.org/page022.html>)

“FCT citizen media forum” was established in 1977. (<http://mlpj.org/fct/about.html>) Audience, researchers, and media creator gather in this group, exchange opinions, conduct empirical researches, and make proposals on various problems around media. This organization is famous as being familiar with the international movements on the issues. This organization introduced to Japanese society such standards established by international NGOs as Children's Television Charter and The Children's Charter on Electronic Media.

Child Media Workshop was established in 1999 by the call of Child Theater Center in Fukuoka. ([http://www5d.biglobe.ne.jp/~k-media/index2\\_1.html](http://www5d.biglobe.ne.jp/~k-media/index2_1.html)). This organization carried out the project on “Challenge for No TV” in 2002 and “No TV Day” in 2001. Its aim is to revive the communication within families by enhancing media literacy.

There are various NGOs which organize educational activities or campaign for media literacy, and

conduct researches on media and children. The government and municipalities should support these activities.

## **Chapter 62 Some proposals concerning media and children**

The followings are some proposals concerning media and children.

1. The government should raise awareness of the Convention by the media industry and the companies providing sponsorship to TV programs. In doing so, the government should give the information on Children's Television Charter and The Children's Charter on Electronic Media.
2. The government should carry out researches and surveys on commercialism. Those research and surveys should clarify the actual situation of tie-up of TV programs for children with commercials. The government and the TV industry should conduct international research on whether this kind of tie-up is allowed, or on what conditions it is allowed in other countries. The government should provide assistance to NGOs who conduct researches on this issue.
3. The government should develop its research on how media influences children. In addition to the issues on how violent expressions affect children and how TV affect the way in which children spend their times which had been already treated, issues of how media affect the child health and how gender-biased expressions affect children should be treated.
4. The government should establish the independent organ such as Media Ombudsman. Instead of strengthening the regulations on mass media, the government should establish the independent organ which consists of researchers, citizens and those who are concerned with the TV industry.
5. The government should establish "Committee for Assisting Child Programs" to encourage the creation of child programs. This committee is to consist of researchers, citizens and those who are concerned with the TV industry. The committee collects fund, and distribute the fund to assist the creation of child program. The government, municipalities, commercial broadcasters and concerned companies are obliged to endeavor to financially contribute to this committee.
6. The government should provide facilities, equipments, and staffs to enhance the education for media literacy. The aim of the education for media literacy should be the development of children's ability to understand media critically and use media subjectively, rather than the development of ability to accept what media says correctly, or to operate media equipments.

## **VII. Family Environment and Alternative Care**



**Part 1 Family Environment of Children**

## **Chapter 63 Children's right to express their views freely in the family**

### **A. Family environment where children can enjoy intimate relationship has been disappearing.**

As Paragraph 6 of the Preamble of the Conventions states, “the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,” a family ought to be a place where children can enjoy their rights to development. But, in Japan, the rights of the child to family environment aren't realized. The “loss of childhood” in Japan has been caused by the society which is organized on the principles of efficiency and competition. As these principles are now penetrating into family life, children are deprived of the family environment, the place where they can feel secure and confident under the humane relationship with the members of a family.

In the background of this situation, there exist three problems. Firstly, stress of highly competitive educational system has penetrated into family life. Secondly, parents are deprived of the fundamental condition for forming humane relationship with their children by the long working hours or overtime work without pay, which is called as “service overtime work.” Thirdly, on one hand, the authoritative attitudes of parents toward children are being strengthened in family life, and, on the other hand, more and more parents throw up their responsibilities in child rearing and let them alone.

As is confirmed in Paragraph 6 of the Preamble of the Convention, family where a child is assured intimate human relationship is an organ for realizing the core of the rights of the child, namely the right to development. This is the reason why Paragraph 5 of the Preamble of the Convention states “the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.” Paragraph 1 of Article 23 of the International Covenant on Civil and Political Rights also confirms that “The family as a human group which is open to regions takes on a role as natural environment for the child's growth... The family is ...entitled to protection by society and the State.”

Yet, the family in the present situation hasn't fulfill the function of “natural environment for the child's growth and welfare,” neither has it been protected by the government.

## **B. The right to express views freely is not respected in the family.**

To what degree is the right of the children to express their views freely respected in the family?

Children go to cram schools from their early age. According to the survey by the Study Group on Children's Experiential Activities under the sponsorship of the Ministry of Education, the percentage of children who attend cram schools is 30% in third grade in primary school, 39% fifth grade, and 50% eighth grade in junior high school. The percentage of students who has been to some special lessons and sports clubs is 69% in third grade, 71% in fifth grade. Children are deprived of time during which they can cultivate human relationship with parents.

The parents themselves realize that they lose time to keep in touch with their child. According to "Basic Survey on Social Welfare in Tokyo, 2002 – Children and Families; The situations of Families Which Rears Children under the Age of Twelve," 55.1% of father is worried that there is few hours to keep in touch with the child, 70.5% of mother is worried about taking care of the child. The number of working father who comes home after 9 o'clock is 46.8%, only 13% of father is able to go back to home before family has supper. This situation also prevents the parents and children from building the intimate relationship, and makes it difficult for children to enjoy the human relationship where they can be accepted as they are.

Busy working parents can't prepare adequate meals for children (Basic Report 61), and can't even care about children's health. As a result, many infants are left alone watching TV without parent's care, having few opportunities to learn language. Some infants, without gaining attachment toward their parents, often get symptoms of autism. Unless immediate care is taken, they are feared not to get necessary ability for communication and become defective-character persons or "borderline persons." (Basic Report 78)

This phenomenon of lack of communication is possibly related to increasing children who were diagnosed as developmental disability or attention-deficit hyperactivity disorder (ADHD). Those children, not in mental disorder but in "gray area," who are hard to deal with, have increased in number in large cities. At a care center in a city near Tokyo, the number of users last year doubled in ten years.

As mentioned above, lack of attachment toward parents during the infancy are carried over to adolescence and youth. Children in adolescence send adults such messages as "Look at me!," or "I'm offended" through problem behaviors, for instance, violence or shoplifting. These are exemplified in the recent cases in juvenile prostitution by means of cell phones and internet. Desperate and solitary sentiments such as "Nobody cares about what I do." and "I can't do it anyway." will often drive children to violent behavior. (Basic Report 127)

It is pointed out that “Many children are imposed a certain type of values which is prevailing in the society, especially the value on meritocracy, and they are always compared with others. As a result, children lose a life in which they can be as they are and feel relaxed, and they also lack the experience of concentrating on what they are interested in.”(Basic Report 20) Children are not able to acquire a feeling or a view of self-respect, and children are actually not able to form an ability to communicate with each other. The children’s right to express their views freely is realized only in the relationship with adults where adults accept children as they are. In the present family, this relationship is hard to realize.

According to the survey conducted by the Osaka Suita branch of New Japan Women’s Association, which covered 400 junior high and high school students in Suita city, many of them answered that their home cannot be comfortable places for them because parents are bothersome and always angry with them. (Basic Report 97) Children receive one-sided talk from their parents. The realization of the interactive relationship between children and parents is still a huge challenge for the Japanese society.

The followings are anecdotes from Basic Report, which show that, in some cases, children are forced to obey parents and never allowed to express their wishes. Some children were threatened by such parent’s words as “Who do you know owe to that you can live and eat here in this house?” and what is worse, they are often spanked by their parents. (Basic Report 165) A college student reportedly attempted a suicide because he was frequently hit by his father at home under the pretext of “discipline.” Looking back at his experience, he said “Children have no capabilities to live independently in society, and without parent’s care, they find no place to live. Children are nor mascots nor marionettes for parents, and should be treated as respectable persons. Homes are a place where children can live at ease and grow up properly, free from any hindrance.” (Basic Report 166)

### **C. The right of the child to express his/her views when their parents are going to divorce.**

The number of divorces is increasing rapidly from 1990. Two hundred ninety thousand couples ( 2.31 couples per thousand) divorced in 2002, the highest record in history. On the other hand, the number of marriages is seven hundred fifty-five thousand, so one couple out of 2.5 divorces.

In order for a couple to divorce, they have to reach mutual agreement on divorce. When a couple who wants to divorce has a child, they should make agreement on which is going to hold the custody of a child and on what conditions a parents who does not hold custody can visit a child. The divorce needs the simple procedure in law, whereas the child may be involved in confusion and conflict of the family relationship before and after the parent’s divorce. It is needed for a parent

who does not hold custody to cooperate with other parent to bring up their child, and fulfill “common responsibilities for the upbringing and development of the child.”.Article 18 of the Convention.

In almost all cases of divorce, without listening to wishes of a child, the custody is automatically allocated to a mother, and the case where a father gets the custody is exceptional. In 80% of divorces custody was allocated to mothers and in only 20% to fathers. There are many cases that fathers don't pay maintenance to mothers. Sometimes mothers accept this situation in exchange of quitting the visitation by fathers to children. Even when the child wants to live with a father, there are some cases that the child is forbidden from meeting the father..Basic Report 51, 120.

To change this situation, the following measures should be taken. Firstly the child should be assured to participate in the consultation of the parents' divorce, and the right to express views freely ought to be assured. Secondly the parents are needed to make agreements on what are necessary for the child's care after divorce. To recover the maintenance from fathers, such system as compulsory maintenance recovery in the U.S. should be introduced. Thirdly, joint custody, which has been developed in the U.S. and in European countries, should be legalized. The visitation right of a parent who does not hold the custody, which responds to the right of the child to maintain personal contacts with both of the parents when they are separated from both or one recognized in Article 9 of the Convention, should be recognized by law. In Japan, there is no provision which stipulate the visitation right and its importance in the existing laws. (Basic Report 214)

## **Chapter 64 The difficulties parents are facing in exercising their parental responsibilities: long working hours, overwork without pay, “Karoshi,” and suicide due to overwork**

### **A. Severe working conditions hinder the common responsibilities of parents for the upbringing and development of the child**

As for Article 6 of the Convention, the Second Report of Japan states “Article 1, Paragraph 2 of the Child Welfare Law provides that ‘the life of each child shall equally be guaranteed and protected’ under the running head of ‘Creation of an environment where the rights of the child to life is guaranteed, and survival and development of a child is ensured.’” (para. 116) Yet, looking at the actual situations family life in Japan, it is difficult to say that the policies taken by the government have created this kind of environment.

Article 18 of the Convention stipulates the common responsibilities of parents for the upbringing and development of the child and the obligations of the government to provide appropriate assistants to parents. The family should be the place where children can form and develop intimate human relationships, but the family in Japan cannot carry out this role due to the fact that the relationship between parents and child have been diluted by the severe working conditions of parents.

The Second Report of Japan states “The ‘Opinion Survey on Gender-equal Society’ conducted by the Prime Minister's Office showed that the percentage of response that men should get involved actively in raising, disciplining and educating children increased from 38.7% in 1993 to 44.4% in 2000. More and more people think it desirable that men as well as women partake in housekeeping and community activities and balance work and family life. The perception toward the traditional gender-oriented role sharing as reflected in the term “Men at work, Women at home” has been steadily changing. The Government will continue to make efforts to promote participation of both men and women in family life under the Basic Law for a Gender-equal Society enacted in 1999 and the Basic Plan for Gender Equality established in 2000.” (para. 174)

The changes in the awareness of people on the stereotyped view on the role division between men and women were also proved by other surveys. For example, “the Survey on the Awareness of People” conducted by NHK (Nihon Hoso Kyokai: Japan Broadcasting Corporation), the percentage of men who answered that “husbands should do cooking or take part in child rearing because husbands and wife should cooperate with each other” increased from 56% in 1973 to 81% in 1998.

But, “the Survey on How People Spend Time in Daily Life” conducted by NHK in 2000 shows that there still exists the gap between the ideal situation people wish to realize and the actual situation of life they spend. According to this survey, the average number of hours spent for house holding by wives is 3 hours and 6 minutes and that by husbands is 36 minutes. Compared with the figure in 1996, the average number of hours spent for house holding by husband increased only by four minutes. The role of house holding is largely taken by wives.

This gap between the ideal situation and the actual situation is caused by the long working hours. The Table below shows that the working hours of Japanese husbands are the longest among the five developed countries and the number of hours spent for house holding by Japanese husbands are the shortest, which is about one third of that by Canadian fathers.

The Numbers of Hours Spent for Work and Householding by Workers, Classified by Men and Women (hour:minute)

		Japan	Canada	USA	England	Finland
the working hours	men	7:32	6:19	6:27	5:14	5:39
	women	5:37	5:20	4:51	3:38	4:21
the number of hours spent for house holding	men	0:31	1:39	1:55	2:05	1:54
	women	3:29	2:54	3:25	3:36	3:24

Data from "The Comparative Research on How People Spend Time in Their Daily Life" conducted by Broadcasting Culture Research Institute of NHK in 1995

As another cause of the fact that the role of division between men and women still strongly exists, the working conditions of women which became as severe as those of men can be pointed out. Since the enactment of Equal Employment Opportunity Law between Men and

Women in 1985, ironically, women have been forced to work as long as men. Some women died due to over work – *Karoshi* – as many men. This situation deprives women of the opportunity to take balance between their work and family life and force them to choose work or family life. Actually, the data on percentage of female population economically active classified by their ages show that the percentage decreases from in their latter twenty’s and that of women in their latter thirties is the smallest.

In the summary of the survey on environment of children, published by the Ministry of Health and Welfare, on 10, September, 2001, in 89.4% of families both the parents live together, 3% lower than the previous survey in 1996. 8.6% of families are without a father. These figures reflect the fact that the number of divorces, business bachelors, and bereavements has been increasing. In the current survey on business bachelors (2001), 95% of company in Japan says “there are some business bachelors on the staff.” A rate of business bachelors in whole staff is 2.8% in Japan, 0.2% overseas, 3% in all. Regardless of scale and formation of a company, it can be said “there are business bachelors in almost Japanese companies.”

The Ministry of Health and Welfare investigated about 3000 offices run by the companies which had violated the Labor Standards Law and had made staff work overtime. According to the survey, 18.6% of companies filed less overtime work than actual. In addition, 14.3% of the companies

didn't pay for overtime work. In total, in 32.9% of the companies, laborers were forced to do overwork without pay. Because the government has not taken effective measures to eradicating overtime work without pay, parents face the difficulties in exercising their parental responsibilities.

The present situation is against ILO Convention (No. 156) concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, which the Japanese government ratified in June 1995. Article 3 of the Convention states, "each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so..., to the extent possible, without conflict between their employment and family responsibilities."

Measure should be taken urgently to eradicate over work without pay and to reduce 1900 working hours a year, which 400 hours more than that in Germany and 300 hours more than that in France.

## **B. Children of laborers who committed suicide**

As the number of laborers who committed suicide has increased, the government is required to take measures specifically tailored for children of those laborers. In other words, the government should "ensure the development of institutions, facilities and services for the care of children" (Article 18 of the Convention) whose parents died due to suicide.

During four years from 1998 to 2001, the number of suicide recorded 30 thousand something every year. Statistics collected by National police Agency show that the number of persons who committed suicide at the age of 60 or above was 10,891, that at the age of 50 or above was 7,883, and that of at the age of 40 or above was 4,643 as of 2002. This means that 35.1% of felosdese were in their 60s, 25.4% was in their 50s, and 15% was in their 40s. Compared with the number of the traffic death case, which is around 8000s, the number of suicide is clearly significant. And, thus, suicide has become a serious social issue.

The cases where the cause of suicides was the hardships of life are the largest as from 1987 when the survey started. The number of felosdese in their 40s or 50s - when they are in the most productive time - sharply increased by 150% from 2000 to 2001.

As the more parents committed suicide, the more children are facing difficulties. Ashinaga Scholarship Society, a NGO which works for children whose parents died in traffic accidents by providing scholarship, says that the number of surviving children to whom it offered a scholarship is 21 in 1998, while 178 in 2001, which is 8.5 times as large. Public supports for surviving children are indispensable. But, they have been insufficient.



### C. Children of fathers who died from overwork, “Karoshi”

“*Karoshi*” is now one of the exceptional Japanese words which are internationally accepted and used. As the number of “*Karoshi*” has increased, the care of surviving children gradually has gotten the attention.

The company’s attitude toward worker’s who died from or committed suicide due to overwork and his surviving family is too coldhearted. Whenever the surviving family submitted application for compensation to the companies, the companies ordered them to go out from company-owned houses. Moreover, some people say “the company has no responsibility in his death, because he was on the management side.” In addition to the economic difficulties and the mental damage caused by the loss of partners, the surviving family must learn to endure heavy mental blow given by the companies and those who attribute the responsibility to the family. (Basic Report 180 – 182)

The situation of the surviving child is more serious. There is no place where the child can tell someone else what has been on his/her mind. The parent can’t afford to have consideration for the child because it is as much as the parent can do to make livings for the family. The teacher talks to the child with an encouragement “your father in heaven should be displeased if he looked at your sad face.” On the other hand, if the child does wrong behavior, the teacher accuses the family of not having the father. The child tries harder to support his/her mother, and this attitude leads the child to doing something beyond his/her ability. (Basic Report 182, 183, 184, 185, 186, 187, 188, and 189)

Moreover, in many cases, children felt guilty about fathers’ suicides. They accused themselves of fathers’ death more than the mother did. Without the place where they can receive counseling or have a talk with peers who have same experiences, they were forced to overcome this feeling by themselves.

The Ministry of Health and Welfare hasn’t taken any measure yet. System for supporting the children whose father died from or committed suicide due to overwork must be built up rapidly.

[Reference] Basic Reports 93, 94, 96, 98, 99

## **Chapter 65 Dose the Basic Law on Gender-equal Society contribute to realize the common responsibilities of parents?**

Paragraph 170 of the Second Report of Japan points out the Basic Law for Gender-equal Society enacted in 1999 as the measure to realize the common responsibilities of the parents, by stating “Article 6 of the Basic Law for a Gender-equal Society...provides the basic principle that women and men can perform their roles smoothly as household members in home-related activities, including child-raising and nursing of family members through mutual cooperation and social support.” If the government really endeavor to realize the common parental responsibilities, it should carry out the policy based on the resolution adopted by the Cabinet Committee of the Diet in enacting the Law, which reads “in drafting policies to form the gender-equal society, the government should not only reconsider the existing laws, policies and systems, but also take appropriate legislative or financial measures, in order to eradicate all the discrimination based on gender.”

As for March 2003, the number of municipalities which has enacted Basic Ordinance on Gender-equal Society is only two, which is no more than 3% of all. The trend toward enacting Basic Ordinances is being weakened due to the backlash both from the government and the civil society.

The Minister of the State, Yasuo Fukuda, who doubled the Minister for Gender Equality, was the key actor of the backlash triggered by the government. As is explained in Chapter 24, when a member of the Diet raised the questions on a pamphlet on childrearing, “The New Support for Childrearing: the Key to the Future,” published by the Japanese Women’s Studies Group (a government affiliated study group), the Minister of Gender Equality insisted the importance of the division of role between men and women. This pamphlet states “we should raise our children without being caught by the traditional stereotyped view on the division of role between men and women. What is the most important is that to develop the unique personality of each child. ... To realize the gender equal society we should change our attitudes first.” As the Minister of Gender Equality, Fukuda should have stated that the critic raised by the member was against the Gender Equality Law and the related government’s plan, and the pamphlet was for them. But he said “Though the pamphlet was edited and published by the government affiliated public office, I am against this pamphlet. I think men are men and women are women. ... Men and women are different in the social life. The difference between men and women is very clear. Men have their own role and women have their own. We cannot neglect this.” Fukuda also stated in the Diet on 22 July 2002 “We have maintained the old and good tradition since the old days, and there are some families and homes which have observed

that tradition. What should be observed will continue to be protected.” This kind of remarks made by the Minister gives negative impact on the trend toward enacting the Basic Ordinance.

With in the civil society, there arose the movements against the gender-free society. For example, textbooks on home economics were criticized on the ground that they are too gender-free, and a teacher who gave her instruction on sex education to elementary school students was criticized. (Basic Report 18, 143, 210) The government ought to take an initiative providing education for gender-equality to students. But, the government stated nothing about these backlashes in the civil society.

Article 4 of the Basic Law for Gender-equal Society clearly states “In light of the fact that the social systems and practices that reflect the stereotyped views on the division of roles between male and female affect the choice made by male and female in a biased way, in forming the gender-equal society, the government should consider to neutralize the impacts the social systems and practices give male and female in making choice.”

What the Minister of the State, Yasuo Fukuda stated is incompatible with this article. The government and municipalities should positively take measures to realize gender-equality in family, office, region and in all the aspect of the society.

## **Chapter 66 Why has the birthrate been falling down?**

Paragraph 1 of the Second Report of Japan states “In an effort to put on breaks on declining birthrate, the Japanese government has been taken measures and will continue to do so.” Regardless of this statement, the birthrate has been falling down.

As of 1, Oct, 2002 overall estimated population is 127 million 435 thousand, and population of 0.18 years is 23 million 774 thousand (18.7%). Population of 0.14 years in 1990 was 22 million 487 thousand, however, in 2002 that decreased to 18 million 102 thousand, a decrease in 0.14 population is 4 million 385 thousand (19.5% down). The rate of children under the age of 15 to the overall population was 35.4% in 1950, 30.2% in 1960, 24% in 1970, 23.5% in 1980, 18.2% in 1990, 14.6% in 2000, 14.5% in 2001, 14.3% in 2002, 14.1% in 2003. according to the statistics collected by the Ministry of general Affairs as of 1, April, 2003.. The rate has been decreasing for these 22 years.

Percentage of children under 15 to overall population in Japan is smaller than that in the U.S. (21.4%), and that in France (19%). It is as low as that in Italy. In Japan, total special birth rate – the average number of children women give birth to during their life -- is 2.14 in 1965, 1.91 in 1975, 1.76 in 1985, 1.42 in 1995, 1.34 in 1999, 1.36 in 2000, 1.33 in 2001. This has been also falling down. In all the prefectures except for Tokyo Metropolitan, the special birth rate has been falling.

Nevertheless, effective countermeasures for the falling birthrate have not been taken by the government. The government estimates that, as tendency of late marriage stops, total special birth rate will start to increase after 2007. But, the Research Institute on Population in Nihon University estimates that the tendency of late marriage will still continue and the special total birthrate will decrease to 1.24 in 2007.

In “Estimation on the Future Population in Japan” published in January 2001, the Bureau of Statistics in the Ministry of General Affairs states that the birthrate will decrease more quickly on the reason that, in addition to the tendency of late marriage, which was thought to be a cause of low birthrate, the ability of couples to give birth has been lowering.

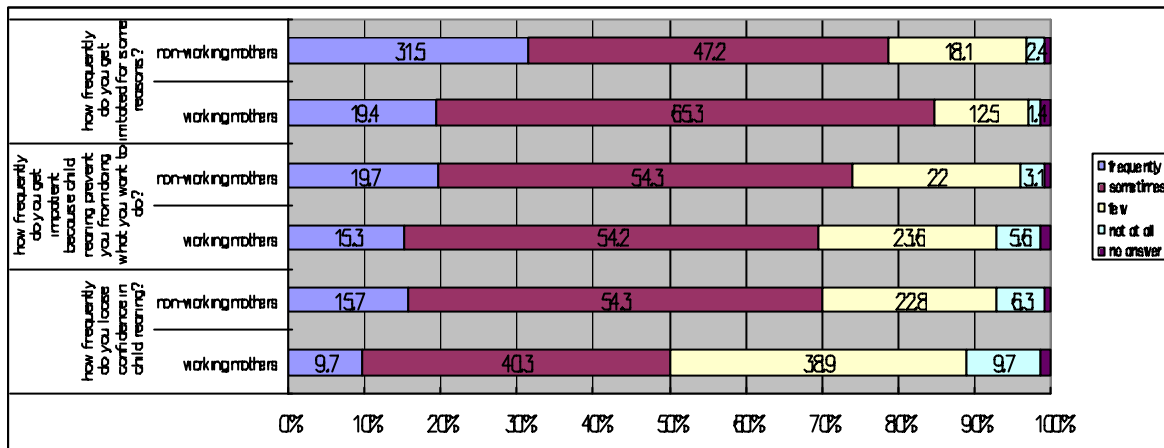
There are several factors which contribute to the low birthrate. The first is that bringing up a child incurs expense, thereof it becomes heavy burden to family budget. It cost over 20 million yen to bring up one child. If children go to university it will cost more. According to the research on “Cost for Child Rearing” done by Foundation on Child Future in 1999, the cost constitutes 32% of

after-tax income a husband earn from 28-year-old to 56-year-old. The second is bringing up a child itself is also heavy work. The parents have no own time to spend free, because bringing up a child takes much time and much labor. Thirdly, it is difficult for the mother to continue to work if she bears a child.

The measures taken by the government and the Ministry of Welfare and Labor are insufficient to get rid of these factors. The budget concerning child rearing constitutes only 3% of the total budget on social security, which amounts around ¥82billion. The expenditure on social securities concerning child rearing constitutes 4.8% of national income in Sweden (in 1996), and 3.4% in Germany (in 1996). But it constitutes only 0.53% in Japan (in 1999). The structural reforms on social welfare carried out by the government are worsening the situation.

As is reported in Chapter 90 of this alternative report, the number of children who are waiting for admission to nursery schools does not decrease. The government adopted “New Angel Plan” in 2000 based upon its “Basic Policy on Countermeasures to the Falling Birthrate.” Under New Angel Plan, community support centers for child rearing have been established, and the supports to parents groups were given by local governments. The short day-care service for children whose parents do not work during daytime has been expanded. (Basic Report 175) But, the number of day-care service centers for children whose parents work during daytime has not been increased as was planned in New Angel Plan. “Angel Plan”, which was the antecedent of New Angel Plan, stated that the number of community support centers for child rearing should be increased to 3,000 and that of day-care service center 3,000. At the end of 1999, the actual number of newly established community support centers for child rearing constituted only 33% of the planned number and that of day-care service centers only 23%.

In New Angel Plan, the planned numbers of these two child welfare institutions in 2004 are set as same as those set in Angel Plan, namely 3,000 for community support centers for child rearing and 3,000 for day-care service centers. This planned numbers are not sufficient to fulfill the needs of parents and their children. During the 1960s, the slogan of parents who organized the movement for establishing public day-care centers was “as many day-care centers as letterboxes.” The government should raise this slogan in its policy.



The Chart above shows that non-working mothers who have children below the age of six need support for child rearing more urgently than working mothers with children of the same age. In 1997, Economic Planning Agency conducted the survey on “Anxiety of Mothers on Child Rearing.” As is shown by the chart, many of mothers with children under the age of six have anxiety on children rearing or get irritated because they are sacrificing what they want to pursue. The more non-working mothers feel anxiety and irritation more than working mothers. This is because working mothers, who send their children to day-care centers, can have an opportunity to talk with nursery teachers at centers and to receive professional advice. 94.1% of mothers with children below the age of one, 82.9% of mothers with children at the age of one, and 76.1% of mothers with children at the age of 2 raise children only by themselves without sending children to kindergarten or day-care centers; they rear children in an isolation without any help. This constitutes a cause of child abuse in Japan. New Angel Plan does not reach to the needs of non-working mothers.

By the revision of the Law for Childcare Leave in 1995, the Law is now applied to laborers in all the business places. In 2001, this law was abolished and “Law concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave” was enacted. But, this law has not enhanced the childcare leave. This is firstly because the childrearing benefit paid by the government is too low. Under this law, a laborer who left work for rearing a newborn child will be paid 40% of salary he got before the leave. This is secondly because replacement for him/her is not hired. Actually, only 0.42% of male workers who were entitled took childcare leave, and even among females who were entitled, only 56% took the leave.

The root cause of the low birthrate is that the sufficient supports have not been provided either to working mothers or to non-working mothers.

**Part 2 Alternative family environment**



## **Chapter 67 The structures to provide an environment in place of the family**

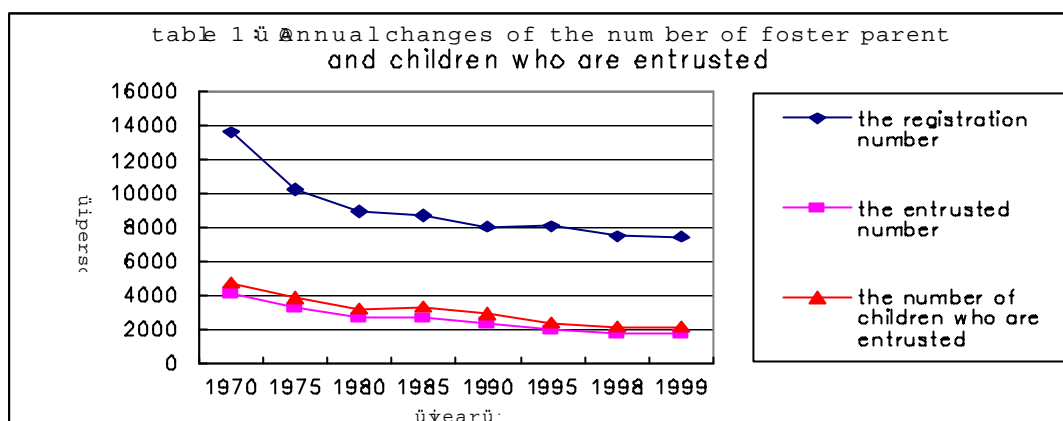
In the Concluding Observations in 1998, the Committee on the Rights of the Child recommended the Japanese government “take measures to strengthen the structures established to provide alternatives to family environment for children in need of special support, care and protection” (para. 39). The government was required to self-critically review the “structures” to provide alternative environment to children, but, the Second Report of Japan does not fulfill this requirement.

The Second Report gives information on two child welfare institutions in paragraph 173 (Facilities for child protection and their improvement): “Foster parents” and “Children’s Homes.” Other than these two institutions, “Infant Home” or “Short-term Treatment Institution for Emotionally Disturbed Children” are also child welfare institutions (abbrev; CWI in below). But, there is no description on these institutions in the Second Report. The Second Report explains “Facilities for Development of Self-sustaining Capacity” as a house of correction in the Second Report, but, this institution should be also regarded as CWI. Furthermore, the Second Report doesn’t give sufficient information on “the foster parents” and “Children’s Homes”,.

In addition to the fact that the information given in the government report does not cover all the CWIs, we should point out the fact that the Second Report also lacks the information on the important parts of “structures” to provide alternative family environment, namely, the procedures for detecting children who are deprived of family environment, notice, temporary protection, judgment, care and case work for children and parents, or admission, treatment in CWI, and continuous support for the independence of children who need care and protection especially to abused children. We must say that the Japanese Government doesn’t respond to the Concluding Observation.

### **A. The number of foster parents is decreasing.**

In paragraphs 173 and 191 of the Second Report, it is described that the Ministry of Health, Labor and Welfare (abbrev; MHLW in below) “makes efforts to promote” foster parents. In 1970, the registration number of foster parents is 13,621, the entrusted number is 4,075, and the number of children who are entrusted to foster parents is 4,729. But, in 1980 the registration number is 8,933, the entrusted number is 2,646, the children’s number is 3,188. It has completely decreased sharply. According to the latest statistics, the registration number is 7,446, the entrusting number is 2,646, and the children’s number is 2,122 in 1999. (Table 1)



Though, it is tend to decrease in the number of birth in recent years in Japan, the number of children who need care or protection is increasing. Both the registration number of foster parents and the number of children who are entrusted to foster parents are decreasing conversely. This means Japanese government hasn't taken an appropriate policy to activate the foster parents system, which should be prepared as a system to protect children who are deprived of their family environment.

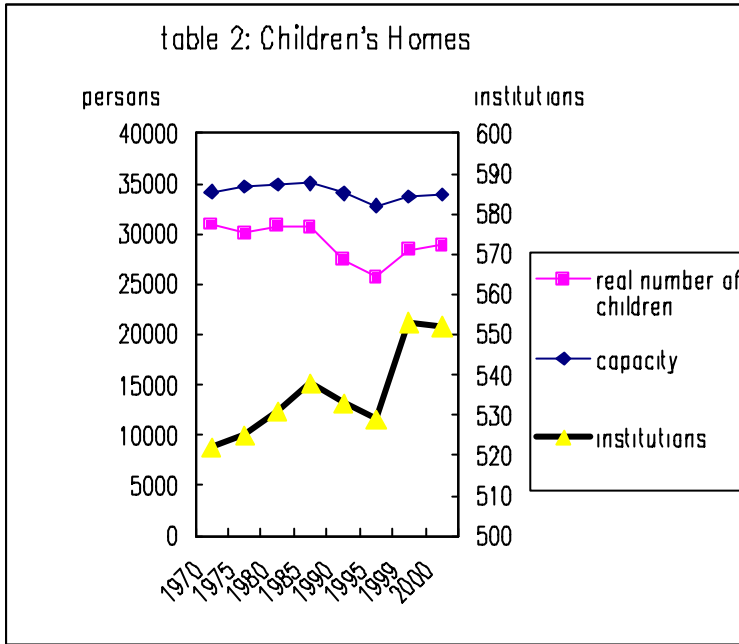
From October 2002, the two measures have been taken by the government. The first is the "Kinship Foster Parents" for the children whose parents are dead or disappearing. Children are entrusted to the relative in the third degree such as children's grand parents or uncles or aunts. The second is "Special Foster Parents" for the abused children. Abused children are entrusted to the pediatrician or child welfare workers of CWI. But we can't suppose that these measures lead the essential improvement of foster parents system.

It is very important to make clear the reason why the foster parents system hasn't developed in this country. One reason is that Japanese government has not been serious in developing the foster parent system, and thus mostly depended on the volunteers. People can be registered as foster parents only if they satisfy the condition that they can live fully without entrusting fees. There is remarkable contrast between foster parents as volunteer work and the workers in CWI as an occupation. To improve the system radically, it is necessary to provide sufficient entrusting fee.

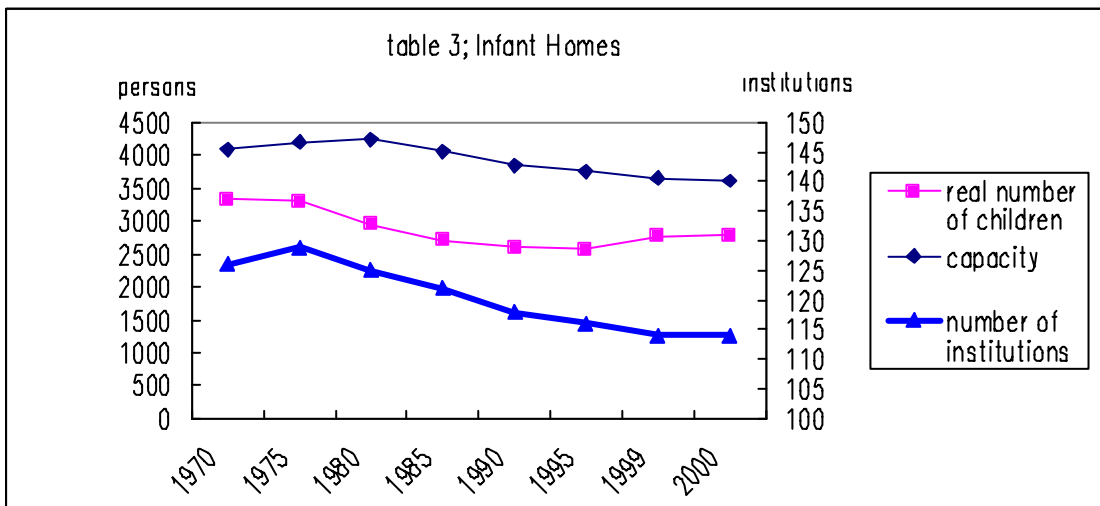
Moreover, as workers in Children's Homes, foster parent needs the professional knowledge and special skills on rearing children who have an experience of going through hard times. Considering the fact that, though individual care by foster parents is desirable, they sometimes cannot get along with children or maltreat them – child abuse by foster parents –, we should say it is important for foster parent to receive special training. Japanese government should take a proper measure to develop foster parent as a professional on children. And also should raise the awareness by people of the importance of foster parents system.

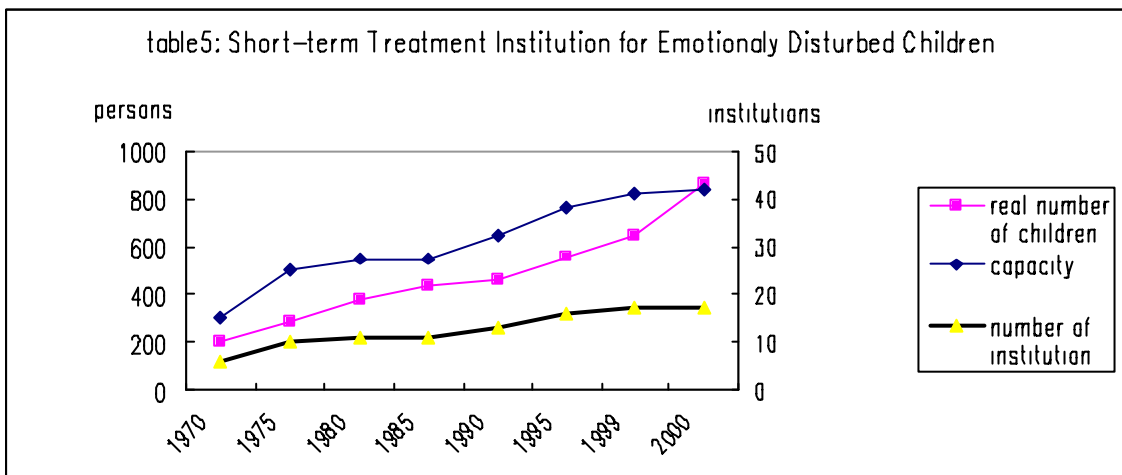
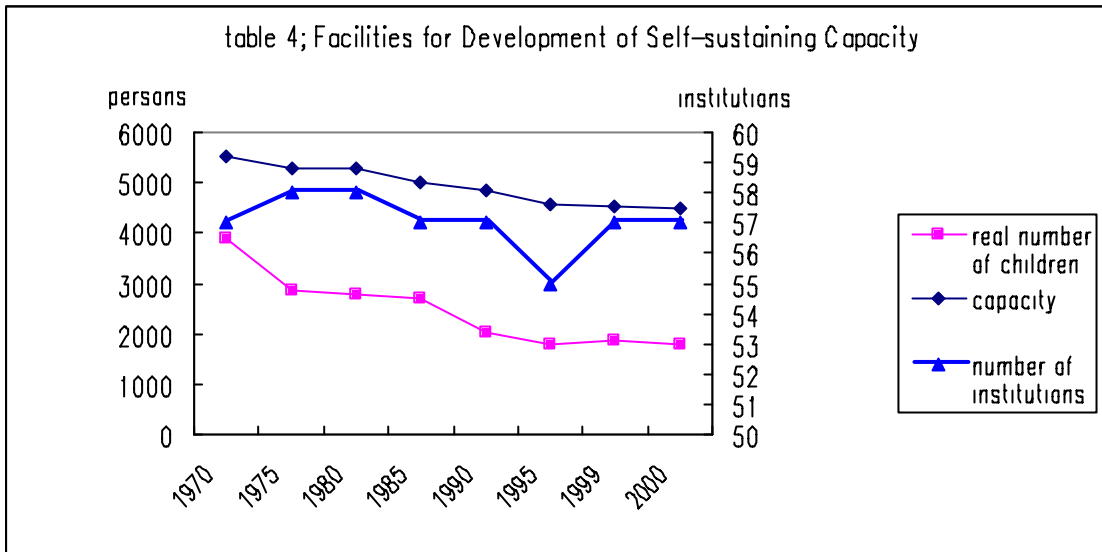
**B. The institutional care is still the major way to treat children who are deprived of their family environment**

The table 2, 3, 4 and 5 show the change in the number of CWI, such as the number of capacity, and the real number of the children in CWI in 1970-2000.



(Notes) The sharp increased number of institutions in 1999 means that Homes for physically weak children are included as Children's Home by the revision of Child Welfare Law in 1997.





As

mentioned, the number of children entrusted to foster parent is 2,122 in 1999. Comparing the number of children who are in each institution, we can say that the rate of institutional care is absolutely high, and that CWI is the main way to provide care to “Children Deprived of a Family Environment.” In Children’s Homes, workers engaged themselves in practices which are based on the spirit of the Convention. But, still, it is important to develop the foster parent system to realize the recommendation by CRC.

### C. Are the measures taken to improve the institutional care effective?

Until the foster parent system is fully developed, it is important to solve following problems in Children’s Homes and other relative institutions.

After receiving the Concluding Observation in 1998, the Japanese government took two measures to strengthen “the structures to provide an environment in place of the family”. The first is “Regional

Small-scale Children's Homes" (abbrev; RSCH in below). The second is the complaint procedure.

### 1. Regional Small-scale Children's Homes (RSCH)

The Second Report describes that. "Regional small-scale Children's Homes were established to encourage social independence of children by building favorite relationships with local communities and caring for children in a homely environment" (para. 173 (3)). In the notification (? 191), the Child Family section of MHLW recommended the corporations of CWIs to develop RSCH. But the only eighteen RSCH have been built until August 2002. This is because RSCH needs to be built in Children's Homes and it mostly depends on the head of CWI eagerness. Furthermore, even if a person has sufficient condition, he/she is not allowed to establish RSCH because only the corporations of CWIs are allowed to establish it. The corporations must cover all the expenses for RSCH. It is completely hard for them to carry the money. RSCH has great room to be developed.

### 2. The problems of the complaint procedure

By the enactment of Social Welfare Law in 2000, the head of Children's Homes owe new obligation of "providing the information," taking "the measure for improving the quality of the welfare services, such as the evaluation by itself or by the third party" and establishing "complaint procedure." As for the complaint procedure, the Second Report states, that it "revised the Minimum Standards for Child Welfare Facilities in September 2000, to require the facilities to take necessary measures such as establishing a section to respond speedily and properly to complaints from children placed in the facility" (para 162(3)). The Child Family section of MHLW issued a notification (? 583) on "The implementation of project to support children placed in Children's Homes." But the system of complaint procedure is ineffective. Children should submit their complaints to workers in CWIs. Because most complaints are concerned with heads of CWI or workers, it is improbable that children lodge complaints directly to heads or workers however brave children are.

There is no assurance that the third party's evaluation works fairly and objectively. There is a danger that the third party presses the responsibilities only to heads and workers in CWIs and never raises the issue of The Minimum Standards of Child Welfare Facilities. Thus, the responsibility of the government to raise the Standards will be withdrawn from the consideration. Furthermore, the evaluation by third party will undermine the independency of heads and workers, and prevent them from making efforts to improve the situation independently.

## **Chapter 68 The children's rights in child welfare institutions: protection of the privacy, the minimum standards, and the right to education**

### **A. Why is the right to privacy not protected in CWIs?**

CRC expressed its concern on the privacy of the child in Children's Homes in paragraphs 15 and 36 of the Concluding Observation in 1998. The Second Report of Japan gives information on the situation of the child's right to privacy in correctional institutions in paragraph 150. But, it does not give any information on how the right of the child to privacy is protected in Children's Homes or other CWI. The protection of this right in Children's Homes is especially important because many adolescents, who are more serious about their privacy, live in Children's Homes. But, the protection of this right in CWIs has not been realized yet.

Children in CWIs face difficulties in protecting their right to privacy not only from adult workers, but also from their peers. The following remarks by a child are from the book which collected voices of children living in CWIs on institutional care ("The Life of Children's Homes Told by Children", Akashi Shoten 1999). "A worker goes into our room without permission when we are absent." "I feel anxious about the children who share the room at all time." These two remarks reflect "the adverse condition of the children's residence room" and "the worker's low consciousness of children's rights." Social prejudice to the children in Children's Homes prevents the civil society from understanding the real needs children living in CWIs and from taking measures to realize the needs.

### **B. The condition of the residence room**

The condition of the room in Children's Homes is referred to the investigation report of MHLW. See the table 6(before 1994), and table 7 (after 1997).

table 6: Condition of the room in Children's Homes (1985-1994) October, 2002

the type of the room/year	1985		1988		1991		1994	
	the number of the room	the rate of the total number	the number of the room	the rate of the total number	the number of the room	the rate of the total number	the number of the room	the rate of the total number
under 2 persons	1020	13.6%	1205	15.5%	1539	19.5%	2097	25.7%
3-4 persons	2787	37.1%	3032	39.1%	3326	42.0%	3225	39.5%
5-7 persons	1787	23.8%	1777	22.9%	1691	21.4%	1582	19.4%
more than 7 persons	1925	25.6%	1739	22.4%	1355	17.1%	1266	15.5%
total number	7519	100.0%	7753	100.0%	7911	100.0%	8170	100.0%

table 7: Condition of the room in Children's Homes (1997-2000) October, 2002

the type of the room/year	1997		2000	
	the number of the room	the rate of the total number	the number of the room	the rate of the total number
for one person	742	8.7%	1013	9.8%
for two person	2230	26.1%	2514	24.3%
for three person	1088	12.7%	1370	13.3%
for more than four persons	4480	52.5%	5437	52.6%
total number	8540	100.0%	10334	100.0%

According to the report in 2000, the room is shared by more than 4 children, and such condition is more than half (52.6%) of total rooms. It means that more than 21,748 children (at least 4 persons per room × 5,437 rooms) share a room with 4. Conversely, it is only 1,013 children who have their own single room. 27,900 children, 96.5% of total number of child in Children's Homes, which is 28,913, children don't have their own room. Next, the area average of one residence room is shown from a table 8 (before 1994) and a table 9(after 1997).

Table 8 ; The area average of one one room ( .. 1994.

the type of the room/year	1994
for under 2 person	13.2
for 3-4	17.8
for 5-6	26.8
for more than 7	41.3

Table 9 ; The area average of one one room ( .. 1997-2000.

the type of the room/year	1997	2000
for one person	11.7	10.6
for 2 person	12.8	12.9
for 3 person	17.1	16.7
for more than 4	25.3	21.8

According to these two tables, in 2000, "The room shared with 4 children" is 21 .. Therefore, the space for one children is less than 5.45 ..

### C. The increasing number of adolescents in Children's Homes

Table 10 is on the age structure of the children and those changes.

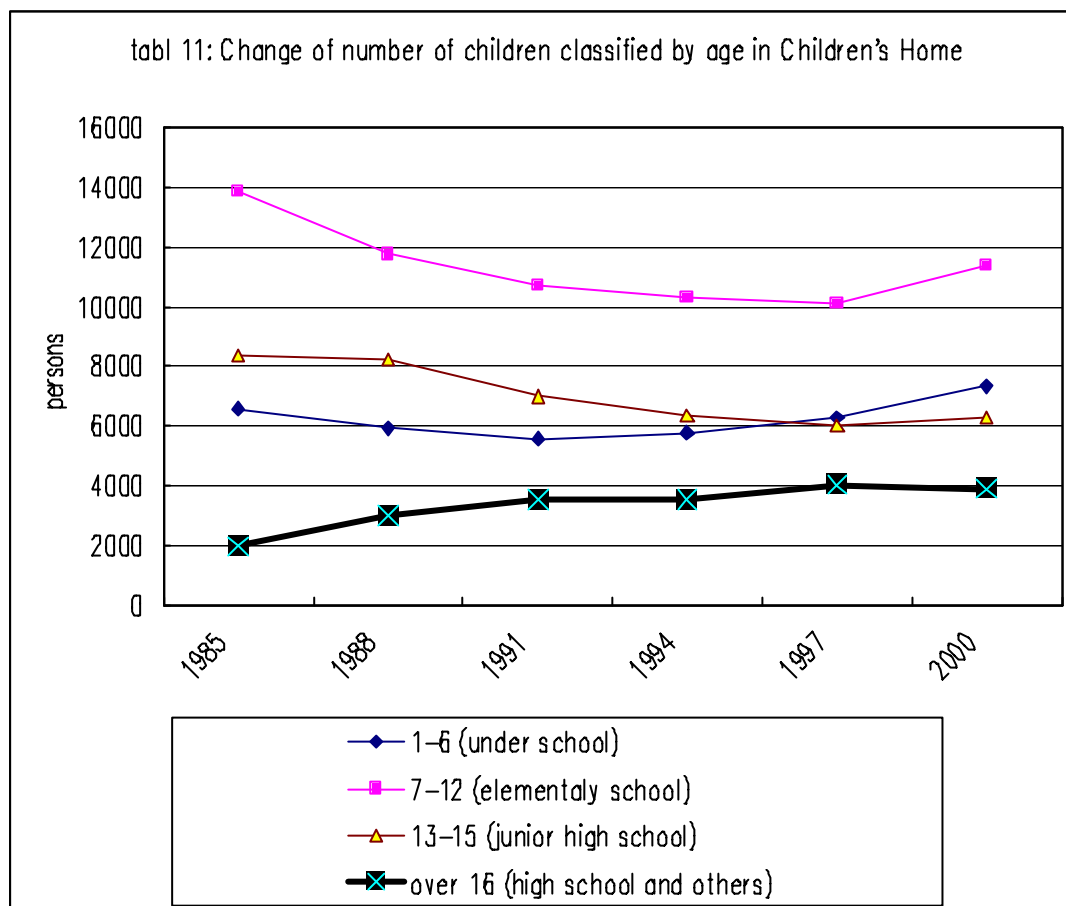
Table 10 : Age structure of children in Children's Homes (October 2002)

age /year	1985		1988		1991		1994		1997		2000	
	number of children	rate of total number	number of children	rate of total number	number of children	rate of total number	number of children	rate of total number	number of children	rate of total number	number of children	rate of total number
0	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	0.00%
1	42	0.10%	54	0.20%	44	0.20%	66	0.30%	88	0.30%	72	0.20%
2	623	2.00%	585	2.00%	564	2.10%	639	2.50%	765	2.90%	752	2.60%
3	1252	4.10%	1069	3.70%	1031	3.80%	1067	4.10%	1168	4.50%	1362	4.70%
4	1401	4.60%	1291	4.50%	1195	4.40%	1228	4.70%	1331	5.10%	1603	5.50%
5	1583	5.20%	1394	4.80%	1330	4.90%	1366	5.30%	1502	5.80%	1790	6.20%
6	1684	5.50%	1530	5.30%	1414	5.30%	1396	5.40%	1429	5.50%	1753	6.10%
7	1846	6.00%	1582	5.50%	1564	4.80%	1477	5.70%	1501	5.80%	1820	6.30%
8	1931	6.30%	1719	6.00%	1589	5.90%	1540	5.90%	1576	6.10%	1879	6.50%
9	2145	7.00%	1827	6.30%	1778	6.60%	1689	6.50%	1623	6.20%	1808	6.30%
10	2399	7.80%	2027	7.00%	1849	6.90%	1805	7.00%	1765	6.80%	1918	6.60%
11	2616	8.50%	2237	7.70%	1903	7.10%	1847	7.10%	1748	6.70%	1955	6.80%
12	2681	9.30%	2365	8.20%	2093	7.80%	1952	7.50%	1907	7.30%	2004	6.90%
13	2997	9.80%	2733	9.50%	2256	8.40%	2107	8.10%	1999	7.70%	2103	7.30%
14	3161	10.30%	3066	10.60%	2552	9.50%	2254	8.70%	2080	8.00%	2137	7.40%
15	2200	7.20%	2406	8.30%	2182	8.10%	2005	7.70%	1942	7.50%	2049	7.10%
16	968	3.20%	1402	4.90%	1549	5.80%	1505	5.80%	1547	5.90%	1628	5.60%
17	672	2.20%	1085	3.80%	1292	4.80%	1300	5.00%	1311	5.00%	1419	4.90%
over	336	1.10%	504	1.70%	697	2.60%	717	2.80%	764	2.90%	863	3.00%
total number	30717	100.00%	28876	100.00%	26882	100.00%	25960	100.00%	26046	100.00%	28913	100.00%

Notes; Expecting the Homes for Physically Weak Children

According to the table 10 and 11, there is a rapid increase in the percentage of children over the age of 16, who is considered to need privacy especially. In 2000, the numbers of the youth in Children's Homes are 3,910. And the single rooms are 1,013. Even if it is considered the single rooms are specially secured to the high school student, only 1/4 of them can take it.





#### D. The Minimum Standards for CWI and of Residence

The “Minimum Standards for Child Welfare Facilities,” which is the Ministry ordinance, stipulates that “the capacity of the room is less than 15 children, the space is more than 3.3 . for a person (article 41(2)).” The Ministry of Construction adopted “the 7th Five Years Plan of the Residence (from 1996 to 2000)” and clarifies “the Minimum Standards of Residence,” which should be secured by all households to realize a healthy, cultural life.” According to this minimum standards established by the Ministry of Construction, “As for children who are 6 to 17 years (from elementary school to high school), one room shall be shared by no more than two person,” and “As for the person who is more than 18 years old, they shall have to single room (7.5 .).” The “Minimum Standards for Child Welfare Facilities” is lower than the “Minimum Standards of Residence.”

#### E. The government should increase financial assistance to renovate facilities

Article 56-2 of the Child Welfare Law stipulates that “as for the CWI which is established by other than the state, the prefecture or the city, the 3/4 of the total expenses which is cost by found, repair,

reform, expansion or equipment can be subsidized.” This means that a corporation of CWI must pay the 1/4 of the total expenses. Tough it is necessary to improve resident room conditions for protecting privacy of the child, it is difficult to do this due to the lack of financial resources on the side of a corporation. The improvement of resident room conditions mostly depends on the government subsidy.

#### **F. Unequal educational opportunity for children living in CWIs**

Cost for operating Children’s Homes is covered by the central and local government. In principle, the central and local government owes the responsibility for raising children who are deprived of family environment. But, the operational cost covered by the public fund constitutes only minimum expenses. The public fund is no sufficient to realize “the best interests of the child.” Due to this, for example, some children can't enter a private high school from the economic reason even if he or she has sufficient ability to enter. The entrance fee and the tuition of the private school are beyond the budget of governments. As a result, while more than 95% of children go to high schools, only 60% of children living in Children’s Homes enter high schools. The right to education recognized in Article 28 of the Convention must be guaranteed equally.

## **Chapter 69 Issues on the status of persons who work for children in CWIs**

### **A. Need to raise professional ability of persons who work for children in CWIs**

There are two problems around the issue of professional ability of persons who work for children in CWIs. The first is the insufficiency of the training curriculum of workers. The second is the lack of the in-service training system of workers.

According to the Minimum Standards of Child Welfare Facilities, the Children's Homes "must place child care workers (who provide children with the guidance of living), a non regular doctor, nursery teacher, dietician and cooking staff"(article 42). The child care workers and the nursery teachers are supposed to have direct relationship with children. Article 18-4 of the Child Welfare Law stipulates that a nursery teacher is "a person who has professional knowledge and skill, and does nursery care and education for the children, and provides the parents of the child with the guidance about the nursery care and education." Article 13 of the Ministry Ordinance of the Child Welfare Law stipulates that "a person who graduated the school assigned by the Minister of MHLW" or "a person who passed the examination that the prefecture government enforces" can make him/herself registered as a nursery school teacher by the prefecture government. And, "the name of subject, the number of units, and the ways to get credits in institutions for training workers" are prescribed in Article 39-2 of the Enforcement Rule of the Child Welfare Law. As for a child care worker, Article 43 of the Minimum Standards of Child Welfare Facilities prescribes the conditions for becoming a child care worker as follows. Most of persons who work as child care worker now fulfilled the conditions prescribed in paragraph 2 of this article.

1. A person who graduated from the school, which train the worker of CWI, or the school, which the director of the welfare section of local government designates.
2. A person who majored psychology, pedagogy or sociology and who got the bachelor's degree.
3. A person who graduated from the high school or the secondary school which regulated in the School Education Law, or who completed the 12 years school education (including the person who complete the other course which is equivalent to this course), or the person who is authorized as equivalent qualification by the Ministry of Education, Culture, Sports, Science and Technology, and who has worked in the agency of the Child Welfare for more than 2 years.
4. A person who has the license of the teacher of elementary school, junior high school,

high school or secondary school prescribed the School Education Law, and the person who is authorized suitable by the Minister of MHLW or the governor of prefectures.

5. A person who has worked in the agency of child welfare for more than three years, and the person recognized as suitable by MHLW or the governor of prefectures.

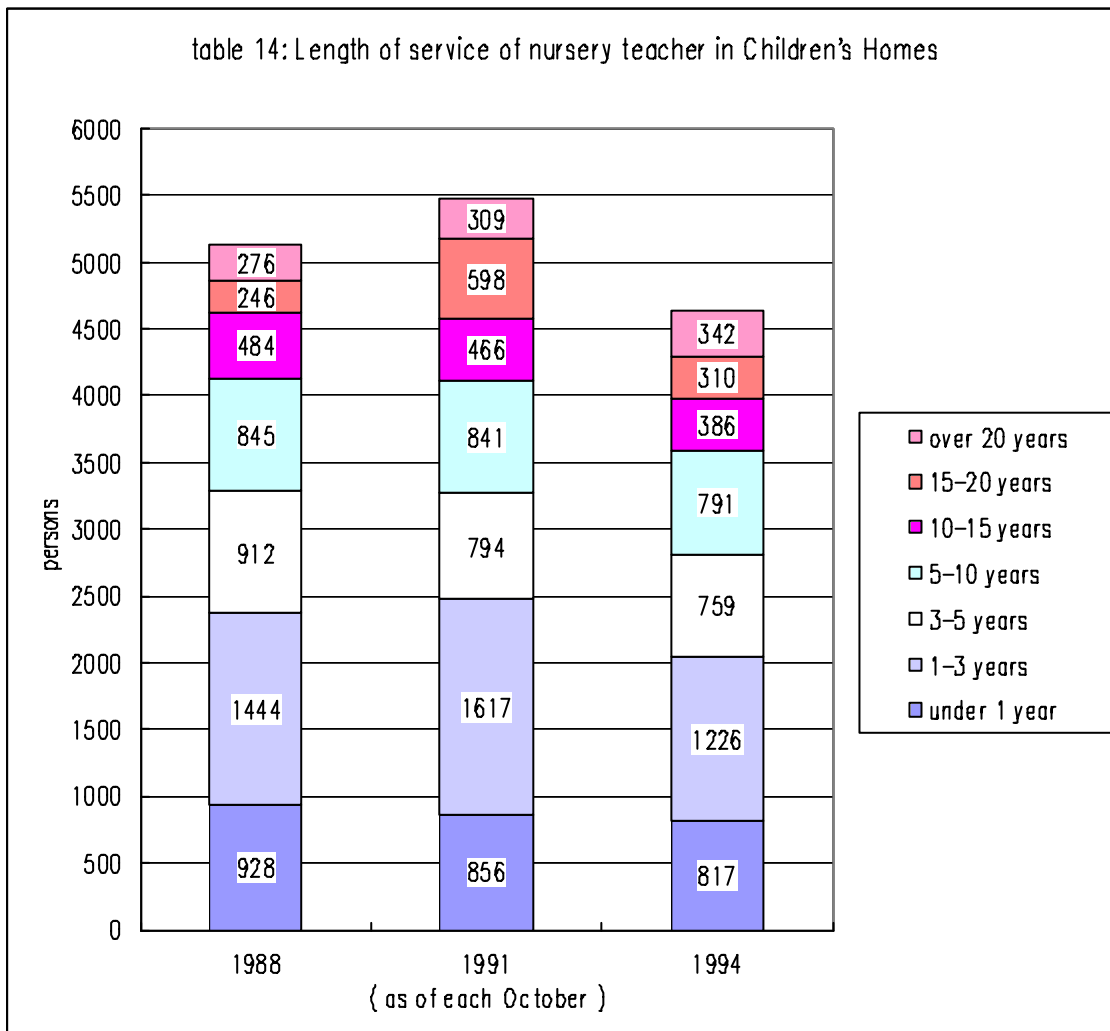
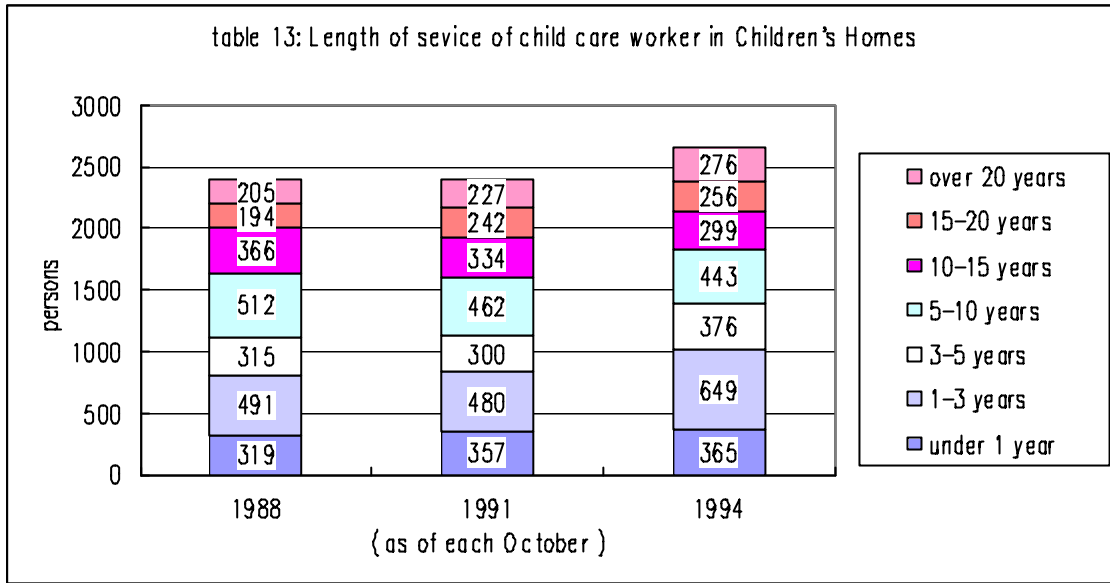
To become a nursery teacher, one must acquire a certain degree of professional knowledge and skills. But, as for a child care worker, anyone can become a child care worker without any professional knowledge or skills. Because the law does not prescribe the ratio of nursery teachers and child care workers, the number of child care workers largely exceeds the number of nursery teachers.

The second problem is the lack of the in-service training of CWI workers. In contrast to public school teachers whose right to in-service training is recognized by Article 20 of the Special Law for Educational Staff, there is no law which guarantees such right for the social welfare workers. It all depends on their personal consciousness and efforts whether they can learn “the rights of child.”

## **B. Length of service of workers in Children’s Homes**

Table 13 and 14 show the length of service by child’s care workers and nursery teachers in Children’s Home. These tables show that many workers quit their job in a few years. In 1988, 1991 and 1994, the percentage of child care workers who had worked for less than five years is 46.8% in 1988, 47.4% in 1991, and 52.2% in 1994. And that of nursery teachers is 64.0% in 1988, 60.8% in 1991, and 60.5% in 1994.

In contrast to ordinary Japanese workers enjoy “life-long employment,” workers in CWIs leave the workplace in a short period. This may be because the work in CWIs is harder. This short length of service by worker in CWIs has negative impact to children in CWIs, because this makes it difficult for children to establish close and stable relationship with care takers workers, which is indispensable for child’s emotional development.



### C. The Burn-out of the worker

As the background of short length of worker's service years, the severity of work in Children's

Homes can be pointed out. As the more abused children are admitted to Children's Home, the more severe the work will become, because abused children need special care or medical treatment. Moreover, due to the short length of worker's service years, the experiences and knowledge are difficult to accumulate and transmit. And this will result not only in making elder workers, who has longer experiences, busier, but also in put younger workers, who do not have sufficient experiences, under strong pressure. This situation will, then, intensify the risk of mal-treatment of children in Children's Home, including child abuse.

#### **D. Low standards of the number of workers**

The Minimum Standards for Child Welfare Facilities (Ministerial Ordinance) prescribes that "as for the total number of child care worker and nursery teacher in its entirety, they should be set not less than one person per two babies under 3 years old, not less than one person per four children over 3 years old, not less than one person per six children from 6 to 18 years old" (article 42-3). Considering the 40 working hours a week set out by the Labor Standards Law, the number of children per one worker is 8.4 as for children under the age of 3, 16.8 as for the children from 3 to 6 year of age, and 25 as for the children above the age of 6. One worker must take care of nine children under 3 years old, when this Minimum Standards is followed

The Minimum Standards prescribes that the worker on the night duty, namely "the worker who lives together with children" should be set "at least one child care worker or one nursery teacher" regardless of the capacity of the facilities (article 46). But practically, it must be needed two workers at least on the night duty, to correspond the case of emergency trouble such as the child's sudden illness or running away. Serious matters have been happened. For example, in October 2002 children trying to run away from the facility killed a worker on night duty in a Facility for Development of Self-sustaining Capacity. After all, the existing Minimum Standards can secure neither children's safety nor worker's safety.

**Chapter 70 Issues that should have been treated in the Second Report of Japan: the after care for children who left Children's Homes, continuous care of infants, and reunification of abused children and abusing parents.**

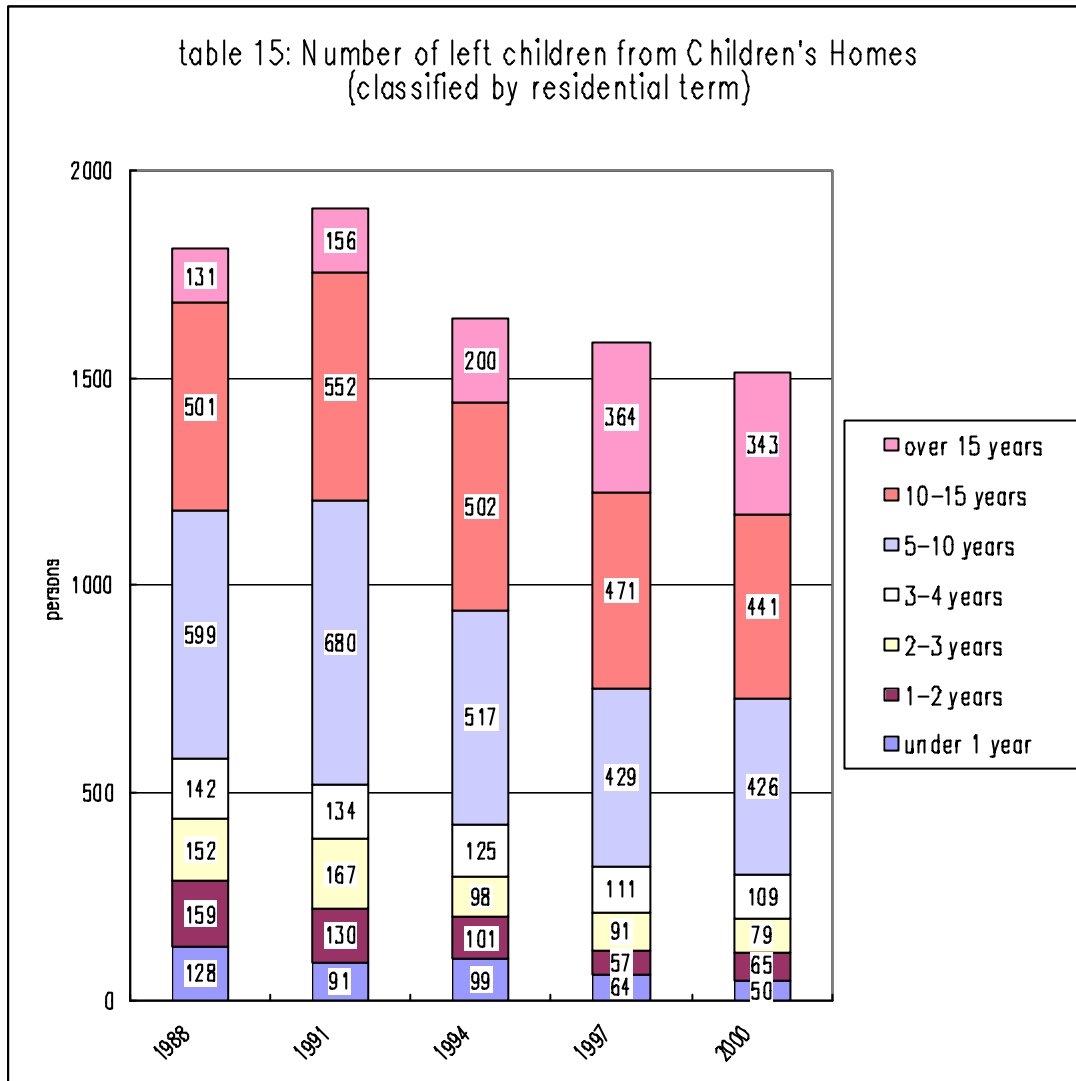
The Second Report of Japanese Government lacks the information on several important issues: “the after care for children who left Children's Homes,” “reunification of to the child abuse case,” “corporal punishment in CWIs,” and so on. In the following the information on such issues will be given.

**A. After care for the child who left Children's Homes**

Every year about 1,600-2,000 children, who graduate junior high schools at the age of 15 or high schools at the age of 18, leave Children's Homes and begins to work. (See the Table 15)

Table 15 shows that children stay in Children's Homes for so many years. For example, the percentage of children who left Children's Homes after “over 10 years” stay is 48%. How to support the children who start their life in the society after a long stay in the institution is nothing but an important issue.

But in Japan, children who left the institutions and started to work are though to be able to live their life independently all at once. And no support was provided to these children on the ground that children have already become “independent.” But, many children cannot receive assistance from their parents. Some children need long term treatment. Especially the abused children need long-term mental treatments. It is wrong to see them as fully independent.



To tackle with this issue, in 1997, the Japanese government introduced the support homes, which is the part of the Program for Supporting Independent Life by Children recognized in Article 6-2 of the Child Welfare Law in 1997. But due to the small subsidiary by the government, these homes are still powerless in responding the needs of children.

## B. The reunification of the family in the child abuse case

The Japanese government established Child Abuse Prevention Law in 2000. By this law, the structure for early detection and protection of abused child was strengthened.

But the structure for taking care of both abused children and abusing parents with the view to reunify them is still weak. This is firstly because the number of child welfare workers is so small that they cannot react to the increasing number of child abuse case. The size of area which one child welfare worker is in charge of is prescribed in Article 7 of the Enforcement Rule of the Child



Welfare. It reads, “A standard area covers population from 100,000 to 130,000.” But, the standard size of area is so large that it is almost impossible for case workers to work for the family reunification which requires much time and energy. The second reason is that the number of child care worker and nursery teacher is so small that they cannot provide special treatment for coordinating the relationship between abused children and abusing parents. Article 44 of the Minimum Standards for Child Welfare Facilities states, “the head of Children’s Homes must coordinate the family environment.” But, as is mentioned above (D of Chapter 3), the number of worker set out in the Minimum Standards is so small that Children’s Homes have difficulties even in treating children living in the institutions, and will have much more difficulties in coordinating family environment.

### **C. The educational service for the children in Short-term Treatment Institution for Emotionally Disturbed Children.**

Six types of education are provided in Short-term Treatment Institution for Emotionally Disturbed Children:

1. The education in the institution
2. The education in the special class in a school in the community.
3. The education in regular class in a school in the community.
4. The education both in the institution and in the school
5. The education in the special school for mentally or physically handicapped children.
6. The education both in the special school and in the regular school in the community.

Types of education provided in institution differ from an institution to an institution. For example, 15 institutions among 21 do not provide the education in a regular class in a school to children from the age of 6 to 12. 12 institutions among 20 do not provide education in a regular class in a school to children from the age of 13 to 15. The differences in the types of education each institution provide to children do not happen coincidentally as a result of responding to the needs of each child. But, the types of education provided by the institutions depend on conditions of each institutions or on the way in which a community see the children in the institutions. The measures should be taken to provide the child with the education which respond to the need of each child.

### **D. Forced loss of continuing relationship with workers to whom infants feel attachment**

In Japan, if children are under the age of 2, children deprived of a family environment are mostly placed in Infant Home, and if they are over the age of 2, in Children’s Homes. Children in Infant Home are to be transferred to Children’s Home, if the family reunification hasn’t been realized

before they become 3 years old. Because children at the age 2 or 3 tend to easily suffer from separation anxiety, this system impose infants big stress by forcing sudden separation from workers to whom they feel attachment. It is required to reform the system so as to maintain the continuity in care. The unification of Infant Home and Children's Homes should be considered.

## **Chapter 71 Corporal punishment and ill-treatment which still occurs in CWI**

### **A. Corporal punishment is now prohibited by the Ministry Ordinance.**

In paragraph 45 of the Concluding Observations in 1998, CRC “recommends that corporal punishment be prohibited by Law in the family and in child-care and other institutions.” Moreover, in paragraph 40, CRC “recommends that the State party collect detailed information and data regarding cases of child abuse and ill-treatment, including sexual abuse, within the family,” and “cases of abuse and ill-treatment of children be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in order to enhance understanding of this phenomenon, and that in order to achieve this, an easily accessible and child-friendly complaint procedure be established.”

With regards to corporal punishment in CWIs, the paragraph 162 of the Second Report of Japan states, “revised the Minimum Standards for Child Welfare Facilities in February 1998 to include the provision on prohibiting the heads of facilities from abusing their authority for discipline, and endeavored to have them abide by it.” It also state, “stipulated in the Social Welfare Law approved in June 2000, the obligation of managers of Social Welfare Businesses to make efforts in solving users' complaints; and required each prefecture to set a committee for proper management in the Social Welfare Council to provide a mechanism to address consultation of users with complaints and to mediate solution for the complaints,” and “for a facility that has committed an act of corporal punishment, violating the right of a child in the facility, gave a recommendation according to the Child Welfare Law to improve management of the facility, and provided guidance so that such act should never happen again.”

The revision of Minimum Standards for Child Welfare Facilities in February of 1998 partially responded to the recommendations by CRC. We welcome the revision as a progress made by the government. But, we do not see the revision of the Standards is sufficient, because this Minimum Standard is not a law but an ordinance of the Ministry. The government should prohibit corporal punishment by law, as was recommended by CRC.

By the enactment of Social Welfare Law in 2000, the head of Children’s Homes owe new obligation of establishing “complaint procedure.” Following this law, CWIs introduced the complaint procedure, but, we have to point out the fact that the accessibility of children to the complaint

procedure is low. This is because workers in CWIs, who are on the side of CWIs, are to receive the complaint from children. This procedure is not friendly to children who were victimized by workers or the head.

## **B. The case of Oncho-en**

Even after 1998, there still occurred the cases of corporal punishment and ill-treatment in Children's Homes. In these cases, the Japanese government did not take measures as were recommended in paragraph 40 of the Concluding Observation in 1998, which reads, "the cases of abuse and ill-treatment of children is properly investigated, sanctions are not applied to perpetrators and privacy given to decisions taken in enhance understanding of this phenomenon."

In April of 1996, thirteen children in the Children's Homes "Oncho-en" in Chiba Prefecture run away and run into Child Guidance Center. As the investigation went on, the reason why the run away from the Homes became clear: the head of the Home maltreated and abused them. The head threatened children by using a kitchen knife, hurt their hands and feet, and struck a head with a chair. The children of the Oncho-en organized the movement against the head. They asked the relief statements of their rights to the Legal Bureau of Chiba Prefecture and Bar Association in Chiba (same year April), and demanded the governor of Chiba Prefecture to depose the head (same year August). Then the lawyers and residents organized "the society for support children of Oncho-en." They demand the governor, who has the authority to supervise the Home, to take appropriate measures (October, 1996), submitted the audit claim (July, 1997), filed a suit against the governor, demanding to return the personnel expenses the Chiba government provided (October, 1997), and accused the head and the workers of violent offence and inflicting injuries (December 1999). Though the audit claim and accusation were dismissed, Chiba district court recognized that the corporal punishment had been done continuously inflicted by the head since November 1995 and blamed the prefectural government for not having taken an effective and strict measure. At last, the head was driven into the resignation.

On the other hand, the facts of ill-treatment by ex-director were brought out under the investigation of violence. The ex-staff, he is also the son of the ex-director, was arrested for the indecent behavior to the girl who are in Oncho-en. (March 2000). In May 2000, the ex-head was arrested for the injury: he cut the child's hands with scissors. The judge sentenced the ex-staff to four year's imprisonment (October, 2000) and the ex-head to eight month's imprisonment (July, 2001).

In March of 2000, eleven Oncho-en graduates brought an action against Chiba government, ex-head, and the corporation of social welfare which manage the Oncho-en for a compensation for damage. They appealed they have been suffering from trauma which brought from ill-treatment by ex-director.

One of the plaintiff witnessed that he was forced to sleep with dead chicken which he killed by accident when he was 11 or 12 years old.

For that time, the board of directors of Oncho-en decided to close the Home. But the children and “the society for support children of Oncho-en” made a movement which demanded Oncho-en not to abolish but to improve. The Minister of Health and Welfare guided Chiba government to continue to run the Home. As a result, Oncho-en was not closed.

A new head took it up in April 2000, and he published the new plan to reform the Home management. In the plan, he proposed the establishment of the third party organ which is composed of lawyers and the representative of neighborhood, and the drafting of guidelines on child care and discipline.

Based upon the movement led by victimized children and the support from many people such as lawyers, neighbors, and the research groups, Oncho-en Home started the process for reform. But, administrative organs and the official complaint procedure didn't work at all. “The society for children of Oncho-en” developed into “the society for stopping ill-treatment in CWI.” Now, they support children who are in CWIs by investigating ill-treatment or violence by workers to children.

**Part 3 Child Abuse**

## **Chapter 72 Problems pointed out by the “Loss of Childhood Report” on the Initial Report of the government**

The Second Report of Japan refers to child abuse in paragraph 198 – 214. The Report should have provided information on the measures taken by the government to prevent child abuse in accordance with the Concluding Observations of CRC, on the progress and should indicate the factors and difficulties affecting the fulfillment of the obligations. The Second Report of Japan attaches importance on its efforts concerning prevention of child abuse and stressed the importance of the Child Welfare Law. It may be an epoch-making incident that the “Child Abuse Prevention Law” was enacted in May 2000. Although the Law has promoted certain measures by the government, there still remain many more problems to be solved and several new problems have taken places since the enactment of the Law. The Report does not refer in detail to those difficult situations and to the tasks to be solved.

Therefore this part on child abuse focuses on those problems in the Initial Report of Japan which were pointed out by our last Report, “The Loss of Childhood in A Rich Society, Japan,” as well as problems in the Second Report of Japan. This article states on the circumstances after the enactment of the Child Abuse Prevention Law and proposes measures to be taken. Reference materials are listed at the end.

Problems and proposal raised by the “Loss of Childhood Report” and the Report of Japan Federation of Bar Associations concerning the Initial Report of the Japanese government can be summarized as follows.

The state of affairs concerning child abuse in 1996 when the Initial Report was presented to the CRC can be summarized as follows.

- (1) Even though the Ministry of Health and Welfare did not know accurately how many children were actually exposed to child abuse, the Initial Report referred to the number of cases of child abuse which was reported to the child guidance centers. Although it was commonly recognized the number of cases of child abuse had been increasing, the number was nothing but a tip of the iceberg. Therefore, it was urgently needed to make a nation-wide investigation on this matter.
- (2) In Japan, the child guidance centers play central role in dealing with cases of child abuse, but those who are involved do not necessarily have special training on child abuse. A number of municipalities have let non-professional staff assume responsibility of social workers from responding to the notice of child abuse to taking necessary measures for those children, without

appointing and placing qualified social workers. It was urgently needed to secure child welfare workers with specialized knowledge or skills on child abuse.

- (3) The Ministry of Health and Welfare just started the “Model Project for Management of Child Abuse Cases” and the “Urban In-Home Family Support Scheme.” But, actual cares and medical treatments for those children were wholly entrusted to individual experts in each specified area.
- (4) The law system for child abuse is constructed on the basis of the Child Welfare Law. On the pretext of not to intervene into ‘privacy of family’ or ‘peace of family’, authorities were reluctant to enact laws on child abuse by parents or guardians. And also on the premise that child’s interests can be protected most by parents, they did not pay sufficient attention to serious conflicts between parents and children. With regard to child abuse, the worst infringement on a child’s human rights by a parent, it has not been taken as the conflict of interests between parent and child. Since the Child Welfare Law essentially does not have enough regulations to treat the parent’s infringement on a child’s human rights, there have been many cases in which the public institutions failed to rescue children from abuse by parents. Even when public institutions are permitted to intervene by the existing law, they have hesitated to do so due to the conventional feeling of ‘no intervention into the family.’

Followings are the major points that the “Loss of Childhood Report” published in June 1997.

- ◆ To improve the measures to tackle with the problem of child abuse, it is necessary to clarify the exact situations nation-wide. The Child Welfare Law does not have enough regulations to treat the cases of infringement on the child’s human rights by parents. The Law has proved to have a loophole in rescuing children from abuse by parents and many such cases actually took places. The lack of the recognition that child abuse is the worst infringement on a child’s human rights is rooted in the conventional views of parent-child relationship as well as family relationships.
- ◆ As pathological characteristics of child abuse have been gradually revealed, the cooperation between the professions in related fields, such as child welfare, medical services and judicature has been recognized as indispensable. As the Child Welfare Law does not provide the system to cope with pathological characteristics, necessary cooperation has not yet fully realized.

With regard to legislative measures, the “Loss of Childhood Report” pointed out actualities and problems as follows:

- (1) Although the Child Welfare Law obliges any person who finds a child in need of protection from child abuse to notify the case, they are inclined to hesitate in making a notification due to the lack no immunity clause in the Law.
- (2) Since no provision is stipulated to protect the due process rights of children and parents in case of temporary placement, it is needed to clarify the procedures. The Child Welfare Law does not explicitly provide who has authority on following matters concerning abused children under temporary placement, i.e. securing a school-year child education and classified placements of



temporary placed children (infants or older, healthy or disabled, male or female, etc.).

- (3) When abused children are placed in the child welfare institutions, it is necessary to ensure that the continuing guidance by the child welfare workers should be given.
- (4) A new provision that directly prohibits child abuse is needed and the provision which authorize the parental right to discipline should be abolished. Corporal punishment by child welfare workers should be prohibited by law.
- (5) It is necessary to vest child welfare guidance center with the power to investigate home.
- (6) It is needed to restructure the child guidance center by improving appointing system of child welfare workers and securing the professional quality of those workers through in-service training.

and

- (7) There should be legal provisions that explicitly regulate the relationship between parental authority and the authority of the superintendents of institutions when children are placed in institution.

The Japan Federation of Bar Associations criticized the Initial Report of the Japanese government in its former Report. The Report stated that the government has come to recognize the problems of child abuse in past 4 or 5 years and that there still remained various problems to be solved urgently despite some administrative measures to cope with those problems taken. The Report pointed out five problems concerning child abuse that the Initial Report did not reveal. Those five problems included followings.

- ◆ Professional knowledge/skills in child care centers had been insufficient;
  - ◆ Cooperation among related bodies had not fully functioned;
  - ◆ Related laws were unable to cope with the situation and required to revise for enhancing efficient involvement of administration of justice;
  - ◆ Special cares and assistance to child and parent concerned had not been appropriately provided
- and
- ◆ Importance to making cases of child abuse widely known to related organizations had not been fully recognized.

On the recognition as mentioned above, the Report proposed following three measures to be taken.

- (1) In order to enhance professional knowledge and skills of case workers, the qualification for being appointed as case workers should be strictly stipulated.
- (2) Related laws should be revised to enable judicial organizations can flexibly and effectively intervene in the prevention and rescue of child abuse. For example, a new legal system should be established to enable a proxy of child victim who is approved by the child itself and the family court to intervene into the case or the family court order parent to receive counseling. And
- (3) Specialized institutions and staff are established for the treatment of injured abused children and of their parents having committed child abuse.

## **Chapter 73 Problems in the Second Report of Japan**

In paragraph 19 of the Concluding Observations, the Committee on the Rights of the Child notes “with concern that insufficient measures have been taken to ensure that all cases of abuse and ill-treatment of children are properly investigated. The Committee recommends in Article 40 as followings. “The Committee recommends that State party collect detailed information and data regarding cases of child abuse and ill-treatment, including sexual abuse, within the family. The Committee recommends that cases of abuse and ill-treatment of children be properly investigated., sanctions applied to perpetrators and publicity given to decisions taken in order to enhance understanding of this phenomenon, and that in order to achieve this, an easily accessible and child-friendly complaint procedure be established.”

The Second Report of the Japanese government deals with child abuse and neglect in paragraphs 198 – 214. The Child Abuse Prevention Law enacted in May 2000 could be said epoch-making in having defined child abuse and in prohibiting any child abuse by parents/guardians. Since the enactment of the Law, a number of administrative measures have been taken concerning cooperation among related organizations and in-service training for specialized workers. Measures have been also taken with regard to early identification and notification, reporting obligation to child welfare specialists, assistance of police in case of intervention by child guidance centers, etc. At the same time, new issues concerning child abuse have been gradually recognized. However, the Second Report does not refer to the new issues.

The “Loss of Childhood Report” pointed out the necessity to clarify the exact situations nation-wide. The Committee on the Rights of the Child also noted in its Concluding Observations concerns about insufficient measures taken by the Japanese government to investigate all cases of child abuse. In spite of these indications, paragraph 214 of the Second Report only cites the number of requests for consultation received at child guidance centers in 1998 and 1999. The paragraph goes through the number of consultations on child abuse at the police (1996 – 2000) and status of cases of arrest classified by the type of crimes (2000). No mentions have been made on its efforts to investigate exact situations on child abuse. (Reference material 1)

A Survey on the actual conditions of child abuse and countermeasures was conducted as a project research of scientific health research grant of the Ministry of Welfare and Health. The survey entitled “A Nation-wide Survey on the Actual Conditions on Child Abuse” was conducted with the cooperation of organizations relating to medical care, welfare, health, judiciary, education, police as

well as private organizations. All related organizations were made objects of investigation in 11 regions (= 12% of Japanese population). Taking account of some organizations having failed to respond to inquiries, the Survey estimated that 1.54 children out of 1,000 in the ages of 0 - 17 needed social intervention for their protection and that the number of child abuse cases would be 35,000 per a year. 80% of abused children need medical treatment and cares and the percentage of being abused by parents and of being abused by mothers are 10% and 60%. And 70% of those children were returned home to live with those who abused them and 20% were sent to institutions. It has become evident that cares and or assistance to those parents and clinical cares for better parent and child relationship are provided only in limited number of institutions. Cooperation with the child guidance centers are seen in 68% of identified child abuse cases (in case of survey conducted for all communities, 58%). When child abuse seems to be not so serious and difficult to be definitely identified, the percentage is far below than the percentage. According to the Survey, number of notification to child guidance centers and percentage of cooperation between related organizations have been on the rise year by year. The Survey attributed the increase to the assimilation of the notification system of child abuse provided in the Child Abuse Prevention Law. It is quite strange that the Second Report of the Japan does not mention about this big-scale Survey. (Reference material 2) (Reference material 3)

Several issues as follows have become evident since the enactment of the Child Abuse Prevention Law.

- (1) Paragraph 162 of the Second Report of Japan refers to corporal punishment at child welfare institutions. The paragraph mentions about prohibition of corporal punishment in child welfare facilities and measures to be taken so that act of corporal punishment should never happen again. As cases of corporal punishment had been long pointed out, the reference in paragraph 162 of the Second Report might be a step forward. However, we have to pay attention also on the need to distinguish corporal punishment and abuse from the use of force which can be justified in certain cases.

When an abused child is protected, it means that he/she is secured his/her safety under the environment for cares and recovery. However, among those children who have survived under circumstances of being abused and abusing are inclined to show off themselves militant. As a result, relations between abusing and being abused would be sometimes reproduced within those facilities, through violence against peers and facility staff. Due to traumatic stress, those children show symptoms of excessive arousal reactions, irruption and stricture to some degree or another. Being flashed back by some occasions or incidents, those children are sometimes stricken by a serious panic and distraction. In such cases, other children and facility staff are exposed to danger. Even emergency countermove has the possibility to be interpreted as corporal punishment in confused state. It is often pointed out that such an incident invokes another violence among those

who are involved. Therefore, it is urgently needed to establish structure for case study and case conference as well as enhancement of expertise of individual staff.

- (2) Related to the temporary placement and admission to the facilities, social workers and facility staff are sometimes exposed to intimidation and violence from perpetrators. In those cases and others, mental health of those workers is in pressing need to have medical cares, but the Second Report does not make reference on this matter.<sup>1, 2, 3,</sup> (Reference material 4)
- (3) The Law has enabled the police to give assistance to the law enforcement authority for intervening into the family, which has made it easy to intervene on emergency and to protect the child. However, some new problems have been reported. For example, by the intervention of the police, cases of child abuse have come to be easily prosecuted under the criminal law. In fact, there were some confusion concerning which one is the first to enter into the house of abused child a social worker or a police, and whether they are permitted to forcibly open the door of the house, etc. It is reported that a police who entered the house in advance of the arrival of a social worker took away all materials that were needed for the related organs such as child guidance centers for cares of the abused child. In case related personnel visit nursery school or school to ask what has actually happened there, authorities of those institutions tend to refuse to inform, saying, “I had already hearing by the police.” In some cases, the police even confiscate all necessary records there. Those staffs in child guidance center who are notified the child abuse and undertook inquiry on the child try hard to prevent or resolve child abuse at the early stage. Such circumstances that the police often treat those cases as criminal cases and child welfare workers’ efforts are sometimes led to nowhere by the intervention of the police should not be overlooked. (Reference material 5)
- (4) Paragraph 199 of the Second Report refers to “proper handling of abuse as a crime.” The term ‘handling’ seems to mean sanctions applied to perpetrators. Does the term ‘handling’ have the same context with the Concluding Observations of the CRC? There are certainly some persons who claim that the perpetrators’ recognition of and motivation for recovery from perpetration start from ‘handling’ as a crime. At present hot discussion has been developed on this issue. From the standpoint to care perpetrators, to recover parent and child relationship and to reunify family, some measures should be urgently and deliberately examined.

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<sup>1</sup> *White Paper on the Child*, Association for the Protection of the Child, 2000, pp.150-151

<sup>2</sup> IKENO Satoshi, *Substituted Trauma in Clinical Social Works*, Bulletin of Faculty of Sociology, Kansai University, Vol. 86, 2000

<sup>3</sup> TAKAHASHI Shigehiro, *Research on the Jobs and Stress of Child Welfare Workers*, Bulletin of the Research Institute on the Child and Family in Japan, Vol. 38, Research Institute on the Child and Family in Japan established by the Imperial Award Association for Rearing Mother and Child, 2000, pp.7-47

(5) Paragraph 209 of the Second Report refers to “distributing and publicizing leaflets by the police on telephone numbers of counseling service for juveniles and Young Telephone Corner”. It also refers some measures taken by the Ministry of Justice, including “Victims’ Hot Line,” “Counseling Rooms for Children” and “Children’s Rights Dial 110.” The paragraph further refers to the measures taken by central and local child guidance centers for giving advice for urgent situations. However, the Report does not mention about how many child victims had access to such facilities. The alternative report of the Japanese Federation of Bar Association to the Initial Report claims that a new legal system should be established to enable a proxy of child victim who is approved by the child itself and the family court to intervene into the case.

(6) Paragraph 211 of the Second Report states that the police provide proper advice, guidance and counseling and to help the child victims recover family ties. In reality, those services are overwhelmingly provided by hospital, child guidance center, mental health organ, public health center, various counseling organizations. Several NGOs including the Japanese Society for the Prevention of Child Abuse and Neglect (JASPCAN) have focused attention on the problem and played leading roles ahead of the government. Therefore, it is questionable whether other people would see the activities by police in such a positive way. (Reference material 6)

No mentions have been made on the progress in psychological and medical support, welfare support and economic support progress made by child guidance centers or on the measures for the promotion of substantial cooperation among related organs. (Regarding cooperation, see a graph in Reference material 2)

(7) Paragraphs 200, 201, 202 and 203 refer to the parental power. Those paragraphs, however, do not mention about forfeiture and suspension of the parental power, designation of guardian in case of suspension. When a child victim has no relatives, head of child guidance center is requested to become his/her guardian. In that case, the head is required to get child victim’s name in the family register with the consent of family members. It takes much worrisome procedures to modify.

(8) In case the person with parental power or guardian resists the forced separation of a child, parental power of the person will be restricted after the acceptance of the complaint for the separation in accordance with Article 28 of the Child Welfare Law. In case the person with parental power takes child victim over disregarding the need of hospitalization for surgical operation, it is necessary to ask the recognition of forfeiture of parental power. More flexible method for parental power needs to be examined.

## **Chapter 74 Some proposals to improve present situations that have taken places since the enforcement of the Child Abuse Prevention Law**

### **A. Proposals on the revision of the Child Abuse Prevention Law**

- (1) Article 1 should be added a sentence specifying that child abuse is the infringement on a child's human rights.
- (2) Immunity clause should be added to Article 5 specifying the obligation to notify the child abuse case.
- (3) The words, "abused child" in Article 6 should be replaced with "child who is possibly abused."

### **B. A Nation-wide survey on the exact status on child abuse is needed for early identification, protection and rehabilitation of child victims**

For the establishment of child abuse prevention system, a nation-wide survey is needed. For that purpose, following measures should be taken.

- (1) Not depending only on the number of cases recorded by child guidance centers and the police, the government should make a comprehensive survey related at least with medical care, welfare, health, judiciary, education and police.
- (2) Efforts should be made to collect information and data from various researches funded not only by scientific research subsidies from the Ministry of Education and Science and the Ministry of Welfare, Health and Labor, but also by NGO organizations.

### **C. Continuous and substantial cooperation between child guidance center and related organizations, authority on the site inspection and enhancement of expertise and skills of the center should be established**

- (1) Examination should be made on the functions of child guidance center and related organizations. As mutual understandings between child guidance center and individual child welfare facilities are not fully achieved, it is necessary to clarify responsibility and authority of head of child guidance center and heads of individual facilities respectively. And present circumstances make it difficult to fully comprehend support program and treatments of the child victims provided by each organ, there should be established such a system as to enable to mutually examine the 'treatment plan' of the child victims according to individual needs of children.

- (2) Continuous and substantial cooperation between child guidance center and related organizations should be established for prevention, early identification, protection, mental and physical cares, and supports for parents, etc.
- (3) With regard to on the site inspection, preference should be taken on the best interests of child. The inspection should be conducted under the initiative of child guidance center and coordination of works with the police should be systematically pursued.
- (4) In case being notified on child abuse, some appropriate specialists inspection organs (with the participation of child guidance center and the police) should be established to enable to make appropriate assessment and speedy and fair countermeasures. (Reference material 8) With the increase of cases of notification, the shortage of staff and facilities has become more and more serious. Those personnel and facilities have played major leading roles in early identification, protection, mental and physical cares, etc. It is urgently needed to secure sufficient number of qualified staff and to build more facilities for those purposes.
- (5) With regard to the system of recruitment and placement of staff in child welfare facilities, a system to secure qualified persons with expertise and skills should be established. Some specialized staff, in study of children and juvenile psychology should be employed not at part-time basis but at full-time basis. Efforts should be also made for securing specialists in a variety of areas and fields. Their in-service training should be guaranteed.
- (6) The number of qualified staff in child welfare facilities should be substantially increased and efforts should be made to take care of their mental and physical health conditions.
- (7) The number of specialists on child abuse is insufficient. As a matter of course, those professionals, such as psychiatrists, child doctors, psychiatrists, psychologists, lawyers and researchers are mostly engaged in their duties and in volunteer activities in private sectors. Therefore the number of specialists who can dedicate their times on child abuse problems is chronically insufficient. A scheme should be planned with financial back-up for fostering specialists, defining their qualifications and securing their tenures.

#### **D. Examination should be urgently launched concerning flexible and diverse restrictions over parental right**

- (1) In case of forfeiture or suspension of parental right, the head of child guidance center is required to be a proxy. He/she should be required to do the duty as the “head” of the center and should not be disturbed his/her private lives including his/her family register. The government and municipalities are responsible for preventing unfavorable treatments when those abuse victims go to upper schools, try to find jobs, to find housing, etc,
- (2) Regarding restrictions over parental right, it is impossible to temporarily or partially suspend parental right by the existing laws. In order to rescue those abuse victims, it is needed to restrict the right flexibly and with diversified ways leading to temporary and/or partial suspension of the

right.

- (3) As some parents claim their right to disciplines for their children in justifying their abuse of children, the provision on parental right to disciplines should be reviewed and corporal punishment by parents and child welfare facilities should be definitely described in related laws.

### **E. Indication of psychological, medical, welfare, educational assistance toward parents and concrete measures are needed**

Since causes and degrees of child abuse differ greatly from case to case, measures for parents and contents of assistance also differ. It is difficult to treat them all alike. (Reference material 9)

- (1) There are a variety of methods on assistance as follows: counseling on child rearing, assistance at home (including assistance for nurture), welfare assistance, psychological and medical assistance, mental health, educational and instructional assistance, etc. It is required to establish a system to provide necessary measures.
- (2) Children, who are brought up in a family in which wife or husband (mother or father for the child) suffers from domestic violence of partner, are at high percentage exposed to child abuse at home. If not, they often suffer from trauma. Even to those parents who are victims of domestic violence themselves and abuse children also need to be provided with similar treatments.,<sup>4, 5, 6,</sup>(Reference material 10)
- (3) When one of perpetrators is a father/mother of de facto marriage, similar treatments should be provided to him/her in light with the Law for the Prevention of Child Abuse and he/she should be

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<sup>4</sup> Sonoko Yokoi and Satoshi Tanaka, "A case of an elementary school child" whose school non-attendance and domestic violence are derived from child abuse" *Child Abuse and Neglect*, Japanese Society for the Prevention of Child Abuse and Neglect (JASPCAN), 2001, No. 2, Vol 3, pp.244-233

<sup>5</sup> Manabu Saito, "Some Questions related to Measures for Perpetrators – Child Abuse", *Child Abuse and Neglect*, JASPCAN, No. 2, Vol. 4, pp.244-252

<sup>6</sup> Ei-ichi Seo, "Present State of Child Abuse, Serious Situation Inferred from a Survey Result", *Child Abuse and Neglect*, JASPCAN, No. 2, Vol. 3, pp.267-275

### **< Bibliography >**

*The Loss of Childhood*, edited by Japan National Coalition Group of NGOs and Citizens for Preparing the Alternative Report on the Convention on the Right of the Child, Kadensha Publishing Co.

*Questioned Human Rights of the Child*, edited by the Committee on the Rights of the Child, Japan Federation of Bar Associations, Akashi-shobo Publishing Co.

Judity Herman, *Trauma and Recovery*, translated by Hisao Nakai, Misuzu Publishing Co.



regarded as a guardian of the child.

When perpetrating parent lacks the recognition of abuse and has little motivation for treatments and child abuse has high possibility to become more and more serious, and when child abuse is extremely serious, urgent intervention into those cases is required for notification to family court and for providing counseling.

**F. In order to defend the abuse victim from the infringement of human rights and to make him/her recover dignity as human beings**

- (1) Measures should be taken urgently to build more facilities to safeguard the victim including temporary ones.
- (2) Within those facilities, victims should be deliberately treated according to their developmental stage, sex, problems faced with them. Some specialists should be stationed in those facilities for mental and physical treatment of those children. The right of those children to education should be secured.
- (3) As child welfare facilities have predisposition to be closed and managerial. In case corporal punishment or child abuse happens to occur in those facilities, the facility concerned would seldom notify the case to the third body or outside institution. A system should be established in those facilities to prevent the infringement of human rights of children including violence and corporal punishment.
- (4) Depending on their ages, environments of mental conditions, some abuse victims have difficulties in applying protection, notifying and continuing to notify their cases. In order to prevent those children from being forcedly fetched home or from going back home due to ambivalent affection to perpetrators or neglectors, it is needed to establish a third body institution and proxy system.
- (5) Chronic abuse takes place in the climate of families in which every domestic affair is dominated by terror. Those children who survived in such an environment (including those who have grown up) have diverse syndromes and behaviors. It is not rare that medical treatments for those children last even after they become adults. Therefore, it is necessary to consider medical and psychological treatments from childhood to ages of grown-ups. (Reference material 11)

In ending this article, it should be emphasized the government has the responsibility to achieve all these tasks and measures as mentioned above.

**< Reference materials >**

- (1) “Report on the number of child abuse cases treated at child guidance center in 2000 fiscal year,” “Report on the number of child abuse cases treated at child guidance center in 2001 fiscal

year.” Graphs were prepared on the basis of the database on statistics of the Ministry of Welfare, Health and Labor.

- (2) Noboru Korayashi, “A Nation-wide Survey on the Actual Conditions of Child Abuse”, (Research based on the subsidy granted by the Ministry of Welfare, Health and Labor for scientific researches in 2001 fiscal year, A study looking at the actual conditions of child abuse and countermeasures, comprehensive research report), Child Abuse and Neglect, Japanese Society for the Prevention of Child Abuse and Neglect (JASPCAN), 2001, No. 2, Vol. 4, December 2001, pp.276-289
- (3) Since many institutions are involved in a particular case of child abuse, the survey was made in overlapping verifying method. Regarding frequencies, it is necessary to exclude overlapping notifications from various organizations. The survey started with the examination of individual information of those children who are unidentifiable from among certain group but identifiable in case studies of child abuse. Without using names of individual children and their addresses of those concerned accordance with the obligation to keep privacy, three items were set up on postal code (with 3 figures), dates of birth and sex. Verification on regional survey was made as far as possible on authenticity of the results made by mechanical process based on 3 items. The process proved that 71% corresponded with actual cases and the rest were overlooked or mistaken cases. Then the author thought it possible to estimate duplication and used the method in the estimation of the nation-wide survey.
- (4) *ibid*  
Toshikazu Takahashi and Kazuyuki Harada, “Survey on the Stress of Staff at Protective Institutions for Children”, Annual Report on Social Work Research, Japan Social Work University, 1999, pp.85-127
- (5) Based on the “Report on the number of child abuse cases treated at child guidance center in 2000 fiscal year”
- (6) ‘List of institutions to which inquiries were made, percentage of responding institutions and number of valid cases’, Noboru Korayashi, “A Nation-wide Survey on Actual Conditions of Child Abuse”
- (7) “Report on the number of child abuse cases treated at child guidance center in 2000 fiscal year,” “Report on the number of child abuse cases treated at child guidance center in 2001 fiscal year.” Graphs were prepared on the basis of the database on statistics of the Ministry of Welfare, Health and Labor
- (8) “Report on the number of child abuse cases treated at child guidance center in 2000 fiscal year”
- (9) Seiji Sakai, “Diagnosis and Cares of Children in Abuse Victim Syndrome”, Child Abuse and Emergency Intervention, Kongo Publishing, Co., 1994, pp.162-163
- (10) Manabu Saito, Manabu Saito, “Some Questions related to Measures for Perpetrators – Child Abuse”, Child Abuse and Neglect, JASPCAN, No. 2, Vol. 4, pp.244-252
- (11) Ei-ichi Seo, “Present State of Child Abuse, Serious Situation Inferred from a Survey Result,” Child Abuse and Neglect, JASPCAN, No. 2, Vol. 3, p.271

## **VIII. Basic Health and Welfare**

**Part 1 Disabled Children**

## **Chapter 75 Did the government really take “inclusion” seriously?**

It has passed a decade since the Japanese government ratified the Convention on the Rights of the Child. Being asked whether every child has been really taken good care of, one cannot but answer in negative. Particularly for the disabled children, it seems that a tall wall stands in their way.

General guidelines for periodic reports to the CRC recommend that Reports should provide information on the measures adopted by the State party to give effect to the rights and on the progress and should indicate factors and difficulties affecting the fulfillment of the obligations under the Convention.

In the Concluding Observations to the Japanese government, the CRC points out that in light of the general principles of “non-discrimination” (Article 2) and others, the legislative policies and programs relevant to “children from vulnerable categories” including children with disabilities are not being fully integrated (paragraph 13). The Committee also notes the insufficient measures taken (paragraph 20) and recommends the Japanese government to envisage “awareness-raising campaigns to reduce discrimination against children with disabilities” and encourage “their inclusion into society” (paragraph 41).

However, the Second Report of the Japan (2001) does not mention about measures taken by the government for the realization of inclusive society. It is far from saying that the conditions of children with disabilities in Japan have been much improved. As notable examples of the actualities in Japan, some mentions should be made on the characteristics of the trend of policies by the Ministry of Education, which established a certain standards of system and measures on the rights of disabled children.

The Ministry has twice entrusted with the examination on the future plan of disabled children to Advisor Groups on Special Education since 2000. On the basis of the examination, the government has published the future plan to drastically change the conventional “special education” which has provided education in special institutions and to attach importance on providing required support according to special educational needs of each student in the name of “special support education.” The All Japan Parental Association for Joining Hands, parental association of mentally disabled children, published its statement on the Interim Report of the Advisor Group. It states that for the development of normalization, the society as a whole should support self-reliance and social participation of disabled children all through their lives.

Disregarding the statement of the Association, the Final Report of the Advisory Group proposes some drastic changes of the system. For example, elementary and middle schools in respective districts should assume another responsibilities which have been done by schools for various disabilities (school for visually impairments, school for hearing impairments and school for physically disabilities), by utilizing the accumulated functions of those special schools. It suggests also possible dissolution of “special classes” and suggests to make children in those classes attend regular classes, while attending sometimes to “special support classes.” Apparently, it seems to be in accordance with the direction of inclusive education with regard to the reduction of “special institutions” as far as possible. However, the Ministry does not aim at the realization of inclusive education by any means. During the discussion at two Advisor Groups, the Ministry alluded its intention to reduce education budgets for disabled children, claiming “expense for schools for disabled children costs eleven times more than that for ordinary schools,” or “special classes for disabled children has in average less than three,” etc. It is safely said that the “conversion” into special support education aims fundamentally to institutionalize a system for the reduction of education budget. It is evident that the goals to achieve the fullest possible social integration and individual development of disabled children shown by the UN Convention on the Rights of the Child can never be achieved by such a “conversion” advocated by the Ministry.

## **Chapter 76 Discriminations against disabled children still remain.**

In preparing this report, the de facto discriminations against the disabled children were informed by various organizations and persons.

Above all, disabled children suffer from intolerable words and deeds by teachers in schools, in which children should essentially feel free from fear and develop their possibilities. Followings are some examples.

A principal who is the highest responsible person of the school said to children and their parents, “Can’t you climb such an easy slope?”, “If you parents cannot accompany your children, you should make your children stay and study at home,” “Why was such a child admitted to this school? He should not be here” (Opinion 24 and 26). Another principal said, “School is essentially a place for group study and group activity. If you fail to come in time, you will cause annoyance to all members of the class. Even if you can change your clothes by yourselves, you will cause annoyance to others, unless you change your clothes at the same speed with other classmates. In case some, students are required to accompany the disabled student to the playground or to the gymnasium, 5 to 10 minutes of those students will be sacrificed, though no complaints have been heard up to now. You will sacrifice 30 minutes a week and 2 hours a month of those students. The 2 hours are very important study time for them. It is not good to disturb them.” (Basic Report 56)

In order to achieve “barrier-free education,” certain parents submitted an application for the entries of their child with visual impairments to an ordinary class, making necessary preparation in preschool days. However, they did not receive a notification of admission from the board of education. Without responding to their request, the board even dared to utter wild words, “If you leave the matter as it is, the matter will be unsettled and your child has no school to go.” Even after children were admitted entrance to a regular school, parents were enforced to accompany their child. (Basic Report 207) Being told by a class teacher, “Unless father or mother accompanies the child, we cannot make him enter in the swimming pool,” a mother of another child volunteered to accompany him to the pool. The teacher refused to do so, saying “His own father or mother can only be admitted to do so” and the child could not enter in the swimming pool. A number of disabled children and their parents are compelled to feel unhappy due to low awareness of teachers on human rights and inadequacy of educational conditions.

Cases of infringement of human rights and discriminatory treatments by teachers are reported with

regard to schools for disabled children. A high school student with hearing impairment and intellectual disability was provided “excretion aid” with the door of the toilet left open. (Basic Report 122)

Actually, there are a great number of children with disabilities who enjoy their school lives with shining faces owing to warm support of principals and teachers. However, we should reexamine the actualities in Japan with due consideration to the fact that there are not a few cases of infringement of human rights of those children as mentioned above.



## **Chapter 77 Problems in the Second Report of Japan concerning disabled children**

The Second Report mentions about those measures taken by the government on welfare and education for disabled children since the Initial Report of Japan in 1996 in paragraphs 215 – 220. However, the contents do not meet with three recommendations made by the CRC.

### **A. Insufficiency in inclusion**

The Report does not refer to concrete measures for the realization of inclusion, while mentioning from the beginning to the end about the education in “special institutions” in conventional “special education” in school for visually impairments, school for hearing impairments, schools for physically disabilities, special class and part-time class.

### **B. Awareness raising campaigns to reduce discrimination have not been implemented**

Paragraph 44 of the Second Report states, “Local administration of each prefecture or city provides opportunity for newly-employed teachers as well as teachers to learn human rights and student guidance through various training sessions at each stage of teaching experience.” It also states that “training for teachers who are expected to play a leading role” involves the lecture about human rights. The paragraph does not, however, refer to the training on the Convention on the Rights of the Child, in particular, on human rights of disabled children.

### **C. Shortage of efforts to cooperate with NGOs**

The Concluding Observations of the CRC state “the committee is concerned that the knowledge and expertise of civil society is not adequately utilized at the present stage of cooperation between the authorities and NGOs.” (para. 12) The government is also encouraged to “interact and cooperate closely with non-governmental organizations in implementing and monitoring the Convention.” (para. 34) The Second Report of the Japanese government states, “the government actively cooperates with civil society.” We cannot but say the sentence is awfully “inadequate.” As is pointed out in the “General Introduction” of this alternative report, the Second Report of Japan does

not refer at all to those opinions presented in the Collection of Opinions. For example, the government was requested to acknowledge actualities of long distance attendance by disabled children (Opinion 12). It was also requested to disclose the percentage of school board that place disabled children to special schools without giving due consideration to the parents' opinions, (Opinion 21) and demanded to implement a maximum class size of less than 30 students in earliest convenience (Opinion 35). Regrettably, the Second Report of the Japanese government does not enable us to get a glimpse of its efforts to listen to those opinions.

#### **D. The Second Report lacks the information on the health of disabled children.**

On these basic problems concerning the Second Report of Japan as mentioned above, we would like to point out that the Report does not state on concrete measures. In other words, the Report only introduces some parts of measures taken by the Ministry of Health, Labor and Welfare and the Ministry of Education and carries some statistics on those institutions and schools.

The Initial Report of Japan carried some paragraphs on the health of children with disabilities drafted, probably, by the Ministry of Health, Labor and Welfare. The Second Report, however, does not contain such paragraphs and only maternal and child health is mentioned about in IV-B (Health and Health Services (Article 24)). The same is true with medical cares. So far as the welfare is concerned, the Second Report reiterates "See Initial Report of Japan." There are totally no descriptions on what the government has done since the First Report. With regard to reference materials, we have to say that they are quite inaccurate. For example, paragraph 216 carries number of home-helpers with note: Home-Helpers who "exclusively deal with disabled children/persons." As is evident from this, the number includes home-helpers who deal with disabled adults. Current Status of Institutions for Disabled Children shown in paragraph 217 also includes institutions for the disabled over 18 years of age. Ministry of Health, Labor and Welfare, which should devote itself to the health and welfare of disabled children, has to be more sensible to its responsibility.

#### **E. The second Report of Japan lacks the information on the government's newest policy on education for disabled children**

The "Loss of Childhood Report" pointed out insufficient measures on the upper secondary education for the disabled children. Home visit education started since 2000 fiscal year for high school students in physically disabled children. However, paragraphs 216, 217 and 218 of the Second Report, probably drafted by the Ministry of Education and Science, only mention about irresponsibly only number of disabled children and of schools and institutions for them. As mentioned in

paragraph 218, the Advisor Group on Special Education published its Final Report in January 2001. Based on the Report, the Ministry announced in April 2002 the revision of enforcement ordinance of the Law on School Education and issued some related notifications. In accordance with the revision, some modifications were made concerning the schooling guidance system. The system was improved on the following two points: 1) It has become obligatory for the authorities to have opportunities of hearing the opinions of parents concerned and 2) Criteria on the degree of disability was deregulated. However, the system has still more tasks to be improved, which will be referred later. The Advisor Group on Special Education started the deliberation how the coming special support education should be in October 2001. The Group published its Interim Report in October 2001 and the Final Report in the end of March 2003. Based on these Reports, the Ministry of Education and Science is to make some trials of certain drastic “reforms” on the existing special education. The intention of the Ministry to slim down the expensive education for disabled children would be carried out all through those “reforms.”

## **Chapter 78 Actual conditions of infants with disabilities and the measure taken for them**

The “Loss of Childhood Report” points out that there are big differences concerning the measures for infants with disabilities among local self-governing bodies, for the local self-governing body where those infants live is primarily liable for implementing appropriate measures. The differences have not been reduced since then. To make it worse, with the devolution of power on welfare affairs for the disabled to municipalities in line with a series of structural reforms, differences have contrariwise been expanding. It is urgently needed to enact basic law for guaranteeing development and rights of disabled children in their infancy.

### **A. Detection of disabilities at early stages and Prevention**

The implementation of medical examination for every infant has been strengthened during past 10 years owing to the efforts of respective municipalities. However with the unification of some public health centers\* and devolution of work responsibilities to municipalities, community nurses are compelled to assume charge of wider areas and to have more workloads. It is apprehended that the system for the detection and treatments of disabilities at early stages might be undermined. At the same time, it must be pointed out that the entrustment of medical examination to local medical institutions, which has just started, might lead to the retreat of professional aspects of medical examinations and the overlook of disabilities.

### **B. Child-care**

As preschool institutions for disabled infants, there are nursery schools and special institution to accept those infants daily or to accommodate them. The drastic improvement of those facilities is needed.

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\* For example, in case of Tama area in Tokyo, 31 public health centers were reduced and unified to 12 centers during 1997 – 2003. The plan to reduce the centers finally into 5 is going to be implemented.

The number of those disabled infants who enter nursery schools is on the rise. In fiscal year 2002, there were 9,674 infants who were granted national subsidies. Despite the increase of those infants from younger ages, the criteria for the placement of nurses in nursery schools have been kept insufficient. In case two or three disabled infants are admitted to nursery schools, majority of municipalities places an additional nurse to the school concerned. Some municipalities do not place an additional nurse unless the nursery school admits more than 5 disabled infants. Most of those nurses are employed for short hours on part-time basis. Although a nursery which has no medical cares needs to be visited by medical circuit in case of accommodating disabled infants, there is no official system of medical circuit. Even in those municipalities with medical circuit system, a nursery school has two or three visits in a year (Basic Report 107).

While infants' institutions are often difficult to find out in comparatively narrow areas nearby their houses, the number of "day service project for disabled infants" has rapidly increased in these days. Conditions of those day services are often very poor. Most of those institutions have been run under such poor conditions as to have only one room with subsidies of yearly 6 million yen in case the number of infants is less than five. A national welfare plan, "Plan for the disabled" (1999 – 2002) holds it a goal to have 1,002 day service institutions for disabled infants. In the end of the last year of the plan, the number was nearly 600, far from the goal. With due consideration to the fact that the number of those institutions was about 300 in 1999, the first year of the plan, it is difficult to say that utmost efforts have been made. With the introduction of a new system of welfare, the support money system, from April 2003, it is apprehended that some of those institutions might adopt users'-pay system to cover their financial shortages.

### **C. Kindergarten sections of schools both for visual and hearing impairments**

Kindergarten sections of schools for visual and hearing impairments accommodate 3 to 5 year old infants. As visual and hearing impairments are easy to be found in early stages, it is needed to start kindergarten education earlier than 3 years of age. Some of those schools provide "educational counseling services" for infants of 0, 1 and 2 years of age. Although any kind of school education requires professional knowledge and skills, there are no national laws to prescribe quorum of teachers. Therefore, efforts to establish kindergarten sections are restricted to some prefectures (Basic Report 92).

## **Chapter 79 Actual conditions of school education for disabled children**

### **A. Issues in school attendance**

As is stated in the Second Report of Japan, education for disabled children is carried out in special schools for visual impairments, schools for hearing impairments, schools for physically disabilities and health impairments and special classes. The percentage of those children is about 1.4% at compulsory education level.

It is, however, noted that this percentage has two aspects. One aspect is the fact that the number of those children is inclined to increase yearly. Contrary to the decrease in student population in Japan, the actual number of disabled children who study in the above-mentioned schools has steadily increased since the Initial Report. The other aspect is the fact that the percentage of those children is too low in comparison with that in other countries. The percentage around 1% is too low in light of the incidence of disabilities pointed out by medical researches. From the above mentioned two aspects, it is presumed that extremely limited number of disabled children is provided appropriate education for their disabilities and that a great number of disabled children study in regular schools.

The Advisory Group on Special Education of the Education Ministry has published, in its Interim Report in October 2002 that approximately 6% of children attending to regular classes need special cares for LD, ADHD and autism. As a number of children have disabilities other than LD, ADHD and autism, much greater number of children attend mainstream classes without special cares. The discriminative words and deeds as mentioned in Chapter 2 are often seen in those schools which lack the essential conditions for more attentive education to every child, i.e. smaller class size and placement of sufficient number of teachers.

In Japan, there still remains a system to grant voluntary exemption from enrollment at compulsory schools to heavily disabled children (Article 23, School Education Law). By the application of this Law, about 150 disabled children are exempted from schooling every year. Some measures should be sought to guarantee these children their right to education.

### **B. Guidance on choosing appropriate school**

According to the Report by the Advisor Group on Special Education, various reforms on the system

of education for disabled children are now implemented. Guidance on choice of school is also targeted as one of those reforms. In the spring 2002, some procedures on the guidance were amended and new entrants from fiscal year 2003 on will be applied the new system. However, the new system has following serious shortcomings as has been pointed out in these years.

“The system should be reviewed in light with the efforts for 1) realization of inclusive education and 2) guarantee of parental choice in education. Parents are embarrassed to face with too many obstacles in choosing appropriate school for their children. Lots of municipalities have expressed to respect the will of children or guardians ultimately. Before reaching the stage to ascertain their “ultimate” will, guardians have to overcome difficulties hard to bear. It is not too much to say that only those who go through those difficulties can be respected their will” (Basic Report 207).

In providing guidance, it is necessary to allow parents sufficient time for due consideration with their choice. It is also necessary to place sufficient number of staff for the work. For example, the authorities in Saitama Prefecture announced to establish a section in charge of responding to inquiries concerning the questionnaire on the choice of schools for disabled children drafted by the authorities. Those who had consulted with the section were not satisfied with the consultation. They commented as follows. “Staff of the section is mainly composed of retired principals who had not expertise on education for the disabled children at all.” “Pre-school institutions had not sent in advance sufficient reference materials to the authorities.” “The committee responsible for making-decision on schooling of each applicant had not spent sufficient time to make mature deliberation,” etc. Therefore it is needed to establish a standing counseling system all through the year and to set up a follow-up system within a school.

### **C. For better special schools and special classes for disabled children**

Although the Second Report of Japan mentions about the number of disabled children and of schools and institutions for them, it does not mention whether they meet the demands or not. It seems that the government shows its attitude that there are “no needs to build any more institutions for the disabled children.” The Report of the Advisor Group also advised the Education Ministry that “schools and institutions for the disabled children have been complete.” The Group even referred the possible dissolution of special classes of disabled children in local mainstream schools based on Article 75 of the School Education Law\*.

In reality, special schools and classes do not meet with the actual demands. For several years since

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\* Article 75: Authorities *may* set up special classes in elementary, middle and high schools for those children with intellectually disabilities, physically disabilities, health impairments, weakness of sight and hardness of hearing.

1979 when the School Education Law was “revised” to the effect that every prefecture should establish schools for children with intellectually or physically disabilities, a number of such school buildings were built in every part of Japan. In these years, prefecture authorities have stopped to build those schools. As a result, appropriate school size has been questioned on those schools, for there might be cases of possible infringement of human rights of students in those schools. To be more concrete, according to the statistics published in 2000, the Anjo School for Children with Intellectually or Physically Disabilities in Aichi Prefecture had the biggest number of students in Japan, i.e. 390 students in 70 classes. Other five schools had more than 300 students (70 classes) and 4 schools had more than 270 students (50 classes) respectively. In 23 prefectures (out of 47), there are 61 schools for intellectually or physically disabled children with more than 50 classes. Total number of students in those schools corresponds to 6.3% of all students in schools for disabled children in Japan (Basic Report 110).

In Tokyo, the authorities have not constructed school buildings enough to accommodate the increased number of disabled students. 237 classrooms out of total 1,200 of those schools were converted from rooms for special subjects (Tokyo Metropolis Education Board, May 2002). Due to the shortage of classrooms, “poor” educational conditions are disclosed here and there despite desperate measures taken under the pressure of necessity. For example, a classroom is partitioned by lockers to use it as two rooms, teachers are unable to organize rotation for using only one gymnasium, students have to be given physical education in the hallway, school buses are always too crowded to use for going to school. There are also such pitiable cases that children are compelled to use portable toilets equipped in a partitioned corner of hallways. The negligence of such a state by the authorities is not in accordance with the paragraph 36 of the CRC recommendation to “introduce additional measures to guarantee the child’s right to privacy...in school” and constitute the infringement of human rights of those children (Basic Reports 110).

Besides “over-sized and over-crowded” schools, there are also “over-sized and over-crowded” classes for disabled children. It is left to the discretion of each municipality whether it sets up special classes for disabled children or not. Some municipalities made it a principle to place those children in neighboring two or three school districts in special classes in certain school. Due to the sharp increase of applicants, municipalities are required to take appropriate measures to cope with the actuality. For example, in Nakano ward in Tokyo (population: 300,000), 29 students, 10 percent of a school population (about 300) are registered in 4 special classes. In fiscal year 2004, there will be more applicants corresponding to 5 special classes. That is because there are only 3 special classes in 29 school districts of Nakano ward. In those schools where special classes are set up, rooms for special subjects are converted and teachers’ workloads are increasing due to the poor teacher-student ratio, as has been seen in schools for intellectually or physically disabilities. With no public facilities for transportation, such as school bus, it takes about 50 minutes for a student in a special class to attend the school. Such a state of affairs is required to redress from the viewpoints



of safety and stress of the child. This fact endorses the recommendation 20 of the CRC stating, “insufficient measures are taken by the State party to ensure effective access of these children to education.”

There are innumerable voices demanding for their disabled children education based on their special needs. Some parents are concerned about traveling distances to and from school (Collection of opinions 12, Basic Report 27). Others complaint that uniform method to establish schools according to individualized disabilities has hindered the admittance of school attendance of children with duplicated disabilities (Basic Report 109). Some parents think that long distance schooling and placement to residential school are sometimes felt by children and parents to be “environmental barriers” (Basic Report 122).

#### **D. Local regular classes**

Despite of the CRC recommendation 20 “to facilitate their full inclusion in society” and also of many opinions at the deliberation of Advisor Group on Special Education in the 21<sup>st</sup> century, the government has not yet presented its concrete measures for inclusion. The School Education Law was amended in April 2002 to enable those children who would have been placed schools for disabled children apply for the admission to local regular elementary and/or middle schools “only in special circumstances.” The government has, however, never given directives to local education authorities to provide necessary equipment for special cares in local school/class nor to make school facilities barrier-free.

“Exemplary work for promoting special support education” is going to start mainly targeting children with slight development disorder. It aims to establish supporting system within a school for those children with slight development disorder. Generally speaking, as the disorder is not fully understood among teachers and nurses at present stage, they often fail to find the disorder and/or make misjudgments on behaviors of children concerned. It is urgently needed that teachers and nurses have opportunities of in-service training (Basic Report 65).

In order to guarantee education for disabled children including those with slight development disorder in local school and class, there should be made multi-faceted improvement of educational conditions for enabling those children participate in learning more actively. It includes reduction of a class size, introduction of team-teaching, careful selection of educational contents, barrier-free facilities, etc. In order to respond to the recommendation of CRC, the government is needed to establish a system for the promotion of their full inclusion in society (Basic Report 56).

### **E. Elimination of blank in learning**

There are a number of such children as to be compelled long absence from school due to illness or disorder. Some of them are sent to hospital for treatments quite often. Their right to education is not guaranteed during those periods. It is called ‘blank in learning.’ Every year, the Ministry of Education publishes the number of those children who are absent from school more than 30 days. In the year 2001, 41,231 elementary and 25,258 middle school students were absent from school due to illness. It is required to set up classes in hospital, to apply home visit education system in hospital and to take flexible measures for their continuous learning.

### **F. Contents of education**

Similar to the case of children without disabilities, unified standards of educational contents of education for disabled children is prescribed, in the National Course of Study. Problematic behaviors of education authorities on educational contents are stated in detail in other part of this alternative reports. In the field of education for disabled children, it should be pointed out that “authorities of school for children with intellectually impairments are inclined to consider it sufficient to provide them specialized curriculum without trying in vain to grasp them as subjects of development.” To put it more concretely, hours for subject teaching are extremely reduced and hours for manual works are increased. In other words, not a small number of those schools encourage student to learn from experience at first hand (Basic Report 43).

With regard to problematic school textbooks compiled by the “Japanese Society for History Textbook Reform,” see chapter 48 and 98. It should be, however, noted here that Education Boards of Tokyo Metropolis and Ehime Prefecture adopted the textbook in August 2001 for the use of schools for children with intellectually or physically disabilities, disregarding opposition from a great number of people. Other 45 Education Boards refused to adopt it pointing out too difficult and too voluminous contents (Basic Report 50).

### **G. Shortage of teachers and their health problems**

The state prescribed teacher-pupil ratio is not necessarily observed and the difference among prefectures is not small. Despite the increase of those seriously disabled children with special needs for medical cares, some education authorities are reluctant to officially recognize special classes for those children with duplicated and serious disabilities. Problems of teacher shortage have become more and more serious. For example in Tokyo, additional 282 classes and 477 teachers were needed to comply with the state prescribed teacher-pupil ratio in fiscal year 2001.

Shortage of teachers and consequent excessive workloads lead to the deterioration of their health conditions of teachers. According to the Survey conducted by the Tokyo Metropolis Teachers and Staff Union of Schools for Disabled Children, 70% of teachers suffered from lumbago and three out of four of those women teachers who gave birth to babies experienced abnormal pregnancy and delivery. Education authorities have to recognize that health conditions of teachers are essential for guaranteeing sound development of children (Basic Report 110).

## **H. Professional development of teachers**

In order to share teaching excellence among teachers, it is essential for teachers to be guaranteed opportunities for in-service training. However, it has become compulsory to have permission of the management concerning the participation into in-service training. More and more education boards have come to apply stricter restriction on the participation to the courses organized by organizations in private sector. In addition to that, strict observance of the National Course of Study is more and more enforced through official in-service training courses and consequently, the right of teachers for independent educational activities and researches is seriously has been infringed.

The Second Report of Japan states in paragraph 44, “Local administration of each prefecture or city provides opportunity for newly-employed teachers as well as teachers to learn human rights and student guidance through various training sessions at each stage of teaching experience. Also the National Center for Teachers’ Development, an independent administrative institution responsible for unified and comprehensive implementation of government-controlled training programs, introduces the training involving the lecture about human rights for teachers who are expected to play a leading role at the local level. It also provides practical training about the theory and practice of student guidance, educational counseling.” However, least measures have been taken by authorities to promote in-service training of education for disabled children including education on human rights in local mainstream school. The insufficiency of providing such in-service training opportunities is revealed in the following survey results on the inclusion of children with disabilities: Being asked how they feel to study with disabled children in the same class, 52.2% of elementary and 47.3% of middle school students replied in affirmative. However, only 23.1% of elementary and 21.7% of middle school teachers replied in affirmative; 15.0% of elementary and 19.6% of middle school teachers replied that those children should go to special schools and the majority (59.9% of elementary, and 57.6% of middle school teachers) have not yet decided their stands. (Report of Deliberative Council on Education in Tsuruga shima City, Saitama Prefecture, 2001)

## I. Vocational guidance

The Second Report of Japan states in paragraph 219 with running title (Employment, Vocational training) that authorities “conduct vocational guidance, placement and vocational training, to all persons with disability (including children) who want to work.” Those responsibilities are, however, actually shouldered by teachers in those schools who devote themselves to vocational guidance and placement of graduates-to-be.

Under the serious economic depression, the employment rate of those graduates has been decreasing year by year. That is mainly because medium and small size enterprises, in particular, manufacturing industries, which used to employ disabled graduates now make desperate efforts to survive, stopping to recruit any new graduates. Both the Education Ministry and Labor Ministry have never taken any measures to cope with the situation. The amount of the government subsidies to small size work offices for the disabled is no more than 1.1 million yen per a year. Despite the increasing number of those offices, the government reduced the number of object offices for granting subsidies in fiscal year 2003. It is urgently needed to build more work offices for the disabled as well as to increase the amount of subsidies.

## **Chapter 80 Child life after school and during long school holidays**

Since the beginning of 1990s, much more attention has become to be paid year by year to the problem of how children with disabilities spend their lives after school and during long school holidays including summer vacation. As after school child care centers established by public authorities are open only to children with working parents, disabled children have difficulties to be admitted to those centers. Even if being admitted, those children are left among a comparatively large number of children without appropriate special cares. A certain parent posed the problem saying, “There are no after school child care centers open to disabled children. Even if those children should be admitted, they would be permitted to use those centers once a week at the best. We parents cannot devote ourselves to work without being assured to take care of our children after school” (Basic Report 39). In addition to that, most facilities of after school day care centers are not barrier-free and only one part-time staff is additionally placed in case more than 4 disabled children are accommodated in the center.

Under such circumstances, parents and staff of after school child care centers pointed out various problems to be solved urgently. They say, “Disregarding the need to place one staff to one ADHD student, no additional staff are placed” and “Children with disabilities are deprived of their right to develop among peers due to curtailment of essential budget for coping with disabilities.” An instructor after school day care centers regrets, “Due to shortage of instructors, we are unable to admit disabled children with working parents.” It has become difficult today to guarantee the most essential right of every child to live and to grow (Basic Report 39).

A survey on the after school life of disabled children conducted by an organization in private sector revealed common characteristics of their after school lives. 1) They have poor human relationship in closed space, being alone or only with their family, particularly with mothers at home. 2) The heavier and older the disabled children are, the more restricted their human relationship and living space become. 3) Contrary to ordinary children, family members, particularly mothers are required to take care of disabled children even after they grow old, their workloads do not decrease and their mothers come to suffer from chronic physical and mental exhaustion due to never-ending excessive workloads. During after school time and long school vacation, which is normally enjoyable time, disabled children are compelled to spend time under worse conditions and family members are compelled to suffer increase of workloads.

Recently, after school day care institutions for “disabled children” have been built one after another

and municipalities have just started to subsidize those independent institutions. However, the government has never given support for those institutions. Following measures should be urgently taken: 1) to enable disabled children to participate in various events in community, 2) to improve facilities of those institution and instructor-child ratio and 3) to provide assistance to those institutions (Basic Report 108).

In these years, special attention has come to be paid on the right of disabled children to enjoy sports activities. Some organizations make efforts to develop new events of sports and to promote active participation of the disabled equally with ordinary citizens. Exchange of the disabled and the people without disabilities through sports often provides opportunity to children without disabilities to learn the integrity of human beings. Unfortunately, the government has never paid attention to these activities (Basic Report 17).

## **Chapter 81 In conclusion – Wishing to grow and learn to each other and finally to create a world living together –**

Japanese Federation of Bar Associations adopted in November 2001 a declaration. The declaration states, “In order to realize full social participation of the disabled and non-discriminatory society, the Federation is determined to make its utmost efforts for the enactment to ban any kind of discrimination.” The declaration is in accordance with the Criteria regulation concerning equal opportunities of the disabled (1993), the Salamanca Declaration (1994) and the Convention on the Rights of the Child (Article 2 protection against all forms of discrimination, Article 23 right to special care).

Applying this declaration in the field of education, we should continuously make our efforts for ensuring the right to education of disabled children at the best possible environment. In Japanese context, integration, once advocated loudly, means the endeavors to integrate as many disabled children as possible into the main stream with the existing society unchanged. On the other hand, inclusion is more widely advocated today in Japan. The term itself is understood to be the endeavors to change the existing society as much as possible so as to include disabled children into the main stream. The term is used in Japan with the connotation that there are urgent needs to reform existing school system, school facilities/equipment, curriculum, grade system according to age group, teacher-student ratio, etc. for enabling children with special needs to learn in the school. There are needs to make daring and deliberate research and discussion on the ideal way of inclusion in Japan and on how regular school education system and practice should be. In the context of Japan, inclusion does not mean the complete abolishment of special schools and special education support facilities. We should creatively realize the ideal of inclusion in light of history, actuality and task of education for children with special needs in Japan.

Based upon this premise, it is an indisputable fact that Japan has fallen far behind the world trend in examining and establishing measures for children with special educational needs in regular classes. Although advocates of “inclusion” have still now different views on the details, all of them agree on the urgent needs to improve regular classes and schools as well as to attempt a variety of active practices for giving education to children with special needs including disabled children. The importance of this consensus has to be highly esteemed.

However, inclusion will not be achieved only with voluntary well-meant efforts of teachers. Those efforts might invoke reactionary trend to claim that those children should be educated separately in

special facilities. Therefore, the improvement of system and conditions to support and encourage educational practices for inclusion should be made on the responsibility of administration. As mentioned earlier, the Japanese government has, however, avoided to face with special educational needs of children and neglected necessary measures either in special schools/classes or in regular classes. Such an irresponsible attitude of the government is a hotbed of discrimination against children with special needs. In order to create a society living together, it is necessary to establish educational facilities and contents appropriate for individual needs of children. The primary responsibility for that resides with the Japanese government.



**Part 2 Child's Health**

## **Chapter 82 An overview on the actual situations of child's "health" in Japan**

### **A. Beyond the right of the child to "basic health" to the right of the child to the highest attainable standard of health.**

Paragraph 1 of Article 24 of the Convention declares "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health care services." This sentence is based on the Charter of WHO which prescribed as follows: "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." We understand that the Convention and the Charter clarify the fundamental goals to be realized.

In the previous our report, titled "The Loss of Childhood in A Rich Society, Japan," we did not use the term of "Basic Health." Instead, we used the term of "Health." This is because the rights of the child recognized in Article 24 go beyond "primary health care" or "basic health." This article requires the state parties to realize the right of the child to the highest attainable health.

This approach to the rights of child to health was accepted by the Committee on the Rights of the Child. In the Concluding Observations which CRC adopted after the consideration of the First Report of Japan in 1998, CRC expressed its concern on the "developmental disorder" children are suffering due to the highly competitive educational system. This showed that CRC gave its attention on the issue of child health which went beyond "primary health care."

We will maintain the same approach again in this alternative report.

### **B. The Approach taken to analyze the actual situations of "basic health"**

In the "Loss of Childhood Report," we have used "Goals for Children and Development in the initial 1990s" adopted by the World Summit for Children in 1990 as a framework to analyze actual situations of "basic health" in Japan. In this report, "A World Fit for Children" adopted by the 27<sup>th</sup> Special Session of the United Nations General Assembly in March 10, 2002 is used as the criteria to examine the actual situations.

Japanese government has not conducted the strategic overview for the actual situation of children in

Japan by using the above mentioned international documents. What the government did to tackle with the issue of HIV/AIDS typically show this. Compared other countries, the number of persons who are positive of HIV and that of persons who are infected with AIDS are substantially low in Japan. But, this does not necessary mean that Japan has no problem. These numbers in Japan are sharply increasing every year. Furthermore, both chlamydia cases among teenage girls as well as male gonorrhea patients have rapidly increased since 1996. Though the sexually transmitted diseases are on the increase, the amount of condoms being sold has steadily dropped over the same period. This means that young people have engaged themselves in much riskier sexual intercourses since 1990.

In the Second Report of Japan, the government gives much information on the actual situation of HIV/AIDS and the measures taken by the government. But, those measures mainly consist of campaigns to raise awareness of HIV/AIDS. The Japanese government has not taken any strategic steps to decrease the number of HIV/AIDS patients. Since the main source of HIV/AIDS infection is sexual intercourses, the Japanese government should have been concerned about the encouragement of safer sexual intercourse through reproductive health education or through distribution of condoms with free.

### **C. The actual situations of child “Health” in Japan**

As Japanese economic situation has deteriorated after the bubble economy burst in the early 1990s, the government has cut the budget for social welfare due to the financial squeeze, and companies have imposed more severe working conditions to laborers. Parents who work under more severe conditions with less social welfare face difficulties in bringing up their children.

For example, parents under a stress tend to give a shout and inflict violence to their children to make them behave well. Though they do not recognize their conducts as a child abuse, they often abuse children under the name of “discipline.” Parents also tend to pay less attention to their children’s diet. It is often seen that parents are not able to prepare every meals for their children. Children have no choice but to buy or eat fast food or lunch-box sold in convenience stores. What even worse, they often have this kind of meal only once a day, because their parents do not give them sufficient money. This eating habit causes such health problems as emaciation, excessive eating, diabetes, gout, anemia, and constipation. Professionals in child’s health express their concern that this eating habit will cause children’s allergic disease because instant or retort packed foods contain high rate of food additives. As parents spend night owl life, children stay up late at night with their parents. Due to this life style, children cannot sleep sufficiently. They often yawn in the morning and suffer from permanent fatigues. Due to this, their autonomic nervous system remains undeveloped. Since parents hardly take care of eating and drinking habits for children, the social

problem for drinking alcohol among adolescents emerges.

In school environment, children face with many problems. The government has controlled strictly teachers. The government has recently abolished the regular staff meeting. Teachers hardly communicate each other and build good relationship to take care of the children's school life. Schools categorize students into two segment; students with good grade or ones with bad grade. Students with good grade has been put pressure to win in fierce competition. On the other hand, students with poor grade are ignored and hardly paid attention. That leads to the increase of school refusals. Now, health care room is used for the students, who are difficult to have a lecture in classroom, as the last resort. Therefore, the role of school nurses who manage healthcare rooms has become more important in schools. However, only one school nurse is placed in a school.

In terms of children's physical fitness, for these 30 years, it has been said that children's physical fitness does not come along with their physical growth. According to the experts' analysis of the government report titled "Annual Report of Physical Fitness and Exercise Capacity in Japan" issued every year since 1964, children's physical fitness has not been weakening, only their back and hip muscle strength and flexibility has decreased. Children do not utilize their physical fitness in actual exercise or sports even if they have fully potential physical fitness.

Also, the number of children who complain of fatigue and are not active is increasing. Until now, underdeveloped cerebral activity and autonomic nerve disorders have been well reported in Japan. Some experts commented that the source of the health problems are combined underdevelopment of nervous system and physical disorders, which indicates the decline of "physical fitness for protection" in child.

In addition, children spend much time for watching TV or playing TV games, and they hardly have opportunities to play with their friends outside. In the family, they do not spend their time together, child tends to have dishes alone and play TV games or watch TV in the own room. The number of parents uses TV or video as means to look after their children is increasing. That could lead to the development disorders of language communication. In the health examination at 18 months old children, the number of children who have the potential development disorders in language communication has increased. Those children have difficulty in communicating with other kids and tend to lose their temper, even after they improve their ability to speak by an appropriate instruction in kinder gardens.

In Japan, the infant mortality rate is extremely low, and the prevalence of infectious diseases among the infants is rare. There are no lack of drinking water and medial care system in Japan. However, as we will show in the following, Japanese children have their own unique difficulties.

#### **D. Problems in the government Report**

In Paragraph 222 – 224 under the section of “(a) Measures to take for the following purposes under Articles 6 and 24,” the government lists the measures taken to treat the issues of mental health, HIV/AIDS, reproductive education, and guidance about food. The report states that the revised National Course of Study clarified the measures that should be carried out in schools. But, the government could not take into account the recommendations issued by CRC in 1998, because the National Course of Study was revised before CRC adopted its Concluding Observations.

In the Concluding Observations, CRC was concerned that children were exposed to developmental disorders under a stress of a highly competitive educational system and the consequent lack of time for leisure, physical activities and rest. In this regard, the government explained that, in the Courses of Study revised in 1998, “stress management” was added as a new item to learn in health and physical education for junior high schools. Why can the measure taken before the Concluding Observations were adopted be a measure to respond to the recommendations issued by CRC? After receiving the Concluding Observations, the government should have analyzed the causes of mental and physical development disorders and set the target to prevent and combat these problems. The government left the problems as it is.

The Second Report of Japan gives information on the measures taken to tackle with the HIV/AIDS. As mentioned earlier in this chapter, the measures taken consisted mainly of educational campaigns. The government has not conducted any strategic reproductive health education to decrease HIV/AIDS and any infected diseases. Since the main source of HIV/AIDS attributes the sexual behavior with opposite sex, reproductive health education should be conducted appropriately.

Regarding child prostitution, child pornography, and trafficking of children, CRC recommended that the government design and implement a comprehensive plan. Responding to the request, the government enacted the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children. In addition to the said Law on sexual exploitation, the government should have taken the necessary reproductive health education including how to deal with sex and promote against gender bias.

#### **E. The government is weakening its data collecting system and refuses to set the numerical benchmarks.**

Nine years have passed since the government ratified the Convention in 1994. However, we have not seen any progress to solve the problem relating with right of child to health and improve their

health condition. More than worse, after the bubble economy burst, the government has reduced its responsibilities on providing welfare. In such a situation, the rights of child to health face difficulties and children's health condition has been deteriorating.

The government is highly expected to commit in the process to solving the issues and develop strategic program to implement the Convention. In order for the government to do so, it is essential to make the best of the data which the government has collected through many surveys.

But, the government is now weakening existing data collecting system. Whenever the survey clarifies the issues to be tackled with, the government stops to collect data on the issues or change the criteria based upon which data are collected. For example, if there is an increased in children with truancy, bullying, poor eyesight, or back and hip muscle strength, the surveys addressing these issues is either modified or deleted.

The government currently promotes "The national plan for Maternal and Child Health in the beginning of the 21<sup>st</sup> Century (2000–2001)." In the plan, they focused three goals; "the decrease of rate of suicides among teenagers, "the decrease of the number of abortion among teenagers," and "the decrease of the prevalence of infectious diseases." However, the government did not set any numerical targets to be achieved by 2010 and its specific time frames. We concerned that the government is merely push off responsibility on to the citizens and local governments without providing any specific plans. The health problems are deeply related with society and have a variety of aspect to concerns. The problems are not solved by temporary solutions. That requires comprehensive research to find what lead the problems and the plans utilizing the research. To make a strategic plan, we further recommend that the government should collaborate with NGOs or citizens to take part in the process of evaluating present systems.

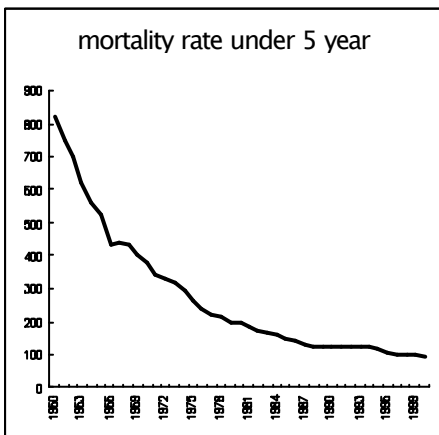
## Chapter 83 The actual situations of “Survival” of the child

### A. Problems in the Light of the Standard adopted by “World Fit for Children”

#### 1. The infant mortality rate and the mortality rate of children under 5 years

In Japan, the infant mortality rate was 3.2 per 1,000 in 2000. As the World Summit for Children in 1990 asked the governments to reduce the infant mortality rate to two third of that in 1990 until 2000, the government has to reduce the rate to 3.1 per 1,000. The government did not realize this aim, but, the infant mortality rate in Japan has been decreased year by year and achieved the highest standard in the world.

The mortality rate of children under the age of five was 89.9 per 100,000 in 2000. The rate has not

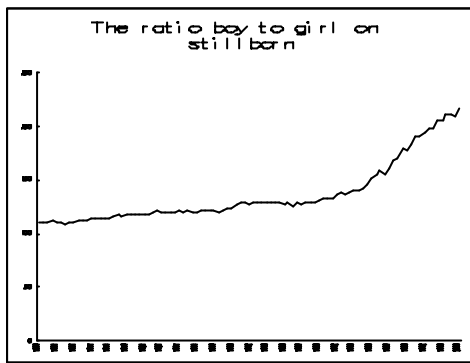


reached the goal of 82.3 per 100,000. (see the Chart on the left) The most frequent reason of death is unforeseen accidents. Within death by unforeseen accidents, traffic accident (33.8%) and drowning accident (22.5%) constitute the half of the reasons. We expect the government to establish comprehensive measures to decrease the death of child due to this kind of accidents. (Reference: Annual Report of Child Physical and Mental Health in 2002).

#### 2. The mortality rate of pregnant women

The mortality rate of pregnant women was 6.6 per 100,000 as of the year 2000. The rate has not reached the goal of 4.1. The mortality rate in Japan is in the highest standard in the world. .

### 3. The sex ratio of stillbirth



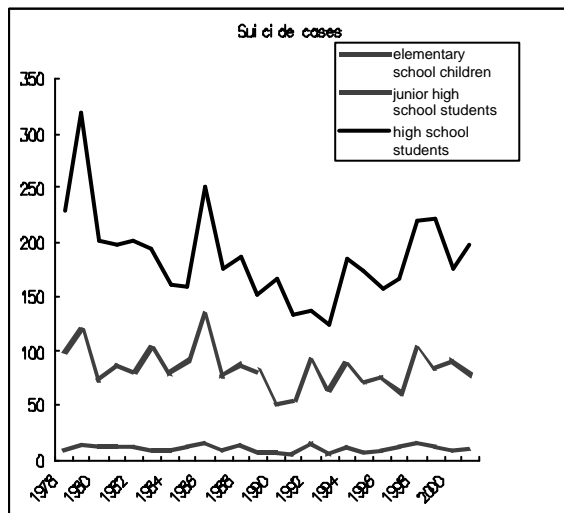
In Japan, “Population Survey” has been issued every year since 1899. The stillbirth in boy been rapidly increased since 1975 (see the Chart on the left) in comparison with the stillbirth in girl. While we have not identified the reason for the change, endocrine-disrupting chemicals can be some reasons. Japan, remote controlled color TV and instant noodles cased in plastic cup as been developed since 1975. (Reference: Annual Report of Child Physical and Mental Health in 2002).

Health in 2002).

## B. Child death caused in the Japanese society

### 1. Child death rate from the age of 5 to 19 and its causes.

For the child from the age of 5 to 19, the death rate has not reached the targeted goal of the summit.



However, we are pleased to report that the rate has been decreasing year by year. Among the children from the age of 10 to 14, unforeseen accident (22.3%), cancer (17.6%), and suicide (9.9%) were top three causes. Among the age 15 to 19 of children, unforeseen accident (43.9%), suicide (19.7%) and cancer (9.9%) were the top three causes. The ratio of unexpected accident and suicide has been increased as the age has increased.

### 2. Cases of Child Suicide

As mentioned above, suicide was high cause of child death between the ages of 10 to 19. In the elementary and junior high school students, there has not been difference in the number of suicide. The suicide rate among high school students has been gradually increased since 1993. (Reference: Annual Report of Child Physical and Mental Health in 2002)



As an example, a 16 years old high school student has joined hand with his friend for cheating in a second period examination. As a punishment, the boy was forced to stay home for a certain period. Under the stress, the boy cannot help but smoking. The schoolteacher found the boy smoking. In the end, the schoolteacher notified that he was not allowed to go to school permanently. After nine hours later of the notification, he committed suicide. His parents said that he was under the high pressure. The school said that they did not know his anxiety.

### 3. Child Abuse

In 2000, 17,725 cases were reported to the Child Consulting Center. But this figure is nothing but a tip of iceberg. There still exists the belief that punishment can be conducted as a form of upbringing. This leads pushing back early detection. Even in the places such as school, kindergarten, and nursery school, officials tend to hesitate to report the cases because they are afraid to be accused by their parents.

Last year, 11 abused children ends in died even the center got involved in solving the problems. It shows that Child Consulting Centers did not stop the child death. We think that there were at least three reasons. First is the quantity matter. There are only 175 centers nationwide and always lack of staffs. Second is the quality of staffs. Since they are always transformed among several public centers, they are not trained enough to provide appropriate measures. They should have high level specialty to deal with children's matter. Thirdly, support program in the center is inadequate.

For the children treated in the center, they have difficulty in adjusting themselves to the atmosphere where they are brought up in a group of peers. They easily get in a panic such as laceration to him or other. School refusal is also seen. There is no school to provide comprehensive support program for them. Program for parents has also not established. If children went back to their parent by the parents' request, parents might repeat same abuse. They always have to feel insecure worrying that they might go back the center.

[Reference] Basic Report 1 and 54.

#### Case 1)

An eleven years old boy came to a health care room to report that his parent stabbed his leg with the scissors. He had got burn injury and asked the school to report the incident to the Child Consulting Center. However, his request was rejected because the school was too afraid to be accused by his parent. Consequently, the boy could go to the child-consulting center via public health center. It took long to be protected.

#### Case 2)

A seven years girl got along with her father. Her mother had a mental disorder and left home.

One day her mother came to get her girl. However, she was obviously seen as mental disorder in school. A girl was frightened to see her mother and tearfully rejected to come along with her. She asked her teacher not to let her mother take her. However, the school was allowed her mother to take the girl because the mother is parent of the girl.

#### Case 3)

An eleven-year-old girl went the consulting center twice and requires protection. The Center rejected to accept the girl without conducting any survey on her family environment. They returned the girl to her parent by the reason that they came to take her. While her school objected the center, the center responded saying that temporary facility for children was full.

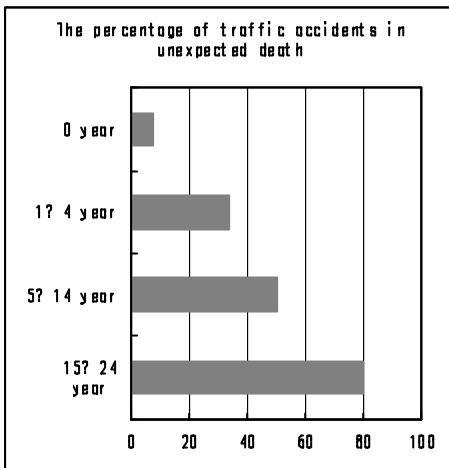
#### 4.Sunstroke/heat-stroke

There has been a noticeable increase of death caused by “sunstroke/heat-stroke” in high school or technical collage. The accident was mostly happened during physical exercise on a hot summer day. Since idea of patience is highly regarded in the field of sport, students tend not access enough water and hardly have rest time. In addition, the number of child who cannot control their body temperature has been increasing. Their body temperature can easily go up and over the limit.

The government requested all public schools to install air-conditioner. Due to the global warming, the class room temperature often exceeded the standard points (28c). The request has not been realized though, their approach to deal with new situation were highly regarded.

While the elementary and junior high school has set environmental standards, in the kindergarten or nursery school, there are no such an environmental standard. Since children got to nursery school in hot summer days, they are exposed to danger in hot and narrow playroom. Effective measures against sunstroke caused by the global warning and development disorder of body temperature have to be taken.

## 5. Traffic accident

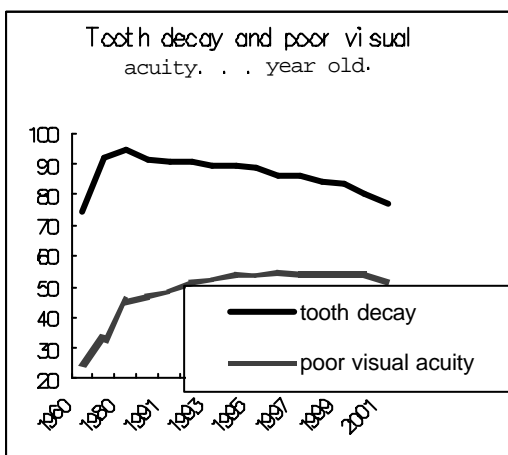
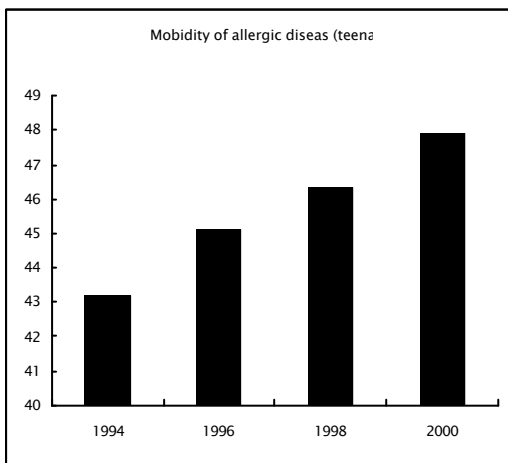


The most frequent reason of death in Japan was “unforeseen accident” at any age. Within the unforeseen accident, the percentage of traffic accident become higher, the older they grow (see the Chart on the left). For children at the age of 12 or below, they get involved in a traffic accident mainly while they are working. For children at the age of 15 or over, motorbike accident has been increased. The high priority given to the automobiles and low implementation of traffic accident education or measures has not been improved.

## Chapter 84 Actual situations and problems regarding “Protection” of child health

### A. Diseases of Children in Japan

1. General feature: The prevalence of infectious diseases in Japan has considerably decreased for the last 50 years.



The prevalence of infectious diseases has considerably decreased. The government implemented new regulation regarding infectious diseases in April 1999 because of the prevalence of new infectious diseases. We should watch how this regulation affects the rate of infectious diseases in the future. Although the government properly deals with the infectious diseases, health problems of children in Japan are those of “tooth decay,” “visual acuity disorder” and “allergic disease.” (see the Charts on the left) The government, however, has no plan to reduce them. The prevalence of tooth decay is declining, but still high. Though the rate of children with poor visual acuity is on the rise, the government has changed the standard of the research not to unveil this situation. The government has simplified the eye test of health examinations in 1995. And actual situation of children with visual problems has been veiled by the eye test in which children are examined with their contact lenses or glasses on. It has become obvious that the prevalence of visual acuity disorder is caused by environmental pollution. The reason why the

government shows no will to tackle with the issue of the poor visual acuity is that it should touch upon the issue of environmental pollution. Much the same is true on allergic disease. Around 40% of all the children are estimated to suffer allergic diseases. The government has not listed it as a subject of the regular medical examinations nor implemented any measure for it.

(Infectious Diseases)

The prevalence of infectious disease has considerably decreased for the last 50 years. However, the government implemented new regulation on infectious diseases in April 1999 because of the prevalence of new infectious diseases.

Tuberculosis; It has considerably decreased for the last 50 years. However, it is still spreading and the gaps in the prevalence among regions is widening.

Enterohemorrhagic Escherichia Coli; Hemorrhagic coliform bacillus O-157 was prevalent mostly among children in 1997. It is no more prevalent, but we should continue to warn.

Influenza; It widely spread early of 2003 which had not spread until then. Not being required to inoculate against it, there had been an increase in cases of temporary closing of schools and classes. And some children died of influenza encephalopathy.

Measles; Big prevalence was greatly decreased by the spread of measles vaccine. However, there has been a small prevalence from non-vaccinees and those who are maladapted. The prevalence of the patients is very high compared with other developed countries. This is because the immunization rate for vaccine is 81% in Japan which is 10% lower than in other developed countries. Twice vaccinations a year and immunization rate for vaccine are required to be promoted.

Epidemic Parotitis; The number of deaths of this disease, which is low, grew up the most in 2001 for the last 10 years and has started increasing in recent years.

Mycoplasma pneumonia; It increased in 2001 remarkably. It mostly occurred to school children and adolescents, and the number of deaths of it was very high. It mostly begins in school children and adolescents and the mortality rate is high. Epidemic Parotitis, which had used to be treated as just fixed-point diagnosis disorder, has been treated as definite diagnosis disorder. It has started to increase since year end 1999 and there has been a big prevalence for the last 10 years.

(General disease and disorder)

The largest prevalence of children's diseases is 'tooth decay.' The second largest is that of under 1.0 relative acuteness of vision. Although the 'tooth decay' maintains at the high level, it is decreasing year by year. On the other hand, 'under 1.0 relative acuteness of vision' is increasing. Moreover, the prevalence of pharynges inflammatory is remarkably increasing among children at the age of 11 and 14 years of ages. Increase of these two diseases is caused by environmental pollution. And the Ministry of Education has changed the measuring method in 1995 for not to compare the 'under 1.0 relative acuteness of vision' to the existing cases. This is for not to spotlight its rapid increase in recent years. The government tries to make these diseases out to be decreasing by changing the measuring method, instead of unraveling the causes and implementing the measures.

Tooth decay: The prevalence of tooth decay is decreasing. This is because people have gained the knowledge of cavity protection. However the prevalence is still very high among the developed

countries. The government has no plan for this problem and is required to decide on a strategic policy in the future.

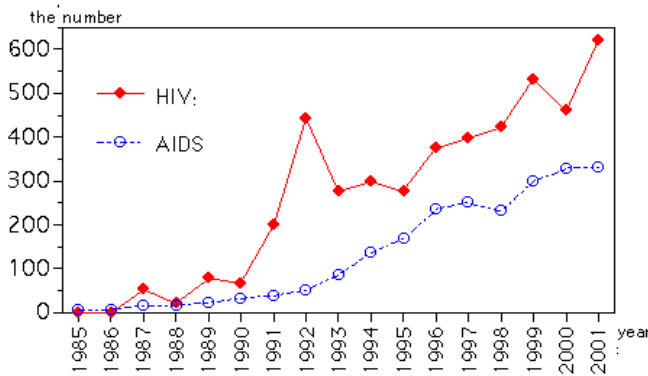
Poor visual acuity: The prevalence of poor acuity under 1.0 starts increasing at the time children enter elementary school, especially that of under 0.3 (very poor acuity) has increased. Considering the prevalence in Tokyo, it indicates that is caused by the landfills and pesticides sprayed on the field. (see Annual Report of Child Physical and Mental Health in 2002 p45) Therefore, it is thought that rapid increase of poor acuity under 1.0 has closely something to do with environmental pollution.

Pharynges inflammatory: Although pharynges inflammatory had not show high prevalence, it has increased among children at the age of 11 to 14 since 1995. This is believed it is caused by an increase of allergic diseases. Although 40% of children suffer from allergic diseases, the government has not yet implemented appropriate measures. Allergic disease has also something to do with environmental pollution.

## 2.HIV/AIDS and sexually transmitted diseases

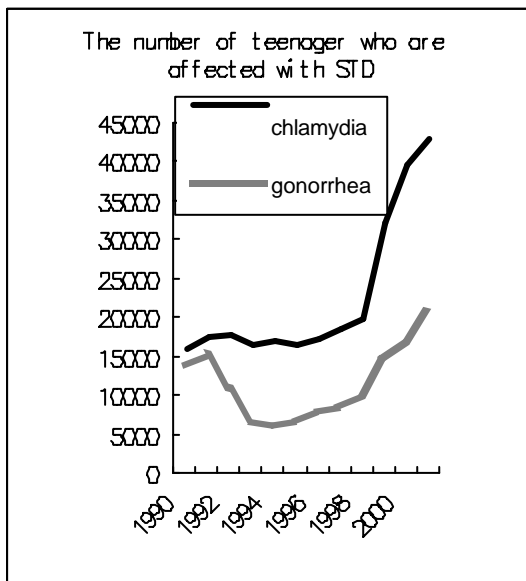
It is reported that the prevalence of HIV/AIDS dramatically has increased in the 1990s. It has been

The number of HIV positive persons and AIDS infected persons 1985 - 2001



reported that about 500 HIV patients and more than 300 AIDS patients have increased every year since 2000. (see the Chart on the left) Most source of infection is sexual intercourse. The rate of transmission by sexual intercourse between opposite-sexes and those between homosexualities are almost the same. The rate of transmission by injection and mother-to-child transmission is less than 1% of the total number. They were mostly infected within Japan and patients are increasing in Kinki and Tokai district in addition to Kanto

district. The increase in infection, which shows up in HIV positive rate from transfusion medium, was 1.37 per 100,000 blood donations which was about 10 times more than the rate in 1987. The positive rate, which is reported to increase to 0.26%, is about twice more than the rate of 10 years ago. The number of the HIV/AIDS carriers has been kept at low level, compared to that of the countries in which HIV/AIDS is prevalent. But it should not be necessarily congratulated. The development of antivirus agent helps the number of AIDS patients decrease in developed countries. On the other hand, in Japan, AIDS patients are increasing instead of availability of the antivirus agent. The positive rate of donated blood is also decreasing in Europe and the United States. But the equivalent rate is increasing and outnumbered by that of those countries year by year in Japan. The growth of AIDS patients indicates that the disease is detected after they come down with it



because of the poor inspection system. It is pointed out that it is not easy to be examined at health center and so on. Japan lags to implement measures to HIV/AIDS infection.

STD: Sexually transmitted diseases such as chlamydial infection and venereal disease gonorrhoea of teens have been rapidly increasing since 1995. (see the Chart on the left) Abortion by teens also has been increasing. It is assumed that teenagers have tended to rush into risky sexual behavior since the 1990s. There has been decrease in sales of condoms since the

late 1990. Condoms have not been in much demand instead of increase of sexual behavior among teenagers.

## **B. Some characteristic problems regarding “Protection” in Japan**

### **1. Decrease in pediatricians, abolishment of children’s hospitals and emergency medical care**

Pediatric care is required to provide not only the diagnosis and treatment of diseases but also the expanded activities such as evaluation regarding children’s development, immunization, and counseling. Parents are increasingly apt to expect on pediatric care along with increase of nuclear family. However, pediatric care is not expected to be enough compensated because the number of children is decreasing. Moreover, pediatricians are often required to work extremely hard on a full-time basis. Many hospitals scale down and close the pediatric ward. Medical students who apply for entrance into pediatric service are also decreasing. Emergency medical care for children, which includes primary, secondary, tertiary system of emergency medical care, hardly functions. Recent increase of two-income families expands the request to holiday and overnight medical care because parents tend to notice their children’s problems at late hours. However, pediatricians could be overworked by both seriously-injured and slightly-injured diagnosed infants at the specific medical institutions. The number of pediatricians who work for the hospital on a full-time basis is decreasing. As a result, some children are sent around from one hospital to another in an emergency and die. Systems for emergency medical care for children should be promptly improved, taken in peculiarities of pediatric care.

### **2. Juvenile psychiatry**

There have increased bullying, abuse, school refusals, domestic violence, and social withdrawal. The number of children who ask medical services for help is increasing. However, in Japan, the number of experts in mental health for children and adolescents is very small. In case of a clinic of National Center of Neurology and Psychiatry for adolescent children, the number of new patients, 300, had hardly been changed until 1996, but the number has continued to grow up since 1997. The numbers of new patients in 1999 - 2001 are as follows: 471 in 1999, 576 in 2000, and 675 in 2001. As a result, 100 patients have been added each year. Only 2 out of 15 doctors in this clinic work full-time. Not only the number of doctors but also that of hospitals is very small. There are only about ten hospitals with psychopathic ward for children in Japan and the number of beds falls short of 1000. Therefore, some children are forced to wait for more than one year to consult a doctor after registration at outpatient department.

### **3. Child dentistry**



Dental care is put off unless there is a pain because children barely come under threat of life unlike other medical treatments. Under today's faltering economy, this tendency to put off dental care becomes stronger. Recently parents require early completion of dental care. This is because they cannot devote sufficient time for children by increase of nuclear families, unaccompanied duty, divorces, and working hours. Moreover regional environment lacks in supporting parenting. For dental care, parents should encourage children to be treated patiently. However, many of them spank and shout at their crying children with abusive language impatiently. Children are frightened by their parents' words. It shows that parents behave violently and use abusive languages on a daily basis when they cannot control their children. Economic gap between wealthy families and non-wealthy families are widening. Economic conditions affect its family culture of cavity protection. It polarizes children into two extremes who do not have any tooth decay and indicate serious tooth decay. Children who are from low-income family are more likely to indicate serious tooth decay.

The medical cost charge-free system is now applied to only the children at the age under 4. The system should be expanded so as to cover the children at the age of 4 or above, because it will lead to early treatment. Children drink large quantity of cold beverage in everyday life because of popularization of cold beverage and recommendation by pediatricians as an emergency action when children are dehydrated. However, cold beverage contains a lot of sugar. It causes cavity of children who do not know the need of brushing and not drinking a lot like water.

Children whose jaw is not developed by insufficient feeding activity are increasing. Moreover, many children mouth-breathe because they cannot nose-breathe. It is said the use of "pacifier" make children nose-breathe. Some parents always have pacifier with them on their clothing with strap holder like fashionable thing and put it in the children's mouth when children start grizzling. However, parents don't know how "pacifier" affects children's teeth alignment when it is used for a long time.

[Reference] Basic Report 64.

#### 4. Problems of vaccination

Vaccination Law was revised in 1994. The revised law abolished the parents' duty to make their children receive vaccination, and instead it imposes on each parent the "duty to make an effort to make their children receive vaccination." Immunization rate has been desperately decreased due to this revision. Measles, rubella, and mumps develop and aggravate. According to Japan Children's Doctors Association, 92.4% of critically ill patients who were hospitalized with measles were not inoculated. Though the "Declaration of tuberculosis emergency" was issued by the government in

1999, there has been a large-scale outbreak in schools every year and its prevalence rate is still high compared to that of other countries. Future measures for that should be discussed.

### 5. Maternal and child health, and child-support

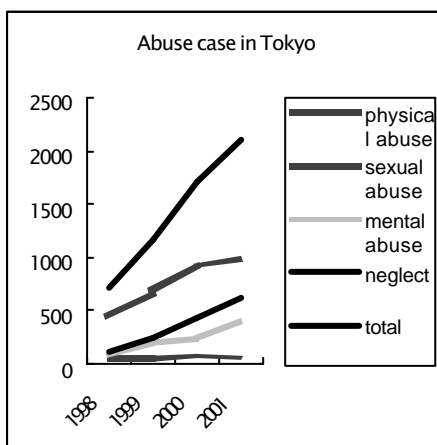
The medical examination of newborn children is important not only for early detection of children's disorder and disease but also for support for parents' anxiety over parenting and provision of information on parenting. However, more and more parents do not take their second and third children to public health examination because they are forced to wait for a long time by high number of children and poor staffing of doctors, public health nurses, and counselors at the same time. Most of the local governments delegate the examination of newborn babies to medical institutions. Some of the medical institutions have only a simple anthropometric and diagnosis by a doctor. They cannot stop spreading parents' anxieties over parenting and overlook children's minor developmental disorder.

### 6. Counseling service

The government placed school counselors to react to the problems of bullying and school refusal. Only 22.5% of junior high schools have a school counselor. And the counselors come to school only once a week because they work for two other schools and a hospital at the same time. Because the counseling time is not designated, students have to sneak out of the class to go to the counselor for advice. But, students hesitate to go to see counselors during classes.

[Reference] Basic Report 1, 7, and 116.

### 7. Neglect



Among cases of abuse of children by parents, 50% of them physical abuse, and 41% is neglect. (see the Chart on the left) The cases handled by children's consultation offices are only a drop in the bucket. There are preschoolers who are not cared, suffering from diaper rash even after the weekend. Moreover, a child was locked into car and died from dehydration while the parents were playing pachinko. And in other case, little sisters suffered burns while their parents were singing karaoke. These incidents were caused by self-centeredness of parents.

The case of 10 year-old boy, single-mother family: His mother sells insurance door-to-door in the daytime and works part-time for a snack bar at night. She barely stays home during his son is at home. He is always hungry because there is often nothing in the refrigerator. He has managed to

keep hunger away with school lunch, but he has been experiencing severe weight loss since periods of growth began (his weight was around 80% of the ideal body weight). The school repeatedly tried to contact his mother, but couldn't reach her. The school informed children's consultation office because he wandered about at night and shoplifted. A child welfare caseworker once visited school. But he did not try to care about him and did not even visit his house.

The case of 15 year-old girl, S: Her parents were at odds with each other and got divorced in her childhood. Subsequently, her mother got married for the second time. Her father-in-law conducted violence (abused) her and was once busted. Her mother capriciously stayed out over night and changed the residence. The welfare payment was not enough for paying gas and water bill. Children shut themselves off from society and ate sweet buns, snacks and juice. She didn't tell anybody how miserable and angry she was and couldn't go to school. With her mother's disease (she was hospitalized with pneumonia for one month), S was placed in the custody of her grandmother and aunt, 8th grade younger brother entered a training school, her 9 year-old brother and 5 year-old sister entered an orphanage taken care by children's consultation office. Her two younger brothers and sister returned to their previous life with their mother after she was released from the hospital. Her 9 year-old brother's development is equivalent to the standard of 5 or 6 year-old and her 5 year-old sister's development is equivalent to the standard of only 2-3 year-old. S earned money by working part-time for tuition and lunch fee and also pays 10,000 or 20,000 yen for her mother's debts every month. She says her 8th grade brother is the happiest because he always has something to eat and a place to sleep at the training school. She is almost bursting with the gravity of life.

[Reference] Basic Report 90

## 8. Eating habit and nutrition of children

Eating habit is an important basis not only for intake of nutrition and daily rhythm for body and life, but also for communication with family. Japanese children suffer from both undernourishment and overeating.

For instance, when both parents always work overtime and don't have enough time to take care of their family, they cannot prepare for dinner for children and they cannot spend the time together. As a result, children buy cold box from convenience store or fast food and eat alone when they are hungry. The number of children who don't have enough money for three meals and eat one meal a day alone is increasing. Many of them lose their interest in eating, saying that they don't want to eat or they don't care about eating. On the other hand, some children suffer from health problems such as eating disorder including overeating and diet, diabetes, ventilation, anemia and constipation. Recently, the time allocated for education on eating was reduced. As the more commercials or

advertisements on diet are aired or published, children become more affected by them. Easy, handy, convenient instant retort foods generated by busy grown-up society have been penetrated into babies' eating habits. Intake of high-food additives instant foods is said to affect allergy. Many children are suffering from atopic dermatitis and sinus infection and asthma. People are no more interested in foods.

[Reference]Basic Report 7 and 106.

## 9. Care teachers in schools

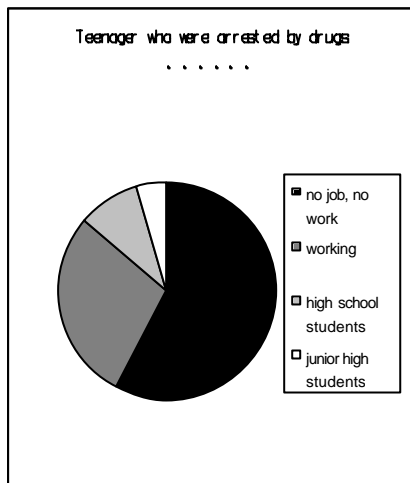
Many children visit the infirmaries for help. Some of them have serious problems. Their parents, homeroom teacher and the related institution need to contact each other and take measures for the children. They also need to face the children and counsel individually. 30 or 50 students a day of medium-scale schools visit infirmary. According to the report published by the study group organized by care teachers in school, more than 100 students visit the infirmaries a day in the school with more than 500 students. Care teachers cannot talk with each student politely. Compared with the number of students who need help by care teachers, then number of care teachers is so low that they cannot fully work for children. Furthermore, the law does not make it obligatory of the municipalities to place alternatives when care teachers take sick leave. During their sick leave, the infirmaries are to be closed.

The working conditions of care teachers are severe. Care teachers often don't have the time to even eat lunch. As the problems surrounding children are getting worse, teachers and parents need the help by care teachers. Care teachers are sometimes required to work overtime until 7:00 p.m. or 8:00 p.m. And some of them are exhausted by difficulty of having human relationship with other teachers as the government's control of schools is strengthened. They tend to quit their jobs because they cannot achieve a balance between work and parenting.

As the number of school refusals surpassed 140,000, the number of children who go to infirmaries not to their class is increasing. Care teachers are required to have higher knowledge and skill for changing children's health problems. However, they are not provided sufficient opportunities to receive in-service training, because one teacher is placed for one school and he/she is always needed to stay at school for children. Majority of students who goes to infirmaries instead of going to classes are girls. (Majority of students who refuse to go to schools is boys) It seems easy for girls to consult with female care teachers for problems unique to adolescents. It is required for the government to place both male and female care teachers.

## 10. Drug dependence

The number of cases of drug abuse by persons under the age of 20 is not on increase. The Ministry of



Health, Labor and Welfare reports that the rate of elementary, junior and senior high school students who know venenosity of drug abuse is 73.1%- 94%. The rate of junior and senior high schools in which police personnel provides education on prevention of drug abuse is 33.8% (junior high schools), 32.7% (senior high schools). (see the Chart on the left) 60% of drug-addicted adolescents are unemployed. It shows that children who have nowhere to go are targeted by drug market of organized crime. To solve this problem, we need to provide places where they can be accepted. It is also a problem that there is no rehabilitation facility available for

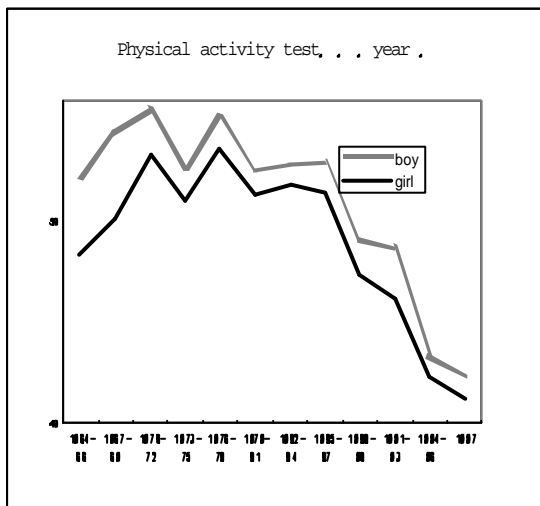
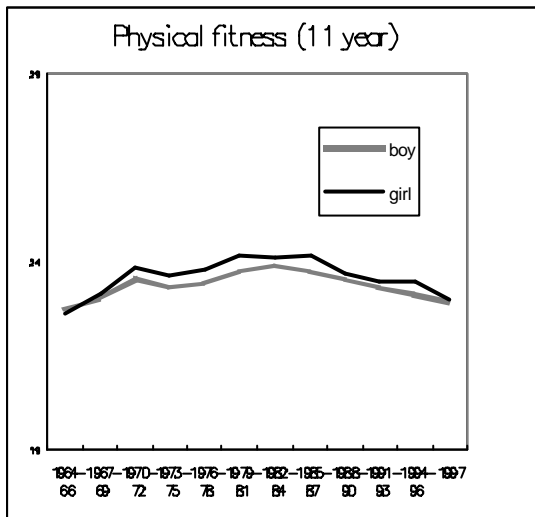
adolescent drug addicts.

Recently, many of children who refuse to go to school are victimized by psychotropic drug. Parents have their children see psychiatrists and, frequently, psychiatrists provide psychosomatic medicine to them. The number of children who take the psychotropic drug is increasing. Haribarrydoll and 'chlorpromazine hydrochloride' are frequently prescribed. Some children suffer from unexpected effects such as listlessness, twist tongue and suicide. It is reported that 127 children committed suicide due to the side effect of those drags in the last 4 years.

"Ritalin" is often administered to "attention deficit hyperactivity disorder (ADHD)." "Ritalin" is psychotropic drug, also known as "stimulant drugs which hospital prescribes." There are some professionals who say Ritalin will induce the desire to die. Medical institutions should not easily prescribe psychotropic drug to children. And the government is required to offer appropriate guidance to the medical institutions. (Annual Report of Child Physical and Mental Health in 2002)

## Chapter 85 Actual situations of “Development” of children

### A. Physical fitness and exercise ability of children



The government has issued a report on annual physical fitness test for all ages titled “Annual Report of Physical Fitness and Exercise Capacity in Japan.” No any other country has conducted such a research. The data is useful in evaluating physical fitness in nation. However, the government does not fully utilize the report in the process of policy making. The Ministry of Education, in its revised Course of Study in 1968, gave its focus on “improvement of physical fitness of students.” But, in 1977, it abandoned this policy, and instead, adopted the policy to “enhance enjoyable physical education.” The data collected in Annual Report of Physical Fitness and Exercise Ability show that this change of the Ministry’s policies did not dramatically affected the children’s physical fitness either in a positive nor negative way except for muscle strength of trunk and muscle flexibility. (Both of them are lowering.)

The reports, however, clearly show that children’s exercise ability is lowering. Children cannot use their physical fitness effectively when they exercise. (see the Charts above) If the government analyzed the data

correctly, it should have adopted the policy of which focus is on how to improve not physical fitness but exercise ability of children. But, in 2002, the Central Council for Education asserted that the improvement of physical fitness should be the focal point of the physic education in 21<sup>st</sup> century. It states that, because children’s “physical fitness is lowering,” education should be aimed at “strengthening physical fitness.”

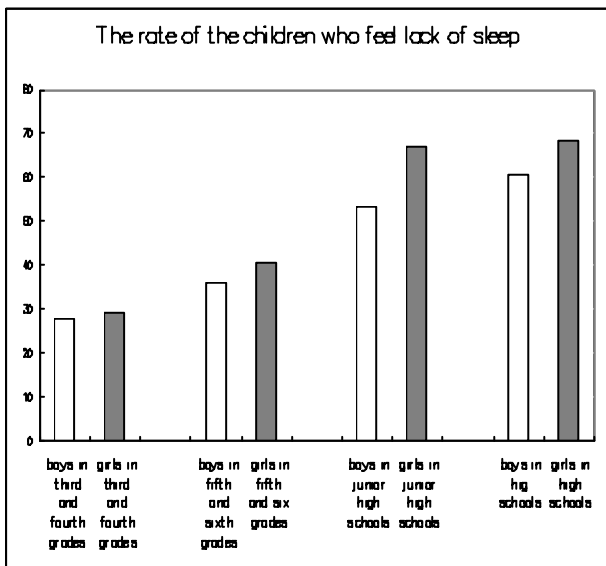
The government is concerned about the fact that more and more children give a yawn in the morning

and look sleepy during classes. The government understands that this situation shows the “weakening of physical fitness.” But, this shows not “weakening of physical fitness” as the government recognizes, but the weakening of fitness for protection. Actually, it has been reported by researchers that “brain activities” and automatic nerve systems such as ‘hypothermia’ and “postural reflex of blood pressure” are underdeveloped. The government should devise the policy of which focus is given not on the improvement of fitness for performance but on fitness for protection.

Though the government asserts the importance of enhancing children’s physical fitness, it reduced the class hours for gymnastics from 3 hours a week to 2.6 hours. Three hours of physical education per week prevented the children’s physical fitness from lowering in spite of the fact that children had fewer opportunities to exercise. The reduction of class hours for physical education will result in lower physical fitness.

Since the government did not realize the importance of the data collected in “Annual Report of Physical Fitness and Exercise Ability in Japan,” in 1998 the government changed or abolished some indicators which had been used. This prevents the government and researchers from continuously observing changes in the long term and identifying causes of changes.

**B. Tiredness and lack of sleep of children**



Children who feel sleepy due to lack of sleep, give a yawn in the morning and always say “I am tired” are increasing. Moreover, children tend to show little interest in play or eating. (see the Chart on the left) Since the Five day week system was introduced in 2002, some children just hang around on Saturday and Sunday, on the other hand, some other children are tired from going to preparatory school and participating in club activity which is managed by parents on Saturday and Sunday. Since case, children are tired from hard activities or from irregular life on Saturday and Sunday, much more students visit

infirmaries on Monday.

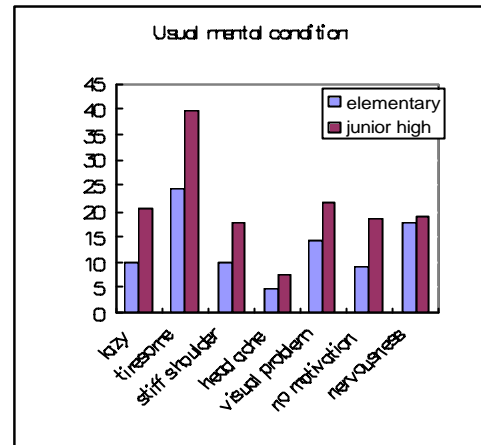
58.3% of boys and 61.8% of girls answered that the reason of lack of sleep is that they “keep late hours in some reasons.” Some of the elementary students answer they “go to bed later at night because the family goes to bed late” (41.6% of boys, 42.6% of girls). The rate of children who “go

to bed late at night because of homework and study” and children who “watch TV or video” or “use PC or play games” are both high. It shows that there are two types of children who spend the times studying and children who spend the time using media. Both of them are feeling lack of sleep.

[Reference] Basic Report 7

### C. Strangeness in the body

Children themselves don't have confidence about their health. As their grade in school advanced from higher-grade of elementary school to higher-grade of junior high school, children feel that they are “in a poor state of health.” Though they are not sleepy, children say “they want to lie down and take a rest.” And they tend to say “they are tired” or “they feel woozy.” (see the Chart on the right) Children in Japan are not sick, but they are not necessarily healthy.



(New type of delay in language)

Many children, who have had a 1 and 6 months year-old health examination, are found to be in borderline between normal and abnormal in language development. Some of them grow up into normal child by teaching their mothers how to develop their language ability. But many of them still don't increase their language even if they are correctly trained. With no relationship with other friends in a group, those children don't learn to be socialized. Some of the children between 1 and a half and 2 year-old are often isolated even from their parents, not being able to communicate with them. Considering 20 examples of those children, most of them lead an isolated life and receive one-way stimulus from TV and videos. They have been leading a life in which TV has been always on since they were born. Parents have had TV and videos take care of their children. Some trainings help children increase their language and recover their understanding and human relationship. However, it is more difficult to recover when training begins over the age of three. Children with simple language delay, who can understand what their parents say, but cannot issue an utterance, have difficulty playing with other children in daycare center or kindergarten. They behave hyper-actively, suddenly get in a temper, though they can issue an utterance in a good condition. One-way media is believed to cause this symptom, in addition to twisted relationship between parents and children.

[Reference] Basic Report 78.

(Developmental disorder in body and mind)



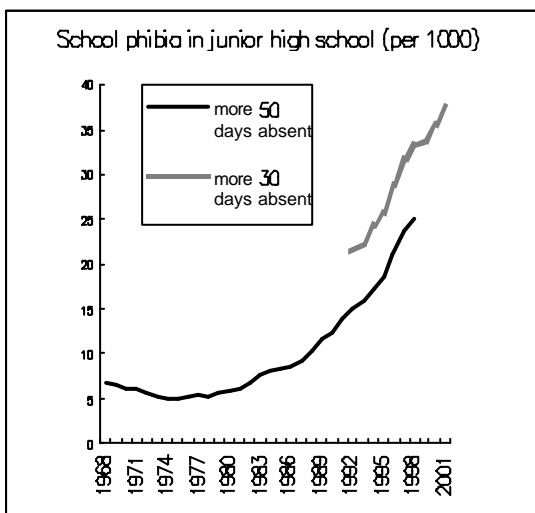
(Case: 15 year-old boy T) He once lit off the wick of toilet paper and started a small fire at school. He has an older brother. His brother had continued to refuse to go to school for a few years, conduct violence at home and protest against parents who expected him to go to medical school. And he made parents give up the hope after all. T was spending his life watching TV and playing games during his brother drew the parents' attention. However, their attention was shift to T. T was forced to go to prep school after school. T was taunted by the feeling that he didn't want to worry his parents and the pressure he was forced to change. He likes to draw and tool by himself. He lit off toilet paper by tooled lighter to show it to his friends. His friends ran away with fear. But T says he didn't think anything else because he was very excited

(From questionnaire survey on environment surrounding the life of babies)

Basically, communication between parents and children is underdeveloped. Parents are immature who "always prioritize their convenience," "impatiently throw their emotion when they cannot control their children." As a result, "children are slow in developing their language with a few conversations with their parents," "children stay good at home, but relieve the stress at school," "both parents and children are unstable and aggressive due to a poor communication between them," "children who cannot depend on their parents try to dominate a childcare teacher."

[Reference] Basic Report 7

#### D. School refusal



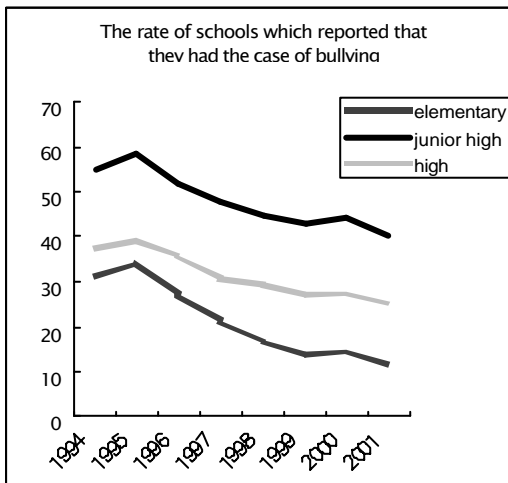
The number of long-term school refusal has been increasing since 1980s. (see the Chart on the right) Students who go to school, but stay only in infirmaries are not considered as long-term school refusal. The potential number is expected to be much higher. In 2001, Study Group on Modern Education conducted research on school refusal, in which they sent questionnaires to 25,992 20 year-old persons who refused go to school fore than 30days when they were 13 years old in 1993. 45% of them answered that the cause of school refusal was "problems in relationship

with their friends," 28% answered "underachievement," and 21% answered "problems in relationship with teachers." It shows that problems for human relationship with friends or teachers and underachievement are the key factors to form problems of school refusal. This study group also sent questionnaires to teachers who took charge of the classes which students refusing to go to school belong to. Only 19% of them answered that the cause was "problems in relationship with

their friends.” This rate is half of the students. And only 2% thinks “problems in relationship with teachers” cause school refusal. Schoolteachers don’t recognize that school refusal is caused by schools. 40% of the students answered they “regret” refusing to go to school. And they have problems as follows: 63% of them have “disorders in daily rhythm,” 58% have “lacks of scholastic ability and knowledge,” 53% have “a concern about human relationship” and 48% “decreases physical strength.” 60% of them ask for support after graduating junior high school. Needs to “professional assistance,” “psychological counseling” and “place to see others” are growing. Some of them enter evening high school. Today, 41% of evening high school students used to refuse to go to school. (Vol. 3 No.32 p23-) From this point of view evening high school is important, but tends to be reduced. 45 schools will be abolished in Tokyo until 2011. The number of the board of education and schools have emphasized on mainly psychological support as a measure to reduce absentees. However, it is reported care teachers help children adopted to school life and resolve mental problems by some training to improve health and daily rhythm. The government should not only emphasize on psychological support but also reflect health support to the measure.

[Reference] Basic Report 32, 111

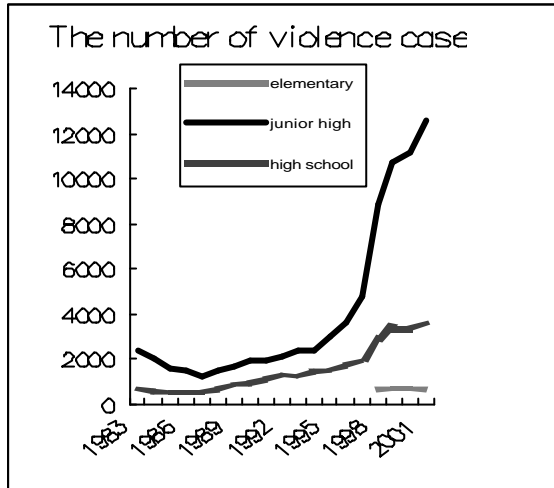
### E. Bullying



The number and incidence rate of bullying are decreasing after peaking in 1995. (see the Chart below and the Chart in the next page) The government attributes this to school counselors. However, “bullying” is not necessarily decreasing, seen from the rapid increase of the number “violence among students” by junior high school students. Although the government has decided to implement the measure of “suspension from school” to the perpetrators of bullying, this doesn’t lead to the fundamental resolution. Care and self-support are required for both the perpetrators and the victims.

## F. Difficulties parents face in bringing up children

### 1. Situation of parents



As working hours have become longer and parents tend to work until late-evening and early-morning. This working condition makes it difficult for parents to “communicate with children,” “do what is important for child development.” Child-care leave has been expanded to three years. However, considering household budgets and working conditions, it is still difficult for parents to use the system. It is crucially important to reduce working hours. One parent said “I know that it is important for

children to regulate their daily life, keeping early hours, but children are forced to do something at night because we parents come home so late. We cannot afford to communicate with children due to hands full with dinner, bath and bedtime after we come home. We cannot help making them rush to daycare center in the morning because we don’t have enough time.”

[Reference] Basic Report 82, 93.

### 2. Mounting medical cost

85% of parents with infants thinks medical cost extended to household budgets is “a burden on” or “somewhat a burden on” them. 94% discusses the needs to establish “System for Medical fee for Infants” as a national system. Parents frequently take their children to hospital till they turn to 3 years old because no medical expense costs them. But they do with medicine over-the-counter due to mounting medical cost as the children grow up. Increase of allergic diseases weighs down household budgets. 30% of parents have children suffering from allergy. 1 out of 3 children chronically go to hospital for allergy. It costs 50,000 yen a month for allergy. But children have sneezing and nasal discharge and get the hives without drugs against dust. Allergy requires a continuous and long-term treatment. But drugs for allergy cost higher. The rate of medical cost extended to household budgets is high.

[Reference] Basic Report 93

### 3. Economic Difficulty

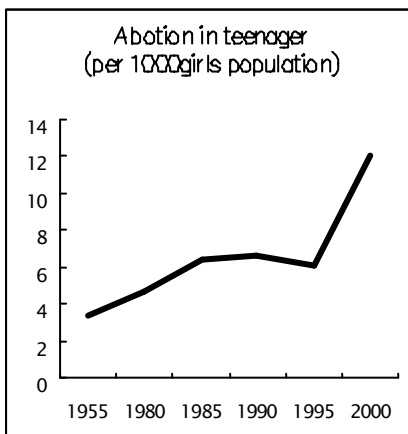
Recently, many children cannot enjoy sufficient standards of living after they are separated from parents by the divorce, or their parents lost their job. The data from evening high schools show the

situation of children of poor families. 17.5% of students (7 out of 40) are from families receiving livelihood protection and they are not covered by health insurance. 25% of students (10 out of 40) “fall behind in tuition and lunch fee for more than 3 months.” The following is the case of a 16-year-old girl. Her mother has earned the family livelihood with her part-time job since her father lost his job due to corporate restructuring 2 years ago. They cannot receive unemployment insurance for this case. Her teacher once talked to her because she was stale. She said she had not eaten anything yet on that day. She often didn’t have enough meal. She started part-time job, but quite because of the hardness. She cannot eat school lunch because she falls behind in lunch fee for more than 1 year.

## Chapter 86 The current problems in “SEX” among Juveniles

### A. The Current situation of Teenager’s Sex

Although the research results related to teenager’s sexual experiences seems to vary according to the research regions or targets, I here introduce the questionnaire answers from 639 high school students in Nagano prefecture (subjects: male 483, female 156).



27.9% of male students and 40.0% of female students answered that they have already had sexual intercourse. To the question of “When you had first sexual intercourse, did you really want it?” the half of male students and 30 % of female students answer as follows: “I wanted” or “I did not want it, but, I just have it as it came.” However, 23 % of female students answered that “they did not tell their boyfriends about their hesitation or unwillingness.” As to the usage of condoms, only 35% of the male students and 40% of the female students answered “we have used them every time we have sexual intercourse for the last

six months.” On the other hand, 23 % of the male students and 15 % of female students mentioned that they never used condoms before. The top-listed reasons why they did not use them are as follows: “Forgot to buy them” (28% of both male and female students), “It’s such a hassle to buy them” (20% of only male students) and “Expensive” (14% of both male and female students). The rate of students who answered “Hate to use them” or “Never feel any pleasure” is also high. No student answered “We do not worry about the pregnancy.” In terms of “the request for condoms,” 50% of male and female students answered “hard to tear them apart” and “much more reasonable,” and 40% of them hope that “condoms are more available easily.” Taking into the data account, the adolescents seem to hesitate to get condoms. 90% above of both male and female students answered that they had been taught sexual education before, but their trusted advisor is definitely their “friend” in case they have daily annoyance or sexual trouble.

[Reference] Basic Report 45

## **B. Sexual Harassment**

The great number of victims molested sexually in the train is 13-19 year-old female teenagers. According to the Tokyo Metropolitan Police Department, the number of the cases has been increasing every year. Moreover, with regards to sexual harassment cases in school, the number of teachers, who were forfeited their qualification on the charge of sexual molester to female students, was 115 in 1999 and 141 in 2000. In fact, the students or their parents asked the school to look into the sexual harassment case and take legal steps for accusing of the teachers, but most of their request was not acceptable. Therefore, the great number of potential sexual molesters seemed to teach without any embarrassment in school

## **C. The Case of Teenager's Pregnancy**

Accompanying with lowering trend in the age of sexual intercourse, pregnancy, abortion, and childbirth among adolescents turns out a serious problem. First of all, the number of teenager's abortion has been increasing since 1990s. As you can see the result of the questionnaires in A, most teenagers initially ask their friends what they should do when they are pregnant. 29% of male adolescents come and talk with doctors or medical professionals, and 32% of female adolescents try to get any advice from their parents. In addition, 9% of male and 21 % of female teenagers initially speak with health care teacher. The reason why the difference of the number between both genders is that many health care teachers are female and female students seems to be easy to talk with them. Only 7% of male and 3% of female students speak with their class room teachers.

A case of 17 year-old is as follows: She worried if she was pregnant and talked with their friend. The friend introduced a maternity clinic, which was known as reasonable operation for abortion among teenage girls. Indeed, when she came to the clinic, the doctor tried to take abortion without any appropriate examination for her pregnancy. Then, she was terribly afraid and talked with a health care teacher in her school if she was pregnant.

In most cases of teenager's pregnancy, they hesitate to talk with their parents. The teenagers have complicated feelings such as unease or embarrassment when they go to a maternity clinic. However, as my opinion, the doctors care only whether or not the teenager chooses abortion. They did not care about what they are afraid and give them any proper educational advice.

It is urgently needed to establish the supporting system which will enable pregnant high school students to assure their stable delivery and school life. According to the interview with 45 health care teachers of high school in Tokyo, in 2001, there were 114 cases that they gave some advice to the pregnant female students, 20 cases that they gave the male students advice regarding their

girlfriend's pregnancy. 23 cases among them are childbirth. How can the female students who had a baby continue to study at school? There were 6 cases that they graduated from the school after their delivery, 2 cases that they took leave of absence, had a baby, and graduated, or 13 cases that they withdrew from school and had a baby. Generally, the pregnant female students withdrew from their school.

A case of 17 year-old (Ms. C) is as follows: She knew she was pregnant when she was sophomore high school student in February, and she strongly desired to deliver a baby. She, her boyfriend, her classroom teacher, her school principal, and her parents had discussion on her pregnancy. After all, she took leave of absence from September to December, had a baby in October. Then, she went back to school and graduated.

When the pregnant female students have strong will to carry out their stable delivery and continue school life, support by their parents, boyfriend, and teachers are necessary. Especially high schools have to take into much consideration care system for the pregnant student's material body, security, and study support during material leaves. However, the current situation surrounding the teenager's pregnancy has not yet caught up with the ideal situation.

#### **D. The Influence of Media**

According to the questionnaire survey targeting with 1426 high school freshman and sophomore students (male: 784, female: 642) in Tokyo metropolitan area, only 10% or less of them have accessed interactive media such as telephone service Dial Q2 or telephone dating club, 80% or more of them have never experienced, the rest of them have accessed once or twice. However, in terms of magazines or video, 71% of male students have (frequently/once in a while/regularly) watched pornography and 70% of them have read pornographic magazines. The number is far beyond than female students. For female students, 30% of them have read articles about sex in women's magazines. Japan has no obvious regulations to control sexual information for children, so the information is based on male-dominated sex and the most contents are described by male-biased concept. The trend is definitely controversial in Japan.

#### **E. Reproductive health education**

Reproductive health education has not yet prevailed in Japan in comparison to other developed countries; in addition, the public has do not understand the necessity and importance of reproductive health education. Therefore, appropriate reproductive health education has not been provided with students in school. Mother and Child Hygienic Study Group, an incorporated foundation of

Ministry of Health and Welfare, issued “Love & Body BOOK for adolescents” as a textbook of sexual education for junior high school students in 2002 (refer to the sheet below). However, with regards to the contents of the textbook, House of Representatives strongly criticized as follows: “the content recommends the positive use of condoms or pills to the junior high school students,” “the textbook regards sex as thoughtless act,” “sex is exaggeratedly regarded as sexual solicitation, and the author forgets to express that sex is the most fundamental behavior to produce a new birth,” and “appropriate sexual education for junior high school students is very critical problem, but basically it should be a moral education.” As a result, the textbook is almost to be discontinued or labeled as product recall.

As already mentioned, most high school students answered that they got sexual education in school, but many students, especially male students, frequently get the great amount of information about sex through media such as magazines, TV, video, or internet. Therefore, teenagers hardly

Contents of “Love & Body BOOK for adolescents”

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convinced correct sex information based on scientific approach; in addition, they are apt to accept biased sex information created by media, leading to victim of sexual molester or unexpected pregnancy. The situation is called “Neglect of Sexual Education.”

According to the result of questionnaire research mentioned in A, asking about “what you really want to know about sex,” 36% of male students and 30% of female students answered “how to respond when the partner asks you to make love.” Taking the data into consideration, it is necessary for children to acquire enough sex information to make their own right decision and develop the strength of discretion and expression in reproductive health education (Vol.2 No.18 p136-, Sexual Rights for Children).

[Reference] Basic Report 18



## **F. Countermeasure for AIDS in Japan**

Although the number of Japanese HIV/AIDS patients has still been increasing, the concern about HIV/AIDS among Japanese has been low in comparison to other developed countries. Accompanying with the increasing number of male venereal disease gonorrhea patients has drastically expanded since 1996, sales of condoms has been decreased. That shows that teenagers have sexual activities with high risk. The number of HIV/AIDS patients would seem to continue to increase in the future, assuming the trend of teenager's sexual activity. Combining reproductive health education with HIV/AIDS education is necessary to prevent the expansion of HIV/AIDS disease among teenagers. Condoms are regarded as an effective product to prevent HIV/AIDS, but teaching the use of condoms at school has still been controversial in Japan. Furthermore, the price of condoms is still expensive for teenagers, so most of them hesitate to purchase them. Japan needs to take steps, regarding the secure of availability for condoms such as free distribution or purchase at vending machine, as quickly as possible.

***Part 3 Nursery Schools in the Face of Deregulation and Privatization***

## **Chapter 87 Overview on the issues surrounding day-care service**

### **A. The Second Report of Japan walk only on the surface and never reach to the realities**

In Paragraph 34 and 35, the Second Report of Japan gives information on “New Angel Plan” which the government revised and started and on how the plan has been carried out. It states, “budgets are appropriated selectively on items related to the child and family” and “the government has been working on the improvement of day-care services and other services to assist child-rearing in a manner to improve both quality and quantity of such services all over the country. Specifically, the Plan aims to expand the capacity for low age children at Nursery school s, promote introduction of an extended nursery care and holiday nursery care, and promote After-school Children’s Club to support working parents.” (para. 34 and 35)

In Paragraph 244, the Report gives information on the situation of day-care services and after school day care services, which are the measures taken to fulfill its obligation “to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.” (Paragraph 3, Article 18 of the Convention) The Report states that there were 11,378 after-school nursery schools nation wide as of May 2000 and the government bears one third of cost. It also states “The number of nursery school s was 22,200, and 1,788,302 children used them nation wide as of April 2000,” and the government bears half of the cost.

Reading these paragraphs in the Report, one may think there is no problem in day-care service and the government steadily expanded the services. But, the real situation is completely different. The number of the children who need day-care service and after-school day-care service facilities are increasing, as the more parents who are rearing children work during day. The serious situation which endangers even the lives of children is going on, because the government is reluctant to improve the facilities and care services.

### **B. expanding need for day-care service is going to be met by deregulation and privatization.**

Although the total number of children is decreasing, the number of child who wants to be admitted into nursery school is increasing, because more and more couples are working now. More than half of those increasing children consist of younger babies from zero to two years old --, and they need longer hours of care, which results from long-hour working system in Japan. To respond to this situation, the government needs to expand the services and establish more nursery schools for

children.

This need to expand day-care service is not necessarily new one, and people have been very much aware of this need since the 1970s. The government has neglected its efforts to build new facilities, and to make matters worse, in the 1980's the government cut the rate of state subsidy from eight tenth to five tenth, putting more financial burden to municipalities and parents, and thus causing a lot of delay in improving the situation of nursery schools.

As more and more people have demanded the effective measures to tackle with the issue of low birth rate, various policies including "New Angel Plan" have been put into practice. But the progress has been made very slowly, compared with the rapidity of the increase in the number of children who want to be admitted into nursery schools, and serious cases where lives of children were endangered have been witnessed everywhere.

What is more serious is that, in order to accept larger number of children in nursery school, the government recently has adopted the deregulation policy which lower the standards on facilities and staff, and has pushed down the quality of child care. Furthermore, the changes of the present projects and systems are being considered in order to enhance the activities of profit-seeking business in this field. We now face the extremely critical situation where those "reforms" that do not attach importance to the rights of children but to the business activities are carried out.

## **Chapter 88 Low standards on facilities and staff**

The present day-care system imposes the following obligations on both state and municipality: Each municipality must take on an obligation of giving child care services. Each municipality must follow the standard, which is called the minimum standard for child welfare facilities, on which children receive their child care. Both state and municipality must fulfill its financial obligation. This system can be said to be a very effective one if these obligations are fully fulfilled by the government and municipalities. But, mainly due to insufficient financial expenditure, day-care services are facing a lot of difficulties.

The biggest problem lies in the poverty of human and material resources. The present standard for nursery school stipulates that one nursery nurse is needed for six children under one year of age, who need the care by adults in taking meals, excretion and walking on their own. As to children over 4, one nursery nurse is needed for 30 children. (See the Basic Report 52) As for the facility standard for the babies under 2, a baby care room (1.65 . per baby) or a creeping room (3.3 . per baby) must be prepared. The space of 1.65 . is closely as large as one crib with one person standing beside it. The space of 3.3 . does not leave any space if we secure a locker. Is it really possible for a baby to be able to practice creeping? The space of facilities for babies over 3 is only 1.98 . per baby. The standard stipulates nothing about dining rooms or sleeping rooms in the afternoon. We cannot possibly think these are sufficient facilities.

The public expense for running nursery school has been held down to the lower level. This is one of the factors which delay the fulfillment of such functions as the extension of child care hours. This also prevents handicapped children from being admitted into nursery schools. (As to the care of the handicapped children, state subsidy system for the care of handicapped children has not been improved for a long time and that has hampered their rights. The state subsidy has been cut down in this fiscal year, so we are very much worried about the further delay in the care of handicapped children.) One more problem is that the expensive fee for day care constitute tend to prevent parents from sending their children to nursery school.

In addition, existing nursery schools tend to accept more children in recent years without improving their facilities, even if they become too crowded. We will mention this later, but we must be conscious that the environments about children have been deteriorating.

It is true that the state budgets for nursery schools are increasing, but the increase rate is not enough.

The amount of the state subsidy for the working expenditure of nursery schools in fiscal 2003 is 422 billion yen, which accounts for only 0.52% of the general account budget of the country. Considering the fact that the rate used to be 0.7%.0.8% in the 1970's (0.83% in its peak in 1977), this cannot be possibly the sufficient budget distribution.

## **Chapter 89 Many fatal accidents in “unauthorized” nursery schools**

### **A. Unauthorized nursery schools**

The number of nursery schools is always in shortage. There is shortage of the seat for the younger children who want to be admitted, and there are few centers which give longer-hour child care. There are great many children who cannot go to the proper nursery school which is authorized as fulfilling the minimum standards by the local government (authorized nursery school) and therefore have to go to “unauthorized” nursery school.

The number of children in authorized nursery schools is 1,879,349 (as of Apr. 1, 2002), while unauthorized nursery schools amounts to 9,645 and the number of children in unauthorized centers is 221,022 (as of Mar. 31, 2002: including nursery facilities attached to companies and offices). “Baby hotel,” which is said to have bad childcare environments and is the general name of unauthorized nursery schools whose aim is to make money and accept children even as lodgers, is rapidly increasing in number. (420 hotels and 11,000 children as of Mar. 31, 1992 have increased to 1,184 hotels and 26,442 children as of Mar. 31, 2002)

### **B. Fatal accidents in baby hotels**

Fatal accidents of babies have occurred in unauthorized nursery schools including these baby hotels. The news paper reported several case where were found guilty in criminal courts. The followings are the examples:

1. Baby abuse (to death) case in "Smile Mom" by its manager in Yamato, Kanagawa Prefecture in 2000
2. Accidental homicide case in an unauthorized nursery school in Asahikawa, Hokkaido in 2000
3. Baby death case in "Chibikko-en (Small kids center)" in Toshima ward, Tokyo in 2001
4. Baby abuse (to death) case in "Kobato-en(Small Dove center)" in Kagawa town, Kagawa Prefecture by its manager.

The third case occurred in a nursery school which was one of nation wide “chain day-centers” run by a profitable organization. In order to make more profit, they made two babies lie in one bed and the bigger baby covered the smaller one to death. The same group is reported to have caused more than ten death cases ten years. An on-site inspection of baby-hotels showed that there are only 22.1%

hotels which satisfy the Ministry's guidelines which have easier standards than those applied to authorized nursery schools. Judging from this, these cases are not always exceptional. More and more children lose their lives or at least are on the verge of losing their lives. (See the Basic Report 122)

In order to cope with this situation, the followings are required.

1. Authorized nursery schools should have more financial assistance,
2. More regulations should be adopted and applied unapproved nursery schools, and appropriate measures should be taken to improve the standards of unapproved nursery schools.

As to the first, the present standards applied to authorized nursery schools are not satisfactory yet and some points are to be improved. (This will be mentioned later.) As to the second, after the government submitted the Second Report, supervision of unapproved nursery schools were somehow strengthened. The government made it obligatory for unapproved nursery school to be registered by the revision of the Child Welfare Law (partial enforcement on Oct. 1, 2002). But, there are still some weak points, because the government exempted the centers with less than 5 children and the facilities attached to factories and companies from this obligation.



## **Chapter 90 Deregulation is the answer to the issue of waiting children -- Admitting more children in exchange of lowering the standards**

### **A. Significant number of children is waiting for admission.**

The government is trying to improve day-care services by the "Angel Plan" and the zero waiting children plan which we will mention later, but its process is so slow and insufficient that the waiting children problem has not been solved yet. The number of waiting children as of April 2002 is 39,881 (4,737 increase compared with the previous year: this figure is based on the old definition by the Ministry of Health, Labor and Welfare), which is on the increase for the three consecutive year. On the other hand, the number of nursery schools has been decreasing from 22,899 (the largest number ever) of 1985. It was after 2001 that the number has started to rise, but the number of 2002 is just 22,272. This fluctuation typically shows how slowly the progress has been made by the government.

### **B. Deregulation and low-budget.**

Such programs as "New Angel Plan" taken by the government seem to fulfill the needs of long-waiting children or the needs for extended day-care services without full improvement of facilities and staff. Deregulation reforms are being put into practice also in the field of childcare under the governmental policy of deregulation in every field.

Those deregulations include some positive items like the authorization of small nursery schools which formerly were not authorized. But, most of the deregulations are meant to satisfy the growing need for day-care services with low budget. Added to this kind of attitude on the part of the government are the restructuring of day-care services by municipalities. The 3-year program on deregulation (revised in March, 2002) seems to push the restructuring schemes by municipalities by saying, "Some municipalities introduce higher standards than those the government sets, and, thus, raise the amount of subsidy. This causes too heavy financial burden on municipalities.... Municipalities should not unreasonably raise the present national standards and increase subsidy to nursery schools, though there must not be degrading of the quality of childcare environment." In many parts of Japan, subsidies which municipalities provide on their own have been cut. In some municipalities, as the management of the public nursery schools was entrusted to the private organization, the high standards on facilities and staff allocation which the public nursery schools

enjoyed were lowered. And the system of adjusting the inequality between the public and the private has been cut back.

The reason why not a few municipalities have set higher standards than those of the state is the minimum state standard itself is set very low. Nevertheless, the government required the municipalities to strictly follow its minimum standards. The government asserted that the application of the low standards will not result in lowering the quality of day-care services, but, this assertion was not based on any fact.

### **C. Packing waiting children into nursery schools beyond their capacity**

The countermeasure for waiting children should essentially require building more nursery schools, but in reality its main measure has been to pack children into the present nursery school beyond than its capacity. Year after year the regulation on the capacity of nursery schools have been relaxed and now there is no brake except one rule that nursery schools should abide by the minimum standard of space. As a result, there is a constant situation where childcare is provided even by using the passage. The “Zero Waiting Children Plan” from the fiscal 2002 that was proposed by the government stresses the importance of packing more children by saying that the admission of additional 150,000 children should be done at the smallest cost up until the fiscal year 2004. There have been a lot of opinions worrying about the deterioration of childcare environments while the existing nursery schools have accepted as many children as to the limit of their capacities. The government has at last started to build more nursery schools by increasing the budget. It is true that under the “Zero Waiting Children Plan” the number of nursery schools has increased. But, the attention should be given to the fact that the government has tried to increase the number of nursery schools with the budget as lowest as possible, and, as a result, it has enhanced the deregulations – lowering the standards -- and, privatization – entrusting the management of nursery schools to private organization.

What is more problematic is that the past definition of a “waiting child” was changed. Admission into authorized nursery schools should naturally be pursued, but admission into authorized nursery schools and admission into unauthorized ones are considered as the same on the ground that municipalities provide subsidy to unauthorized nursery schools. When children were admitted into unauthorized nursery schools, they are counted as “admitted children” and were subtracted from the number of “waiting children,” even though their parents still want them to be admitted in authorized nursery schools. As a result of the change of the definition of a “waiting child” after the new policy, the number of children who need to be admitted into nursery schools have decreased by more than 10,000 on the surface. Furthermore, this new policy tends to allow the municipalities to increase unauthorized nursery schools instead of authorized ones, just like the “approved nursery schools”

system launched by the Tokyo Metropolitan Government.

#### **D. The government depends on part-time nursery teachers.**

There are a lot of problems in the measures taken by the government to expand the day-care services. The most serious problem is that the government encourages the use of part-time nursery teachers as the measure to fulfill the expanding needs for day-care services.

The qualification of nursery school teachers was legalized according to the partial revision of the Child Welfare Law in November, 2001. The legalization of qualification of nursery school teachers itself was to be evaluated because it will lead to the improvement of the status of nursery school teachers. The problem was the change of the ways to count the number of nursery school teachers. Before the revision, full-time nursery teachers were required to be placed in nursery schools as a matter of principle. Employment of part-time teachers was an exception and, had been allowed with the condition of within 20% of all the teachers.

But the regulation was almost abolished in 2002 on the ground that whether teachers are full-time or part-time does not matter so long as they are qualified as nursery teachers under the law. Its purpose is to cope with need for extended day-care as well as to cut personnel expenses. This will obviously lead to degrading of the quality of childcare. Teachers who care children staying longer hours in schools will be frequently changed as more part-time teachers work in schools. This will cause unstable emotional tie between children and teachers as well as bad influence on the cooperation between parents and teachers. This situation is against Article 12 of the Convention.

These policies will favor profitable organizations which run nursery schools, because schools with more part-time teachers cost less. This tendency to depend more on part-time teachers will make light of the efforts to ensure children's development through establishing stable relationship between children and teachers who are in the places of parents. These policies will eventually give negative impact on private nursery schools as well as public ones, making it difficult for children to express their wishes freely.

#### **E. The Illegal Downgrading of the Level of Childcare**

The ongoing childcare policies have the problems of cutting down the conditions of the childcare which has been developed gradually, in exchange for the expansion of the amount of childcare provision. The measure for waiting children encourages the increase of children who are admitted into nursery schools in exchange of cutting down the ongoing quality of childcare to the lowest level,

namely the Standards on Child Welfare Institution adopted by the Ministry. The “structural reforms” which will be mentioned later consider the minimum standards as the obstruction for private profit-seeking enterprises to go into the market of childcare, and they propose its relaxation.

The standard, as it is called “minimum,” is very low. The minimum standard of facilities has not been improved since the standard was set in 1948. The situation is that the relaxation of the present regulation will bring the present standard of nursery schools back to the prewar days. These are the default of the laws and ordinances the government set upon itself, for example, the obligation of making efforts “to try to raise the minimum standard all the time” assigned on the minister of the Ministry of Health, Labor and Welfare in Article 3 of the Minimum Standard of Child Welfare Facilities, or the obligation that “it must not lower the facilities or management because there are minimum standards fixed” assigned on the child welfare facilities in Article 4 of the above ordinance mentioned. These are also the problematic measures in view of the international trend toward protection of human rights which prohibits the setback of the acquired level.

## **Chapter 91 Structural reforms and privatization of child day-care**

### **A. The Structural Reforms putting more importance on the liberty of profit-seeking companies than the rights of the child.**

Besides the above mentioned, the government is trying to put into practice the big reforms of social structure called “Structural Reforms.” Its greatest aim is to open the market of welfare, education and medical services, which have been carried by public sector, to profit-seeking companies. In the field of childcare as well, lots of proposals have been made to throw childcare into fields of market. The biggest problem lies in the fact that these proposals are being made to secure, in the first place, financial efficiency or freedom of enterprise activities.

Many of deregulation plans carried in the field of childcare can be said to be the measures intended to pursue financial efficiency and establish the market of childcare. Relaxation of the regulation on establishers of nursery schools in 2000 was epoch making, and lots of proposals to promote the participation of enterprises have since been put into practice. For example, encouragement of the method of public-establishment and private-management makes it possible for profit-seeking enterprises to get into the field of childcare by getting great reduction of their investment of setting facilities at the early stage. The introduction of Private Finance Initiative (PFI) system is the same. Relaxation of regulation on part-time nursery school teachers has much effect of curbing personnel expenses, which sometimes account for more than half of the whole expenditure of a nursery school, and making profit-securing easier.

The system of evaluation by outside third party which started in 2002 was proposed as one of essential frameworks to structural reforms of social welfare. Under this system, what is to be evaluated is not the status of staff or conditions of facilities which strongly affect the quality of childcare. Instead, the third party is going to check such trivial things as whether nursery schools have various manuals or not, or whether nursery teachers and managers of nursery schools have positive attitudes. But, the government uses this system as an excuse for ignoring its obligation to raise the standards on staff and facilities by saying that this system will improve the "quality" of childcare.

(See the Basic Report 118)

Although this has not yet reached the stage of practice, the rule that there must be a kitchen room which is stipulated in the minimum standard is the target of deregulation policy. The abolishment

of this rule is one of the items desired strongly by childcare companies which wish to reduce both the personnel expenses of cooks and the cost of arranging facilities.

In short, what is being carried out in present-day Japan is not the efforts of putting first priority to the rights of the child but the structural reform which will degrade the standards of the rights of the child.

## **Chapter 92 The structural reform triggers new problems in child day-care**

### **A. Reduction of state financial liability on child-care**

A new problem is emerging under the structural reforms. In discussing how to reconsider the roles taken by the central and local governments, two proposals have been made:

1. Reduction of state liability and incorporation of the budget for day-care service into general revenue. To help nursery schools, it was made liable for the government to expend the budget from national Treasury. But, it is proposed that the budget expended from national Treasury should be removed, and be incorporated into general revenues.
2. Unification of the two systems: kindergartens and nursery schools.

As to first proposal, excluding the expenditure from national Treasury state and incorporating it into general revenues means the abandonment of the state responsibility. The government says that the reduced amount of money will be supplemented by tax money allocated to local governments, but it is not persuasive at all. For local governments, subsidy for nursery schools is the specific source of revenue, whose way of use is decided beforehand, and tax money allocated to local governments is the general source of revenue, whose way of use is not fixed to a specific purpose. If the tax is the general source of revenue, local municipalities do not always have responsibility for using it for childcare budget.

In 1945, child welfare budget including operating expenses of nursery schools was removed from the national Treasury and incorporated into the equalization subsidy system (present-day local tax allocation system). After that there were such a big disparity of childcare budget growing among each municipality, which became a great hindrance to the childcare administration. Then, the budget was once again brought back to the national Treasury in 1948.

The essence of the incorporation into general revenue is the intention of reducing state liability, and it can never be possibly called the method of giving top priority to the realization of the rights of the child.

### **B. Integration of nursery schools and kindergartens**

As to the second proposal, we have long had the discussion and assertion that the two systems, split

in kindergarten system and nursery school system, should be unified because both are related with child welfare and education in preschool years. The integration plan we used to have before 1980's was intended for the fulfillment of the rights of the child, but recently after 1980's the purpose of the integration plan has been to lower financial expenditure. The integration plan this time reflects the latter tendency.

It is true that, even with decrease in the number of children, demand for nursery schools is growing while kindergartens cannot meet their quota because of the shortage of applicants. Now we can say kindergartens are becoming like nursery schools from the fact that the number of kindergartens which take charge of children after formal charge time is increasing. While nursery schools are full of children with waiting children to be admitted, there are lots of kindergartens in some municipalities where there is much vacancy. Those municipalities naturally tend to ask for the integration of the two systems.

What should be considered first and foremost, however, is how we should guarantee the rights of the child. But in reality, controversies about structural reforms tend to make childcare system, which has heavier public responsibility, conform to kindergarten system, especially to private kindergartens for the sole purpose of reducing financial burden and avoiding its responsibility. This cannot be said to be the real integration policy. Let's take one example. One of the concrete objectives for the integration of the two systems is the abolishment of the rule that there must be a kitchen room in every nursery school. The integration problem is considered as a mere means of reducing financial burden. Whether children go to kindergartens or nursery schools, what must be discussed is how we should fully guarantee the childcare or education they truly need, and what kind of systematic or financial measures we can think of. What is required is the careful discussion which respects the opinions from each municipality and those of both kindergarten and nursery school staff.



**Part 4 After-School Day-Care Service**

## **Chapter 93 After-school say-care service**

### **A. Outline of Childcare Services after Leaving School**

“Childcare club” was first legalized as the “Wholesome Caring Project for Children After Leaving School” by Article 6 of the 1997 amended Child Welfare Law. The legal name of the place for childcare services is “childcare club after leaving school,” but some municipalities call it differently. In this text, it should simply be called “childcare club,” and staff who work for such institutions be called “club instructors.”

Childcare clubs are the institutions for providing day-care services for primary school students whose parents work during daytime and thus want care by adults. Childcare clubs takes the important role for realizing the right of the child recognized in Paragraph 3, Article 18 of the Convention.

A survey of the liaison association of the nation’s after-school childcare services said that the total number of the childcare clubs stood at 12,825 as of May 1, 2002, up 995 over the previous year. (In reality, municipal “children’s halls” virtually function as childcare clubs. Including these “children’s hall,” the number increases.) The number of municipalities having a childcare club was 2,147 nationwide, and 53.5 percent of all primary schools have its childcare club. For five years since the law amendment in 1997, the number of childcare clubs has remarkably increased by about 3,800. It was due to the fact that many local governments have started to build a public childcare club. Behind it, the central government formulated, prior to the law amendment, “Angel Plan” in 1994, “5-year Urgent Childcare Project” in 1995, and “Guidelines for Childcare Planning” in 1995, and positively supported local governments. In particular, in the 5-year urgent childcare project, the central government set a specific goal of increasing childcare clubs to 9,000, and subsidized to the local governments. Later, the central government enacted the “New Angel Plan” in 1999 and the “Plus-one Plan against Declining Birthrate” in 2002. Thanks to a series of these policies by the government, childcare clubs are expected to expand in every part of the country.

As of May 1, 2002, the number of the children who attend childcare clubs amounts to 490 thousand across the country. According to a survey of the same day by the Ministry of Welfare and Labor, a childcare club accommodates an average of 38 school children.

The present conditions facing children under the care of these clubs are by no means favorable.

Today some problems are found in the facilities as well as conditions for admission and use.

### **B. Low standards on facilities and the number of staff**

Some 60 percent of childcare clubs use extra classrooms of school, municipal children's halls, makeshift buildings in school's compounds and others. About 80 percent of the childcare clubs are run by the local entities, and those public childcare clubs are recently on the increase in number. But, 10 percent of the childcare clubs are placed in small rooms of apartment or private houses under evil environment, suffering roof leakage, harmful insects, high rent, and complaints from neighbors.

Even in large cities with abundant finances, some childcare clubs are in a miserable plight. One example is a club in a large city of northern Japan. In the club, 78 children are confined in a private house with small two rooms, where there are only two toilet-rooms, but no ventilators, nor air-conditioning system even in mid-summer. Another example is a childcare club in a big city in central Japan. That is located in a two-storied private house with three small rooms where about 40 children are packed. The rooms are so small that they find much difficulty having afternoon snack and soft drinks.

Generally, few clubs have a shower room, and in most childcare clubs, children cannot even clean their body after sweating or wetting pants.

To increase the number of instructors and enhance quality of childcare are very important. But most clubs, mostly private ones financed by parents, find it impossible to ensure funds for instructors' personnel costs. At many clubs a single instructor manages to do everything. Those instructors are mostly hired part time, and suffer poor working conditions. They have to attend most of their study-meetings at their own expenses. Many of them, though with much desire to work longer, quit their club after several years' work due to being underpaid and unfavorably treated.

A survey of the liaison association said half of the nation's instructors quit and have been replaced by new ones almost in four years. Such a short period of their work makes it impossible to continue a relation of trust between kids and instructors. Reshuffles of personnel give big damage to children. With the aim of improving such terrible situations, the association repeatedly made representations to the government demanding establishment of minimum standards for facilities for the clubs, employment of full time instructors, and increase in subsidy to instructors' attendance of study-meeting. But until today the government has not responded to these requests.

Prefectural and municipal liaison associations of the club have been lobbying for their assembly members and government to formulate care standards or to finance them more, but on the grounds of

financial shortage, they have not taken appropriate measures. Though childcare clubs were approved by the Child Welfare Law, roles of the state and local governments remain ambiguous. Therefore, the people concerned including instructors have been requesting the government to further revise the Child Welfare Law.

### **C. Care hours do not satisfy the need of parents: why is a childcare club closed on Saturday?**

School's five-day a week system started in 2002. Children whose parents go to work on Saturday attend their club in the early morning. But 20 percent of childcare clubs are closed on Saturday, creating a social problem of how to deal with those children concerned. The municipal governments which close their childcare clubs on Saturdays are of the opinion that childcare clubs are naturally closed as long as schools are closed. They also insist that children should spend Saturdays at home under the five-day a week. However, their inability to look after those children conflicts with the spirit of the Child Welfare Law.

The parents in trouble raise the money for opening a Saturday temporary club, and some non-profit organizations (NPO) offer those parents to take charge of taking care of those children.

Another problem concerns care hours of clubs. Since the revision of the Child Welfare Law, care hours have been extended, but most clubs close at six p.m. Therefore, for a few hours after the closing time, some parents are obliged to ask their relatives or volunteers to care their children.

### **D. Expensive fee for private childcare clubs**

In the case of private childcare clubs, fees are so high that many parents give up using them. They are requesting the national or local governments to increase their subsidy to the clubs.

### **E. Childcare club does not cover children in 4th grade or above.**

Many municipal authorities set a limit to the grades of children to be cared at the childcare clubs, only lower graders (grade 3 or below) being accepted. This limit has produced a new problem. Children in upper grades (grade 4 or above), almost every day during summer vacation, are left alone at home from early morning to evening. A lot of guardians living in the unsafe neighborhoods request local governments to admit their children in upper grades into childcare clubs.

Some parents, for fear of their children's safety of letting them stay alone at home, send them to

private cram schools in the daytime. Thus, the refusal of admission for upper graders has caused complex problems.

#### **F. Problem in day-care service for foreigners and disabled children**

More children of foreign nationals in Japan, unfamiliar with Japanese and customs and with only a few friends, join local clubs. In some clubs, about one-fourths of the inmates are foreign children, amounting to several different nationalities. But instructors don't understand every foreign language, and often find much difficulty communicating with those children and their parents. Sometimes differences of their customs and values can cause misapprehension, trouble or quarrels in children's club life. So, instructors need to make human individual contacts with those foreign children, explain backgrounds of different cultures, and arbitrate their quarrels. But the lack of experienced instructors has produced bullying or infringement of human rights against foreign children.

It is often said that during school's long vacation, physically disabled inmates of the clubs, spending all of their time at home, tend to lose daily rhythm of living and become emotionally unstable. But those facilities to accept those children have hardly been improved.

Kyoto City authorities guarantee those children to be admitted to the clubs, but in fact, the club can refuse their admission at its discretion, unless otherwise with a voluntary caretaker. In the city, such a case occurs very often.

As mentioned above, even if they are admitted, they are expelled from the clubs when they get to upper grades, since the clubs accept only lower graders. The disabled children need various cares even in upper grades. Because their parents cannot leave the children behind at home alone, they have to quit their work, leading to serious financial crisis of their family.

There is one exception. A small city in central Japan, has set up a club exclusively for disabled children. The case has inspired parents with disabled children in other cities to press the local governments to set up the same facilities. But, in most cases, those children after leaving school are left in the care of private organizations including NPOs.

#### **G. Significant number of children is on waiting list.**

Due to scanty club facilities and small capacity, they cannot enter clubs as a result of severe screening to judge priority order of admission. The number of the "children waiting for vacancy"

said to have reached 1,000-odd (as of May 2002) across the country, mostly in large cities. A survey of Japan childcare liaison association said that only 40 percent of graduates of nursery schools, one-fourths of all primary school children who have working mothers have been admitted to clubs.

Prime Minister Koizumi Junichiro in May 2001 clearly said, “The government will establish childcare clubs in all parts of the country to accommodate children in need of such services.” The Ministry of Labor and Welfare has set a goal of building 15,000 clubs over the country by 2004. But there are 23,205 public primary schools in Japan (as May of 2001), so ministry’s goal falls short of “one club for one primary school.”

Some children attend clubs by train or bus, taking 20 to 50 minutes, because there is no club in their school districts. Other clubs have increased their capacity to house more children, resulting in being overcrowded and causing inadequate childcare.

In central Tokyo, a certain club, in order to reduce the “children on the waiting list,” rents an empty classroom from school and cares as many as 60 children simultaneously.

As written above, it is our urgent task to increase clubs. But some people in general have not yet understood an idea of gender bias or a sense of discrimination, and are of the opinion, “Husbands should work outside while mothers do housework,” or “Do not build a club facility within school grounds for the sake of part of children.” Under the pretext of these complaints, some municipalities hesitate to build a club within campuses, in disregard of the request of the parents’ concerned. The liaison association has urged the government to appeal to the people the importance of clubs. To date, no concrete steps have been taken by the government.

#### **H. Introduction of “Open use of school ground and facilities” as a measure to provide after-school day-care service in exchange of the abolishment of public childcare clubs constitutes the setback from the status quo.**

Due to financial difficulties, more municipalities, instead of building new childcare clubs, are trying to have all the children, lower or higher grades, do sports on the athletic grounds of school or plat in the empty class, in line with the “Project of Open Use of School Grounds.” In doing so, they try to do away with children unable to enter childcare clubs. In some municipalities, the open use of school grounds and facilities are introduced in the exchange of the abolishment of all the public childcare clubs. Kawasaki city, which is famous for enacting the Ordinance on Children’s Rights, strangely enough, is among those municipalities.

In all of this kind of projects, the important role that club instructors take in day-care services have been made little of. Their chief roles are just regarded as timekeeper to let children stay and go home safely after a day's care, keeping an eye on them against accidents, maintaining facilities, and dealing with emergencies. Even their interaction with children is considered as mere clerical work. They are employed on a part time basis, the day's work hours being few. Therefore, it seems difficult to establish a relationship of mutual trust between instructors and children.

As a consequence of government's sloppy policy for children, it is always physically disabled children that suffer most. Since, unlike healthy children, they need special care, extra instructors have been allocated in the some public childcare clubs with these kids in. But in the projects of open use of school grounds and facilities, adequate steps have not been taken for the sake of these children.

Club instructors and parents have exchanged a notebook telling children's daily behavior at the club and home with the aim of improving child rearing. However, in the projects of open use of school grounds and facilities, this kind of cooperation between instructors and parents does not exist.

The core of lessons that childcare clubs have learned in their past activities is that children grow up through emotional and trustworthy interactions, daily close contacts and sharing impressive experiences between them and club instructors. But the government and local authorities do not take into account such lessons. The introduction of open use for school grounds and facilities as a measure of providing after-school daycare services in exchange of the abolishment of public childcare centers surely constitutes the setback from the status quo, which is forbidden by the international human rights instruments.

## **Chapter 94 Present conditions of children's halls**

### **A. History and Present Conditions**

Children's halls are child welfare institutions provided by the Child Welfare Law enacted in 1947. They are treated alike children's recreational grounds by the law. They are said to be institutions which reflect achievements of prewar "settlement movements" and ideas of American-style child welfare. Other welfare institutions are designed to provide specific, supportive measures to children needing special cares from the standpoints of home background, health, hygiene and relevant laws, while children's halls are the sole child welfare institutions for the benefit of all children under the age of 18. Some of their guardians and local residents who use them work as volunteers.

The purpose of children's halls is to try to solve and prevent problems which may hamper wholesome growth of local children. For the aim, to heighten children's independent, social minds and originality by developing creative play methods is one of the chief ways.

In postwar years, Japan achieved a big economic growth and reconstruction. With high-rise buildings mushroomed and expressways built in large cities, many contradictions including decline of free, safe places to play for children have come to surface. Under these situations, in 1963, the government started in earnest to give subsidies for building children's halls. As a result, during the latter half of 1960's, its number sharply increased nationwide, and as of March in 2003, it stands at approximately 4,500, being second to nursery schools in number. About 70 percent of them are run by local governments, and the rest are run by or entrusted to social welfare corporations and others. From the beginning of 1990's, private children's halls and government-built & private-operated halls began to increase in number, to which central government has financially been giving support every year.

Children's halls are classified into three categories, 90 percent of which are legally small-type children's halls (they are generally called "local children's halls"). They are set up on the basis of "one hall for one primary school district" so that children go to and from them by bicycle on foot. In Japan, there are no else institutions exclusive for children as this. Today, the number of Japan's municipalities is about 3,200, and on average, there are no municipalities which have two children's halls within. Therefore, in large municipalities, there are many children who cannot use such services.



Originally, children's halls were started in order to solve children's problems in large cities, but Chiba and Yokohama cities, both close to Tokyo metropolis and with a population of more than one million, have no small-type children's halls. Osaka, Japan's second-largest city, has only 22 such halls. Fukuoka City in western Japan has only one, and a signature-collection campaign demanding setup of one hall for each primary school district has been under way. Toward the past two petitions, city authorities dismissed them, saying, "Children can play even in city community halls." So, the residents in 2002 filed their third petition with the city hall, and the campaign is now under way.

The amended Child Welfare Law was enforced in 1998, and children's halls were also regarded as important places for child care services after leaving schools.

Children's halls, considered to be places with much potential for sound growth of children, are expected to play great roles in the future. But, they have a lot of problems besides what have been mentioned above. Here follow main ones concerning small-type halls.

## **B. Narrow space**

The law stipulates that a small-type hall shall have a meeting-room, a playroom, a library, a clerical office, a counseling room, an activity room, a rest lounge and others, within a building area of over 217.6 square meters. In addition, when it also provides after-school day-care services, another 31.8 square meters' space shall be secured. But, if a small-type hall doesn't meet the required conditions for some reason, it, with a building area of over 163.2 square meters, can be approved as a "mini-type hall." When upper-grade primary school children feel a children's hall very small and tight for their play, they stay away from it, and play on the school's athletic ground on its open-use day.

Spending together in the same building for scores of children of various ages below 18 is meaningful, but sometimes it is dangerous. So, it should have an exclusive space for children of each age group, for instance, a specific space of music band performance by senior high school students. But it is actually impossible for a hall with a small, limited space to satisfy various demands of children.

In order to provide care services for children who refuse to go to school who are now on the increase in recent years, construction of children's halls specially designed for these children is under discussion in some local governments.

### **C. Short service hours**

Since about 80 percent of small-type children halls close around 6 p.m., many junior-senior high school students, who stay long hours at school until evening, hardly have a chance to use them. With the start of the five-day a week, primary school pupils, who stay longer hours at school from Monday to Friday, use a local children's hall from 4 p.m.

More than 10 percent of small-type halls are open only in the afternoon, shutting infants and their mothers, who want to make friends or take exercise, off from the halls in the morning. Moreover, many halls are closed on Sundays. As a result, the number of users of the halls is said to have been on the decrease year after year.

“What are children's halls set up for?” “The halls should extend service hours, and be open on Sundays.” Children as well as adults such as parents, researchers, and activists have been making such representations to the hall managers or the officials concerned. But in most cases, the services have not been improved because the staffs concerned oppose them on the grounds they will lead to worsening their working conditions. In recent years, the ideas of the Convention on the Rights of the Child have been known to the people, but as a matter of fact, few staffs of halls try to devote themselves to the benefit of children.

In order to break such an impasse, toward the end of 1980's, some “pioneer” municipalities took a step forward, and entrusted management of their public-built children's halls to private organizations with devoted staff and flexible operation. Those halls were open at night, and users increased sharply in number. As they have produced good results, they are welcomed by local children and residents. Under this background, social welfare or NPO corporations have embarked on operating such private-owned or public-built & private-run children halls. But some employees' unions of municipal governments are strongly opposed to such institutions, and often try to abuse those NPO corporations.

According to a Ministry of Welfare and Labor's survey on the fiscal year 2001 municipal child welfare institutions over the country, as of October 1 in 2001, the average users per day of small-type children's halls were 67.4, downward over the previous year, of which primary school children account for 67.6 percent, infants for 24.4, junior-high school students for 6.1, and senior-high school students for 1.9.

### **D. Low status of “child welfare experts”**

Staffs of children's halls have some problems. The law provides that over two employees called

“child welfare expert” shall be stationed in a small-type hall. In fact, about half of the halls are operated by two or three experts. Some 70 percent of the halls are not staffed by full-time experts. This means that most of small-type halls are run by part-time experts. Those part timers work in the afternoon, or work every other day, so that they cannot prepare their work well or find difficulty establishing good human relationships with children.

Originally, they are underpaid, no wage increase, and no fringe benefits including retirement pay, therefore they cannot continue to work for many years, and have to retire early. One expert with duration of 16 years of service is paid only 100-odd thousand yen a month; another, besides his job at the hall, work part time to support his family. Very few of them cannot continue to work more than 10 years. The work involved in children’s growth needs many years’ experiences, but these bad labor conditions thwart their desire to work.

Even in children’s halls staffed by full-time experts, about 40 percent of them have no nursery teacher’s license. In 60 percent of children’s halls, no staff has teacher’s license. In the worst case, employees who have no interests in child care are stationed in some halls, creating evil relations with kids. In Japan, government employees are customarily reshuffled in every three years, regardless of their will. This custom also hampers build-up of good relationships between hall employees and children.

Retired school principals or head-teachers are sometimes appointed as chief of halls, and since they try to introduce their past teaching methods into management of children’s halls, they often cause big troubles. They don’t understand the meanings of children’s free time after school and opportunity for character building. They just make a lot of rules and become control-minded in caring children, thus incurring a decrease of children visiting the halls. In Sendai City (in northern Japan), parents filed a complaint with the city authorities against arbitrary management by a principal-turned chief. This case clearly goes against the idea of Article 31 of the convention.

Halls’ experts hardly receive opportunities of in-service training. Only about half of the halls can send their experts to training three times a year. In few-staffed, busy worksite, the experts can’t get such trainings even if they want to. Those part time, underpaid, busy staff find difficulty attending trainings designed to enhance their skills at their own expenses.

There is no national license for child welfare experts. Qualified nursery teachers and licensed school teachers are appointed as hall experts. There is no people’s consensus as to the question of how children welfare institutions or organizations should help children grow up. To date, sufficient research on practices of child welfare experts has not been conducted, nor qualification system of child welfare experts has not been established, nor programs to develop them have not been made.

In Japan, the theory and practice to link two concepts of “children” and “community education” are generally called “community education for children.” A study on it has been made only for the past 25 years, but in particular, during the 1980’s, it was hardly done, which has adversely affected the present conditions of child welfare. Learned societies in this area have been stalled and not held.

### **E. Low accessibility of children’s home for disabled**

Small-type halls play a role to support children, living in the same primary school district, to make healthy growth. Those children often include physically disabled ones, but only half of the halls accept them or are equipped with restrooms and hand bars for their convenience. Since the 1990’s, the rate of the halls with special care has increased, but it hasn’t yet reached a satisfactory level.

### **F. Budget cut and consolidation**

With increasing financial crisis of local autonomies, part of running costs of public children’s halls has been slashed. About 20 percent of the small-typed ones are run with the yearly budget of 1 million yen or below. The small budget makes them impossible to conduct new projects or conventional activities. Some halls cut down even on play things or toilet articles.

Financial bankruptcy of municipalities has affected other fields of the halls. As they cannot build new halls, they allocate a section of a complex building to a space for a children’s hall or make an empty school’s classroom into the hall. Some say, “Though small, it’s better than nothing,” while others say, “It’s too small and inconvenient to use.”

Along with the revision of the Child Welfare law, a central site of after-school day-care services is to be made within children’s hall buildings, and some local governments have put this policy into practice. They do not set up a new room for child care after school, partition a space of a children’s hall for its use, thus making the entire space for children attending the hall smaller.

From the viewpoint of reducing the running costs, local governments close temporarily or abolish children’s halls which attract few users. They also change the halls into other institutions with relevant functions. Child care facilities after school are subsidized by the central government while children’s halls are hardly done. Local governments, in the face of financial shortage, restrict their child care only to a after-school day-care facility, doing away with children’s halls. Further, some local authorities cut the personnel or replacing full timers by part timers.

In Japan, from the middle of the 1990’s down, it has generally been accepted that small-type

children's halls be made into central facilities for promoting child welfare. As additional functions of the children's hall, these ones have arisen: counseling for mothers who have various troubles in working and rearing children, developing volunteers for welfare facilities, preventing child abuse and protecting victimized children, and tie-up with relevant welfare organizations. But these are hard to deal with under the above-mentioned situations of children's halls.

The aforementioned conditions definitely damage the benefits of children, and go against the principles of preventing regressive actions prescribed in the Convention of the Rights of the Child, and other relevant human rights protection conventions.

### **G. Need for more detailed national standards which break down the spirits of the Convention**

The laws and their articles with regard to operation of children's halls are in small number stipulated in the Child Welfare Law, Social Welfare Law, ordinances by the Ministry of welfare & Labor, and notices by the bureau concerned of the ministry. Yet these regulations are mentioned as general guidelines, and detailed ones are entrusted with each local government, children's hall and child welfare expert. In particular, small-type children's halls are mainly operated by about 3,200 cities, towns and villages, which results in causing many differences regarding operation of the halls. Even in the same municipality, some differences concerning it are found in different halls. What's worse, every time experts are replaced by others, different rules are enforced. These situations produce much trouble and difficulty among young users. Still now, operations of children's halls are not standardized by the governments, and gaps of their services remain. The governments, central or local, show no signs of moves to improve them.

What is the gravest, outlined regulations of the laws don't include ideas of the Convention of the Rights of the Child. It is said that a lot of child welfare experts have not yet read the Convention, though they have once heard of its name. Some progressive governments or "forerunner" experts voluntarily try to make the best of the ideas of the Convention in management of their halls.

Children's halls are places where children come and interact with child welfare experts or mentors, doing many activities. They are also places where children can voice their opinions on the present and future states of the world, and realize their requests together with adults. Originally, it should be the place where their rights to express opinions, one of the cores of the convention, are embodied, but the reality isn't.

The member states of the convention and their local governments are obliged to propagate the ideas of the convention to the people, but taking an example of the plights of children's halls, contradictions in Japan's childcare policies seem to be obvious.

## **IX. Education and Leisure**

**Part 1 Overview on Education**

## **Chapter 95 Introduction to education**

### **A. What did CRC say about the education in Japan in the Concluding Observations of 1998?**

When CRC examined the initial report by the Japanese government in 1998, the education was the area to which CRC showed the most serious concern. CRC's concerns over the education in Japan can be summarized as follows; (1) children's right to participation are facing serious difficulties in all of the aspects of the society, especially in the educational system, (2) the number of school refusal amount to significant, (3) corporal punishment by teachers frequently occurs, and bullying among students are becoming more prevalent; (4) the highly competitive educational system causes the developmental disorder. Based upon these concerns, CRC recommended the government that it overview the education system in view of the general principles of the convention ("the best interest of the child," "survival and development," and "respect for the view of the child") as well as Articles 28 and 29 of the Convention.

The Concluding Observations to the initial report of Japanese government in 1998 clarified that the characteristic of the human relationship children enjoyed in the educational system is not only far from the relationship embedded in Article 12 of the Convention, but also covered with such violence as corporal punishment and bullying. CRC appropriately pointed out the highly competitive educational system as the cause of this impoverished relationship. CRC showed that, in order for Japanese government to tackle with such specific problems as bullying, corporal punishment, and school refusal, it should overhaul its educational system and policy from the view point of the Convention.

### **B. What has the government done since 1988? – the government new education reform policy constitutes the backlash against the Convention and the Concluding Observations of 1998.**

It is necessary to point out three characteristics of government policies on education over the past five years. First, the government has not either taken measures to solve the specific issues or overviewed the education system from the view point of the Convention. Next, in the process of drafting and implementing its new education reform plan, which started in April 2000, the government never considered the Convention and the concluding observation of 1998 and has been



neglecting them. Finally, the new education reform plan, which contradicts with the Convention and the Concluding Observations, constitutes the backlash against the trend of the international society towards the realization of children's rights. Some parts of the new reform plan, which have been already carried out, are worsening the difficulties children are already facing and causing the new difficulties.

**C. The Japanese government has been trying to avoid the review of the new education reform plan from the viewpoint of the Convention.**

In its second periodic report the Japanese government should have had to provide information regarding the measures taken in the five year period from May 1996, in which the first periodic report was submitted to the U.N., to May, 2001, and the self-critical evaluation of the measures taken. But, the second periodic report lacks the information on the most important event which occurred during these five years, namely the fact that the government started drafting and carrying out its new education reform plan. In March 1999, the prime minister Obuchi established the Prime Minister's Commission on Japan's Goals in the 21st Century. The aim of the Commission was to draw a blue print of the comprehensive reform of the government structure and its functions which would sustain the new industrial structure of Japan. The Commission published its report, "THE FRONTIER WITHIN: INDIVIDUAL EMPOWERMENT AND BETTER GOVERNANCE IN THE NEW MILLENNIUM," in January 2000. In April 2000, to break down the blueprint on the education reform drawn in this report, the Prime Minister Obuchi established the National Commission on Educational Reform. In December 2000, this commission presented its final report, "17 PROPOSALS FOR CHANGING EDUCATION" that fixed the direction in which the educational reforms were to go. In July 2001, according to the 17 proposals, revision of the School Education Law was undertaken.

In the second government report, mention of educational reforms is entirely absent. The information regarding the revision of the School Education Law in July 2001 was provided, but there were no word to the fact that this revision was done based on suggestion from the National Commission's report. Furthermore, the following response by the governmental officer to a question raised by a member of NGO questioning in the meeting held by the Government for having NGOs make input to the drafting of the second periodic report does not appear in the second periodic report, despite of its importance; "Neither the text of the Convention or the Concluding Observations was submitted to the National Commission on Educational Reform." The Japanese government, in drafting the educational reform plan, gave no consideration to the Convention or the Concluding Observations. This showed that the current educational reforms are not being carried out for the implementation of the Convention, but are being carried out with the intention of shaping education into an effective tool for economic growth and development. The Japanese government neglected

not only its obligation to conduct self-critical analysis of the educational reforms, but also its obligation to submit information which is necessary for CRC to effectively review the implementation of the Convention.

**D. The Japanese government neglects the Convention, the Concluding Observations and shows an antagonistic attitude toward the Fundamental Law of Education.**

The Japanese government maintains silence on “educational reform” toward the international community, and is attempting to avoid the review by the international society of the education reform from the viewpoint of the Convention. In contrast, internally, the government touted the education reform to the Japanese people as an event comparable in importance to the democratization and liberalization of the educational system after World War II, or the establishment of a country-wide compulsory educational system during the Meiji-era. Also, the government is attempting to revise The Fundamental Law on Education, which was enacted in 1947 and prescribes the basic principles of the post-war liberal and democratic educational system. This is because the Fundamental Law of Education, which shares the same spirit as that of the Convention, is in a strong tense with the present educational reform. Having received the recommendation to revise the Fundamental Law of Education from the National Commission on Education Reform, the Minister of Education asked the Central Commission on Education to draft the plan on revision of the Fundamental Law of Education in November 2001. The Central Commission submit its final report in March 2003.

The Central Commission recommended the revision of Article 1 of the Fundamental Law of Education, which prescribes the first aim of education as the full development of the personality of the child as Article 29.1.(a) of the Convention. It also recommended the revision of Article 10, which limits the role of educational administration to providing the conditions necessary for education. This article was included in the Fundamental Law of Education based upon the reflection on the fact that the pre-war nationalistic educational administration deeply went into the content of education, controlled the minds of students, and led Japan to the ruin of the Second World War. If this revision plan is realized, it has almost the same effect as adding reservation to Article 6, 12, 28, and 29 of the Convention. But, this planned revision of the Fundamental Law of Education is not mentioned in the second periodic report at all.

**E. What are the characteristic of the recent education reform plan?**

The characteristic of the recent education reform plan can be summarized as follows. First, restructuring the educational system as a tool for selecting a small number of elite who will make the

new Japanese business world win the international mega competition. Second, attaching more importance to the education for elite and less importance to the education for non-elite and inequalizing content of education, school system and fund distribution. Third, indoctrinating children the ideologies which will conceal the defects caused by the neo-libertarian society and expanding the state's intrusion into the world view of children.

The educational system, which CRC described as “highly competitive” and imposing “the difficulties” to children in exercising their right to participation, was aimed at both selecting a small number of elite and producing a large number of laborers of high quality who internalize the value of societal obedience. But, as the government decided to change the Japanese industrial structure from that which depends mainly on national companies exporting domestically produced goods to that which mainly consists of transnational companies, it decided to change the educational system which is suitable for the new industrial structure. Because there is no need for producing a large number of laborers which work for producing goods, the government planned to cut the educational budget used for it, and to give financial priority to producing a small number of elite.

**F. The recent comprehensive education reform plan rearranged specific educational policies carried out since the mid 1990s and new specific policies.**

The education reform plan adopted at the beginning of 2001 is comprehensive and it includes the new policies on the content of education, making multi-tracking school system, giving financial priority to elite education, changing the status of teachers, and indoctrinating new ideologies. It includes some specific educational policies which have been already carried out since the mid 1990s as its parts. This means that some parts of the plan have been carried out in advance and other are not. The specific policy which has been carried out the most fully is the new policy on the content of education. This policy is aimed at reducing the government's responsibility on assisting every child to build up its scholastic ability, and forcing students to play a “good child” standardized by the Ministry of Education. Next to this policy, the new policy on the status of teachers has been gradually implemented to force teachers to carry out the new policy on the content of education. Compared with these two specific policies, the policy on making multi-tracking school system, the policy on giving financial priority on elite education, and the policy on indoctrinating ideologies have just started.

**G. What are required in the consideration of the second periodic report?**

CRC is going to review the educational system which is in a transitional phase between the existing educational system and the coming one. The following four points should be addressed by CRC.

First, CRC should express its concern on the fact that the government drafted and carried out the education reform plan without giving any consideration to the Convention or the Concluding Observations of 1998.

Second, CRC should express its serious concern to the fact that the educational reform has deepened the difficulties to which CRC expressed its concern in 1998: the difficulty in exercising the right to participation; the prevalence of violence in school; the developmental disorder caused by the highly competitive educational system.

Third, CRC should review the education reform plan and the plan of revising the Fundamental Law of Education from the viewpoint of the Convention. The principles underlying the current education reform is highly in tense with the Convention. The education reform and the Convention would give contradicting answers to the following basic issues; (1) How should the development of children be understood? (2) What are the objectives of education? (3) What position should teachers enjoy within public education? (4) What kind of role government should undertake toward education of children? (5) Who should bear the cost of education, and to whom should the fruit of education be allocated? (6) What are common skills and knowledge all children are expected to achieve? Finally (7) What sorts of skills, knowledge and attitude children are expected to get in a global society? These truly fundamental matters will come up when CRC review the compatibility of the current education reform plan with the Convention.

Fourth, CRC should express its concern on the fact that, in order to carry out the education reform smoothly, the government has oppressed the views or opinions expressed by children or teachers which doubted the constitutionality of the education reform or its compatibility with the Convention.

Because the educational reform is still in the process and there are many aspects that have yet to be implemented, it would be difficult for CRC to fully examine it. But, when the speed at which they are being enacted is considered, if the brakes are not applied in the consideration of the second periodic report in 2004, the reform will have been fully carried out by the time when CRC consider the third periodic report and there is the danger that children's rights will become a mere fantasy. Therefore, it is necessary for CRC to require the government to submit the sufficient information on the current education reform plan and the plan to revise the Fundamental Law of Education, and to actively consider the compatibility of the plans with the Convention. We hope CRC expressing its concern on the incompatibility with the Convention and recommending the government to postpone the implementation of the plans until it has sufficient dialogue with citizens, NGOs, teachers, parents and children on the concerns expressed and the recommendations issued by CRC.

## H. Contents of the part I “overview on education”

Hereinafter, the overview on how the new policy on the content of education has been worsening the difficulties of children to which CRC expressed its concern in 1998. Analyzing the statistical data on school refusal, bullying, violence among students, corporal punishment, violence by students against teachers and property damages by students, we will confirm that “culture of violence” has been stretching out more broadly in school (chapter 2). Then, we will show the cause of this situation can be attributed to the fact that the government, on the one hand, keeps the high school entrance examination which makes the educational system “highly competitive,” and, on the other hand, the government impoverishes the quality of education and strengthens the control on students’ personality by carrying out the new policy on the content of education (chapter 3).

Then, we will move to the analysis of the other aspects of the education reform, which the government has just began to implement but will trigger serious problems in the near future. We would like to draw attention to the indoctrination of children with state-sponsored ideologies, in particular the “New Nationalism” which has marked educational policy since 1998 (chapter 4). We also explain the government’s plan to dismantle the equality of education in three aspects, namely, the content of education, school system, and financial distribution. This inequalization policy will result in the continuous selection of children that begins at the earliest stage of schooling, namely 6 year-old, and ends in 18 year-old (chapter 5).

Because the current educational reform has strong tense with the children’s rights, it is being resisted by both students and teachers alike. However, in order to enforce the education reform, the government is suppressing the rights to freedom of expression of children and teachers and the professional freedom of teachers. We will show the actual cases and the new policies (chapter 6 & 7). Furthermore, we will show the authoritative approach to children which the government officially adopted in the report submitted by the National Commission on Educational Reform in 2001, and how this new approach was broken down in “Notebook on Mind”, a textbook which the government edited and distributed to all the elementary and junior-high school students (chapter 8).

Finally, we would like to propose what kind of additional information CRC should require the government to submit, and the point of views from which the education reform should be examined (chapter 9).

## **Chapter 96 School refusal, bullying, violence among students, and violence against teachers, and property damages by students**

### **A. “School refusal,” “bullying,” “school violence” are the way in which children deal with the stress imposed by the competitive educational system.**

School refusal and bullying are brought about by the stress that the competitive educational system imposes on children. By refusing to go to school, children are “escaping” from the cause of the stress and by “bullying” others, and children are transferring the stress to others. Furthermore, by using violence against teachers or school property, children can “attack” the cause of the stress, namely the educational system itself. School refusal and bullying were given concern by CRC in the Concluding Observations of 1998. Comparing situation in 1996 when the first government report was submitted to the present day with the current one, we can find out that incidents of “escaping” have risen: the number of school refusal has been increasing sharply. We can also find out that the transference of stress onto other students has been transform into violent “attack” against teachers and school property. Bullying has been transformed into school violence and the number of incidents of school violence has sharply increased.

### **B. Scholl refusal**

Within the period from 1996 when the first government report was submitted to 2001 when the second periodic report was submitted, the number of students who refuse to go to school has increased sharply. In 1996, 19,498 elementary students were absent from school for 30 days or more. The 2001 figure was 26,511. The figure increased by 36%. In junior high schools, the number was 74,853 in 1996, which rose to 112,211 by 2001. The figure increased by 50%. The 2001 figures of both elementary school and junior high school were the highest as ever.

### **C. Bullying and Violence among students**

The number of incidences of bullying, which was listed as an object of concern in the Concluding Observations of 1998, has certainly fallen. If we compare 1996 to 2001, the number of cases in elementary schools, which had numbered at a little under 16,000, fell to about 6,000; the number of cases in junior high schools, which had numbered at a little under 26,000 fell to 17,000; and the

number of cases in high schools, which had numbered at around 37,000, fell to around 22,000. However, incidences of school violence have risen dramatically since 1996. If we compare 1996 and 2001, the number of cases in junior high schools of violence among students increased from 4,700 cases to 11,600 cases; in high schools the number leaped from around 2,000 to around 3,300 cases. In elementary schools, in which records began to be kept in 1997, the number cases went from 624 to 668. The fact that, although incidents of bullying have fallen, violence among students is becoming more prevalent shows that what took shape in the past as bullying is now emerging as violence.

#### **D. Violence against teachers**

If we compare the number of instances of students' violence against teachers in 1996 to 2001, we find that in junior high schools in 1996 the number of incidents numbered at 1,300 but had risen to 4,300 by 2001, a three-fold increase. In high schools they numbered at 234 cases, but tripled to 764. In elementary schools in which records were started to be kept in 1997, there were 193 cases in 1998 and 210 cases in 2001. There were 1,500 incidences of property damages in junior high schools in 1996, and this underwent a six-fold increase to 9,700 cases by 2001. In high schools, the number of cases stood at 201, but rose to nine times at 1,800 by 2001. Regarding corporal punishment inflicted by teachers, there were about 1,000 instances in 1996 in which an investigation of a teacher's actions was conducted because it was suspected that they might inflict corporal punishment. By 2001, this figure dropped slightly to 940 cases. Although incidents of violence by teachers toward students are not on the rise, incidents in which students act violently toward their school are increasing sharply. The above data clearly illustrates the strengthening of a "culture of violence" within schools.

[Basic Report 1,7,40,55,63,68,81,85,100,104,110,114,115,122,125,132]

## **Chapter 97 The impoverishment of educational content, “hypocritical” education, “Japanese-style high achievement,” and the busy school life**

### **A. What made the situation worse?**

As the Concluding Observations indicated, the school refusal and bullying was caused the highly competitive educational system. And as the reason why the “culture of violence” is strengthened, it can be pointed out the fact that, in addition to the high competition caused by the high school entrance examination system being maintained in its current form, the quality of the education itself has lowered as a result of the government’s policy.

Under the current educational system, the emphasis is on instilling the greatest amount of knowledge in the greatest amount of children, and the educational content set by the national course of study is at the uppermost limit. However, with the current educational reform, in a total reverse, the government is conceiving of a reduction of the educational content provided to children in public education to the least amount possible. Because of this, the “scholastic ability” necessary for successful completion of the entrance examinations must be obtained at “cram schools” for which families must pay out of their own pockets. Furthermore, in addition to the scientific knowledge passed onto students through public education being reduced to the smallest amount possible, the government is trying to implement more positive measures for the “personality control” of students through public education. The weakening of functions for the construction of scientific knowledge and the strengthening of functions for controlling the personalities of students have, in reality, already been implemented through various new measures regarding educational content and evaluation put in practice under the guise of the Ministry of Education’s call for the “easing of entrance exam competition.”

Here are some of the measures and their results: (1) the reduction of teaching content by 30% in the 1999 National Course of Study Revision; (2) the introduction of personality evaluation along the lines of “desire, interest, and attitude” toward school subjects, and the move toward stressing personality evaluation in high school entrance examinations (1993). (3) The indoctrination of students with Ministry of Education-approved ideologies during general studies time (2002). (4) The increasing dependence upon “cram schools” for acquiring the knowledge and strategies needed for entrance exams, and as a result, the refining of educational achievement into “Japan-style high achievement”. (5) A leap in the busyness of school life as a result of switching to the five-day



school week. Children find the educational content, which has been watered-down by the Ministry of Education, boring. They must act out being “good children” on a daily basis due to the personality control introduced by the Ministry of Education. In addition, they deride the education which demands them to welcome the Ministry of Education sponsored ideologies as “hypocritical.” They are unable to feel that the time spent in “cram school,” to which they cannot help but go to obtain the requisite knowledge for entrance examinations, is meaningful. In addition, as a result of the introduction of the five-day school week, they must accept a much busier school life. The portions of the educational reform plan that have already been implemented are making the problems of “escape” from school, the transference of stress, and attacks on the school itself worse.

Going to school means that children must constantly obey the demands of school and the government. Children cannot expect the education would be organized and practiced according to their own requests and desires. The scientific knowledge necessary for having meaningful interaction with country, society, and nature in the future is not capable of being sufficiently obtained in schools. In the Concluding Observations of 1998, as a positive aspect of Japan’s educational system, it was pointed out that there is a high rate of literacy. This will probably be maintained in the future as well. However, considering the Japanese government’s measures and policies over the past ten years, it would be safe to say that Japanese government is abandoning its obligation under Article 29 of the Convention to provide children with the skills and knowledge necessary for meaningfully interacting with their country, society, and the world.

## **B. Revision of School Education Law opened the way to make the educational system more competitive.**

The most effective measure to eliminate the highly competitive nature of the Japanese educational system is to abolish the high school entrance exam. But, the government has never considered this measure. The government’s second periodic report stated that as the number of students drops naturally due to the decline in population, competition will ease. However, because the high school entrance exams are conducted in accordance with the planned entrance rate (the percent of students who are allowed to proceed to high school is set at about 95%), as long as this is not abolished, the decline in the number of students will have no effect on the competitive nature of the entrance exam system. Furthermore, under the revision of School Education Law in July 2001, a prefectural school board of education is allowed to abolish the prefectural high school district system. Because, under this system, students can take entrance examination of high schools situated in a district where students live, this system prevented the competition from heating up. If a prefectural board of education decides to abolish the system, students are allowed to take entrance examination of any high school situated in a municipality. Then the competition would become more severe. In fact, in Tokyo prefecture, where Tokyo metropolitan school board of education abolished the system,

we saw this result.

### **C. The reduction of educational content to the lowest possible level**

The Ministry of Education has introduced measure after measure over the last ten years in its stated attempt to revise educational content and evaluation criteria for the purpose of altering the competition-centered education system. All of these measures have greatly differed from the Ministry of Education's stated purpose. Instead, the Ministry have lowered the quality of education and served to water-down educational content, and have only contributed to the deterioration of the scholastic ability that students acquire. The first thing that must be pointed out is that the Ministry of Education's measures and policies have reduced the core of the education given to all children to its lowest possible level, and have required families themselves to search outside the school on their own for education of higher quality. Next, it is necessary to remark on the "desire, interest, and attitude" criteria introduced as on portion of the evaluation of students' academic abilities, and that as a result, the quality of the education provided to students has declined. Furthermore, in the 1999 revision of the National Course of Study, the content taught to students was decreased by 30%, and, the addition of material to textbooks over the amount set by the Instruction Guidelines was prohibited. The Ministry of Education switched from its previous assertion that the National Course of Study was the highest standard to assert that the National Course of Study was the lowest standards. This new assertion surprised the people concerned because this would means that the National Course of Study was curtailed to their lowest possible level, and beyond this, teachers can make their own autonomous judgments about what to teach. But this was not the intention of the Ministry of Education. With the lowering of the upper limit of teachable material, it was the Ministry of Education's desire to reduce the responsibility of public schools on cultivating children's academic achievements.

In reducing the instruction guidelines, the Ministry did not consider the importance of the various items that needed to be taught within each subject or the systematic acquisition of knowledge. The Ministry simply cut out those subjects which were judged by experience (or could be predicted) to be difficult for students to understand. Therefore some aspects that are necessary for an overall understanding of the field are no longer taught, so conversely it is now more difficult for students to understand certain subjects and comprehend the knowledge holistically. Because the ability of schools to transfer academic skills to students is rapidly deteriorating, students are unable to experience the pleasure of understanding the rules on the world on which knowledge the human being historically accumulated.

### **D. The personality control of children through the addition of "desire, interest, and attitude"**

**as grading criteria as well as the introduction of “character evaluation” in the high school entrance exams.**

In 1989, the Ministry of Education advocated a “new perspective on academic achievement” and decided to include the evaluation of “desire, interest and attitude,” which could not be measured through testing, in the evaluation of scholastic subjects. As a result of this switch in grading from whether children understand the content of the subjects -- the rules of the outer world that human being discovered--, to the evaluation of children’s personalities -- whether children’s behaviors are good or not --, the control on children’s personalities in school has been strengthened. Children, who have been demanded to internalize the attitudes and qualities of “good child” standardized by the Ministry, have no choice during their school life but to behave as if they are really trying to internalize those attitudes and qualities. They resent such hypocrisy. Since children’s understanding of subjects could no longer be determined by grades alone, the faith of parents in the grading was lost. In order to raise their own grades, children pretend that they understood the subject matter, or put on the pretense that they had interest in learning it. If they successfully pretended to understand the subject matter they could lift their grades. And so it has become more difficult for students to genuinely experience the pleasure of learning. As “character” was added as a category for evaluation on entrance exams from 1993, it has become more and more necessary for children to “playact.” For example, because participation in the student council is considered a plus in the high school entrance exam evaluation process, some students participate in the student council simply for the purpose of raising their exam points. In recent years, prefectural high schools in Tokyo have added a component to the entrance exam process in which students are requested to write an essay about how close they are to the “ideal personality” which each high school published. Schools want to see how closely it matches their own published ideal. In Miyazaki prefecture, the prefectural school board of education introduced the admission by recommendation in high school admission. It was criticized as “introducing the competition among students on pretending how good they are and thus, making them absolute obedience to teachers.”(Basic Report 1)

The statistical survey conducted in Kita-Kyushu city showed that, due to the fact that the personalities of students are now assessed through admission process, the stress imposed on children become more intense. This survey was conducted in 1995 and 2000. The Table in the next page shows that answers from the third grade junior high school students on the question on “what is your recent concern?” They were asked to answer “yes” or “no” to each item of “entrance exam,” “future carrier,” “study,” “leisure, cultural activities and sports” and “friends.” Comparing the figure in 1995 and that in 2000, we can understand that students became much more concerned with what were related with the entrance exam, study and a high school they can go.

answer from the third grade junior high school students to the question on  
"What is your recent concern?"

	1995		2000	
first	entrance exams	62%	entrance exams	69%
second	future career	41%	future career	53%
third	study	35%	study	50%
fourth	leisure, cultural activities, and sports	23%	leisure, cultural activities, and sports	28%
fifth	friend	16%	friend	22%

Data from Basic Report 122

### E. "Comprehensive learning" time as the forum for inculcating the Ministry of Education supported ideologies.

In 2002, time for "comprehensive learning" was introduced in order to allow room for discussion of modern problems, and to approach subjects in an interdisciplinary manner. However, it has become a forum for indoctrinating students with government-supported ideology. "Comprehensive learning" was originally conceived of with input from teachers with successful experiences in introducing students to such things as lessons on peace or pollution. In elementary schools, 100 hours out of the 900 total hours of lessons are devoted to comprehensive learning. In order to successfully conduct such a class, sufficient preparation time and materials are necessary. However, the Ministry of Education did not provide the conditions for preparation. There have been cases in which some teachers have worked very hard and have produced some excellent results in comprehensive studies time, but most teachers have used the themes prepared by the Ministry of Education.

The Ministry of Education has suggested international understanding, information technology, environment, and health and welfare as themes. In the classroom for "international understanding," teachers play English CDs, non-Japanese individuals are brought in, and so on. For "environment," methods for recycling trash are discussed. Going to retirement homes and talking to elderly individuals constitutes "health and welfare." These activities are unpopular among students, and "smell of comprehensive learning" is already used as a catchphrase among students. In response to the theme that the teacher introduces (for example, "getting to know foreigners" or "getting to know the elderly"), students are expected to adopt a posture of acceptance on the surface, and come up with responses such as, "today I learned that we have to get along with foreigners," or "today I learned that we have to be kind to the elderly." "smell of comprehensive learning" is synonymous with hypocrisy.

### F. Shaping of "Japanese style scholastic achievement"

As a result of the government policy toward lowering the academic level that should be guaranteed to all students, the level of achievement that children are able to reach in school has deteriorated and students are forced to seek the knowledge and skill necessary for entrance exams at “cram schools.” Even lower-grade elementary school students are attending cram schools. Students should understand the relationship of the knowledge they acquire studying at school with the real world, but students are being robbed of the chance to attain true scholastic achievement, which is exhibited by the ability to apply knowledge of the laws of the world to the world and thereby change it. In order to win at the entrance examination game, the degree of dependency upon cram schools is increasing, and along with this, the relationship between what students study and the real world is becoming thin. Students are only acquiring the knowledge to pass “paper tests” in cram schools, and not knowledge which can be used to change the world.

In Japan, grades on paper-based tests are high, but children cannot understand the relevance of the knowledge they are acquiring to the real world. In contrast with their high achievement in paper test, their inability to feel that learning is fun is something which has received world-wide attention. The scholastic achievement which students are able to attain is being gradually molded into this sort of “Japan-style high achievement.” For example, Japanese children have exhibited top-class achievement on the 2000 PISA test, and the 1995 and 1998 IEA tests. However, the refinement of the meaning of “scholastic achievement” in Japan is shown in the data that IEA collected on the level to which students like/dislike subjects, and their awareness of their subjects. The proportion of students who claimed to “dislike” math was high, as Japan ranked as second out of 41 countries. Also, Japan claimed the top position for the number of students who disliked science. In contrast to 1995 survey in which 53% of students (aged 13-14) claimed to “like” or “greatly like” math, in a 1999 survey, the percentage had dropped to 48%, a fall of four points in four years. Also, the percentage of students who claimed to “like studying” was measured at 46% in 1995, but went down to 38% by 1999, and the proportion of students who claimed that studying was “boring” rested at 35% in 1995, but rose to 42% by 1999. The proportion of students who claimed that studying was an “important part of their life” in 1995 was 71% in 1995, but fell to 62% by 1999. The percentage of students who claimed that they “would like to do a job involving the use of math or science in the future” was at 24% in 1995, but fell to 18% by 1999.

### **G. The increased busyness of school life as a result of the five-day system.**

As a way of inserting “space” into school life, the Japanese government introduced the “five-day school week” in 1992, by making one Saturday a month a day without school. In 1995, this was expanded to two Saturdays a month, and starting in 2002, Saturday was removed entirely as a school day. However, rather than increasing the amount of “space” in school life, it has made school life much busier and confusing, robbing students of free time, where they can act as they please.

According to a 2002 survey carried out by the Shizuoka Prefecture Education and Culture Research Center, elementary students who responded that their school life has gotten “busier” totaled 34.8%, for junior high school students it was 42.2%, and for high school students it was 36.7%. The lives of teachers have also grown busier. They claim that they no longer have the freedom or time necessary to talk with students completely. According to a survey conducted in 1992 by the All Japan Teachers Union, the percentage of teachers who claimed that the “time spent at school working has increased” was 48.5%, or that they have become so busy that they have no free time in the teachers room was 39.4%, and that the amount of time spent on Saturday or Sunday preparing class materials has increased was 33.5%. The “space” available to teachers has been completely removed both on weekdays and weekends. Also, in the same survey, 27% of students replied that they had fewer “chances to meet with teachers.” Interaction with teachers in schools is dropping. Because Saturday has become a free day, Japanese students say that they welcome the five-day school system. Certainly, according to the previously mentioned 2002 survey (carried out by the Shizuoka Prefecture Education and Culture Research Center) the 64.7% of elementary students stated “very good” in answer to the question “now that two months have passed since Saturday became a day with no school, how do you feel about it?” 68.9% of junior high school students and 54.7% of high school students responded in the same manner. Positive responses in all groups were in the majority. However, the class time reduced on Saturday has been added to the weekday curriculum, and the number of class hours during weekdays has been increased. At high-ranked high schools, early morning and evening “extra-curricular hours” (classes teaching material necessary for college entrance exams) have increased. According to the 2002 survey (carried out by the Shizuoka Prefecture Education and Culture Research Center), 44% of high school students responded that their class hours had increased. Within the school curriculum, time for self-directed activity by children and art and culture classes has been reduced, and for lower-grade elementary school students, class hours have risen from five hours to six hours, forcing them to go home later each day, as well as increasing the amount of homework they are required to do. According to the 2002 survey, 44.1% of elementary school students, and 43.2% of middle school students claimed that their class hours have increased. 21.8% of elementary school students and 31.7% of middle school students claim that the amount of homework they must do has increased.

## **H. Children dislike “learning”**

How do children view school? We would like to introduce some very interesting survey results. Organization for Thinking about Education in Fukuoka conducted a survey regarding problems with academic achievement, with 1001 junior high and elementary school students as subjects. Over 60% of respondents stated “friends,” in response to the question “what do you find enjoyable about school?” 0% of first grade elementary school students, 15% of second grade students, 26% of third grade students, 19% of fourth grade students, 13% of fifth grade students, and 11% of sixth grade

students stated “learning.” As one goes up in grade level, the proportion of respondents who claim that learning is fun drops from 30% to 10%. And, in junior high and high schools, the percentage of people who claim that learning is fun drops to 4%. On the other hand, the proportion of students in elementary and middle schools who responded “learning” to the question “what do you dislike about school” was the highest. Roughly 28% of elementary school students from third to sixth grade students, 43% of first year junior high school students, 37% of second year junior high school students, and 36% of third year junior high school students answered that they “don’t like learning” (Basic Report 40).

Basic Report 1,7,21,39,40,62,71,95,105,110,112,113,122,124

## **Chapter 98 The governmental intervention in formation of the world view by children is strengthened and deepened.**

### **A. The current education reform requires the indoctrination of various ideologies to children**

As the education reform is carried out, it becomes clear that the ways in which the government controls children are changing. The control of children by using corporal punishment and school rules, which has been the most typical, becomes less notable, and the control of the personalities of children through the subjects learning, extracurricular activities, and comprehensive learning, has become more notable.

The reason this change has happened is that, in order for the government to remake Japan the nation which would win the economic mega-competition, the government seek to force future citizens to internalize the new ideologies. In the existing educational system, the internalization of the value of “societal obedience” was emphasized with the aim to produce large amount of obedient laborers. But, the indoctrination of this value alone is not satisfactory to the new industries trying to achieve victory in the global economy and “new nation” that supports the industries.

The “new nation” will produce a variety of problems internationally and domestically. Competitive global economy will enlarge the gap between rich countries and poor countries. Within Japan, reduced governmental responsibility on welfare and education will inevitably widen gap between the rich and the poor. Under the new industrial structure, many workers’ quality of life will deteriorate as the Japanese-style employment system, of which characteristic are which are consist of on the job training, life-long employment, and seniority wage system, will be abandoned. While a few candidates for elite receiving privileged treatment, all others left out, and the unfair educational system will first intensify competition, then the system will eventually be hierarchized along the lines of social classes. As the educational system provides the losers, or those of lower social class who are anticipated to be losers, with lower quality education only, there is no question that dissatisfaction will build up followed by expression of grievances by children in the form of delinquency, school violence, and school refusal. What is needed is new ideologies that can explain all the unethical which the “new nation” will arise as “a matter of course” and indoctrination of children with the ideologies.

The ideology proposed under the present “educational reform” that is to be internalized by children



can be sorted into “new nationalism,” “new meritocracy,” “charity spirit,” and “punitive approach” to children: Japan has the great tradition as well as the history, and so, will have to be a victor of the mega-competition. Japanese citizens must pledge allegiance to such nation (“new nationalism”). Inequalities in the international society and domestic society reflect the differences in abilities each country or an individual has. A winner is superior to in its ability to a loser. An individual or country must bear responsibility for any drawback resulting from an act based on one’s own judgment (“new meritocracy” and “self-determination /self-responsibility.”) As long as the cause of poverty lies on the ability of a nation or an individual, governments or corporations are not responsible for the inequality. Helping hands for the weak should be offered by citizens with charity spirit in a voluntary manner (“charity spirit”), and those who still disturb social order by lodging objection should be faced with severe punishment (“punitive approach”). The government paraphrases the “new nationalism” into “nation-loving heart” or “strong-spirited Japanese;” “new meritocracy” into “development of autonomous human being who aspire after self-fulfillment;” “charity spirit” into “rich heart” and “principal of severe punishment” into “new ‘public.’”

### **B. Time for comprehensive learning and “Notebook on Mind”**

In the current education reform, the government plans to organize the educational activities where these new ideologies are indoctrinated and to assess how each student internalizes the ideologies. The reason why the Ministry of Education identified “international understanding” and “welfare” as the issues to be treated in the time for comprehensive learning is that the Ministry would like to indoctrinate the ideology of “charity spirit” through the time for comprehensive learning. In “Notebook on Mind,” which is published by the Ministry and copies of which are distributed to all the elementary and junior high school students, the emphasis is given to the lesson that “who is responsible for your low ability is yourself” or “you should not blame the government that, due to the fact that the government sustain the laissez faire society and let the law of jungle work, you suffer a loss.” The time for comprehensive learning and “Notebook on Mind” will be used as a forum or a tool for the indoctrination of the ideologies. As the indoctrination goes on, the children who are left behind will be implanted the sense of powerlessness because they are forced to believe that their failure is due to their low ability.

### **C. Enforcement of the salute of the flag of “Rising Sun” - “*Hinomaru*”- and the sing of the song of “the reign of His Imperial Majesty” - “*Kimigayo*” - as the way to indoctrinate “new nationalism”**

Among the government supported new ideologies, the government carried out the inculcation of “new nationalism” in the most intensive way. Compared with its strongly reluctant attitude towards

the implementation of the Convention, the Ministry' has strongly and eccentrically devoted itself to the inculcation of this ideology.

In 1989 revision of the National Course of Study, the Ministry changed the ways in which the national flag and anthem are treated in school ceremonies. Before the revision, it was stipulated that "it is desirable for schools to salute the national flag and make children song the national anthem in unison when school ceremonies are held in national holidays." But, after the revision, it was stipulated that "School shall salute the national flag and direct students to sing the national anthem in unison." Every year after 1989, the Ministry asks the prefectural school boards of education to collect the statistical data on in how many public schools the flag was saluted and the song was sung in unison in a graduation and entrance ceremonies. This requirement by the Ministry to the school boards of education of conducting survey constitutes the substantial pressure on each school to follow the revised National Course of Study.

In 1999, the law on the national flag and anthem was adopted and the flag of "Rising Sun" - *Hinomaru*- and the song of "the reign of His Imperial Majesty" - "*Kimigayo*"- were authorized as the national flag and anthem by positive law for the first time in the modern history of Japan. After 1999, the Ministry set as the target to make 100% of public schools salute the flag and direct students sing the song in school ceremonies.

the ratio of schools using the national flag and song in graduation and entrance ceremonies

	nation wide						Tokyo Prefecture					
	saluting the national flag			singing the national anthem			saluting the national flag			singing the national anthem		
	elementary	junior high	high	elementary	junior high	high	elementary	junior high	high	elementary	junior high	high
Graduation ceremony in March 1999	98.4	98.1	96.4	87.3	83.6	74.9	98.4	99.5	70.5	83.8	81.2	4.8
Entrance ceremony in April 1997	98.4	98	97.5	85.6	83.6	77.3	98.2	99.5	83.7	81	82.1	4.3
Graduation ceremony in March 1998	99	98.5	98.1	88.2	84.8	80.1	98.9	99.4	84	85.8	85.3	3.9
Entrance ceremony in April 1998	98.8	98.4	98.1	86.6	84.7	80.6	98.6	99.1	85	83.8	86	3.4
Graduation ceremony in March 1999	99	98.6	98.8	90.6	87.1	83.5	99.4	99.8	92.3	87.7	88.4	7.2
Entrance ceremony in April 1999	99	98.6	99	89.2	87.2	85.2	99.4	99.8	95	85.6	87	5.9
Graduation ceremony in March 2000	99.7	99.3	99.7	95.4	93.6	96.2	99.9	100	99	93.2	94.9	88.6
Entrance ceremony in April 2000	99.6	99.4	99.8	94.7	94	98.1	99.7	100	100	91.8	95.6	99
Graduation ceremony in March 2001	99.9	99.9	100	98.8	98.2	99.5	100	100	99	98.6	99.5	100
Entrance ceremony in April 2001	99.9	99.9	100	98.7	98.4	99.6	100	100	100	98.9	100	100
Graduation ceremony in March 2002	99.9	99.9	100	99.3	99.2	99.8	100	100	100	100	100	100
Entrance ceremony in April 2002	99.9	99.9	100	99.2	99.3	99.8	100	100	100	100	100	100

But, whether or not to recognize "*Hinomaru*" and "*Kimigayo*" the national flag and anthem constitute the politically controversial issue in Japan. Those who oppose to the idea that the flag and the song should be recognized as national ones argue that they were the symbol of "Empire of Japan" before 1945 of which sovereignty was resided in the Emperor, and the lyrics of "*Kimigayo*," which hopes the eternal reign by the Emperor, is against the principle of sovereignty of people which was established by the 1947 Japanese Constitution. Another argument against the use of the flag and song in school is that it will allow the government to convey its one-sided argument. It is also argued that, even if the government is allowed to order the schools to use the flag and the song, the

children should be allowed to exercise their right to refuse saluting and singing based on their right to freedom of conscience and thoughts.

The Ministry has never clarified what kind of rights children can enjoy under Article 13 of the Convention vis-à-vis the national flag and anthem issue, and strongly devoted itself to realize the 100% use of the flag and song in school ceremonies. The Table in the previous page is on the ration of schools using the flag and anthem in graduation and entrance ceremonies.

This table shows that, though schools, especially high schools, were reluctant to use “the reign of His Imperial Majesty” – “*Kimigayo*”-, of which relics is against the principle of sovereignty by people, until 1999 when the law on the national flag and anthem was enacted, after 1999, schools have been forced to use the national anthem. This table includes the data on Tokyo prefecture. As the reason why the ratio of high schools in Tokyo rapidly raised since 1999, it can be pointed out the fact that Tokyo metropolitan school board of education has been urgently carried out the policy on restricting the professional autonomies of teachers, and as a results, by excluding teachers from school management, school principal easily enforce the national policy on the national flag and anthem.

#### **D. Assessment of the patriotism of each student**

In October 9, 2002, there appeared the report titled “In the city open to Asia, schools graded patriotism of each student from A, B, to C” in Nishinihon Newspaper. According to the report, 69 elementary schools, about the half of all the elementary schools, in Fukuoka city, introduced the item of “How is he/she willing to respect the tradition and history of Japan to have patriotism toward the state, and to have awareness as Japanese who hope peace?” in a report card and graded the patriotism of each student as from A, B to C. The fact that the patriotism was graded shocked sound shocking. According to the survey conducted by Asahi Newspaper, the number of elementary schools which graded the patriotism in record card was 172, and these schools spread over 11 prefectures and 28 cities or towns.

The reason why the item of patriotism was introduced in these schools was that, in the National Course of Study which was revised in 1998 and implemented in 2002, “to cultivate the patriotism” was stipulated as one of the “aims” of “social studies” for 6<sup>th</sup> grade in elementary school. To implement this new aim, in the notice to prefectural school boards of education issued in April 27, 2001, the Ministry of Education suggested to that the grade on patriotism be recorded in school record. Some prefectural school board of education, overreacting to the suggestion, recorded the grade of patriotism in report cards.

Grading of patriotism is based on the idea that the aim of education is narrowly identified as bringing up “Japanese future citizens.” This narrow identification of the aim of education will not only

result in making the public school more exclusive toward foreign students who are not “citizens” of Japan, but also in bring about the strong tense with the freedom of thought and conscious of all students including Japanese and foreign nationalities. Because of the strong reaction from the people, some school principal said that they will delete the grade of patriotism. But, the Ministry of Education has never announced that it will reconsider its policy which triggered this issue.

### **E. Issue on “history text book reform” movement**

With regard to the issue on the indoctrination of the “new nationalism,” we would like to point out one more issue, namely the “history textbook reform” movement. This movement has been organized by Japanese Society for History Textbook Reform, which is led by the so called “revisionist” intellectuals who deny the existence of Nanjing massacre or the governmental confederate with the comfort girls during the Anti-China war. They criticized existing textbooks on Japanese histories, which tend to self-critically describe the modern history of Japan, as “masochistic.” They started this movement in 1996 to publish a history textbook which will lead students to be proud of Japan and to make the Ministry of Education approve this textbook in the textbook authorization. In April 2000, this organization submitted a history textbook edited by the revisionists to the Ministry for getting authorization as a junior high school textbook. In April 2001, the Minister made decision to authorize it. Then, this organization actively raised the campaign for making city school boards of education and prefectural boards to adopt their history textbook.

This characteristics of the way in which this organization describes the modern history of Japan are two hold. First, the organization legitimizes the Japan’s invasion of Asian countries as Japan’s endeavor to maintain its economic interests. Second, the organization criticizes the European countries and U.S.A.’s policies toward Japanese Empire until the end of World War 2 as “white-dominated.” This way of describing the modern history of Japan will hide its true meaning; Imperial Japan succeeded in establishing the status as an imperialistic country in Asian area, then, clashed with other European imperialistic countries, and at last lost World War 2. In the textbook edited by the organization, the aim of World War 2 is described as the liberation of Asian people who were colonized by Western Imperialistic countries. It describes the intent of Japan’s declaration of war against the U.S.A as protecting Japan’s interests in Asia. This textbook raises the question of whether Nanjing massacre did really exist. It has no explanation on the comfort women.

After the Minister authorized the book as a junior high school textbook, whether or not cities’ school boards of education and prefectural boards should adopt it for the use in class rooms became a huge issue. Owing to the strong movement against its adoption, only two prefectural boards decide to use it only in schools for handicapped or classes for children living in hospitals. (But, this decision should be criticized on the ground that these boards imposed this textbook to the weakest children.)

The number of this history textbook used in schools constitutes only 0.0039% of the total number of history textbooks used all over the country.

We can raise three points with regards to the Ministry's response to the issue of "history textbook reform" movement.

First, by authorizing this history textbook, the Ministry approved the government's attitude towards World War 2, namely, its failure to show self-critical observation on World War 2 or to compensate the damages it gave to Asian people during the war. There raised the argument that the government should have decided not to authorize this book as a textbook. But, the real problem is that the textbook authorization system could give the government the power to officially approve or strengthen a certain national policy or thought, whatever a policy or thought is. What cannot survive in the free market of ideas can survive with the government's official approval given through this system. The government should have considered the abolishment of this system itself.

Second, due to the textbook adoption system under which cities' school board of education or prefectural boards can decide by itself or jointly with other board can decide which textbook can be used in school which they control, a textbook which, if teachers were allowed to adopt a textbook in collaboration with parents and children, would not have been adopted, were adopted.

Third, the government encouraged the concentration of the power of adopting textbooks in the hand of a few people. The Japan Association for History Textbook Reform anticipated that its book would not be adopted and it organized the grass-roots movement to submit a petition to a council of a local government asking the strict application of the existing law which endows the power to adopt a textbook to a school board of education and the abolishment of the local rule voluntarily adopted by a board which assured teachers' participation in the process of adoption. As the result, 33 councils of prefectures and 222 councils of cities, town and villages adopted the petition, and 18 prefectures decided to abolish their local rules which assured the teachers participation. The Ministry issued no official statement to this trend toward excluding teachers from the adoption process on the ground that the Ministry would like to respect an autonomous decision by each local government. But, when the movement against the adoption of this textbook were activated, the Minister of Education officially said "I am afraid that active organized movements from outside can hamper the fairness of the decision of textbook adoption" and then issued the notification to local school board of education which asked the boards to adopt textbooks "without being affected by the movement from outside."

Taking advantage of the movement for history textbook reformation, the Ministry not only hardened the base for implementing its policy on indoctrinating "new nationalism" by giving official approval to the revisionists' history textbook, but also strengthened its power to control the content of education by un-democratizing the textbook adoption process.

[Basic Report 1,50,110,144,145,146,147,148,149]

## **Chapter 99 Dismantling the equality in education**

### **A. The new “selection” system and its implementation**

The characteristic of the Japanese educational system, which was described as “highly competitive” in the consideration of the initial report of Japan by CRC was that it imposed an excessive amount of learning on children and forced every child to be in a severe competition at the age of as early as 15 to 18. The competition planned in the current education reform is different from this type of competition. The blueprint of the “educational reform” has just been revealed and it has not been implemented all over Japan yet; only some municipalities have barely started breaking down the blueprint. Still, it is already clear that the education reform may cause another threat to equal opportunity for education.

### **B. Purchase of “scholastic ability for entrance exams” at private expense**

As the quality and quantity of education guaranteed in the reform plan are limited to the minimum requirement, it becomes parents’ responsibility to provide their children with “scholastic ability,” namely education necessary to pass entrance exams. This will increase expenses that each family must bear for educating children. No doubt will there be a significant gap between the scholastic ability of children from affluent families and that of those from less affluent in the near future. The increase of burden can already be seen in the statistics collected by the Ministry of Education in 2002. A family with a public junior high school student in the third year spent an average of 223 thousand yen per year on cram schools. This figure was up by as much as 15% since the previous research in 1998. There is a sign that how much a child can be prepared for an entrance exam depends on the financial ability of his/her family. Thus, the system where extra money is required to prepare a child for higher education will deprive children from non-wealthy families of educational opportunity. Not only that, such system will end up producing adults who would think that they can use his ability which he/she acquired through education only for their selfish interest.

### **C. School choice and multi-tracking school system**

The current education reform plans to force children to start competition at their earlier age by introducing the elementary and junior high school choice. Currently, only some wards, cities,

towns and villages of Tokyo, Mie, and Shiga prefecture introduced the school choice at such an early age. However, 23 out of 24 wards in Tokyo are now considering the school choice and this trend is expected to spread across Japan.

Furthermore, along with the introduction of school choice, the education reform intends to introduce multi-track school system, which includes unified elementary and junior-high school education, unified lower and upper secondary school education, and high schools especially for raising elites and for non-elites as well as the traditional 6-3-3 school system. The government opened the first unified lower and upper secondary school in 1999. Also, Tokyo government has designated some high schools as those for training elites and concentrating children on preparing for entrance exams of high-ranked universities. School Education Law was revised in July 2001, and this revision enabled each municipality to decide whether or not abolish “school district system” (a system where a child can attend only the schools within the district where he/she lives). Following the revision, Tokyo abolished the system and started gathering “excellent” children in certain elite-training schools in 2003.

#### **D. Reduction in public spending on education based on national or regional standard and increase in budget for elite training**

The national and local governments are curbing format funding of education (budgeting according to the standards set out by the government); but, at the same time, they are prioritizing schools that raise “elite” children in budgeting. It has been the public demand to revise the national standard of the number of the students in a class, which is 40, and reduce the number of students per a class. What the national government did by revising the law was to place the responsibility of reducing the class size on each municipality. Now each municipality is allowed to introduce classes of smaller number of students at its own expense. On top of that, the national government changed the scholarship program for the worse, limiting the educational opportunities with less money. Many municipalities have planned and implemented abolishing or integrating part-time high schools, which have contributed to providing educational opportunities for dropouts and children who refused to go to school, who are the victims of heated competition imposed by the government. Despite the facts that the number of dropouts is increasing due to financial reasons, the government has taken no measure to solve such situation. On the other hand, the government has decided to pay extra for the high schools which provide science-focused education, naming them as “Super Science Schools.” Some municipalities have started to place extra budget on unified elementary and junior high schools (Shinagawa Ward).



### **E. Dismantling equality in education, “selection” imposed on children at every stage of education, and hierarchization of education**

Were the new “selection” system to be introduced fully, equality in education would surely be broken down in three aspects; contents of education, school system, and educational finance. As the “selection” takes place when children are 6, 12, 15, and 18 years old, children at almost any age will be put under tremendous pressure of the “selection.” In addition, this system ensures that the wealthier the parents are, the higher scholastic ability their children achieve.

[Basic Report 1,10,31,34,40,59,70,71,72,81,95,105,110,117,122,212]

## **Chapter 100 Hostile attitude of the national and local governments, politicians, boards of education, school officials and mass media towards children who are against the “educational reform”**

### **A. Frame-up by mass media followed by accusation by politicians against children, tightening supervision of school administration ending up with punishing teachers**

The current educational reform would raise various serious problems, so it has invited criticism from children. Two tendencies can be pointed out as the reaction of the governments and school officials in the past 5 years. First, for all the growing concerns of children about the government’s policy, more and more school principals are forcibly enforcing the governmental orders and policies. They are even neglecting the school rules that guarantee children to participate in the school management. Second, there now is a chain reaction that threatens children’s movement. Mass media sensationalizes the children’s protest against the government’s policies. Based on reports by mass media, politicians accuse children. As a result, the educational administration unreasonably punishes teachers who provide children with support and advice.

### **B. Fabricated article in Syukan Bunsyun insulting children’s representatives of DCI in 1998**

There is one incident that triggered the trend of above chain reaction of scorning and trampling children’s movement. In October 1997 and May 1998, Japanese children’s representatives of DCI-Japan Youth Committee made a presentation to CRC, emphasizing that opinions of children in Japan were often neglected, having cited the case of a school where the school principal decide to introduce uniform code by himself and compelled students to wear school uniforms. The presentation made in 1997 was treated favorably by the mass media, however, soon after the presentation of 1998, in a weekly magazine, “Syukan Bunsyun,” a million of which copies were sold, appeared an article titled “Childish High School Students Scolded by the UN for Demanding the Abolishment of School Uniforms.” This article, with the real name of the student who made the presentation, contained a lot of faked information, such as the words not actually mentioned by the member of CRC. It also included a comment by professor Ribo Hatano, “Convention on Rights of the Child is for children in developing countries. So, the demand of the Japanese high school students is irrelevant.” No confirmation was made about whether or not the writer of this article was actually at the presentation. Despite the uncertainty of the article, several local news papers also wrote the similar article. DCI Japan office demanded the Foreign Ministry make a public

announcement that the article was forged, but the Ministry neither made such announcement nor made efforts to verify the article.

### **C. Principal suppressed children's activity to support HIV/AIDS lawsuit**

In 1998, Ryuhei Kawada made public the fact that he had been infected with HIV-virus from virus-tainted blood products and filed a suit against the Ministry of Health and Welfare for not having revoked permission for the sales of the products. Having sympathized with Ryuhei's appeal, many young men and women joined the movement. The article in *Syukan Bunsyun* was, in a way, a backlash against the expanding children's movement. This backlash had already started in 1994, when the government ratified the Convention. Having heard the Ryuhei's story in a Japanese class in November 1994, some students voluntarily launched a signature campaign to support HIV/AIDS lawsuit (the lawsuit against the government for not having revoked permission for the sales of the blood products despite its awareness of their danger). On December 5 that year, the principal questioned the Japanese teacher if she had made students take part in the signature campaign. Although the teacher answered "No, the movement rose among students," her request to remain employed as a part-time teacher after her retirement in March 1996 was turned down because of the "signature collecting activity during her class." (This teacher is in the process of a lawsuit demanding the cancellation of the employment denial.)

### **D. The case of Tokorozawa High School (children's expression of opinion on the issue of national flag and anthem)**

Here are two cases to reveal how the school principals ignored the school rules which assure every student to participate in school management and how boards of education punished the teachers who had been supportive to the students in order to fulfill the government order. Both cases were about which should come first, the government order or children's voice. The Japanese government revised the National Course of Study in 1989 to oblige every school to fly "*Hinomaru*" flag and to sing "*Kimigayo*" song during school ceremonies. In 1999, the flag and the song officially became the national flag and anthem as the government stipulated so in a statute. In the 1990s, the Ministry of Education made the boards of education to check if the government order was followed by every school in their jurisdiction. Especially, since 1999, the government has become stricter in implementing the National Course of Study. The following two cases well illustrate the trend explained above 5(1).

The principal of Tokorozawa High School in Saitama prefecture insisted that the national flag be displayed and the national anthem be sung at the entrance ceremony in April 1997; students and

teachers, on the other hand, were against the idea. Their reasons were as follows: first, the school rules state clearly that the student council and the teachers' meeting should be involved in deciding how the graduation and entrance ceremonies to be held; second, the political controversial issue of whether or not "*Hinomaru*" should be the national flag and "*Kimigayo*" the national anthem should not be brought in the ceremonies celebrating students entrance or graduation. The issue of "*Hinomaru*" and "*Kimigayo*" constitutes a politically controversial issue in Japanese society, since they served as a symbol of the imperialism and militarism during the World War 2. The student council and the teachers' meeting concluded that the argument should be kept out from the ceremonies so that the ceremonies could be more inclusive and the student council stressed that such an idea should be respected in accordance with the school rules. The principal, however, placed "*Hinomaru*" in front of him and played the recorded "*Kimigayo*" during his speech at the entrance ceremony in April 1997. He decided to hold the graduation ceremony at his sole discretion in March 1998 and the student council also decided to hold a "graduation festival." Only 20 students attended the principal's ceremony, whereas every student participated in the festival. The principal threatened the parents of the fresh students of that year, saying that their children would not be admitted to the school if they did not attend the entrance ceremony held by the principal (from the legal point of view, this was irrelevant since there was no regulation giving such authority to the ceremony). The student council again decided to welcome the new first graders by having its own party. 60 percent of the first graders attended the entrance ceremony, while all of them went to the welcome party. The Minister of Education at that time commented on the event by saying that "it should be the principal who makes the final decision, and this should not be neglected even though the student initiative should be respected." Saitama issue of Yomiuri Newspaper wrote, "boycotting the ceremonies is the wrong way of demonstrating democracy" on April 11. On the same day, Saitama Newspaper wrote, "taking initiatives is different from going wild." Amid a flurry of various sorts of information, one teacher told the parents that teachers would like to respect school rules, to oppose to a principal-controlled ceremony, to make every effort to avoid confusion even if there would be two ceremonies: one by the principal, and the other by the students. This teacher was reprimanded for having ruined the public trust in public servants. This teacher filed a complaint against such reprimand to the personnel committee of Saitama prefecture and the commission recommended revocation of the punishment.

### **E. The case of Kunitachi Dai-ni Elementary School**

This case is about the graduation ceremony held in March 2000. Having followed the traditional practice, the students' executive committee discussed how the ceremony would be held and decided to have a graduation ceremony without neither "*Hinomaru*" flag nor "*Kimigayo*" song. On the very day, however, the school principal flew "*Hinomaru*" on the roof of the school building without prior consultation with teachers and students. After the ceremony, children asked the principal why he

did not tell students anything about displaying “*Hinomaru*.” As the principal did not have a convincing answer, the meeting between the students and the principal went on for two hours. Parents and teachers conveyed the children’s message that they would like the principal to apologize for his behavior and the case was settled with his apology. The board of education of the city demanded a report on the case. On April 5, although the report had not yet been publicized, Sankei Newspaper wrote an article based on the report with a sensational headline, “30 pupils dragged down the national flag forcing the principal to kneel down.” Right-wingers made an unwelcome visit to the school on April 6, the day of the entrance ceremony. On April 19, a congressman called for the punishment on the involved teachers and the Minister of Education responded “if they violated the regulations, they should be punished.” The Tokyo governor, Shintaro Ishihara said, “Education at Kunitachi is strange. It’s grotesque” and demanded stricter control over schools by the government. 13 teachers were punished for having protested against the principal’s behavior and having said inappropriate words to the principal in front of the pupils.

#### **F. Hostile reaction of Tokyo metropolitan government against the students’ protestant against the abolishment of part-time high schools**

The Tokyo government decided to consolidate existing part-time high schools, causing an opposition movement from the students (some of them are over 20). Students of part-time high schools voluntarily formed a “commission to protect part-time schools” and requested for negotiation with Tokyo board of education. The chief who met with the students turned down the request on October 3, 2002. The reasons were: the school principals must be involved: those protesting were the minority: the board of education was aware of the students’ opinion: students should be under control of the school principle, which was agreed upon signing a letter of content at the time of entering school: the students might well be expelled from school for having such a campaign.

## **Chapter 101 Enhanced control over teachers to force them to implement “Educational Reform”**

### **A. Why the control over teachers must be beefed up?**

This is because it is teachers who have a direct influence on children and parents. They feel at first hand that the “educational reform” conflicts with children’s rights and they receive direct opposition against such reform from both students and parents. Accordingly, many teachers are likely to be critical of such educational reform. Thus, tighter administrative control over teachers is required in order to execute the educational reform. The detailed information on how the government deprived them of their professional autonomy through the merit evaluation system, by the introduction of profit-seeking corporate management into school and by making the staff meeting a subsidiary organ of the school principal will be given in Chapter 107-112.

### **B. Unreasonable punishment against teachers who voiced their opposition toward educational reform**

It has been apparent these few years that the board of education has been taking disciplinary actions against and measures disadvantageous to teachers who expressed their objection to the educational reform in front of students and their parents. The above two cases – Tokorozawa High School and Kunitachi Dai-ni Elementary School – are excellent examples. Some teachers at these two schools were disciplined for having said that school should focus more on children’s participation than on policies of the Ministry of Education. There are many other cases where teachers were punished for their protest against the Ministry’s pressure to make schools display “*Hinomaru*” and sing “*Kimigayo*.”

Among them is a case of a teacher at Kokubunji High School. The teacher was disciplined for having disobeyed the principal’s order and damaged the public trust in public servants after he had sent letters to PTA and told them his opposition against the reorganizing plan of the school in 1997. This teacher filed a lawsuit to nullify the punishment. The district court ruled that the teacher’s behavior had damaged the public trust and the decision was later supported by the Supreme Court.

[Basic Report 10,20,110,112]

## **Chapter 102 “Notebook of Mind” edited by the government based on the biased view on child development presented by the National Commission on Educational Reform**

### **A. A biased view on child development proposed by the government**

The Ministry of Education has laid out measures one after another to “reform” education. Ironically, it is such efforts that are raising the number of students who refuse to go to school, bullying, violence among students or against teachers, or property damage by students; since such measures did nothing but deteriorated quality of education, increased control over personality, and made school life busier. The Japanese government should have interfered less with contents of education, letting students and teachers decide what to learn, and also, they should have abolished high school entrance exams. The Japanese government, on the contrary, presented a strange idea about how children should grow and concluded that children would never cause problems as long as their “minds” were well managed. What the government basically said was that difficult children would be obedient to school and society if their “minds” were cured. The following was cited from the report submitted to the Prime Minister in December 2000 by the National Commission on Educational Reform; it should be noted that this commission was headed by a former prime minister, Mr. Mori, who drew attention internationally by saying that “Japan is a divine nation having the emperor as its pivot.”

“At the threshold of the 21st century, however, the reality is that Japanese education is deteriorating, and this cannot be overlooked. Continued occurrences of bullying, students who refuse to go to school, school violence, classroom disruption, violent juvenile crimes and other problems concerning education have become serious.

We, citizens and NGOs, share the same concern, but we do not blame children’s “minds” for the phenomena as the National Commission on Educational Reform does as follows.

Japanese people have been able to enjoy a period of long-sustained peace and material affluence. How education should respond to some of the consequences of this affluent age is now being questioned. Children tend to be weak-willed and unable to control their desires. Adults who are responsible for raising children do not look at life with their feet firmly on the ground but have selfish values or a simple-headed sense of justice. They are sometimes unable to make the distinction between fiction and reality. Also, Japanese people have lost their ability to think and create by themselves, they have lost their spontaneity and courage in taking initiatives, their capability to endure hardships, their consideration for others, and the ability to show self-control when necessary.

How the problems should be dealt with? The answer that the National Commission on Educational Reform made was to install “software” in children so that they can control their desire and recognize the reality. How the “software” installed? It can be installed through, what they call, “counseling” that corrects distorted minds, or through punishment that expels “wrong ideas” out of children’s minds. The National Commission proposed an “education to teach the basic way of living a human life.” The Commission recommended compulsory social service and strict punishment on problem children. In line with the report, the School Education Law was revised in July 2001. The law now allows principals to suspend students who disturb the peace and order from school. The law also forces every school to make efforts to have children experience social services.

## **B. “Notebook of Mind”**

Surprisingly, the Japanese government had a group of psychiatrists draft a book called “Notebook of Mind” and published it under the name of the Ministry of Education, and distributed them to every elementary and junior high school across Japan. This book is recommended to be used not only in moral lessons but also in classes of other subjects. This book is all about self-control and doing what families, schools and the governments expect children to do.

Because the bullying or school refusal reflects the distortion in the social or human relationship children have, for solving these issues, it is necessary to reorder these relationship with participation of children, namely, children should be allowed to raise question to these distortions and should be empowered to reorder them. Because children by alone cannot understand the reason why the distortions have arisen, and think out how they can be solved, it is quite important to let children make access to mentors and have interactive dialogue with mentors. We understand that Article 12 of the Convention guarantees the right to have a mentor and to express their view free to them. All the more because children are not given these rights, their views cannot help but being expressed in the forms of “escaping” from and “attacking” schools. This book does not tell a single word about Convention on the Rights the Child; nor does it tell this basic idea of the Convention.

[Basic Report 110,150]



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## **Chapter 103 The review of the current education reform from the view point of the Convention**

### **A. CRC should ask the government to submit additional information on the current reform plan.**

To make the consideration of the second periodic report, it is necessary for CRC to ask the government to submit additional information of the education reform plan of which drafting was launched in March 1999. The English versions of the most important two reports by the prime minister's commission are available at the web pages of the government. The English version of report by the Prime Minister's Commission on Japan's Goals in the 21st Century, JAPAN'S GOALS IN THE 21<sup>ST</sup> CENTURY - The Frontier Within: Individual Empowerment and Better Governance in the New Millennium – is available at <http://www.kantei.go.jp/jp/21century/report/pdfs/index.html>. The English version of the report by the National Commission on Educational Reform, 17 PROPOSALS FOR CHANGING EDUCATION is available at <http://www.kantei.go.jp/foreign/education/report/pdfs/report.pdf>. It is also essential for CRC to require the government to submit information on the proposal made by the Central Commission on Education in March 2003 on the revision of the Fundamental Law of Education. Especially, the information on the proposal on how to revise Article 1 and 10 of the Law is important. At the time when we submit this alternative report to CRC, the government has not submitted the bill on the revision of the Law.

### **B. In what ways is the education reform plan incompatible with the Convention?**

The current education reform is not compatible with the Convention, at least, in the following five points.

#### **1. Incompatibility with the new approach to children taken by the Convention**

The approach to children adopted by the National Commission on Educational Reform contradicts the new approach taken by the Convention. At the base of Article 12 of the Convention, which shows essence of the new approach, there underlies the understanding that children develop themselves through the interaction with the outer world including adults and they develop their own understanding of the outer world through this. In contrast to this approach taken by the Convention,

the Japanese government approach to children sees that children, who were born irrational, are dominated by desires and are not able to understand the reality, can develop themselves only through being indoctrinated the social values by the authoritative figures. Based upon this idea, the government sees children as objects to indoctrinate the government supported ideologies.

2. Incompatibility with the children's right to express their own views freely and the teacher's rights to conduct education without the intervention by the government.

The education reform will undermine the quality of relationship between children and teachers, or the quality of the educational process embedded in the Convention. In carrying out the reform plan, the government force school principals to neglect existing school rules which stipulate the participation of students in school management. Furthermore, the government imposed administrative penalties on teachers, who were placed in the dilemma of choosing the voices of children or the government policy, on the ground that they did not obediently follow the government's policy. When the reform plan is totally implemented, the professional freedom of teacher will comprehensively vanish.

The greatest obstruction against the realization of Article 12 in the field of education is the government intervention into education which makes it impossible for teachers to respond to the voices of children in their educational activities. To enable the interactive relationship between children and teachers which is embedded in Article 12 of the Convention, the teacher's right to freedom of education is essentially important. If the teacher's right to freedom of education is denied and they are forced to follow the governmental policy on the content of education, there would be no room for teachers to organize their educational activities which will respond to voices from children. Because the Convention is the international document on children's rights, it does not directly stipulate the rights of professional workers who work with children. But, looking at other international treaties, we can find out such documents as ILO/INESCO Joint Recommendation on Status of Teachers, which will fill up what the Convention does not clearly state. It is necessary for CRC to clearly state the importance of the right of teachers as an essential tool for realizing the children's rights and use the above mentioned Recommendation on Status of Teachers.

3. Incompatibility of the government excessive control on the content of education with Article 3 and 28.

Under this Convention, educational activities should be organized and conducted based on the interactive relationship between teachers, students and parents. The government is forbidden to make intervention in educational activities which will undermine this interactive relationship. And, the inherent role of the government is limited to providing conditions that will enable this relationship. With regards to the role of the government, Article 3 of the Convention says that state

parties “undertake to ensure the child such protection and care as is necessary for his or her well-being.” This article can be understood as saying that the government is not to undertake the realization of a child’s “well-being” itself, but to provide conditions which are necessary for a child’s “well-being.” Article 28 of the Convention, breaking down this principle of Article 3 in the field of education, stipulates the role of the government as establishing the school system. Even when the governments are to realize their obligation to improve the quality of education, which is stipulated in Article 29, the measures they can take are limited to giving suggestion and guidance, and they are not allowed to legally compel what should be taught and how it should be taught against the will of teachers and students. Carrying out the education reform plan, the Japanese government has taken several measures which have deeply affected and intervened in the educational activities since the beginning of the 1990s. We urge that the government has overridden the limitation which the Convention sets on the government.

#### 4. Incompatibility of the unequalization policy with Article 28 and 29.

The Japanese government is now trying to dismantle the equality in education by reducing its responsibility on children’s formation of scholastic ability to the minimum, introducing the multi-track school system, and distributing more financial resources to education for elite. The educational system is now being unequalized in three aspects, namely the content of education, school system and financial distribution. This unequalization policy is not compatible with Article 28 and 29 of the Convention.

As the government reduces its responsibility on children’s formation of scholastic ability to the minimum, families are forced to “buy” education provided outside the formal educational system by their private fund, to acquire the abilities necessary for entrance examination. The government is also reducing its financial responsibility on making education accessible for all, by changing scholarship program for the worse. The policy which increases private financial responsibility and decreases the government’s financial responsibility are against Article 28 of the Convention, which requires the state parties to take such appropriate measures as free tuition to realize the equal educational opportunity for all.

Furthermore, this recent policy of the Japanese government is against the idea which underlies Article 28 and 29 of the Convention; education should be publicly funded, because, when people acquired their abilities through publicly funded education, people will use them for the public aim. Article 28 of the Convention stipulates that elementary schools should be free and compulsory and it also encourages the introduction of free tuition to the secondary education. General comment 1 on Article 29 adopted by CRC reads as follows. “Education must also be aimed at ensuring that essential life skills are imparted to every child and that no child leaves school without being equipped to face the foreseeable challenges that will confront him or her in life.” These two articles

require that children should acquire all the life skills which are necessary to become subjects who can constructively contribute to the civil society through publicly funded education. We think this requirement by these two articles is based on the idea that the full development of children's abilities through publicly funded education will secure the civil society the future citizens who will willingly use their abilities for the public. This idea tries to avoid the situation where future citizens who developed their abilities through private funding will use their abilities only for their private interests, or the situation where elite who were privileged to use public fund for their education will use their abilities only for the government's interests.

It is sure that the current education reform will encourage the use of the abilities for private interests or the government's interests which Article 28 and 29 are to avoid.

#### 5. Incompatibility of the government supported ideologies with Article 29.

According to General comment No.1, "essential life skills" which children can acquire through the public education "include not only literacy and numeracy but also life skills, such as the ability to make well-balanced decisions, to resolve conflicts in a non-violent manner, to develop a healthy lifestyle, good social relationships and responsibility, a critical way of thinking, creative talents, and other abilities which give children the tools needed to pursue their life options." But, in the new educational system which is designed in the current education reform plan, children are to learn only "3Rs" and, other than 3Rs, children are required to internalize the ideologies which will justify the unethical problems which the neo-liberalistic international and national society will bring up. We cannot expect that children will develop such rich abilities as referred to in General comment under the new school system.

Furthermore, the new ideologies which are planned to indoctrinate into children are incompatible with the role that education should take under the era of globalization which general comment clarifies: "an education with the contents firmly rooted in the values of Article 29(1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human-rights friendly, response to the challenges that accompany a period of fundamental change driven by globalization, new technologies and related phenomena."

**Part 2 Children are deprived of their subjectivity in schools**

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## **Chapter 104 Children are still facing difficulties in exercising their participatory rights in the educational system.**

### **A. How CRC understands Article 12 of the Convention?**

Article 12, is regarded as an essential, epoch-making and pivotal element of the Convention. This was confirmed in some of the comments shown by the members of CRC in the consideration of the first government report in 1998. Ms Kirp said “viewing this convention comprehensively, it is impossible to understand it without the principle of the respect of the view of the child.” Ms. Sardenberg said “Article 12 run through the Convention” and “the issue of the participation is critically important.”

CRC understands Article 12 as providing the general principle of “respect of the view of the child.” According to CRC, this principle requires more than by giving children the opportunity to be heard. Under this principle, children should feel that their voices are “seriously considered.” When their views are not taken into the decisions, adult people are obliged to “explain its reason.” The children’s right to express their views freely articulated in Article 12 of the Convention is different from the right to freedom of expression because, other than the obligation to give children opportunities to express their views, the right recognized in Article 12 includes the obligation to respect children’s views, to sincerely consider them, and to explain the reason why their view were not taken into the decisions.

CRC, seeing children as citizens and partners of adults, who constitute such communities as schools, homes and local communities, argues that Article 12 includes “the right to participate in society and in school” and emphasizes its importance. Paragraph 8 of General comment No.1 on the aims of education adopted by CRC in February 8, 2001 reads that “this article weights much on process in which the rights in education are promoted. Therefore, any value put through educational process should not risk any effort to promote having other rights but should promote those rights. This process not only includes contents of curriculum, but also the process of education, educational method, and environments where education is being offered whether it is home, school or otherwise. The child does not lose his/her right as a human being by passing the entrance of the school.” And it also reads that “under Paragraph 1 of Article 12, education should be offered as such that the child may express his/her own opinion with freedom, and may participate in school life” and “participation of the child should be encouraged as part of the process of learning and implementing materialization to the right.”

Paragraph 2 of Article 12 provides that one should be ensured to have opportunities to be heard in all the legal and administrative proceedings affecting children. This paragraph requires the realization of the procedural due process of law when disciplinary actions will be taken to students.

## **B. Students' participation in school management**

In paragraph 13 of the Concluding Observations in 1998, CRC expressed its serious concern on “the difficulties encountered by children in general in exercising their right to participate (art. 12) in all parts of society, especially in the school system.” In 1998, CRC recommended that “further efforts must be undertaken to ensure that the general principles of the Convention, in particular...respect for the views of the child (art. 12), not only guide policy discussions and decision-making, but also are appropriately reflected in any legal revision, judicial and administrative decisions, and in the development and implementation of all projects and programmes which have an impact on children.”

In the dialogue with the delegation from the government, one member of the committee raised the question on the government's understanding of Article 12. Referring to the notification by the Deputy Secretary of Ministry of Education, issued in May 20, 1994, which reads “Article 12, 13, 14, 15, and 16 of the Convention recognize the rights including the right to express views and the right to freedom of expression. Schools, as a matter of course, can give students direction and adopt school rules which are necessary and reasonable to achieve the goals of education. School rules are for making students to spend healthy school life and develop themselves, and it is the responsibility of school authorities to adopt school rules by their own judgment,” Mrs. Kirp said that “This notification said nothing about the children's rights or the obligation to hear the voices of children. Thus, it unreasonably limits the scope of Article 12.”

What steps did the Government and the Ministry of Education take to improve policies to solve the difficulties? Paragraph 130 of the Second Report of Japan states that “the government guidelines for teaching stipulate that in each stage of elementary, lower secondary and upper secondary schools, a child is to be engaged in classroom activities and extra curricular activities in the homeroom (the students of an entire class as a unit conduct activities such as forming various organizations and sharing tasks in the class through discussion and cooperation to enrich and improve the classroom life), and in pupil council or student council activities (a pupil council or student council is composed of the entire students and conducts activities to enrich and improve the school life), ensuring the participation of students at each school in decision-making.” Certainly, a pupil council or student council is included in the Course of Study, but it was not included after the ratification of the Convention, but was included earlier for the first time after 1951 when the Ministry adopted the

first Course of Study. In the current Course of Study revised in 1998, the description on a pupil council and student council did not change at all from the previous one. It reads “A pupil council and student council are to be engaged in activities to enrich and improve the classroom life, activities related to coordination among various activities of students; activities related to corporation with school events, and volunteer activities.” But, there is no indication anywhere in the Course of Study, in a manual description of the Course of Study, or in notification that the students participation became as a matter of children’s rights after 1994 when the government ratified the Convention. This means that, since 1994, the government has taken no specific measure to realize the students’ right to participate in school management. Furthermore, it means that the difficulties of students in realizing their right to participate in school management, to which CRC expressed the serious concern, has not been overcome yet. Paragraph 130 of the Report of Japan concludes that “pupils and students are participating in decision-making” through a pupil council and student council, but, this conclusion has no ground at all.

Paragraph 143 of the Second Report of Japan prescribes that “it is very important to constantly revise school rules to improve education, and the Ministry of Education has shared this concept and instructed the boards of education to adopt it also.” This paragraph only repeats what the Ministry said in the above mentioned notification of 1994, which was criticized as not fully reflecting the idea of children’s right to participate in the consideration by CRC in 1998. The notification said “School rules are for making students to spend healthy school life and develop themselves, and it is the responsibility of school authorities to adopt school rules by their own judgment” and “school rules are the parts of daily educational directions, and, the school authorities should make endeavor to making them more appropriate considering situation of students, parents’ view, and communities’ present condition.”

In short, as for the right of the child to participate in school management, the Ministry of Education did not show any intention to make better policies that follow the concerns and recommendations expressed in 1998 by an individual member of CRC and by CRC.

Because the government did not take a new measure at all, the difficulties of students in exercising their right to participate in school management has not been solved yet. According to the survey conducted by NGOs, only a small number of students said that they are provided with “an opportunity to give their opinions” on school rules, or their opinions on school rules were “respected.”

According to the survey by New Japan Women's Association, which was conducted in January and February 2001 and covered 2,112 elementary, junior high and high school students living in 40 prefectures, only 22.3% of students answered “yes” to the question of whether they had an opportunity to express their opinions on school rules, and 40.2% answered “no” to this question.



According to the survey by the National Center for Children's Rights, Education and Culture, which was conducted in 2001 and covered 3,000 junior high and high school students nation wide, 37% of students answered that "they had an opportunity to express their opinion on school rules," 21% answered that "their opinion were respected," and 40% answered that "they are not allowed to express their opinions."

In its survey New Japan Women's Association asked "what is the worst school rule?" Many of elementary school students answered that the school rules on clothing and conduct outside schools are worst. The elementary school students gave examples of the worst school rules as follows; rules ordering boy students to wear kneelength pants during winter, prohibiting students from going to supermarkets by themselves, prohibiting students under third grade of elementary school from riding bicycles. The junior high school students gave examples of the worst school rules as follows; one rule ordered students to keep their hair neat but other rule prohibited them from bringing combs to school, a rule prohibiting students from wearing coats during winter, a rule ordering student to put helmets on when they ride bicycle to school (if they violate this rule they are not allowed to go to school by bicycle for one week), a rule ordering students to wear school uniform whenever they go out from home. The high school students pointed out the following rules as the worst; a rule on clothes which allows wearing sweater, but not cardigan, a rule which assign the color of socks, a rule ordering students to wear jackets and prohibiting students from loosing their ties even during summer.

These survey show students are frustrated with school rule which are irrational and control them in a detailed way. There are two other surveys by NGOs which show the same results. In the survey by Organization for Thinking about Education in Fukuoka, which was conducted in November 2001 and covered 1,001 elementary, junior high and high school students, to the question of "what do you hate most in school life?", 15.3% of 6graders at elementary schools, 28.6% of first graders at junior high schools, 33.3% of second graders, 23.5% of third graders, 41.4% of first graders of high schools, 49.3% of second graders, and 36.2% of third graders answered "school rules." In the survey by Organization for Realizing the Convention on the Rights of the Child in Hachioji City, which was conducted in September and October 2002 and covers 387 elementary and junior high school students in Hachioji city, 32% of elementary school students and 63% of junior high school students answered "they are frustrated with school rules.

The survey conducted by New Japan Women's association mentioned above showed that, in many schools, school rules are still strictly applied to students. 79% of junior high school students and 57% of high school students answered "yes" to the question of "Did school authorities conduct inspection of clothing to check whether students observe school rules?" To the question of "Did school authorities conduct inspection of hair style to check students observe the hair regulations?," 58% of junior high school students and 83% of high school students answered "yes." To the

question of “Did school authorities conduct inspection of belongings to check whether students bring something forbidden to bring?” 32% of junior high school students and 3% of high school students answered “yes.”

[reference]Basic Report 4,7,20,22,36,38,40,43,45,55,62,91,100,110,112,114,122,125

## C. School Councilors System

### 1. how was it introduced and what is it?

From 1970’s to 1980’s, such developed countries as Germany, France, the United Kingdom, the United States and Italy introduced the system which is called “school meeting,” “school council” or school board of directors” under which parents, teachers and staff, students and community members manage school in collaboration. Considering this international trend, Central Commission on Education proposed, in its report in 1998 titled “on the future development of local educational administration,” the introduction of the school councilors system as a mean to “establish the autonomy of school” and “realize the participation by community in school management.” To realize this proposal, the Minister revised the enforcement regulations of the School Education Law and enacted the revision in April 2000.

Article 23-3 of the revised enforcement regulation of the School Education Law reads as follows.

“Paragraph 1. In elementary school, school councilors can be appointed according to the rules adopted by school founders.

Paragraph 2. Upon the request by a school principal, a councilor can express his/her opinion on school management.

Paragraph 3. A school principal recommends as a councilor a person who is not a teacher or an officer at his/her school and have understanding and knowledge on education. The founder of an elementary school appoints a person recommended by a school principal as a councilor.”

This Article is also applied correspondingly to a junior high school and high school public and national.

### 2. Problems in the system of school councilors

As stipulated in Paragraph 3, Article 23-3 of the enforcement regulation, teachers and officers cannot be appointed as a councilor of a school where they work. The notification by the Deputy Minister of Education clearly defines that “student is not expected to be a councilor.” The enacted school councilors system is not a system that ensures participation by students, teachers and officers in school management. Furthermore there is no guarantee that a parent of a student will be

recommended by a school principal and appointed by the founder as a councilor. This system is not for assuring the participation of parents.

### 3. Subordination to the principal's authority

Paragraph 3, Article 23-3 of the enforcement regulation provides that "Upon the request by a school principal, a councilor can express his/her opinion on school management," and the notification also provides that "a school councilor is to offer their opinions upon the request by the principal about school management that a school principal carries out." As is indicated in the notification, school councilors system does not mean an organ where things are decided upon mutual agreement between a school principal and councilors. Actually, the notification issued by the Ministry says "the principal, taking the opinions of school councilors into consideration, is to make judgment and decision on his own." The Ministry has been asserting that a school principal should exercise his/her authorities by themselves and every organ in school cannot share the decision making power with a school principal. According to the Ministry, even the teaching staff meeting is not a organ which make decisions upon mutual agreement between a principal and teaching staff, and it is nothing but a supporting organ. The Ministry applies its argument on the authority of a principal to the school councilors system.

### 4. How many school did introduced the school councilors system?

This system is not compulsory as the enforcement rule states "In elementary school, school councilors can be appointed according to the rules adopted by school founders." According to a survey by the Ministry of Education in August 2002, the ratio of public schools which introduced the school councilors system and similar system was 8.7% in kindergarten, 50.2% in elementary schools, 51.9% in lower secondary schools, 65.4% in upper secondary schools, 65.7% in schools with disabilities and 47.0% on average in all public schools.

The notification prescribes that "as to systems very similar to the councilors system which have already been established and are compatible with a ministerial ordinance, it is not necessary to remove or repeal them." Therefore, there still exist the school committees composed of student and teachers/staff, composed of students, parents and teachers/staff, or composed of students, parents, teachers/staff and community members, which had been already established and worked in some schools in Chiba, Nagano and Saitama prefecture before the revision of the enforcement rule. But, because the school councilors systems is clearly stipulated in the enforcement rule, a school which did not have any participatory system tend to introduce this system which provides a weaker way of participation than school committees.

## **D. Procedural due process in the disciplinary actions against students and “non-disciplinary suspension” of students.**

The Second Report of Japan explains the disciplinary action against students and “non-disciplinary suspension” of students as follows. In paragraph 122, it says “in taking disciplinary actions against students at schools, the Government has been instructing boards of education, etc., to pay full attention to the circumstances surrounding each student by listening to his/her explanation and opinion as well as to consider so that such disciplinary actions will have essential educational effects, instead of just serving as sanctions. On the other hand, considering that suspension, which is a system that protects the right of other students to an education, is a measure that directly involves the rights and duties of students, it is important to follow the proper procedures when giving a suspension. Therefore, the Government has instructed through notifications that it is desirable to have occasions to listen to the accounts of the student in question and his/her guardians and it is appropriate to do it by issuing a paper through providing notification. The Ministry of Education, Culture, Sports, Science and Technology has filed amendments to the School Education Law that include clarification of the requirements and procedures for suspension system at the 151<sup>st</sup> ordinary session of the Diet.” In paragraph it says “at Japanese schools, disciplinary action may be taken against pupils/students when they are considered necessary for educational purposes. In taking disciplinary actions against pupils/students at school, however, the Government has been repeatedly instructing the boards of education and other educational institutions to pay full attention to the circumstances surrounding each student by listening to his/her explanation and opinions, and ensure that such disciplinary actions have essential educational effects instead of serving merely as sanctions.”

There are some controversial points in these paragraphs.

### 1. Disciplinary actions

As disciplinary action against students restricts the right to education, school authorities shall follow a appropriate procedure required by Paragraph 2 of Article 12 of the Convention. In the procedure, children should be provided, at least, the opportunities to be heard. The School Education Law and the related legal rules provide three types of disciplinary actions, which are expulsion from school, suspension from school and admonishment. Admonishment may be applied to students of public elementary and secondary schools. And expulsion and suspension from school, and admonishment may be applied to students of private elementary and lower secondary schools, and to all pupils/students of upper secondary schools, public and private.

According to “the current situation about controversial points in instructing students” published by the Ministry in December 25, 2002, the number of students who were expelled from schools

decreased from 53 in 1998 to 15 in 2001. But the number of students who are “voluntarily expelled” from school – “voluntary expulsion” is the case where a school recommend a student to voluntarily leave school with the warning that, if a student will not follow the recommendation, he/she will be officially expelled from high schools – amounted to 861 in 1998, 838 in 1999, 935 in 2000, and 802 in 2001. The number has not been so small as to be overlooked. The number of students who were suspended from high schools was 1,626 in 1998, 1,792 in 1999, 1,760 in 2000, and 1,647 in 2001. The number of students who received the order of confinement to home, which is not a legally recognized measure used in secondary school, was 5,686 in 1998, 5,684 in 1999, 5,845 in 200, 4,852 in 2001. The number of students who received admonition in elementary schools was 34 in 1998, 24 in 1999, 26 in 2000, and 32 in 2001, that in junior high schools was 911 in 1998, 735 in 1999, 854 in 2000, and 709 in 2001, and that in high schools was 542 in 1998, 467 in 1999, 699 in 2002, and 632 in 2001.

In the School Education Law and the related legal rules, there is no provision which stipulate the principle of procedural due process or which break down this principle in the disciplinary procedure. In paragraph 122 of the second report, the government says “in taking disciplinary action against students at school, the Government has been instructing boards of education, etc, to listen to his/her explanation and opinion.” But, we cannot get any information showing that prefectural and city school boards of education adopted a rule on the procedure which ordered a school authority to provide a student with opportunities to be heard. Furthermore, as voluntary expulsion and confinement to house are not legally recognized disciplinary measures – and this is the reason why these measure were taken in a large number of cases -, it is extremely doubtful that, in all the cases where these measures were taken, the opportunity be heard was provided to a student.

## 2. “Non-disciplinary suspension from school”

Article 26 of the Education Law was revised in June 2001 to enable a school board of education to take “non disciplinary suspension” against elementary and junior highs school students more easily. In this revision, the grounds upon which this suspension can be taken and the procedure to be followed in taking this action are clarified. The government calls what is articulated in Article 26 as “suspension system.” The characteristic of “suspension system” is that, different from suspension recognized as an educational measure by Article 13 of the enforcement rule of the School Education Law, “suspension system” is a measure to maintain order in a school and it is not aimed at education of a suspended student. This is the reason why we translate this as “non-disciplinary suspension.”

Article 26 reads as follows.

“1. If a student is recognized as repeating one or two bad behaviors as listed below and disturbing education for other students, a school board of education of city, town or village may order

suspension of a student to his/her guardians.

A.. Bodily injury or physical and mental pain to other students, or damage to other student's property

B. Bodily injury, and physical and mental pain to schools' staff.

C. Damage to facilities or equipment.

D. Interference with classes and other educational activities.

2. In ordering suspension based on paragraph 1 of this article, a school board of education city, town or village shall hold hearing from parents or legal guardians and submit a written document to them which clarifies the reason for ordering suspension system and its period.

3. Details of procedures necessary for suspension order are to be decided in a school board rules.

4. A school board of education shall provide measure to assist a student's learning during the period of suspension and other necessary educational measures.”

Under Paragraphs 2, 3 and 4 of Article 26, a school board of education is assigned the obligation to adopt the rule on procedure, but, the Ministry has not taken a measure to follow up how school boards fulfill their obligations.

According to the Ministry, the number of cases where non-disciplinary suspension was taken in elementary and junior high schools was 51 in 1997, 57 in 1998, 84 in 1999, 55 in 2000, and 51 in 2001. The figures in 2002 and 2003 have not been available yet. The Ministry has not conducted the survey on what kind of students' behavior were judged as fulfilling the grounds for non-disciplinary suspension, the effectiveness of non-disciplinary suspension, and the background against which students disturbed the order in schools.

Though the second report of Japan says that the Ministry instructed school boards of education to hold hearings from students, Article 26 refers to the hearing from parents but not from students, and the Ministry has never stated in its notification that the hearing from students is necessary. Furthermore, in the meeting with DCI-Japan, where DCI-Japan argued that Article 26 is incompatible with Article 12 of the Convention, the officer at the Ministry stated that, because a school board of education can hear the voices from students through their parents, it is not necessary to assure the hearing directly from students.

[Reference] Basic Report 110.

## **Chapter 105 Human dignity and human rights of children are not protected in school**

### **A. Human rights education and in-service training of teachers in children's right**

Paragraph 1 (b) of Article 29 of the Convention stipulates that education shall be directed to the development of respect for human rights and fundamental freedoms. And Paragraph 2 of Article 29 provides that school discipline should be administered in a manner consistent with the child's human dignity.

On the protection of human dignity of children in school, CRC states in General comment 1 that Article 29 “attaches importance to the process by which the right to education is to be promoted. Thus efforts to promote the enjoyment of other rights must not be undermined, and should be reinforced, by the values imparted in the educational process. This includes not only the content of the curriculum but also the educational processes, the pedagogical methods and the environment within which education takes place, whether it be the home, school, or elsewhere. Children do not lose their human rights by virtue of passing through the school gates.” “Education must also be provided in a way that respects the strict limits on discipline reflected in article 28(2) and promotes non-violence in school. The Committee has repeatedly made clear in its Concluding Observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline. Compliance with the values recognized in article 29(1) clearly requires that schools be child-friendly in the fullest sense of that term and that they be consistent in all respects with the dignity of the child.”

In the Concluding Observations in 1998, CRC expressed its concern to the fact that “insufficient measures have been taken to disseminate and promote widespread awareness about the principles and provisions of the Convention in all parts of society, among children and adults alike, in particularly with regard to the importance that the Convention places on the notion of the child as a full subject of rights” (para. 11) and recommended “Systematic training and retraining programmes on the rights of the child should be organized for all professional groups.” (para. 33) Furthermore, CRC was concerned about “the insufficient measures taken by the State party to introduce human rights education into school curricula in a systematic manner, in accordance with article 29 of the Convention” (para. 23) and recommended the Japanese government “to take appropriate measures to include human rights education into the school curricula in a systematic manner.” (para. 44)

In the second periodic report of Japan, the government submitted the information on the measure taken to realize the human rights education, in-service training of teachers in children's rights, and to develop the sense of respecting human rights among children. The relates paragraphs in the second report of Japan read as follows.

Paragraph 43, (Introduction of lectures on human rights into curricula of school education) "At schools in Japan, students are supposed to learn the significance and role of international law relating to human rights, including the Convention on the Rights of the Child, the philosophy "Course of Study," or the government guidelines of teaching released by the government in 1998, are aimed at further promoting human rights education through school activities as a whole, noting the aims of the Convention. Also, the government strengthens training courses for schoolteachers by introducing in them contents related to human rights, including lectures on the Convention on the Rights of the Child."

Paragraph 44, (Teachers) "Local administration of each prefecture or city provides opportunity for newly-employed teachers as well as teachers to learn human rights and student guidance through various training sessions at each stage of teaching experience. Also the National Center for Teachers' Development, an independent administrative institution responsible for unified and comprehensive implementation of government-controlled training programs, introduces the training involving the lecture about human rights for teachers who are expected to play a leading role at the local level. It also provides practical training about the theory and practice of student guidance, educational counseling."

Paragraph 270 (New Courses of Study) "The general curriculum guidelines, called the Course of Study, as revised in 1998, stipulates that education with more consideration for human rights should be further promoted throughout whole school education. The Ministry of Education, Sports, Science and Technology has conducted the Human Rights Education Seminar and other training programs about human rights education and projects about pilot schools designated for research into human rights education."

Paragraph 272 (Development of the respect for civilizations different from the child's own civilization) "Human rights are to be dealt with in a way appropriate to the specific stage of a child's development. More specifically, the Courses of Study specify that an elementary school student shall be guided towards treating others fairly and equally without any discrimination and prejudice and that a lower secondary school student shall be guided towards a deep recognition of respect for human beings by focusing human rights."

Paragraph 274 (Preparation for responsible life in a free society) "It is important for pupils and students to recognize that social responsibility and duty always accompany individual freedom and



right. Japanese school education also attaches importance to this point. Therefore, guidance is given through moral education and any other school educational activities, to help students become more aware of their own responsibilities, respect their own and others' responsibilities and perform their own duties. In social studies at lower secondary schools, teachers are advised to take up the relationship between freedom and rights and that between responsibility and duty, through which pupils and students are expected to become aware of the importance of individual dignity and respect for human rights."

The information given in these paragraphs does not reflect the actual state. First, the government has taken no measure to "include human rights education into the school curricula in a systematic manner" (para. 23 of the Concluding Observations in 1998) when the Ministry revised the National Course of Study in 1998. As Soka Gakkai Women's Committee on Peace pointed out, "Comparing the revised Course of Study with the former one, we cannot find out any description in the revised Course of Study that shows the government's intention to direct the education to 'the development of respect for human rights and fundamental freedoms.'" (Basic Report 123) Thus, paragraph 43, 270, and 272 do not correctly describe the government's activities.

The Ministry of Education introduced the time for comprehensive learning in 2002, and assigned "international understanding," "information" "environment," and "welfare and health" as the topics of comprehensive learning. The Ministry excluded "human rights" or "children's rights" from the topics.

The information on in-service training of teachers provided in paragraph 43, 44, and 270 of the Second Report of Japan. But, the in-service training organized by the Ministry is built on the idea expressed in the notification by the Deputy Secretary of Ministry of Education in May 20, 1994, to which a member of CRC expressed her concern in 1998. Thus, the in-service training organized by The Ministry does not reflect the idea of "the child as a full subject of rights" or "the dignity inherent to the child."

As all the related international documents on human education such as "Plan of Action for the United Nations Decade for Human Rights Education, 1995-2004," "Integrated Framework of Action on Education for Peace, Human Rights and Democracy" adopted by UNESCO, and General Comment on Article 29 stress, the human rights education is not only a matter of transmitting the knowledge on human rights. The human rights education should be aimed at developing knowledge on, attitude toward and skills on human rights in an integrated and holistic manner. The human rights education demands that educational methodologies, the way in which classes and a school are managed, and hidden curriculum should be reorganized based on the spirit of respect for human rights. But, the Japanese government has not taken any measure which will respond to this demand. Conversely, the government still tries to inculcate the value of obedience to superiors

through moral education.

[Reference] Basic Report 123

## **B. Corporal punishment**

If the issue of corporal punishment in Japanese school is solved, it would prove that schools stop wielding their power over students and children are recognized as the subjects of human rights and dignity and are treated as such.

CRC stated in the Concluding Observations in 1998 “The committee is concerned at the frequency and level of violence in schools, especially the widespread use of corporal punishment and the existence of numerous cases of bullying among students. While legislation prohibiting corporal punishment and such measures as hot lines for victims of bullying do exist, the Committee notes with concern that current measures have been insufficient to prevent school violence.” (para. 24) CRC recommended that “In light of, inter alia, articles 3, 19 and 28.2 of the Convention ...a comprehensive program be devised and its implementation closely monitored in order to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying. Additionally it recommends that corporal punishment be prohibited by law in the family, care and other institutions. The Committee also recommends that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention.” (para. 45)

As for the measures taken by the government to solve the issue of corporal punishment, the Second Report of Japan states “Corporal punishment at schools is strictly prohibited under Article 11 of the School Education Law. The Government has been giving instructions to persons involved in education to realize the principle of this provision at every possible opportunity, including training courses and conferences. National Center for Teachers’ Development, an independent administrative institution responsible for the unified and comprehensive implementation of training programs for teachers at the national level, provides lectures on education-related laws and ordinances in training sessions for teachers who are expected to play a leading role at each local level, or in prefectures or cities. Such lectures deal with disciplinary actions and corporal punishment against school children. At an annual conference of student guidance teachers the Government promotes their awareness of this matter.” (para. 163) Compared with the paragraph 227 of the First Report of Japan which gave the information on corporal punishment in school, the new information given in the paragraph 163 of the Second Report of Japan is the information on in-service training of teachers. There is no information on what kind of measure the government took to break down the recommendation by CRC, namely, revising and implementing a “comprehensive programme ... to prevent violence in schools” and conducting “awareness-raising campaigns” on the alternative form of discipline which is consistent with the human dignity of

children. This is because the government has taken no measures to realize these recommendations.

Owing to the strong movement by parents and citizens against the corporal punishment, local school boards of education have gotten to apply stricter disciplinary measures, including dismissal and salary reduction, against teachers who injured or killed students by corporal punishment. And fortunately, the number of cases where students were killed by corporal punishment was sharply decreased.

But, because teachers do not fully realize that corporal punishment infringes the human dignity of children, and still see corporal punishment as “loving cane” or “a way of child training,” the number of cases of corporal punishment has not decreased. The Ministry, every year, collects the data on the number of cases where teachers were suspected of inflicting corporal punishment and investigation was conducted. The Table below shows the changes in the numbers from 1990 to 2001.

year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Number of cases	988	860	698	780	865	1,038	1,008	989	1,010	992	994	955

The Japanese government ratified the Convention in 1994.

The First Report of Japan was submitted in 1996.

The consideration of the First Report was conducted in 1998.

According to the survey by New Japan Women Association, which covered 2,112 students of the elementary, junior high and high schools in 40 prefectures and was conducted in January and February 2001, 15.9% of all the students answered “yes” to the question of “Have you ever inflicted corporal punishment in school?.” 13.9% of elementary school students, 16.1% of junior high school students, and 19.4% of high school students answered “yes” to the same question. In the former survey by the same group in 1995, 21.9% of all the students, 20.2% of elementary school students, 22.7% of junior high school students and 19.8% of high school students answered “yes” to the same question. In elementary and junior high schools, the number of students who were inflicted corporal punishment slightly decreased, and in high schools the number did not change. This organization concluded “considering the fact that one out of six students is inflicted corporal punishment in school, it is still used frequently.” In the alternative report which we submitted to CRC in 1997, analyzing the surveys conducted by New Japan Women Association and by Kodomo-Gekijo Saitama Branch, we concluded that presumably one out of five students is inflicted corporal punishment. Thus, it is probable that fewer students were inflicted corporal punishment, but, still we have to say that it is still used frequently.

The followings are the answers from student on how and why they are inflicted corporal punishment and what kind of corporal punishment they saw in schools.

“At the elementary school, I was inflicted corporal punishment on the reason that I left a thing in my home though I should have brought it, that I did not do my homework, or that I was not punctual. In the junior high school, the reason was bad behavior during class or after class. In the high school, the reason was that I violated school rules, or that I behaved badly during extra-curricular activities. In the high school, such physical violence as hitting, kicking and slapping was usually inflicted. Furthermore, I was forced to run around a school yard. A teacher sometimes made me as an example.” “When I quarreled with my friend, a teacher of a class next to my class hit me, dragged me along the ground, and threw me from stairs.” “A teacher slapped all the students who watched the quarrel on the ground that we did not stop the quarrel.” “When I violated a school rule, a teacher hit, kicked and grabbed me by my hair.” “When I made a mistake in sports activities, a teacher hit me in my head by his hand and kicked me by his leg.”

“The homeroom teacher hit and kicked the student on the ground that he read a book during the cleaning time.” “The school principal slapped a student who didn't stand in line in his cheek.” “A teacher shoved a child by his hands on the ground that he is slow to write at the notebook” “A teacher poured milk on a student because he hesitated to drink it.” “He was hit in the head with a stick because he violated a school rule.” “A teacher hit my friend who left something in his home which he should have brought and caught his hair to make him stand up.” “A friend of the elder brother forgot a sport wear and was made to do exercise with only the underwear on.” “A teacher knocked down a dawdling student.” “A class teacher hit and kicked down a student because he had his hair colored.” “A teacher pulled a student to a water supply and poured water on her head in midwinter, on the ground that she had her permed. But, her hair was naturally curly.”

According to the same survey, 11.1% of all the students answered “yes” to the question of “Have you ever said your opinion on corporal punishment?” 9.1% of elementary school students, 12.0% of junior high school students, and 13.7% of high school students said “yes” to the same question. Only a few students received a sincere response from teachers, including apologies. Most of the students received oppressive reactions. “I was told to suit the teacher if I can.” “I was ignored.” “A teacher said to me ‘there are many different kinds of teachers.’” “A teacher said that corporal punishment was not bad at any time. It depends on the time and the situation.” “A teacher said it was a loving cane.” “A teacher yelled at a student, when he talked about corporal punishment.” “Sometimes, corporal punishment is necessary.” “I wish I could make student obedient without inflicting corporal punishment.”

Corporal punishment is still accepted and inflicted by teachers. We suggest that the government take following measures.

The government should plan and carry out in-service training which will strengthen the awareness by teachers of human dignity and human rights of children and thus cultivate negative attitude toward corporal punishment. School boards of education should order a school principal to record parents', students' and witnesses' side of stories when they prepare a school accident record on a case of corporal punishment, or to attach a paper prepared by parents or students to a school accident report. The central government and local government should establish independent machinery to which students or parents can lodge complaint.

[Reference] Basic Report 7, 40, 81, 100, 115, 125

### **C. The school sexual harassment**

See Chapter 28 sex discrimination clause

### **D. Bullying and school violence**

In the Concluding Observations adopted by CRC after the consideration of the First Report of Japan, CRC used the words of "violence in schools." These words stand not only for corporal punishment by teachers but also for bullying among students. CRC stated in the Concluding Observations in 1998 that "The Committee is concerned at the frequency and level of violence in schools, especially the widespread use of corporal punishment and the existence of numerous cases of bullying among students. While legislation prohibiting corporal punishment and such measures as hot lines for victims of bullying do exist, the Committee notes with concern that current measures have been insufficient to prevent school violence." (para. 24) CRC recommended that "a comprehensive programme be devised and its implementation closely monitored in order to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying." (para. 45)

The Second Report of Japan gave information on measures taken by the government in paragraph 249 and 263-(3), which read as follow.

Paragraph 249. (Measures against bullying) "Bullying is hard to identify and the bully tend to have only a tinge of guilt even when such acts result in serious consequences. The police protect victims and, with the intention of giving guidance to the bully, make efforts to promptly identify bullying by improving child consultation services and asking for the bully and follow-up guidance for the victim in a very careful manner, considering the victim's character, living environment, and level of psychological damage. More specifically, it provides support to victims who have suffered serious psychological and physical damage, through on-going counseling services by juvenile counseling specialists and guidance officials and with the help of parents and/or guardians. Moreover, the police have been studying and promoting specific measures, for example, by providing reference materials

to the relevant communities, such as back ground information on identified cases.”

Paragraph 263-(3) “Schools have been dealing with this problem by guiding students to strongly recognize that ‘we, as human being, must not allow bullying’ and by promoting cooperation between families and the local community, with the basic understanding that bullying can happen to any school, any class and any child. In July 1996, the expert committee established by the Ministry of Education published a report on comprehensive measures to be taken against bullying, and has been informing boards of education of the report’s aims and contents. The Ministry of Education also has been working on several measures to promote education on human life and respect for human rights; the improvement of “*kokoro no kyouiku*” (education of the heart), including further reinforcing children sense of norm, the improvement of the education/counseling system by assigning school counselors and advisors in the classrooms for easing children’s mind, training opportunities to improve the quality of teachers dealing with the bullying problems, and cooperation among schools, families and the local community.”

The measures taken by the government to solve the issue of bullying mainly consist of ex post facto “protection,” “guidance,” and “control” of bullied and bully by adults including police officers. The government refers to “protection of victims” by adults, “guidance of bullies” by adults, “improving child consultation services by adults, on-going counseling services by juvenile counseling specialists and guidance officials” and so on. The government also has taken such preventive measures as “the improvement of ‘*kokoro no kyouiku* (education of the heart).”

But, these measures of which main actors are adults cannot be effective in dealing with bullying, because it occurs in the manner in which adults cannot detect it. Thus, as pointed out by a member of the Committee in 1998, we should see children as partners in solving the issue of bullying and take such a measure as peer counseling as mentioned in General comment by CRC on Article 29.

As another defect of the measures taken by the government, we should point out the fact that the education for inculcate the sense of order or the respect for rules cannot be effective. The focus of educational measure should be given on developing among children the respect for the human dignity and rights, and the attitude towards and skills in solving conflicts in a peaceful manner.

The Table in the next page shows the change in the numbers of bullying reported to the Ministry of Education from 1994 to 2001. Though the number of bullying has been gradually decreasing, the number of bullying is still large. Considering the fact that data climbed up from teachers to school principals, from school principals to school boards of education, and from school board to the Ministry, we should see these figures as not reflecting the real number but representing the tip of iceberg.

The Ministry of Education has not conducted a survey which directly asks children questions on their experience of bullying or being bullied. This reflects the Ministry's attitude toward children,

The number of incidents on bullying reported from local school boards of education  
to the Ministry of Education

year	1994	1995	1996	1997	1998	1999	2000	2001
in elementary	25,295	26,614	21,733	16,294	12,858	9,462	9,114	6,206
in junior high schools	26,828	29,069	25,862	23,234	20,801	19,383	19,371	16,635
in high schools	4,253	4,184	3,771	3,103	2,576	2,391	2,327	2,119
in special schools	225	229	178	159	161	123	106	77
total	56,601	60,096	51,544	42,790	36,396	31,359	30,918	25,037

namely not seeing them as partners in solving the issue. In contrast to the Ministry's approach to the issue, some NGOs conducted the survey which collected the voices of children directly from them.

According to the survey by Organization for Realizing the Convention on the Rights of the Child in Hachioji City which was conducted in September and October 2002 and covered 387 elementary and junior high school students, the ratio who is 40% of students in elementary schools and 26% in junior high schools have the experience of being bullied. 38% of students in elementary schools and 25% in junior high schools have the experience of bullying. 69% of students in elementary schools and 65% in junior high schools have the experience of witnessing bullying. These figures show that there are still a lot of bullying incidents in schools.

The bullying is one of the types of "violence in school" which is conducted by students. Violence by students against teachers, violence among students, and school property damages by students are other types of "violence in school" conducted by students.

The Table in the next page is on the change in the numbers of case of violence against teachers, violence among students, and school property damage by students in schools from 1994 to 2001. The Ministry collects the data by asking local school boards of education to report the number to the Ministry.

The number slightly decreased in 2001, but, it is clear that the number of cases has sharply increased for these eight years. The number of cases in junior high schools is outstandingly higher than those in elementary and high schools, and the number of cases in high school can be estimated as large. These figures probably reflect the strong pressure imposed on junior high school students by competitive entrance examination for high schools and the frustration caused by the unreasonable school rules both in junior high and high schools. The numerous case of these three types of

“violence in school” probably prove the fact that, though schools should be child-friendly and empower children, they become an object for children to hate and a target for children to attack.

Actually, the educational system has been an object for students for more than twenty years. Around 1980 school violence including violence against teachers, violence among students, and school property damage prevailed in all the schools in Japan. By appealing to strict school rules, strict direction, and corporal punishment, school authorities succeeded in settling down school violence. But, the authoritative control of students triggered the transfer of frustration by students to other students, namely bullying. During these eight years, schools have tried to suppress bullying, but it has become more difficult for schools to appeal to corporal punishment. Here arise disarmed teachers and students desperately looking for the new way to vent their frustration. We think this is the best way to link the gradually decreasing number of corporal punishment, the gradually decreasing number of bullying, and the sharply increasing number of violence against teachers, violence among students and school property damage

The number of cases on violence against teachers, violence among students,  
and school property damages by students

year		1994	1995	1996	1997	1998	1999	2000	2001
in elementary schools	violence against teachers	no data	no data	no data	193	192	161	204	210
	violence among students	no data	no data	no data	624	728	725	668	790
	school property damage	no data	no data	no data	476	578	618	453	453
	sub total	no data	no data	no data	1,293	1,498	1,504	1,325	1,453
in junior high schools	violence against teachers	797	888	1,316	3,074	3,629	4,065	4,679	4,311
	violence among students	2,976	3,530	4,682	8,873	10,655	11,105	12,519	11,595
	school property damage	920	1,536	2,171	6,113	8,603	8,862	9,942	9,715
	sub total	4,693	5,954	8,169	18,060	22,887	24,032	27,140	25,621
in high schools	violence against teachers	195	227	234	430	577	651	814	764
	violence among students	1,522	1,721	1,971	2,856	3,333	3,351	3,638	3,262
	school property damage	74	129	201	782	1,196	1,242	1,458	1,801
	sub total	1,791	2,077	2,406	4,068	5,086	5,244	5,910	5,827
total	6,484	8,031	10,575	23,421	29,471	30,780	34,375	32,901	

[Reference] 40, 125



## E. School accidents

Although there is a Mutual Aid System for Disasters and Accidents, this is just a mutual-aid system paid by national government, establishment bodies of the school, and guardians so that any reparations or compensation are not paid. Although the majority of clerical expenses are covered with the national subsidy, most benefits are derived from the burden of guardians and establishment bodies of the school. Moreover, this system doesn't cover students of miscellaneous schools, such as ethnic schools. National government does never secure sufficiently people's right to receive education safely.

The Trends in the number (in case that the total amount of medical expenses incurred by a student for the treatment of injury or disease by medical institution is over 4,000 yen –over 5,000 yen from 1999 fiscal year-) and the percentage of accidents paid benefits are shown in the Table below. Although the number of accidents paid benefits in the 1997 fiscal year is decreasing a little, when the tendency of a decrease in the birthrate is taken into consideration, it cannot necessarily be said that this trend is caused by the effect of the policy.

The number and the percentage of injury or disease to be paid benefits

	1993		1994		1995		1996		1997	
	Number	(%)	Number	(%)	Number	(%)	Number	(%)	Number	(%)
Elementary	465,621	5.33	479,758	5.61	500,336	5.99	501,079	6.20	474,640	6.06
Lower secondary	360,649	7.48	362,107	7.78	376,855	8.29	369,807	8.21	365,852	8.21
Upper secondary	199,571	3.94	197,509	4.01	197,036	4.11	186,597	4.03	182,305	4.09
Specialized training college	1,930	3.48	2,099	3.76	2,157	3.84	2,065	3.67	1,932	3.44
Kindergarten	39,833	2.65	42,234	2.88	42,609	2.97	42,781	2.98	41,442	2.89
Day nursery	43,159	2.93	44,625	3.05	44,773	3.06	45,017	3.03	44,759	2.94
Total	1,110,763	5.13	1,128,332	5.34	1,163,766	5.46	1,147,346	5.68	1,110,930	5.62

After 1994, the number of death from accident or disease while under the control of school authority amounts to about 130 to 170 every year. As for lower secondary schools, the rate of death benefits was 65 in 1973, but it went up to over 12 % in 1995.

The most school accidents that are brought into lawsuits have been accidents about drain gate of pool for a long time. As is often the case with pool accidents, it is caused by the drain gate whose lid is unfixed or by uncovered drain gate. Ministry of Education took out notifications in 1978 and 1985 to ask local boards of education to take the measure for safety. However, a death accident broke out again in 1995, which a fifth grade primary student was swallowed up into a drain gate and died. Ministry of Education performed the survey immediately after the accident. According to the result released in May 1996, the school "which is not fixing the lid" was 1% of schools, those "which even a lid does not have" was 35%. The number of children killed in "the drain gate accidents of pools" amount to about 30 after 1985. If the national investigations were conducted in 1985, these accidents must have been avoided.

[Reference] basic report 130

## Chapter 106 School refusal on the increase

### A. Did the Second Report of Japan respond to the Concluding Observations?

In the Concluding Observations adopted in 1998, CRC expressed its serious concern on the issue of school refusal. In paragraph 22 of the Concluding Observations, CRC stated “the Committee is concerned that children are exposed to developmental disorders due to the stress of a highly competitive educational system and the consequent lack of time for leisure, physical activities and rest ... The Committee is further concerned about the significant number of cases of school phobia.” In this paragraph, CRC identified the educational system and policy in Japan as the roots cause of the significant number of case of school refusal.

But, the Second Report of Japan does not share this understanding of the roots cause of school refusal. In paragraph 263 of the Second Report, the government stated that “There is a growing number of students who do not or cannot attend school more than 30 days in a year, mainly due to psychological, emotional, physical, or social factors and backgrounds.” The government sees the school refusal as misbehavior of children caused by children’s personal emotion. Thus, the government is not aware of the necessity to reform the educational system and policy. This is why the measures taken by the government were mostly preventive ones. In the Second Report, the government listed the followings as the measures for tackling with the issue of school refusal; “(i) to create lively schools by helping students feel a sense of achievement through ‘easy-to-understand classes’” “(ii) to improve the education counseling system,” “(iii) to improve the adaptation assistance to classes to help students who are absent from school for long periods return their school through the sue of out-of-school environments,” and “(iv) to expand the Lower Secondary School Equivalency Test and the University Entrance Qualification Examination.” The last three measures are nothing but remedial and they do not reach to the roots cause. The first one has something to do with the reform of education, but, this measure is too abstract to be effective. The government did not give any information how it broken down this measure and what detailed measure it has taken to realize “easy-to-understand classes” or “to create lively school.”

The Second Report of the government did not give sufficient information on the actual situation of school refusal. The only statistical data given in the Second Report is the percentage of students who refused to go to school. Paragraph 268 reads “In 1999, as the percentage of students who do not or cannot attend school more than 30 days in Japan was 0.1% among elementary school students and 2.5% among lower secondary school students but the number of students absent from school for

more than 30 days in a year has been increasing.” The actual number of students who refused to go to school is not given. The Second Report gives only the information on the students who are absent from school for more than 30 days, and thus, lacks the information on the students who were not official identified as school refusal because they repeated refusals and returns within the periods of less than 30 days. It also lacks the information on the children in the situation of “pre school refusal” because they reluctantly go to school and get strongly stressed.

The Second Report also lacks the information on the fact that the report of the survey on the actual situation of school refusal supported by the Ministry was published in September 2001 and clarified the serious situation. Furthermore, the Report does not give the information on the remarks made by the Minister of Education in February 2001. The Minister said “People misunderstand individuality or liberty. The cause of school refusal is the confused understanding of individuality or liberty.” This statement shows the understanding of the cause of school refusal which is just opposite to the understanding by CRC shown in the Concluding Observations in 1998.

## **B. School refusal and School non-attendance on increase**

The number of children who refuse to go to school has been increasing. 16,569 students refused to go to school in elementary schools (including students who were absent from school more than 30 days) in 1995, and it amounts to 27000 in 2001. In junior high schools, the number was 65,022 in 1995 and it amounts to 112,000 in 2001. The total number of students who refused to go to school in elementary and junior high schools was 81,591 in 1995 and it rises up to 139,000 in 2001. In six years, the total number has increased by 1.7 times. The increase of children who are absent from school more than 50 days in junior high schools is remarkable.

It is presumed that there are so many “pre school refusal” behind officially recognized school refusal. The volunteer group called "Rape Blossoms Network" in Miyazaki Prefecture, engaged in school refusal problems, points out this presumption. It reported that, they received many phone calls which asked for consultation about children who do not refuse to go to school but are “unwilling to go to school.”

The number of high school students who refused to go to school has been also increasing. According to High School Teachers' Union in Miyazaki Prefecture, in the school year of 1999, 234 of first-year, 93 of second-year, and 207 of third-year students refused to go to school. The total number is 534, and this constitutes 1.63 % of the whole high school students in Miyazaki Prefecture. Telephone counselors in the prefecture said that the roots cause is the strong pressure of entrance examination, and corporal punishment, word harassment by teachers, and bullying by other students trigger off school refusal.

We would like to point out the recent phenomenon probably related to the issue of school refusal, namely, adolescents who shut themselves in his room and never come out. The number of this kind of adolescents is said to be increasing. This phenomenon has been called as “*hikikomori*” in Japanese, which means “shutting his/her self in his/her room” in English. There is no official definition of this phenomenon, but, Center for Adolescents Health, which is non-profitable cooperation, defines it as “adolescents who have shut him/herself in his/her room, have not participated in any social activities – not going to school or workplace, or not trying to find job - for more than 6 months.” Because the government has not conducted the statistical survey on “*hikikomori*,” there is no correct statistical data on this issue. But, some estimate that the number of adolescents who shut themselves in their rooms would amount to 800,000.

### C. Causes of school refusal

In the Second Report of Japan, the government states that school refusal is mainly caused by “psychological, emotional, physical, or social factors and backgrounds” The government is attributing the cause of school refusal to the personality or emotion of an individual child. But, this understanding of the cause of school refusal is rebutted by the report prepared by the research group on school refusal which the Ministry organized. This group conducted the survey on the actual situation of school refusal and published its results in September 2001. The group identified the troubles in relationship with friends (bullying or quarrelling) as the first main cause, the troubles in relationship with teachers as the second, the underachievement as the third, the extracurricular activities as the fourth, and the school rules as the fifth. This clearly shows that main cause of school refusal resides in school. This group published its next report in 2003. This report states that 36.2% of school refusal was triggered by the troubles related to school life, 35.0% was triggered by problems related to them, and 19.1% was triggered by troubles related to family life.

The reasons why students get stressed in school life can be various. They get stressed because it is difficult for them to make good friends in a competitive atmosphere, because their personalities are controlled through evaluation, and because school life becomes busier due to the fact that, though the Course of Study was designed to be implemented under six-day week, students are to digest it under five-day week since its introduction. When students graduate from elementary school and enter junior high school, they tend to be annoyed by the difference in atmosphere, because school rules are stricter in junior high schools than those in elementary schools. It is said that this sudden change in atmosphere tends to push children to school refusal. Actually the following case was reported. When a child who had his hair colored in an elementary school entered a junior high, he found the hair regulation that prohibited students from having their hair colored. He neglected the regulation, there arose a serious trouble between a school and him, and at last, he refused to go to school.

Even in elementary schools many of students are left behind in class. When they move to junior high schools, they are deprived of the will to study, lose their self-respect or the prospect for the future. They are put under the pressure of competitive entrance examination, they get stressed because they always compared with other students or they have their rights restricted by schools. In any way, the strong pressure imposed on adolescents who are under the way to establish their identities. It is nothing strange that they run away from this pressure by refusing to go to school.

The fact that teachers become busier and busier worsens the situation of school refusal. Teachers have less time to take care of each child. Class hours per each day became longer than before due to the introduction of five-day week. Teachers have to prepare for the time of comprehensive learning which was newly introduced by the Ministry. They are also required to work on Saturday to support students' club activities or to give special instruction for entrance examination preparation. Teachers totally lost time for listening to voices of each student.

**D. The measures taken by the government is based on the wrong understanding of the cause of school refusal, and thus, they are ineffective.**

In 1992, the Study Group on Maladaptation of Students to School organized by The Ministry of Education states that “every student may refuse to go to school.” This statement was welcomed by NGOs as a small but important step because this statement substantially denied the Ministry's understanding of the cause of school refusal; namely, “students themselves” or “their parents.” Following this statement, the Ministry started to take such measures as placing school counselors to schools and establishing classes for adaptation. In some schools, there brought about the awareness that encouraging students to be independent is more effective than forcing students return back to schools. But, largely speaking, the Ministry has been adhering to its policy on forcing students return back to schools for these 10 years, and thus, the Ministry has never touched upon the factors which triggers school refusal, namely corporal punishment or bullying, nor its roots cause, namely the competitive educational system. In a survey which covered school principals and vice-principals in Hokkaido prefecture, many of them answered that students' personalities, atmosphere of families, and social environment contributed to school refusal rather than schools did. Most of them answered that the beset way is to make students refusing to go to school return back to schools. Their opinion represented the Ministry's because they tend to obediently follow the Ministry's policies.

The Ministry organized the Study Group on the Issue of School Refusal in August 2002. In this study group, the argument that the cause of school refusal reside in students themselves and families are still strong. This group never raised a question on the competitive educational system. In April 2003, the study group published its report. This report maintains the statement expressed by

the Study Group on Maladaptation in 1992, namely “every student may refuse to go to schools.” But, if one reads the report carefully, he/she will find out that this report substantially discards this statement and strengthens the Ministry’s argument that the causes of school refusal reside in students themselves or parents. The report says that behind school refusal there exist students’ low self-respect by students, students’ weak willingness to study, loss of dream or prospect for future, and students’ weak awareness, and weak awareness of their duties duty to attend schools by students and parents.

The report proposes following measures to treat with the issue of school refusal; “realization of the target of the Course of Study revised in 1998,” “making schools characteristic,” and “establishing strong leadership by school principals.” These measures are what have been proposed by the Ministry as parts of current education reform. This means that the study group does not propose the measures specially tailored for school refusal, and the group utilizes the issue of school refusal as a case for authorizing the education reform planned by the government. But, the current education reform plan not only will heat up the competition in school system, but also dismantle the equality of education. Under the educational system which is more exclusive toward weak students, it is sure that the students who refuse to go to school will experience harder time.

If students who refused go to school are dealt with under the strong leadership by school principal, who tend to follow the Ministry’s policy, stronger pressure for returning back to school will be given to students. In fact, in some schools, ex-school principals who were totally layman on the mental issues were appointed as counselors in schools, and they gave pressure to students for returning back to schools. 21 prefectures including Tokyo adopted the plans to tackle with the issue of school refusal and they set the number to which they will decrease the number of students in certain years. These plans will work as nothing but a systematic pressure to students refusing to go to schools for returning back to schools. This trend will work against the development of children who refuse to go to school, because the pressure for returning back to schools is affirmed as the worst thing for children by NGOs working on this issue. Many cases were reported in which students and parents were placed under the strong pressure for returning back to schools, were asked to go to see doctors and counselors, got mentally traumatized, and at last children shut themselves in their rooms.

The current education reform which is to dismantle the equality of education gives negative impact on children striving to find out a place where they can study. Following the reform plan which reduces public funding to education for all, on the one hand, and distributed more public fund to education for elite, the local governments are now closing or consolidating part-time schools or night schools which have accepted children who refused go to school. Ironically, under the deregulation reform led by the Prime Minister and its commission on comprehensive regulation reform, the Ministry of General Affairs which is planning to establish “special education zone” where the regulations by the government on the educational system are largely abolished and establish a school

specifically aimed at education for children who refuse to go to school. The report published by the Study Group on the Issue of School Refusal in August 2003 recommends that the government to support NPO and volunteers' group to establish "schooling supporting network." This recommendation is based on the trends in the government towards "deregulations." Hachioji city decided to establish a school especially for students who refuse to go to school in 2004, and, the National Course of Study is going to be applied in less strict way than to normal schools. Higashikooriyama city and Aizuwakamatu city are now considering the establishment of the same type of schools. Furthermore, the government is planning to entrust the running of classes for adaptation established in schools to NPOs. But, these measures of establishing "special educational zone" where a special school for children who refuse to go to school or entrusting counseling in classes to NPOs are nothing but remedial. These measures have nothing to do with reforming the "highly competitive educational" system as a whole.

**E. Empowerment of activities by NGOs and parents groups in communities is needed.**

The government is active in taken measures which are in line with the recent education reform. But, what is needed is to empower activities practiced by NGOs and parental groups in communities.

For example, NGOs and parental groups are trying to establish places to which students who refuse to go to school easily make access and where they can be accepted as they are. But, in spite of their endeavors, the number of this kind of places is only a few compared with the significant number of students who refuse to go to school. Only 10% of students who refuse to go to school attend classes for adaptation established in schools, and it is estimated that most of the students who do not attend classes for adaptation spend time only in their homes. NGOs and parents groups working for school refusal agree that various types of places where children who refuse to go to school gather and learn what they are interested in are important. Because NGOs and parental groups have difficulties in getting financial resources to run this kind of places, the government should provide financial assistance to them.

Furthermore, NGOs and parents groups are eager to establish network in prefectures and expand it to all over the nation. In Okayama prefecture, NGO conducted its campaign for raising awareness by people of school refusal. The NGO made a book which collected poems written by and drawings drawn by children who refused go to school into a movie. The movie was titled "Let's go to see rosy sky." The NGO showed the movie 350 times in the prefecture and around 72,000 people watched this movie. Through this campaign, they succeeded in establishing links not only among other NGOs and parents groups working for the issue, but also among labors unions and businessmen's groups. The government should assist this kind of activities.



## F. Proposals

The only and the best way to solve the issue of school refusal is to wipe the fierce competition off the educational system in Japan and let teachers and students spend a relaxing atmosphere. To realize this, it is necessary for the government to reform entrance exam for high schools and universities and to revise the Course of Study. Along with taking these preventive measures, the government should take such remedial measures as assuring children places where they can be accepted as they are and pursue their interests freely and giving financial assistance to NGOs and parents group which run the places.

[Reference] 1, 7, 40, 55, 63, 68, 69, 85, 104, 110, 114, 115, 122, 125, 132

**Part 3 Issues on School Management and Status of Teachers:**  
**introduction of merit rating system, reinforcement of teacher control,**  
**hierarchization of school organization, and severe working conditions**

## Chapter 107 Introduction

To realize the “development” of the child (Article 6) in the educational system, schools should be organized in an appropriate way, and teachers should enjoy appropriate status in school organization. The government, however, based on the ideology of “neo-libertarianism,” is now rapidly introducing measures which are applied in such profitable organizations as private enterprise, and has radically changed the status of teachers in schools. Schools and teachers which try to realize the education which is based on the general principle of respect for the view of the child has been in the danger of being eroded. This danger is shown by the survey which was conducted by the National Research Institute of Educational Policy, in which 97% of teachers and 93% of school principals answered that “education reform should be more based on the realities in schools.”

As is reported in Part I “Overview,” carrying out the current education reform, the government and municipalities have taken measure to restrict the teachers freedom of speech and their right to freedom of education, all the more because the reform has a strong tense with the Convention, the 1947 Constitution of Japan, and The Fundamental Law on Education adopted in 1947 and, thus, the reform is facing strong movements against it.

Since the First Report of Japan, many measures have been taken which radically changed the school organization and the status of teachers in school. The typical examples are seen in the school reform led by Tokyo metropolitan government. Tokyo metropolitan government has introduced many new measures one after another since 1998: making teacher control stricter, reforming school management system, and multi-tacking educations for students. NGOs working for the teachers’ rights claimed how negatively newly adapted measures in Tokyo affected teachers and their educational activities. Basic Report 10 and 112 quoted remarks which describe the negative effects as follows: “The teachers lost their zeal for education,” “Children have become more irritated and frustrated. Teachers also got stressed. Actually teachers who used to be gentle and kind even came to use corporal punishment,” “works of teachers become more clerical; principals and teachers are busy making a huge amount of documents. Works of teachers have become poorer and less educational.” In the following, the details on how the way in which schools are managed has been changed and how the status of teachers has been lowered will be shown. Because Tokyo metropolitan government took the lead in carrying out the reforms on school organization and status of teachers, and many other municipalities will follow it, we will start from the explanation of the newest policy taken by the metropolitan government on merit rating of teachers (chapter 1), and then move to the measures taken by the central government (from chapter 2 to 6).

## **Chapter 108 Assessment of teachers: from “assessment of teachers’ performance” to “merit rating of teachers”**

“Assessment of teachers’ performance,” which has been carried out since 1958, was abolished in April 2000, and instead “merit rating of teachers” has been introduced. The system of “merit-rating teachers” was imported from the business world to the public schools. The system consists of two aspects: self-reporting of goals which an employee will achieve within a year, and the rating of an employee’s merit by a school principal based on the assessment of the degree to which he/she has achieved in the end of the year. In April, all the teachers are required to prepare self-report in which they are to set “goals” which will contribute to the realization of a school policy set out by a school principal, and declare “until when, how, to what extent” they will achieve “goals.” All of the teachers are required to receive interviews by a principal and a vice-principal three times a year and a classroom observation by them once in each semester. In the end of the school year, a principal and a vice-principal evaluate teachers’ merit on a absolute scale grade them from D, C, B, A, to S. “Improvement of teachers’ qualification” and “revitalization of school system” were pointed by Tokyo metropolitan government as purposes of this system. But, the real effects this system gave to teachers were awful. The following remarks of teachers represent the opinion of teachers: “We are afraid that this system would cause bad situations for the students. Everyday, we are evaluated by students. They evaluate us in the form of believing us or by talking to us; these are all about evaluation.” (in Tokyo Metropolitan High School Teachers Association ed., “Black Papers on Teachers’ Merit Rating”)

Evaluation can be effective only when there is an agreement on the rules of evaluation, an agreement on the disclosure of the evaluation results, and agreement on how to use evaluation between those who evaluate and those who are evaluated. According to the Recommendation on the Status of Teachers by ILO/UNESCO, “No merit rating system for purposes of salary determination should be introduced or applied without prior consultation with and acceptance by the teachers’ organization concerned.” (para. 124) The case of Tokyo Metropolitan government was the one where the educational administrative body neglected the process under which the evaluation system should be introduced required by the Recommendation because the Metropolitan government neither consulted with the teachers’ organization nor achieved an agreement with it when it introduced the system.

Furthermore, the new merit system in Tokyo is against Paragraph 64 of the Recommendation, which reads, “(1) Where any kind of direct assessment of the teacher’s work is required, such assessment should be objective and should be made known to the teacher. (2) Teachers should have the right to

appeal against assessments which they deem to be unjustified.” The assessment is not made known to teachers in Tokyo. The metropolitan government states that it will “consider” the disclosure “when the whole system becomes matured.”(Tokyo Metropolitan Board of Education, regular meeting on December 16<sup>th</sup>, 1999). Up to now, it has not disclosed assessments, and, due to this, teachers cannot exercise their right to appeal recognized in the Recommendation.

What is more serious is that the metropolitan government is using the results of assessments for differentiating not only salaries, but also opportunities and qualities of in-service trainings. The metropolitan government decided that periodic increment will be given to teachers who are rated as S, A, or B every 12 months, but teachers who are rated as C or D will be given periodic increment every 15 months. Income table of high school teachers ranges from fourth grade which is salary for those who have just graduated university graduates to 41<sup>st</sup> grade, and those who do not fulfill the “standard for losing the periodic increment” (taking a lot of leaves or being subjected to disciplinary action) can get periodic increment every 12 months. But, this periodic increment for all is going to be revised based on the merit rating. In addition, rating system is used for determining who receive special 15% increment and who will get promotion of executive, vice-principal and principal.

Opportunities and qualities of in-service training will be linked to the result of ratings after April 2003. Teachers are to receive in-service training every 10 years. In the first 10-year-experience teachers’ in-service training, they are to acquire 30 credits by receiving courses provided inside or outside school. After this training, teachers are to receive in-service training every 10 years, which consists of training common to all and three types of trainings ranked from 1<sup>st</sup> to 3<sup>rd</sup> level which are provided according to the ratings teachers received. This kind of in-service training has several problems. First, it ignores the spirits of Special Law on Educational Staff.” The role of educational administration on the teacher training shifts from “support and encouragement” of training to “evaluation, control, and management” of teachers. Second, there is a danger that the right of teachers to in-service training will be lost. This right is asserted to include the teachers’ right to decide what kind of training they will receive, but under the new system above mentioned, teachers will lose this right. Third, three types of training will be utilized as a means to hierarchize teachers into administrative teachers, supervisory teachers, and regular teachers. Forth, educational administration can arbitrarily assign teacher different types of in-service training, because the assessment is not be made known to teachers, and thus, teacher cannot exercise their right to appeal.

Since this introduction of ratings, new policies have been introduced one after another. In this situation, Japan Teachers’ Association made an allegation to the ILO UNESCO last June. This allegation was mainly on the teacher ratings and they received an official letter which said “we officially received this allegation,” which led this controversial issue worldly known.

In the “Special Law on Teaching Staff,” the right of teacher to in-service training is assured, and

Article 19 and 20 allow teachers to autonomously decide what kind of training they will receive. The law treats teachers differently from public officials for whom in-service training is not a matter of right, but of obligation. The new system of merit rating will dismantle this difference between teachers and public officials in general, and teachers are treated as general public officials. The reason why the law recognizes the right of teachers to in-service training is that, because teaching children is nothing but responding to children whose needs are different for each child, different for each community where children live, changeable from time to time, teacher should be proactive in deciding what new abilities, knowledge, or skill they will get to organize effective educational activities; if they reactively receive in-service training which they do not really think is useful, knowledge or skills would not be integrated into themselves, and thus, they are useless.

The assessment of teachers should be a measure to organize constructive dialogue among teachers, students and parents based on which teachers are encouraged to organize more effective educational activities. When the educational administration establishes the assessment system, as the ILO/UNESCO Recommendation states, it should establish an agreement with teachers' organizations. Furthermore, the in-service training should be regarded as the right of teachers, and, thus, the educational administration should provide conditions for encouraging teachers to develop their own abilities, not demanding teachers to digest knowledge and skills the administration forcibly feed with.

## **Chapter 109 Identification and exclusion of teachers with insufficient abilities**

In April 2001, “Laws on Management of Local Educational Administration” was partially revised, and the revised law allows local school boards of education to order teachers to resign his position as a teacher, and to assign them positions as an official in administrative branch on the ground that a teacher inappropriately organize his/her educational activities. Before this revision, order of resign was issue to a teacher only when he/she was recognized as lacking the ability to conduct educational activities. But, the revised law afford the broader ground based upon which school boards can issue this order. Tokyo Metropolitan government took the lead in introducing the similar system. In December 2000, Tokyo Metropolitan government established the system of “training of teachers with insufficient abilities in teaching.” Under this system, the metropolitan school board can identify teachers as “being unable to manage class rooms,” “being unable to control students properly,” “being underqualified as teachers” when it receive reports from school principals. When teachers are identified as such, they are ordered to receive in-service training provided by Tokyo Educational Training Center. The officially asserted purpose of this system is to assure proper education for children, but, looking at the way in which this system really works, we should say that this system is for excluding teachers who are not obedient to the government’s policy on education.

In the case of Teacher A, who was an elementary school teacher in Nerima Ward, and was a leader of the teachers association, a school principal told A that “I’m thinking about reporting you as a teacher who lacks teaching ability to the Nerima school board of education,” and he repeatedly observed his class and gave guidance to A every day. He found endless fault with B’s activities: “You demonstrated models twice in the vaulting horse, but once was enough,” “It is unnecessary to spend one hour to make question on division,” “You didn’t finish teaching within the assigned time.” He reported B as “a teacher whose teaching ability is insufficient” for the board of education of Nerima ward. But the board of education in Nerima ward found out that there was no complaint from pupils or parents and declined the principal’s report. This case was a typical example of bullying and warning to the “disobedient” teachers.

Teacher B was active in teaching gender equality and she treated the issue of the comfort women in her class. The principal criticized her, saying “the Course of Study on home economics does not require you to teach equality between men and women or comfort women. You made a deviation from the Course of Study.” She was reported to a board of education as a teacher whose teaching ability is insufficient.

## **Chapter 110 Issue on teachers' summer vacation**

Paragraph 2 of Article 20 of the Special Law on Teaching Staff allows a teacher to receive training outside the school with the permission by school principals. Based upon this paragraph, during summer vacation, teachers are allowed to spend time outside schools for the preparation of the coming semester and self-study at home. The Ministry of Education had officially stated that teacher training means not only “training as their duty (official-order training)” but also “training outside of the school with the permission by school principals,” and they had never questioned the training away from school during vacation. However, since 2002, some prefectures including Tokyo, have raised the question to this type of training, and they asserted that teachers have to come to school even during long holiday.

Tokyo metropolitan school board of education issue the notification which states that, 1) during the long holiday, teachers allowed to leave school for a whole day if they receive trainings provided by such organization as open colleges, trainings assigned by boards of education, and training or workshop approved by the Center of Teachers' Training. 2) Training other than those mentioned above or study at home is allowed up to 4 hours per day. Due to this notification, teachers are compelled to come to school every day during summer vacation if they cannot receive trainings mentioned in 1).

Tokyo metropolitan school board of education stated that “trainings provided by such organization as open colleges” included trainings provided NGOs. But, the school board stated that, teachers are allowed to take part in training provided by NGOs only when a school principal recognized that trainings are useful for the educational activities at school and are directly related to majors of teachers. This statement by the metropolitan school board allow school principals to exercise wide discretion in recognizing whether a training is useful or directly related to majors of teachers. Therefore, some school principals actively allowed to teachers to leave schools a whole day and to receive trainings provided by NGOs, and others not.

Just before the summer vacation, Tokyo metropolitan board of education made a leaflet ‘How to Spend Summer Vacations for Teachers,’ which showed 9 recommended examples on how to spend summer vacation: training in school, staff meeting in schools, supplementary teaching to students, interviewing parents, study on materials and making lesson plans, participating in trainings organized by board of education, participating in courses in open colleges, volunteer activities for society. Because the leaflet did not list as examples participation in the workshop organized by



NGOs or study at home, some principals hesitated did not allow teachers to participate in such trainings or to study at home.

Followings are the cases where teachers are denied to take part in study meetings organized by NGOs during summer.

There is a story titled “A White Hat” in the Japanese textbook for 3<sup>rd</sup> grade in elementary school published by Nippon Shoseki. Teacher A, who was impressed with this story and wished to use this story more effective in her class, happened to know that there was a report on the educational activities using this story in a study meeting organized by NGO during the summer. Teacher A asked the principals if she could attend the meeting. Teacher A was rejected in the ground that “The lesson on ‘A White Hat’ was finished during the 1<sup>st</sup> semester, so you don’t have to attend that meeting.” “Teacher B in the 4<sup>th</sup> grade tried to study Braille during summer vacation, but, he was not allowed to leave a school because “There are no Braille in our curriculum in the 4<sup>th</sup> grade.” “The teacher C in our school tried to study Japanese drums, but it was rejected because ‘Japanese drums is not in our curriculum in our regular lessons.’” There are a lot of examples of rejection here and there. According to the interview research conducted by the teachers’ organization, participation in the trainings organized by private educational organizations was largely allowed if they were directly related to the subjects teachers teach. But, participation in the training organized by Study Association on Educational Science depended on principals. It is assumed that some principals rejected the participation in the training organized by this organization on the ground that this organization is critical of the government’s educational policies.

How do teachers think about this change? We will quote remarks of Tokyo metropolitan high school teachers from “Educational administration in Tokyo second edition” edited by Mikio Kawai. “Long-term holiday used to be a term during which we nurture our qualities as “teachers, but it is not now.” “We used to set up an theme and make study on it during summer vacation. But, we cannot do it any more.” “The government asked us to develop students’ ability to live actively in the newly introduced time for Comprehensive Learning. If the government is really serious, it should realize that we need sufficient opportunities to study freely on various issues. The official training courses where we should be passive listener are not needed any more.” “From now on, school will become a factory rather than a place of education. In a sense, education itself will be easier, but the good part of school education will be destroyed.” There are a lot of protests and concerns about the danger of the situation regarding the improvement of teachers’ professional ability and quality of school education.

As a national guidance, notification on duties during the summer vacation was issued by the Ministry of Education on March 4<sup>th</sup> and July 4<sup>th</sup>, 2002. The notification asked the strengthening of teacher control by requiring school principals to grasp and confirm pre and post training plans.

Some prefectures, following Tokyo, changed the way in which teachers work during summer vacation. One teacher said, “self-training during the summer vacation refreshed me a lot. This means that I could be an adult who still keep fresh mind when I stand in front of students. But now, deprived of self-training during summer, I will be a common, tired adult.”

## **Chapter 111 Hierarchization of school organization—introduction of “chief” system**

Central Commission on Education published its report titled “How the local educational administration should be from now on” in 1998. Around that year, there arose a tendency to hierarchize school organization. The purpose of the hierarchization is to make schools “quickly and appropriately respond to present issues.” Formerly, a staff meeting in which all the members of school took part in and decision was made on mutual agreement took an important role in reacting to issues. But, now the meeting is deprived of its decision making power and becomes “meeting for planning and coordination” which only a part of teachers attend. The symbolic incident was the introduction of chief system in Tokyo in April 2003. In the 1<sup>st</sup> committee in June 2001 on the introduction of chief system, Tokyo metropolitan board of education presented a chart titled “how the school system should be from now on” on which “staff meeting” was deleted and instead “planning and coordination meeting” was. Furthermore, on the chart, there are three layers of “management, supervisors, and regular teachers.” Newly introduced chief is in the supervisor layer. The duty of chief is to support vice-principal, and direct and supervise regular teachers. Teachers (chief) are going to supervise teachers (regular). The wage of chief is in the middle of that of principals and of teachers. The board of education is to appoint chiefs. Merit ratings are used to select chief, of course.

Thus, combined the ratings of teachers into three categories (upper, middle, lower), the assignment of three ranked in-service training according to the ratings, and the placing of teachers to three different layers in school (management, supervisors, and regular teachers), hierarchization of school organization will be realized.

## Chapter 112 Making staff meeting a subsidiary organ

The staff meeting is the most basic and important meeting in the Japanese schools. According to the survey conducted by Prof. Urano at University of Tokyo, 92.3% of teachers answered that they wish staff meeting to be a meeting where “To discuss educational activities and form agreements among staff.” Against this wish expressed by almost all teachers, staff meeting is going to be a supplementary organization due to the report by the Central Commission on Education published in 1998. Regarding these issues, Tokyo metropolitan government went further than the central government. Following the report published by investigating committee on “How the Tokyo metropolitan high schools should be” in March 1998, the metropolitan government revised the rule on school management and characterized staff meeting “as a subsidiary organ,” this is subject to a school principal. In January 2000, the Ministry revised the enforcement rule of the School Education Law and made it clear that staff meeting is a subsidiary organ.

It became radically difficult for the teachers to talk about educational issues in staff meetings. According to the survey conducted by Prof. Urano in April 2002, teachers said that even if they discuss seriously, “principal will make a decision by himself,” then, they lose motivation in discussion. “The staff meeting in which teachers could exchange opinions and decide the best way to carry out education. But now, staff meeting is a place where we all listen to the opinion of principal and vice-principal silently. That is sad.” “If we try to express our opinion seriously, we are apt to be excluded.” “Chances of expressing our opinion radically decreased.” Even in these situations, many teachers still have hope in the staff meeting. 77.4% of teachers answered that through staff meeting, they would like to “improve solidarity among teachers.” There is a great gap between the government which thinks lightly of staff meeting and teachers who attaché importance to it. The government should fill this gap by changing its attitude toward staff meeting, otherwise, the public school education will face crisis.

## Chapter 113 Severe working conditions of teachers

Schoolteacher is obliged to work not only under strong control by government but also in severe labor conditions.

### A. Mental pressure

The number of leave of absence caused by mental disease is increasing year by year as of the end of 2002.

In the “Interim report: survey of teachers’ life and work condition (pilot survey)” (220 replies) which All Japan Teachers and Staffs Union compiled in March 2002, 58% of respondents feel uneasy for death from overwork, 53% have experiences to feel like quitting their job, and 80% or more are carrying over fatigue at the next day. From April 2002, just after the survey, the comprehensive five-day school week was implemented, so that labor intensity of schoolteachers increased. At the same time they have to make lots of documents, their burden increased more and more.

The number of sick absentees of schoolteachers was 3364 in 1993. It has been increasing since then. The number of absentees by mental disease also continues increasing since 1992. The percentage of sick absentees to all teachers increased from 0.34% in 1993 to 0.56% in 2001. The percentage of absentees by mental disease to all teachers increased from 0.11% to 0.27% in 2001. The number of sick absentees has increased 1.55 times and those of absentees by mental disease have increased 2.25 times what they were eight years ago. (see the table in the next page)

Moreover, the rate of the absentee by the mental disease in a sick absentee is also increasing every year. It was going up no less than 18.2% for ten years from 1991 (29.7%) to 2001 (47.9%). Especially since 1999, it accounts for 40 percent or more of sick absentee. Teacher's mental burden is serious.

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Table: Trends in the number and rate of sick absentees of schoolteachers

(Data: Monthly Board-of-Education Report, December, 1999 & 2001)

	all teacher	sick absentee	sick absentee by mental disease	%(B/A)	%(C/A)	%(C/B)
1988	995,460	4,004	1,090	0.40	0.11	27.2
1989	997,215	3,671	1,037	0.37	0.10	28.2
1990	998,112	3,701	1,017	0.37	0.10	27.5
1991	1,001,432	3,795	1,129	0.38	0.11	29.7
1992	992,700	3,730	1,111	0.38	0.11	29.8
1993	984,115	3,364	1,113	0.34	0.11	33.1
1994	976,220	3,596	1,188	0.37	0.12	33.0
1995	971,027	3,644	1,240	0.38	0.13	34.0
1996	964,365	3,791	1,385	0.39	0.14	36.5
1997	958,061	4,171	1,609	0.44	0.17	38.6
1998	948,350	4,376	1,715	0.46	0.18	39.2
1999	939,369	4,470	1,926	0.48	0.21	43.1
2000	930,220	4,922	2,262	0.53	0.24	46.0
2001	927,035	5,228	2,503	0.56	0.27	47.9

## B. Physical & time pressure

According to the “investigation report on the actual condition of school and class management” by the National Institute of Research for Educational Policy in September 2001, which compiled 6614 replies from full-time teachers, they work for 9 hours and 42 minutes in school, for 1 hour and 17 minutes in their own home per day on average. The elementary school teachers spend 10 hours and 59 minutes (about 11 hours) per day for work.

In “investigation about life and work condition of schoolteacher” by All Japan Teachers and Staff's Union in 1993, the average work time in school was 8 hours and 35 minutes and those outside of school was 51 minutes. They spent a total of 9 hours and 26 minutes per day for work.

When these are contrasted, compared with eight-year before, it turns out that a teacher's amount of burdens is increasing.

According to the School Teacher Statistical Investigation Report in 1998 by Ministry of Education, schoolteachers of elementary school teach 18.0 hours, those of lower secondary school teach 14.2 hours, and those of upper secondary school teach 13.6 hours per week. But this is what was averaged including all full-time teaching staffs that do not take charge of lessons, such as principal, vice principal and nursing teacher. Therefore these numbers of statistics are not reflecting the actual condition.

According to another data in this Investigation Report, 81.5% of elementary school teachers take charge of the lesson of 20 hours or more per week, 1.3% of them take charge of the lesson of 30 hours or more per week, and 21.0% of the lower secondary school teachers take charge of the lesson of 20 hours or more per week.

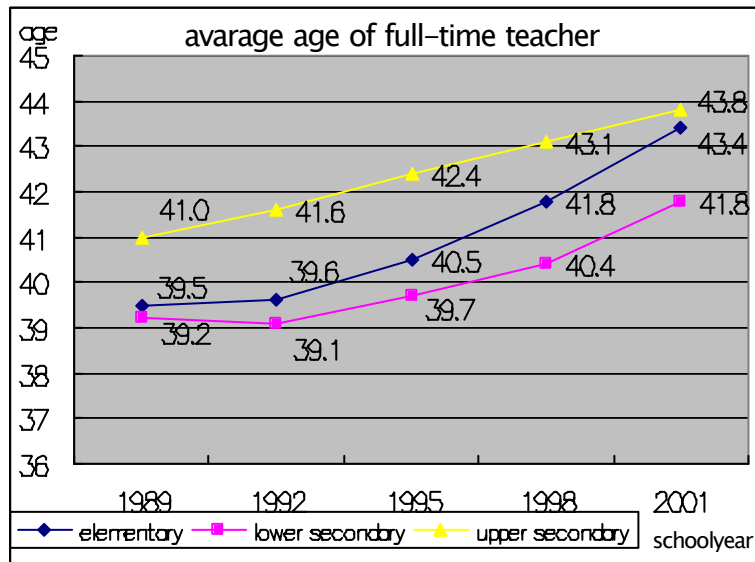
Class teachers are in charge of discipline guidance, coach of extracurricular activities, and other responsibilities on school affairs in addition to teaching subjects. Actual burden of schoolteacher is far big from a number of classes in charge of.

### C. Advance of aging

The average teacher age has become the highest ever. It is 43.4 years old for elementary school (+1.6 years old than three years before). 41.8 years old for lower secondary school (+1.4 years old), 43.8 years old for upper secondary school (+0.7 years old). Teacher in his twenties accounts for only 7-8% in all elementary schoolteachers. Advance of teacher's aging and increasing of teacher's work time is accelerating physical and mental fatigue of teachers. (see the Chart below)

Transition of the average age of full-time teacher

(Data: Ministry of Education, Culture, Sports, Science and Technology, "the School Teachers Statistical Investigation in 2001[interim report])



[Reference] basic report 10 20,110,112

**Part 4 Dismantling Equality in Education**



## **Chapter 114 Transition from single track school system to multi-tracking school, introduction of school choice, and strengthening of competitiveness of the educational system**

### **A. Problems of the initial report of Japan**

Since the late 1990s, both the central and local governments have begun to consider the introduction of “school choice” and the abolishment of the school district system” and in 1998, some local governments introduce “school choice.” The more focus has been given on school choice in the recent education reform, but, the Second Report of Japan provided on information on it. In the Second Report of Japan, information on “the integrated course of lower and upper secondary education” was offered, and the Report stated that it was implemented to promote further diversification of secondary education and to realize more individual-oriented education, enabling students and their guardians to choose opportunities to learn under the six-year integrated curricula and learning environment. But, it lacks its self-critical evaluation; there is a danger of heating up the competition, of ranking schools, and, of forcing younger students to study harder to surpass in an examination war.

### **B. A nationwide trend toward “school choice”**

“School choice” was proposed by Provisional Council on Education in 1987 for the first time, but it was not until the late 1990s when the government, in hand with the business world, officially adopted “deregulation policy” that “school choice” was really realized. In 1996, the Commission on Administrative Reform proposed “the flexibility in school choice” in its second report titled “A suggestion to the deregulation: Renovation of Japan with creativity.” In the next year, the Ministry of Education accepted the proposal. The Ministry adopted “Program for the reform of educational system” in which the Ministry attached the importance to school choice as a measure to reform school, and issued the notification on “Flexible enforcement of the school district system.”

The local authority in Shinagawa Ward in Tokyo decided to introduce the school choice system in 1999. Since 2000, children have been entitled to choose any elementary school in Shinagawa Ward, and since 2001 school choice has been expanded to all the junior high school in Shinagawa. Since then, all the wards, cities and towns in Tokyo, except for Nakano Ward, consider the introduction of school choice. Some local governments such as Ohtu city in Shiga prefecture and Kawaguchi city

in Saitama prefecture have introduced the system.

School choice has been positively accepted by municipalities in Tokyo, because school choice will become a catalyst for merging schools which holds only a small number of students due to the decreasing number of population living in urban areas. The facts that public transportation system is well developed in Tokyo and one school district covers several schools get rid of the difficulty on transportation which would rise under school choice. But the main reason why the municipalities in Tokyo welcomed school choice is that they followed the Tokyo metropolitan government's recent policy on education and welfare of which focus is given on promoting a competition among schools, budgetary cut in general, and distribution of more money to the better schools than to the worse.

School choice might enforce students to start competing at their early age, and encourage school ranking. Along with school choice, the competition will be heated up by school councilors system under which those other than parents, teachers and students are to evaluate schools and standardized achievement test.

As is the case with many municipalities, they did not give enough information on school choice and give a questionnaire which only asks merits of the school choice system to guardians and residents in the areas. Thus, the result of the survey might be induced as residents approve of school choice. Based on the results of this kind of survey, the local authorities introduced the system immediately without elaborate discussion.

### **C. Multi-tracking school system**

Before the school choice system is introduced to all public elementary schools and secondary schools, many local authorities either introduces or intends to establish unified lower and upper secondary school. It was institutionalized in 1999, based on the report of the Central Commission on Education in 1997. The Ministry of Education, in the revised version of "The reform of the education system" program, indicated that one public unified lower and upper secondary school is to be founded in every district nationwide, approximately 500 schools in total. This number is no more than three percent of the total numbers of lower secondary schools (approximately 11000) and upper secondary schools (approximately 5400).

There are three types of unified lower and upper secondary schools:

1. Affiliated (A lower school and an upper school are somewhat affiliated)
2. Combined (The schools are combined, holding a six-year integrated course. Children who graduated other lower secondary schools are often accepted to upper part of this type of unified schools.)

3. Annexed (The schools are annexed as one and no students who graduated from other lower secondary schools is accepted)

The types of 2 and 3 are the unified lower and upper secondary schools in a strong sense. Twenty-three schools of these types altogether have been already started, and thirty three are planned to be started in a few years.

The unified secondary schools are different from other ordinary schools in that unified secondary schools accept students from other school districts, no matter how far they might be to travel, while ordinary schools do not. Unified secondary schools will bring about the school choice system at the level of compulsory schooling. As mentioned later, they will heat up a competition among students at their early stage and a ranking of schools. Furthermore, the school board of education in Shinagawa Ward in Tokyo, which has already implemented school choice in 2002, plans to start to nine-year unified elementary and lower secondary schools, and three of them are prepared to be open. It is estimated that this trend makes students start competing before they go to elementary school.

After the World War II, the Japanese government established the single track school system which consists of six-year elementary school, three-year lower secondary school, and three-year upper secondary school. Under the Constitution of Japan and the Fundamental law of education, this single track school system is to provide everyone with an equal opportunity for education as well as to teach him/her to acquire common culture. However, as the high economic growth the policy was performed in 1960s, the education policy was formulated based on the principle of meritocracy, of which aim was to “bringing up children into laborers who are instantly useful for the industrial world.” Reflecting the people’s desire for longer education, the percentage of students going to upper secondary school, which is not compulsory, has increased drastically since then. At present, it reaches ninety-seven per cent. On the other hand, the policy based on the meritocracy has always promoted elitism and ranking among upper schools. From the 1960s to the 80s, ranking among upper secondary schools was expedited under the name of “diversification of schools,” and in the middle of the 90s, “establishment of a characteristic school.” The present “reform” is very different from them as it breaks down the single track school system, and promotes ranking at among schools which proved compulsory education. It promotes the multi-tracking school system, and there is a danger in it: based on the competition, students might start selecting schools from an early stage to the adolescence.

#### **D. Shinagawa Ward in Tokyo as a precedent example of the “school choice” system**

“Neo-liberalistic” reform of the educational system promotes “school choice,” and such a trend is preceded at local authority level. Shinagawa Ward in Tokyo performs the reform whose name is

“The plan 21” at the very first in the country under the leadership of the superintendent of education. Conventionally, a child was to be assigned to go to a neighboring school, and elementary and lower secondary schools were built so as to provide children with equal opportunity. However, the reform leads the schools and its education to be “distinctive” and “characteristic,” and encourages guardians to make a choice among them. Each school is evaluated and the budget from the local authority is decided according to the academic performance. This trend would probably lead both the schools and the children to elitism and ranking. This policy was made into a model in other districts and cities in Tokyo, affecting the promotion of “school choice.” In this trend, the problems of “school choice” seem to be appeared intensively.

### 1. The problems of the “school choice”

In Shinagawa Ward, the “school choice” system was introduced to public elementary schools in the 2000 fiscal year, and to public lower secondary schools in 2001. This was decided solely by the superintendent of education in the local authority without any request from the children, the guardians, and the residents. Some of the guardians and the teachers who felt uncertain to the immediate introduction asked for explanation, submitting a petition signature for re-examination over the issue. However, the school board of education in Shinagawa did neither reply to them, nor abandon the system. The system is for each family to select a public elementary and a lower secondary school in the district specified by the local authority. Forty public elementary schools divided by four blocks and eighteen public lower secondary schools in the whole district. If there are more applicants than school capacity, lots are cast for them to enter. The following problems have arisen as a result of several years’ operation.

### 2. Over-crowded schools and schools with few students

The percentage of students who selected a school outside the conventional school district was approximately 16 percent at elementary and 24 percent at lower secondary school in the 2001 fiscal year, and both of the percentages went up to approximately 18 percent at elementary and 30 percent at lower secondary school in the 2002 fiscal year. Especially, increase or decrease in the number of applicants to schools depends on the reputation. As for lower secondary schools, school A received applications twice more than the number of acceptance, because it was fully equipped with air-conditioning, and connected to a new building for elderly-people welfare facility. Owing to the luxury of the institution, it gained popularity. Contrary, more than a half of the estimated total number of students in one lower secondary school applied for another school to change the learning circumstances. In the case with lower secondary school B, the school admitted only 9 new students: it is estimated that the elementary school graduates avoided going to school B because they saw school vandalism there. As a result, three lower secondary schools out of eighteen in the district hold only one class (with less than forty students) in the seventh grade in the fiscal year 2001,

and five schools in the fiscal year 2002. Compared with other districts, this increase in number is quite high. As for elementary schools, there is a tendency that applicants concentrate on a large-scale school whose reputation is “prestige.” Especially, some parents in the small school district where small-scale schools are located seemed to be agitated by the information (the rumors, the web site data of the school applicants by the division board of education, etc.). Once the rumor that “there are few applicants for a school in the district this year” was spread, students tended to apply for a large-scale school in the next district. “School choice” was apt to be dominated by the uncertain information.

Consequently, a few schools become overcrowded and the conditions of the institutions or the teachers cannot respond to the needs of the children or the students. In a certain school, since the capacity of classrooms is insufficient, a stockpile warehouse unsuitable to educational activities was actually used as a classroom. Moreover, there are too many students to hold some school events such as school festival, and the teachers might not be able to keep an eye on every student in the schools. Because students could change their minds in choosing schools right before they enter the one, the number of acceptance is not decisive, and it is difficult for the schools to prepare for the entrance ceremony.

### 3. A chasm between a school and guardians, and the appearance of a dominant relationship

Some schools tend to become arrogant to the students or the guardians since they “chose” the school with the agreement of the school policy: One school administration does not listen to complaints about the educational plans, or another makes students control stricter. In a certain lower secondary school, a teacher told students and guardians, “if you find this school regulation strict, you may leave and attend another school.” in the school guidance session initial to the entrance ceremony. The guardians are reluctant to give an opinion to the school as it is they that selected it. This would lose a trustworthy relationship between the school and the guardians, and they might be cooperated less to work for the betterment of the school.

According to the survey done by the Research Institute of Democratic Education in 2001, 24% of the guardians who had selected a school answered affirmative and 63.8% negative to the question, “Did you find it easier to give an opinion to the school?” 42% of them answered affirmative and 50% negative to the question, “Do you feel more familiar to the school?” These results show a change in the guardians’ minds.

Besides, Parent and Teacher Association which should originally function as a route for the guardians to participate in the school becomes to work under the control of the school or the local authority. For instance, PTA is imposed gratuitously to manage a computer classroom using the school equipment open to the residents in the district. Moreover, PTA is also imposed to issue

school bulletins in order to attract readers outside school so that they might choose the school in the future. No allowance is paid for the work, thus PTA has to run by individual coverage. And the obligatory workload is increasing. Nevertheless, the guardians are not told how to express their anxiety, doubt, or opinion to the school or the authority. One guardian said, “We do not think we are able to give an opinion to the teachers as they always decide what to do first, and there is a hierarchy.”

There is a chasm between guardians according to their incomes: wealthy guardians are more benefited to have a computer at home to access the internet so that they might acquire the information in choosing a school, or to take the students to school by car. However, less wealthy guardians can not carry them out, and this difference divides the guardians along the line of the social classes. There was a case with a non-Japanese who lived in a district: the children were not able to attend any schools because the guardians did not understand Japanese thoroughly but had to fill in the application forms by themselves, and failed to send them to the schools. Therefore, it is assumed that introducing the school selection system might discourage the guardians or the residents from participating in schools.

#### 4. Teachers with more workloads

The local authority in Shinagawa aims at higher quality of education and suggests schools be “more characteristic” or “more outstanding,” causing a competition between them. The establishment of a characteristic school proposed by the board of education is indeed based on single or multiple choices of nine models they had planned. The characteristic school is established reflecting over the trend neither in the school nor in the district.

Of the nine models, the chosen ones were “promoting instruction according to level of mastery” (thirty three out of forty elementary schools, nine out of eighteen lower secondary schools), “promoting education for international understanding (English education)” (all of the forty elementary schools), “promoting subject teacher system at elementary school” (nine out of forty), “promoting lessons open to the public” (ten lower secondary schools in the fiscal year 2002), “promoting a nine-year curriculum at elementary and secondary combined schools” (seven elementary and lower secondary schools). Assistant instructors were sent to the schools which chose “promoting instruction according to level of mastery.” The faculty had to establish a characteristic school with an order of the superintendent, and more conferences were held to decide which models to be suitable for the school, thus the teachers were forced to work harder.

The teachers were also required to set up a web site or issue school bulletins to attract people. Especially for the least favorite schools: there is a case with a headmaster going door to door explaining the merit of the school like a salesman. Some teachers seem to be apathetic as no matter

how hard they may try to attract people, they fail in increasing the number of the students because the students choose more popular schools.

From the 2002 fiscal year, all the schools are burdened with “school evaluation which is evaluated according to the reputation,” and it is also the teachers that have to write a report and fill in the evaluation form. This workload imposes teachers to work overtime. In addition, since only the principal appoints whom to be a member of the councilors committee and no other teachers know who the evaluators are, there was a trouble between them when a teacher visited an evaluator’s home.

Asked whether they would like to continue working in the present district, eighty seven teachers in Shinagawa Ward answered “no.” And there were only nine teachers outside the district who wished to work in Shinagawa Ward in the 2002 fiscal year. In the recent years, more teachers transfer to work outside the district, and the shortage is filled with new teachers lacking in experience. The ratio of teachers’ generation is distorted; still more teachers at younger age and much less teachers at older age are in the school. That might cause a problem in the supervision system. On the whole, teachers are apparently not able to perform sufficient educational activities under the circumstances in Shinagawa Ward.

#### 5. Children are to be selected by the unified elementary and lower secondary school

In Shinagawa Ward, Tokyo, a unified elementary and lower secondary school, H School, is scheduled to be founded as the first school of this type in Japan in 2006, and Shinagawa Ward decided to budget for constructing this school from 2003. The found of School H is one of the examples of the efforts by Ministry of Education to promote the establishment of schools with a unique character. Because of this, the budget for education in Shinagawa Ward for fiscal 2003 is to be increased by 60% to ¥15 billion. The increased amount of about ¥6 billion from an average year will be spent on the construction of H School, meaning an unproportionally large percentage of the education budget of the ward will be spent on just one school.

School H is to be established by transferring H Junior High School to the site of N Elementary School, both in Shinagawa Ward. The new school building is also a part of the renovation plans of the rail station area and is expected to be a symbol of the policy of the ward on education and culture. The same types of school are planned in two other areas in the same ward as well, though the buildings will not be newly constructed as “H”.

The new unified elementary and lower secondary school will employ 4-3-2 system instead of 6-3 system currently prevailing nationwide. They expect students to complete the basic curriculum of elementary school in the first four years and proceed to “step up learning,” where students’ goal in

learning will vary according to their “abilities and personalities.” For those children who can learn quickly, advanced curricula will be offered and a small group teaching in line with the degree of attainment will be used. Unlike most elementary schools in Japan, subject teacher system will be adopted in early grades and the Courses of Study will be applied rather loosely. It has not been verified, though, whether this kind of program is suitable for elementary school kids. It is feared that the system of the new school would benefit only those students and parents who are eager to start preparation for high school entrance examination as early as possible, as in the case with those that adopt the unified lower and upper secondary school, where students finish basic curricula one year earlier than ordinary high schools and the last year is dedicated to preparation for college entrance examinations. In light of the fact that public schools should serve the needs of all students and parents living in the neighborhood, it is obvious that such programs are problematic. The subject teacher system taken in the early stages of education could hurt the elementary school education by depriving students of chances to form their character in the intimate relationships with teachers.

In School H, a special policy will be enforced on the change of teachers: some teachers can stay longer years there than in other schools. Also, all children within the ward can apply for the school, which is quite unusual because in the case of ordinary elementary schools, children can only choose their primary school from within the district they live in. This policy is feared to make the school more for elites.

Some residents in Shinagawa Ward presented a plea (with about 2,500 signatures for it) to the ward congress demanding that the plan to build School H be cancelled and the money be spent rather on reducing the class size of all public schools to less than 30 students and equipping all schools with more satisfactory facilities. The plea, however, seems to have been neglected by the ward committee on culture and education.

Other problems have something to do with the popularity difference and the sheer distance between N Primary School and H Junior High. N Primary School has gotten very unpopular among the residents since the school choice system was introduced, the reason being that it is located in the downtown area with lots of shops and restaurants engaging in sex trades. The number of applicants for the first graders for fiscal 2001 is only 6. H Junior High, on the other hand, is located in a decent residential area on a hill. If H Junior High is transferred as planned, students will have to walk more than 30 minutes. The transference of H Junior High to such a distant area without the consent of the parents and residents is certain to damage the relationships between the school and the parents and it will be a major threat to the traffic safety of students. It is speculated that some big politician with much influence on N Primary School is putting pressure on the congress.

A campaign was waged against the transference of H Junior High by people related to the school and elementary schools around it. More than 3,000 signatures of the members of PTA were collected



and a plea was presented to the ward congress. Their reason for opposition is that (1) the environment for education is certain to deteriorate, (2) the curricula of a new school include discriminatory programs such as “step up learning” and teaching students in classes decided by their academic attainment. The congress and municipal government have done nothing to answer the plea.

A “reform” in which gaps between schools are kept wide and unproportionally large amount of tax money is spent on a few privileged schools can lead to more differentiations of students. And the situation that tax distribution is decided only by the municipal government is just insane. As far as schools with unified elementary and lower secondary education are concerned, more objective standards should be applied to the budget distribution based on the number of applicants, efforts by schools to build a unique character or school evaluations.

## 6. Divisions between schools and neighborhoods

Clearly, the increase of parents who prefer for their children to go to school outside their school district will lead to a wider division between schools and communities. It will also weaken ties between parents in a same community, making it hard to maintain a sense of community itself. In many school districts in Shinawaga Ward, organizations by local people and parents such as neighborhood associations and association of shop owners have been cooperative and actively involved in school events. Good relationships of this kind are getting difficult to maintain because children are going out of their neighborhood to attend school that they like. Some residents are irritated by the attitudes of the ward municipal government that tell them, contradictorily enough, to have an intimate relationship with a school whereas it is the school choice system imposed by them that are destroying the relationship between schools and communities.

There is a case where school choice system enraged parents because, due to too many applicants, their children couldn't enter nearest junior high school and had to go to school far off, whereas the nearest school found the number of new comers short of the fixed number right after the new school year began because some had left for more prestigious private schools.

The roles of public schools should not be limited to education of children. They should include strengthening ties among residents or generations and helping local people and organizations such as companies and shop owner associations form decent communities, thus strengthening educational influence on children by communities.

## 7. Undemocratic ways of educational administration and virtual non-existence of the board of education

The “educational reform” in Shinawaga Ward has been implemented by the strong initiative of the superintendent of the board of education. When school choice system was first introduced in 2000, the superintendent made the plan public through mass media without consulting the board of education. Though there were a lot of complaints filed by its members, the plan was carried out.

The same pattern of decision making has been continuing in which the superintendent decides a plan and makes it public through mass media before consulting residents. Once a decision is made, there is nothing for residents to do no matter how much they are opposed to it.

Since the board of education is an independent administrative organization, it is essential for its members, representatives of the public, to have a thorough discussion on such an important issue as educational reform and to hold a public hearing to reflect opinions of parents, residents and teachers.

#### **E. The problems of the public unified lower and upper secondary school**

The problems of unifying lower and upper secondary education at one public school are as follows.

Firstly, such kinds of schools are very likely to become elite schools and this will lead to more differentiations of schools themselves. Those who advocate the unified education say that students in such schools can enjoy school life without worrying about high school entrance examination. But students in ordinary junior high schools cannot avoid the exam. Furthermore, the unified schools will have to “screen” applicants because they are open to students in far wider districts. We already have a school with unified education in Okayama Prefecture which has screened applicants by their academic performances. The parents of the students in unified school applicants are likely to be more enthusiastic about the education on their children and might put pressure tacitly on those who run the school to spend more money on their children, thus creating more unbalance between the two kinds.

Secondly, with the establishment of the school of the unified lower and upper secondary education, schools will be more differentiated and the bonds between schools and communities will get weaker. It is feared that, because children of families that are relatively rich and have a desirable sense of community are more likely to choose such schools, cooperation between public schools and communities will be lost and the gaps between those who will get good education and those who are not will be widened.

Thirdly, it has not been verified that the unified lower and upper education is the best for the development of children. It is true that there is a unique school in local areas with curricula featuring unique culture there, but chances are that most public schools of unified education will

follow the suit of those in private sector whose curricula are set up so that students can prepare for college entrance examinations as early as possible. This kind of curricula is suitable only for those who want to go to college.

## **F. Proposals**

Educational administration should stop its undemocratic way of advancing the school choice system because, by implementing the system on children, they are running the risk of sorting and differentiating children in the early stages of their life and of disrupting the relationships among parents and communities. They should pay more attention to the real needs of students and parents.

Educational administration should make more efforts to distribute budget more equally among public schools so that students can enjoy equal educational opportunities and services. They should not spend too much money on too small a number of schools because they want to create elites.

It is our important task to vitalize students' daily activities at school. One of the ways of doing this is by abolishing high school entrance examinations. The unified lower and upper secondary education might be the answer for it but the question is that the government does not plan to establish such schools for all students in Japan. The establishment of the school of the unified secondary education endangers the single track system which has guaranteed equal educational opportunities for all students. The unified education system must be abolished.

[Reference] Basic Report 1, 7, 10, 40, 62, 105, 112

## **Chapter 115 Competition for senior high school entrance exam becomes fiercer.**

### **A. Evaluation of personalities of students**

#### 1. “Grades on attitudes and personalities” in a student record

In the high school entrance examination, the acceptability of a junior high school student is determined based not only on the scores on paper test, but also on the grades on the subjects and on “attitudes and personalities” recorded in a student record which is handed by a junior high school to a senior school report. It is uncertain when “grades on attitudes and personalities” began to be recorded in a student record, but it is said that it dates back to the 1980s. Grades on attitudes and personalities normally include the grades on “positivity,” “sense of public morality,” and “fairness” mind,” and in some prefectures, even the grade on “kindness to animals” is included. These attitudes or personalities are graded from C to A. After the Council on High School Education Reform published its proposal in 1993, the graded on attitudes and personalities came to widely used in the high school entrance exams. In Ibaragi Prefecture, in addition to these grades, the grades on physical abilities such as “in how many seconds does he/she run 50 m?” are recorded. Using the grades on attitudes and personalities of a student in the entrance exam has been criticized as infringing the rights of the child, especially the right to freedom of thoughts and consciousness. Actually, the bar association at Ibaragi Prefecture gave warning to the prefectural school board of education.

#### 2. “New scholastic ability”

The issue of grading attitudes and personalities of students got strong attention from the nation wide, when the Ministry proposed the “new view on scholastic ability” and asserted that student’s scholastic abilities should be graded by the new method derived from this “new view.” in 1991.

The new method of grading student’s scholastic ability attaches more importance to “desire, interest, and attitude” of students than to “knowledge, understanding, and skills.” Of course, children’s strong desire to learn, their strong interest in subjects, and their positive attitude toward study are important. But, it should be careful in evaluating desire, interest, and attitude of students because evaluation easily slips the slippery slope down to arbitrariness. It is wrong to use the grades on attitudes, interest, and desire in the high school entrance exam.

When students get interested in objects to learn, have desire to understand them, and actively engage themselves in learning activities, it will help them understand and will effectively expand their knowledge and skills. Preparing for classes, teachers always consider how they can make students interested in subjects. Whether students become interested in subjects largely depends on how creatively teachers can organize educational activities. The ideal evaluation is the evaluation on to what degree student have achieved the goals. And teacher should use the evaluation of achievement as materials based upon which they critically analyze their educational activities.

But, the grading on interest, desire, and attitude of students under “new view on scholastic ability” are totally different from this ideal evaluation. It is because the grading of these things are disconnected from the evaluation of knowledge and skills students acquired in classes; what is going to be evaluated are students’ conducts that are easily detectable: the number of times students raised their hands or they make remarks. And, thus, in order for students to get higher grades, it is more important to raise their hands than to really understand subjects for getting high scores. And teachers attach more importance to count the number of times students raise their hands of make remarks than to organize educational activities so as to make every child understand subjects. As the new method of evaluation based on “new view on scholastic ability” are applied also to students’ body activities, club activities and volunteer activities outside school, there have appeared strange phenomenon: the number of students who become candidates for members of a students’ body suddenly increases, a student claimed higher grades on the ground that “I visited an institute for the aged and gave them potted flower.” These phenomenons which can be called as the “competition in showing good attitudes” came up nation wide. But, on the other hand, after entering high schools, many students confessed that they suppressed their positivity because they did not want to be seen by their friends as trying to get high grades in order to succeed in the high school entrance exams. In any way, the new method of evaluation trifles with the feeling of adolescents, which are fragile and innocent.

## **B. “Evaluation of achievement”(?)**

In December 2000, the Curriculum Council of the Ministry of Education proposed that the method of evaluating students’ scholastic abilities should be switched from the relative evaluation system to the achievement evaluation system, and the grades based upon the achievement evaluation system should be recorded in cumulative guidance records. From April 2002, the grades based upon the achievement evaluation system are recorded in student reports which are used in determining the acceptability to high schools. As a result, it introduced great confusion into junior high schools. This is because the grades recorded in students report are still used as one of the criteria to determine the acceptability of a student. What make the situation more confused is that students’ “desire, interest, and attitude” are required to be graded based upon “achievement” evaluation!

The criteria for determining the acceptability to schools, including high schools, should be objective and fair. The former relative evaluation system was said to be objective and fair because the grades based on this system show the relative position of their scholastic abilities among third grade students in a school. Actually, grade 1 or 5 are given to 7% of students. But, the former system had serious defects. First, because percentage of students to which each grade can be given was decided, even if all the students achieved the goals, 7% of students are inevitably graded as 1. This was nothing but uneducational. Second, though this system was useful in identify the relative position of each students among third grade students in one junior high school, the system was useless when the scholastic abilities of students from different junior high schools were to be compared.

NGOs concerned with education have criticized the relative evaluation system and asserted that the achievement evaluation system should be introduced. But, they have asserted that this system should be used for encouraging students to study and for reviewing educational activities by teachers; not for high school entrance exams.

The achievement evaluation system introduced by many prefectures under the pressure given by the Ministry is different from the achievement evaluation system in its ideal form. The system adopted by prefectures only brought about new problems. First, because criteria for evaluating achievements are different from schools to schools, the grades recorded in student reports cannot be objective. Second, in order to cover this defect, some school boards of education issued the instruction that junior high schools should decide percentage of students to which each grade is to be given, or some junior high schools decided to do this by themselves. Third, through the new system, the goals and standards on content of subjects decided in the Course of Study, which was issued by the Minister of Education, are imposed on schools in stronger way. But, the contents of subjects and goals of achievement should be left for teachers in each school to decide with the cooperation with students, parents and residents in a community.

Based on “Background Materials on Establishment of Evaluation Criteria and Improvement of Evaluation Methods” edited by National Institute for Educational Policy Research, all the prefectural boards of education edited the similar background materials and sent them to boards of education in cities, towns, and villages. And, based on the background materials, teacher in each junior high school were forced to set up the detailed goals of subjects and the criteria upon which to evaluate the achievement of every goal. This task is so troublesome and time consuming. One junior high school teachers said, “Evaluating achievement of every goal by each student is numbing work.” Evaluation is not the measure for teaching activities, but teaching is now the measure for evaluations. The measure is now confused as the aim. This is nothing but a tragedy for students.

Introduction of evaluation of personalities of students, the new evaluation method based on “new scholastic ability” and “the achievement evaluation” into the high school entrance exams is far from the ideal evaluation, which will encourage the development of the child, and it make the competition fiercer and, the student control stricter. The following remarks by one student really express the situation: “all the life in the junior high school was suffocating, because I felt that, both inside and outside the school, I was supervised and evaluated.”

### **C. Abolishment of the school district system**

Based upon the 17 proposals raised by the National Commission on Educational Reform, the Ministry of Education adopted the plan titled “Education Reform Plan for 21st Century.” In this plan, the Ministry proposed the “relaxation of the school district system.” In June 2001, the government filed the deletion of Article 50 of the Law on Organization and Management of Local Educational Administration, which read “to expand the high school education and to realize the equal opportunity for it, a school board of education should adopt the rule which defines school districts and identifies a high school to which students living in area covered by a school district can submit entrance application.”

This Article on the school district system for high schools was established based upon the reflection on the high school entrance exams before 1945, and it was thought to break down the principles recognized in the 1947 Constitution of Japan and the Fundamental Law on Education.

Just after World War 2, the Ministry of Education published its overview on the entrance examination before 1945, which stated, “Though the Ministry of Education and the Agency of Local Affairs worked hard to reform the entrance exams, they could not avoid the situation called as examination hell, because, even when they got rid of some defects, the other defects appeared. This is what is still fresh in our minds.” “This hard experience taught us that the only way to solve the examination hell is to prevent students from submit entrance applications to a small number of elite schools and to accept as the number of students to high schools as large as possible. Even before 1945, some prefecture introduced the school district system and the comprehensive evaluation system. This experience is suggestive.” “Comparing the present situation with the former, we should say the defects in the high school entrance exam are easier to get rid of. The high schools before 1945 were the institutions for the small number of elite, and, thus, the aim of the entrance exams was to select them. Though high school education is not compulsory, they became the educational institutions for all the people and they supposedly accept all the children who graduated junior high schools and want to enter high schools. Based upon this idea, the school district system was established by law.” “Thus, we should say that the way to solve the issue of high school entrance exams has been already identified: to accept as many applicants as possible, and to distribute the

equal number of applicants to each school by introducing the school district system.” (The Ministry’s notification on “the public high school entrance exams” on September 11, 1951.)

But, the Ministry changed this policy in 1963. The Ministry revised the enforcement rule of the School Education Law and consolidated school districts on the ground that “it is appropriate to assign plural high schools in one school district.” Thus, years after years, the more students submit applications to a fewer high schools, the gaps between good school and bad schools was expanded, and the equal opportunity for high school was weakened.

In these ten years, against the background of the Ministry’s policy on making each school “characteristic,” the school districts have been consolidated and expanded. And at last the Ministry deleted Article 50 of the Law on Organization and Management of Local Educational Administration. The deletion of this article means the abandonment of the equal opportunity of education, which was the aim of the article, because it abolished the school district system all at once and would undermine the democratic high school system established after 1945. Based on this understanding, many people raised the voices against the deletion, and, the Diet adopted the resolution which accompanies the Law, which read, “With regard to the deletion of the article on the school district system, the government, for realizing the appropriate high school education, should endeavor to prevent the competition from becoming fiercer and the gap among high schools from expanding. In changing school district, the government should fully consider the real situation of a community, including the opinion of residents.”

Tokyo metropolitan government and Wakayama prefectural government have already abolished the school district system, and many prefectural governments are now considering the abolishment. In the high school entrance exam in Tokyo carried out after the abolishment, ratio of applicants to available seats was higher than 2 to 1 in small number of elite schools, and in many high schools, the number of applicants was less than available seats. There happened what the school district system was planned to prevent.

The abolishment of the school district system for high schools, under the name of “school choice” will give rise to serious problems:

1. It will expand the gap among high schools to its extreme. Combined with the current movement toward the “school choice” of elementary and junior high schools, it will force children start competition from their early age, and result in making the whole school system more competitive.
2. It will make the competition among high schools, which is forced by the government under the name of “making each school characteristic,” fiercer. High school which cannot win the competition will be consolidated or closed.
3. It will result in closing the way for parents, children, and residents in a community to participate



in school management. Under the school choice system, parents and students will be regarded as “consumers” who are supposed only to consume what school as producers offer.

4. Under the school system which impose competition from the early age of children, schools will be hierarchized along the lines of the social classes parents belong to, because, to win the competition or to get better position, private fund parents can pay for training for entrance exam outside schools makes sense.
5. Only a few students can “choose” a school where they would like to go, and most students “choose” one school among all the schools in a prefecture on the reason that “it will accept me.” Thus, children are forced to reconcile themselves to entering a school with lower reputation. The troubles children face in deciding their careers will become heavier. Most of students will strengthen their sense of inferiority, on the one hand, and a few students will strengthen their sense of superiority. In any way, the more serious developmental disorder will give rise to.
6. It will become difficult for teachers to make their schools “rooted” in communities. Because students cannot necessarily go to neighboring schools under the “school choice” system, the tie between schools and residents living nearby will be weaken. If students should commute long distance, they cannot take part in such voluntary activities as students body activities and club activities.

To liberate children from the pains of the examination hell, the following measures should be taken.

1. The school district system should be maintained. The school district should be contracted and one high school should be assigned to one school district.
2. The planned advancement rate in high schools, which excludes a certain percentage of students from high schools, should be abolished. The high school should accept all the students who would like to learn in high schools.
3. To realize what is mentioned above, the high school entrance exams should be abolished. When the municipalities maintain the high school entrance exams, the acceptability of children should be determined on the comprehensive evaluation.

[Reference] Basic Report 1, 7, 10, 40, 62, 105, 112

## **Chapter 116 The relaxation of the standard to establish schools and the problem of school management by profit-making corporations**

### **A. The deregulation in education and the relaxation of the standard to establish schools**

In the series of “deregulation” aiming to achieve economical efficiency launched by the government, “deregulation” has been promoted in various fields by the Office for Promotion of Special Zones for Structure Reform in the Cabinet Secretariat, and the Office for General Regulation Reform in the Cabinet Office.

In March 2002, the Ministry of Education enacted the standards to establish elementary and junior high schools as an ordinance from the Ministry of Education, under the pressure of such organizations, accepting the “Making New-Typed Schools” proposal by the National Commission on Educational Reform, an advisory organ of the Prime Minister. In the past, the School Education Law and other educational laws, as well as inspection standards adopted by prefectures substantially worked as the standards to establish schools. There was no law codifying them

Compared with the “substantial” standard, features of the new standard are: 1) relaxing the requirements for the establishment of private elementary and junior high schools, 2) more flexible building and safety requirements for schools and playgrounds, 3) teachers can work concurrently at two or more schools. The new standard demonstrates the conditions which make private elementary and junior high schools easier to establish. And it is also notable that 4) a “self-evaluation” and a “self-checking” system as a standard to establish schools will be introduced to all kinds of schools, including senior high schools and professional schools which have already had standards. Before the amendment this was only found amongst standards set for universities and graduate schools.

After the release of information of the bill to the public by e-mails, complaints and diverging opinions especially directed at “the requirements set for schools buildings and playgrounds” and “concurrent teachers” were sent to the office. However, the Ministry of Education decided to proceed without revising the planned standard. Consequently, a new road was opened which enables private schools to run elementary and junior high schools. The number of private elementary and junior high schools was limited due to the high requirement of the standard. Conditions were also made for corporations willing to enter school management. However, children may now face the danger to enter schools offering poor educational conditions.

## **B. Making corporations and NPO corporations into school cooperation**

Since the fiscal year 2002, the Office for Promotion of Special Zones for Structure Reform in the Cabinet Secretariat, and the Office for General Regulation Reform in the Cabinet Office have taken the lead in recruitment of applications for “special zone” “in order to activate the economy.” This is to reactivate economic activities, by easing the past regulations in the 12 fields including education. In the field of education, four items were laid out such as “making the curriculum and the employment of teachers more flexible,” “establishing new types of schools for students who refuse to go to school,” “unifying kindergarten and nursery school,” “relaxing the standards to establish universities.” At the beginning, “the entry of profitable corporations into the field of school management” was opposed by the Ministry of Education.

249 candidates applied to the first recruitment, 18 were from private organizations, and most of the other applicants were from municipal bodies. For example, in the cities where many foreign workers live, a city educational board made proposals which would establish elementary schools with educational activities done in English. Many of these proposals were connected with the relaxation of the curriculum.

In December 2002, the Law of Special Zones for Structure Reform was officially announced, under pressure from the Office for Promotion of Special Zones for Structure Reform and the Office for General Regulation Reform which are supported by the Prime Minister, the Ministry of Education changed its course in accordance with the direction which approved the entrance of profitable corporations into the field of school management. At this time, the Ministry announced three conditions for corporation involvement: firstly introduction of evaluation by a third person, secondly opening the availability of the financial information to the public, thirdly in the case of bankruptcy, substituted schools secured for students. In the second recruitment of “Special Zones for Structural Reform” in January 2003, 34 proposals on school management were made -- 10 from local self-governing bodies, 24 from private educational industries including private schools and preparatory schools.

Some NPO corporations also made proposals. They demanded that their “free schools” and “free spaces” for children who refuse to go to school become educational cooperation. In the beginning the Ministry of Education viewed negatively. However, in February 2003, under more pressure from the Prime Minister and the Council for Comprehensive Regulatory Reform, the Ministry approved the entry of NPO corporations. The Ministry announced that municipalities, in establishing “Special Zones for Structure Reform,” can approve the establishment of a school, though this is usually left to the prefectures.

The Council for Comprehensive Regulatory Reform now requests the Ministry of Education and Science the following:

- 1) The Ministry subsidies for private schools established by profitable corporations,
- 2) The Ministry should adopt rules which enable municipalities to entrust the management of public schools to profitable organizations – “publicly established schools privately managed”--.
- 3) The governors of prefectures should handover their license authority to the mayors of cities, town and villages.

These make not only the competition between public schools and private schools fiercer in the field of public education, but also make the competition amongst private schools stronger especially between schools established by school corporations and those established by profitable corporations. This competition has already increased in the field of childcare where a “publicly established privately managed” institution system has already started. So it is now feared that the quality of “public education” itself will deteriorate on a large scale.

### **C. Proposal**

If the establishment of primary, junior high, and senior high schools by profitable corporations aiming at elite education is possible, it is feared that such schools may appear that have more flexible curriculum, deal mainly with entrance examinations and aims at gathering more students and gaining more money for the company. As a result, differentials amongst schools will get bigger and the entrance examination competition will get even harder. In order to avoid such situation, we claim that strict regulations are necessary for the entrance of profit-making corporations into “public education.” However, as to the system to guarantee public education to the children who refuse to go to school, fostering of public expenses to “free schools” now managed by NPO needs to be examined. By the relaxation of standard to establish schools, it is worried that there will be more students who have education under inferior conditions. In accordance with the principle of the best interest of the child in the Convention on the Rights of the Child, we have to try hard not to make servicing of educational condition retrograde with all our might.

[Reference] Basic Report 110

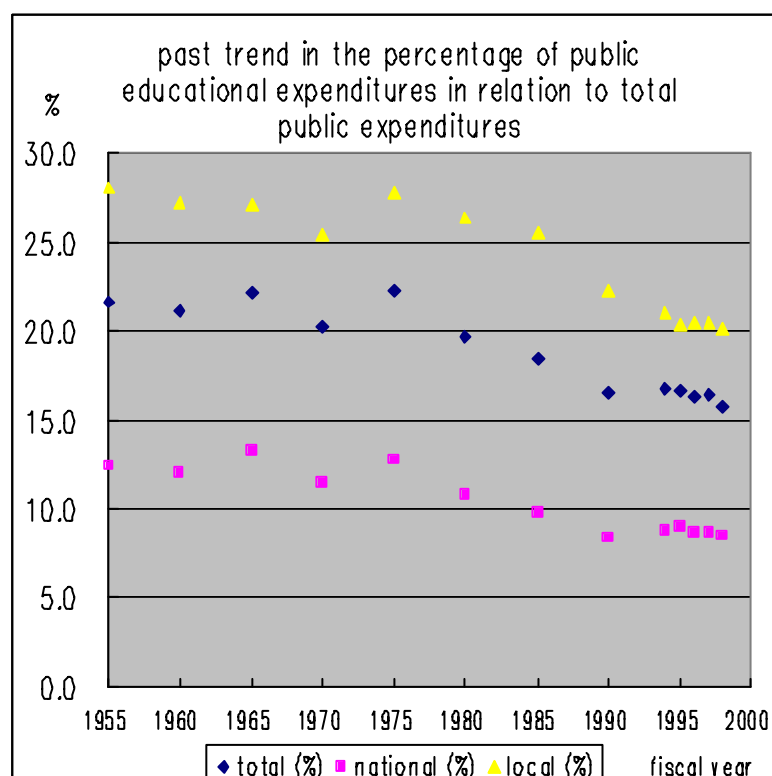
## Chapter 117 Reduction of government responsibility for educational service

The latest educational policy of Japan is characterized by the reduction of provision of education, which is based on the benefit principle. Namely, responsibility for education is handed to each family, those for educational administration to the self-governing bodies so that central government avoids their responsibilities. This kind of new policy will lead not to the expansion of individual freedom, but to a social system that will enforce obedience for the existing public order onto the people.

### A. the decrease of national expenditure on education

In 2003 fiscal year, the budget of the Ministry of Education amounts to 6,322 billion yen. This shows a drop of 257.08 billion yen compared to last year (a 3.9% decrease). (See Table and Chart below)

fiscal year	total (%)	national (%)	local (%)
1955	21.6	12.4	28.1
1960	21.1	12.0	27.2
1965	22.2	13.3	27.1
1970	20.3	11.5	25.4
1975	22.3	12.7	27.8
1980	19.7	10.8	26.4
1985	18.4	9.7	25.5
1990	16.5	8.4	22.3
1994	16.7	8.8	21.0
1995	16.6	9.0	20.4
1996	16.3	8.7	20.5
1997	16.4	8.7	20.5
1998	15.8	8.5	20.1



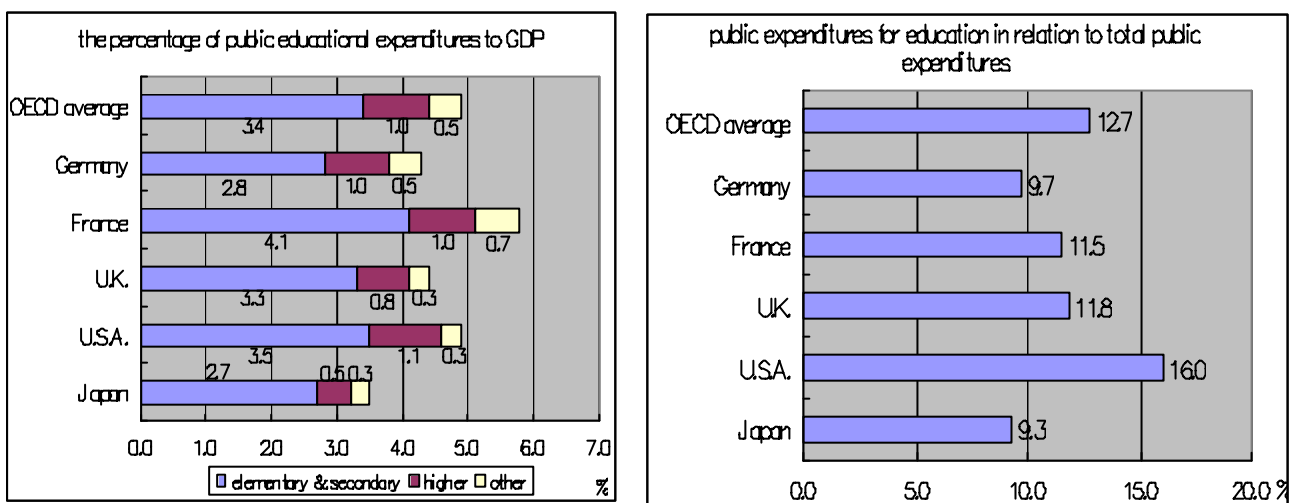
The percentage of public educational expenditure to total public expenditure has reduced consistently for the past 50 years since World War 2. The percentage of public educational

expenditure by both national government and local government, the total amount of public expenditure for education has reduced for the past 5 years since 1994.

This clearly shows that the educational field has been neglected in budget making.

### B. Comparison with foreign countries

According to the “International comparison of the educational indicator in January 2002,” the percentage of public educational expenditure from GNP and the percentage of public educational expenditure from the administrative expenditures can be seen clearly.



The percentage of public educational expenditure (the expenditure of both national and local government is included) is very low compared to the average of the member nations of OECD or European countries. (see the Charts above)

### C. Standard of teacher allocation

The national government subsidizes one half of the teacher’s salaries. In 2001, Japanese Ministry of Education, Science, Sports and Culture gave the prefectural boards of education the authority to make decision how to organize the class of elementary and junior high schools. Through this, it has been made possible for the prefectural boards of education to decide the smaller class by its own opinion.

However, the national government did not revise legal standards for class-size (the maximum number of pupils per class- 40). Therefore, each prefectural board of education must bear all costs to reorganize smaller classes. This means poorer local bodies cannot afford to hire more teachers to

reduce class-size, causing a considerable difference among local bodies.

Table: Class-size Standard in European countries and Japan

country	grade	
Japan	elementary junior high senior high	max 40 max 40 normal 40
USA.		
California	1-3 4-8 9-12	max 32 max 28 max 25
Ohio	pre-4	ave 25
Kentucky	1 2-3 4 5-6 7-8	max 24 max 25 max 28 max 29 max 31
U.K.	1-2 3-6 secondary	max 30 no standard no standard
France	primary  lower secondary upper secondary upper secondary	academy inspectors decide every year no standard max 30 max 30
Germany		
Nordrhein-Westfalen	primary 1-4  lower secondary (Hauptschule) lower secondary (Gymnasium)	normal 24 (18-30) normal 24 (18-30) normal 28 (26-30)
Russia	primary & secondary	max 25

40 students in one class is much larger than that in western countries (see the Table on the left). But Japanese government did not revise the standard.

An improvement plan for standard of teacher allocation (seventh plan for elementary and junior high school teachers, sixth for senior high school) began in 2001. This plan means to increase 27,000 teachers, but there are 34,000 elementary schools and junior high schools in all so that the plan does not provide even one teacher per school. More than half of Japanese junior high schools still have more than 36 students in each class.

The government laid down the line to arrange 50,000 assistant teachers for 3 years to come. However, this is only a temporary measure for employment, not intended for the improvement of educational environment; not to be guaranteed of children's rights.

#### D. Class Size Problem

According to the survey conducted by the Japan Society for the Study of Education in March 1999, 92.4% of the municipalities (cities, towns, villages) and 54.8% of the prefectures and ordinance-designated cities want smaller

class size. Those local governments also pointed out that one of the biggest problems about the arrangement of the teaching staff and the class formation is the costs. 91.1% of the municipalities and 97.1% of the prefectures and ordinance-designated cities want the arrangement of the teaching staff funded by national government. Demands for reduce class size to 30 students per class are mounting. Many Japanese citizens signed petitions demanding the 30 students per class.

The National Institute for Education Policy Research (NIEPR) carried out a nationwide survey on the scholastic ability in Arithmetic and Science of fifth graders in elementary schools, and the Mathematics and Science ability of second graders in junior high schools. They conducted the survey in five different class sizes - less than 20, 20 to 25, 26 to 30, 31 to 35, and over 36 students. The average marks of the classes wherein the number of students was less than twenty were higher

than any of the other classes in all the subjects. NIEPR released the results in August 2001. NIEPR carried out another nationwide survey in December 2002. They investigated 1% of 5th graders in all elementary schools across Japan. They categorized the classes into five levels according as how students disturbed classes. According to the survey, 30.2% (the highest percentage) of the classes wherein the number of students is 36 to 40 “don't go very well,” whereas 13.2% (the lowest percentage) of the classes whose number of the students is less than 20 “don't go very well.” 48.4% of the classes wherein the number of students is less than 20 “go very well,” whereas in the classes wherein the number of students is 36 to 40, the figure is only 15.6%.

Regardless of the demands of citizens and the results of these nationwide surveys, the government hasn't reduced the class size nor maintained or improved the educational conditions, saying that it is the responsibility of the prefectural and municipal governments to improve the class size problem.

The Ministry of Education stated as follows in the report published in January 2002:

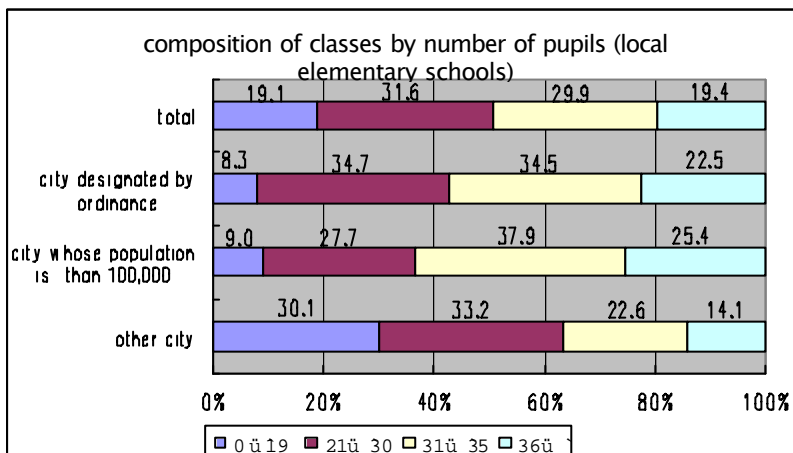
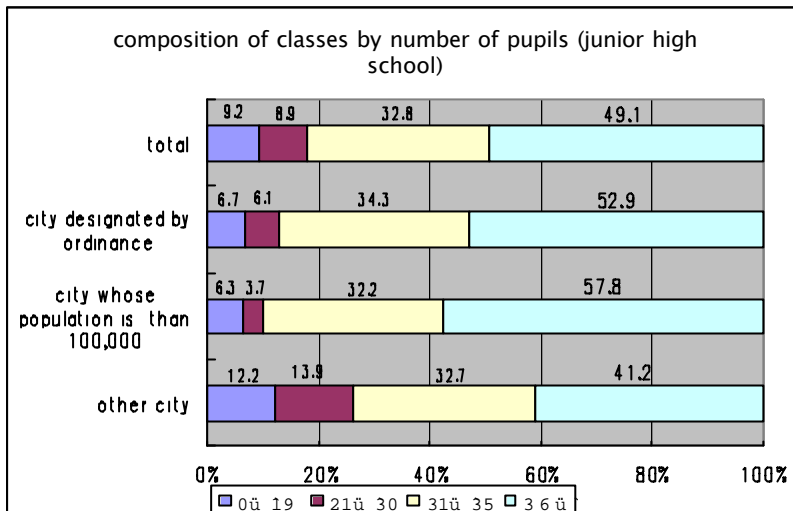
“The number of pupils or students per teacher has been improved as the plans to improve the fixed number of educational personnel have been repeatedly carried out. It is now approaching the level of Western countries. The number of pupils per teacher in elementary schools in Japan is 19.0. (in 2001, full-time teachers, not including school nurse.) This number is larger than that of the United States of America (18.0, in 1998) and Germany (18.1, in 1999) and smaller than that of Britain (22.7, in 1999), France (19.1, in 1998) and China (23.1, in 1999).

The number of students per teacher in secondary schools in Japan is 15.3 (16.1 in junior high schools, 14.1 in senior high school). This number is larger than that of the United States of America (14.2, in 1998), France (15.0, in 1998), Germany (15.0, in 1999) and smaller than that of Britain (16.6, in 1999) and China (17.5, in 1999).”

But these figures do not accurately reflect the reality. When the Ministry counts the number of students per teacher, they include the teachers who do not teach classes, such as vice principals. In the Japanese school system, some senior staff teachers as well as vice principals do not teach classes. Therefore the number of teachers who actually teach classes and give guidance to students is much smaller than the number the Ministry stated.

According to “Statistical Investigation Report on School Teachers in 1998” published by the Ministry, the following teachers do not take charge of classes: 97.3% of principals, 54.6% of vice principals and 6.4% of other teachers of elementary school; 99.0% of principals, 42.9% of vice principals and 5.0% of other teachers of junior high schools; 98.4% of principals, 49.6% of vice principals and 2.9% of other teachers of high schools. Considering this, we have to say that the ratio MEXT stated is unrealistic.





According to the investigation by the Ministry in 1999, 19.4% of classes in public elementary schools have 35 or more pupils and 49.3% of them have 31 or more pupils. The fact is that about half of the classes in elementary schools and about 82% of the classes in junior high schools have more than 31 students. The ratio of teachers to students, including teachers who do not teach classes is unrealistic. (see the Charts above)

Many citizens have been demanding smaller class size and many requests and petitions demanding the smaller class size have been presented to both local and national governments. On April 1st 2003, the Ministry issued a circular, which officially authorized the measures many local governments had been implementing to promote classes with fewer pupils. The circular also stated that the national government would not spend any money to realize the smaller class size system. This means that if a local government wants to implement measures to promote classes with fewer pupils, the local government has to pay all the necessary money. Whether a local government can implement these measures or not totally depends on the financial capability of the local government. We are strongly worried that this will impair equal educational opportunities.

## **E. The reduction of the state contribution to compulsory education**

According to a press released by Ministry of Education in October 2002, they are reviewing the national government share of contributions to compulsory education. They are planning to limit the coverage of the state contribution in order to drastically reduce expenditure. They are also planning to introduce flat-rate state liability system and to put the financial burden on the ordinance-designated cities to pay the salary of teachers that are now paid by both the prefectures and the national government.

Article 26 of the Constitution of Japan states that compulsory education is free. The national government has responsibility for public compulsory education school teacher salaries. Those teachers are primarily in charge of compulsory education. The national government has been cutting subsidies to local governments. In the 2003 government budget bill, more than 200 billion in subsidies to compulsory education was cut. The government said that they increased the distribution of the local allocation tax grant to make up for the reduction in subsidies. The use of the local allocation tax grant, however, is not specified, so the increase of the local allocation tax grant doesn't necessarily mean that it will be used for the compulsory education. Cutting the subsidies to compulsory education means that the government may abandon to guarantee the national minimum standard for improving educational conditions. We fear that the minimum standard of educational conditions may no longer be maintained.

The reduction of the state contribution is also remarkable in the maintenance of material conditions as well as in that of personnel conditions. The national expenditure for improving facilities of public schools was about 571.3 billion yen in 1980. It has been decreasing ever since. During the first half of the 1990's, it increased a little. After that, it began to decrease again and in 2002, it was reduced to 140.2 billion yen.

## **F. Delay in installing air-conditioners to ordinary classrooms**

Because of heat island phenomenon, the recent rise in temperature in urban areas has been striking. According to an investigation carried out by the youth group of All Japan Teachers and Staffs Union, in more than half of the classrooms investigated, temperatures exceeded 30 degrees Celsius even before the start of summer holidays.

Although the Ministry of Education demanded the expansion of the Air-conditioning Installation Aid Program in 1997, Ministry of Finance rejected it. At present, local governments bear all the expenditure costs for installing air-conditioners to classrooms, except in Okinawa and areas where windows cannot be opened due to excessive noise, such as in places near airports.

According to the investigation by the Ministry of Education in August 2001, only 5% of all ordinary classrooms in public elementary and junior high schools in Japan were air-conditioned. (As for special classrooms, such as computer rooms, one third of the cost to install air-conditioners have been financed by the national government since 1994. 71% of computer rooms, 58% of infirmaries and 54% of faculty rooms are air-conditioned.)

Some local governments, such as Chiyoda ward and Chuo Ward in Tokyo installed air-conditioners to all ordinary classrooms. These are, however, exceptional cases. Without grants by the national government, installing air-conditioners to ordinary classrooms has made almost no progress.

According to “the Consumers' Behavior Survey” by Cabinet Office in March 2002, 82.7% of all houses are air-conditioned. The gap between the living conditions at home and in the classrooms is remarkable.

In the budget request for fiscal year 2003, the Ministry demanded a new aid program for installing air-conditioners to ordinary classrooms. The Ministry pointed out that high temperature in classrooms was progressing especially in the urban areas and the use of classrooms in summer was also increasing because more supplementary lessons are now being held during the summer. Parents' worries about the decline of the scholastic abilities due to the new Course of Study were stated as the reason of the increasing needs for supplementary lessons. The Ministry made a budget request for initiating the new aid program for local governments to install air-conditioners to about 300,000 ordinary classrooms in public elementary schools, junior high schools and high schools over 10 years. The Ministry also requested 10 billion yen for installing air-conditioners to 30,000 classrooms for the first year of the 10 years-long programs in 2003. But Ministry of Finance rejected this proposal.

The funds for new construction, addition or alteration of school buildings, were instead allocated to about 1000 school buildings which will be financed by the government to make school buildings resistant to earthquakes, in accordance with the “outlays for public school facilities maintenance” and the “outlays for promoting quakeproofing of public school facilities” which will be provided under supplemental budgets in the next diet session (in fiscal year 2003).

### **G. Backward school library policies**

Under the provisions of the “Law on the Promotion of Reading Activities for Children” which was enforced in 2001, 65 billion yen from the distribution of local allocation tax grant will be granted to local governments for the purpose of maintaining school library books over 5 year period beginning

in 2002 (13 billion yen per year).

The Japan School Library Association did a survey on how this money would be used, targeting 3,228 local governments across Japan (the number of respondents were 1,030). Only 29.6% of local governments put this grant into their budgets in order to increase and enrich the school library books. 65.4% of respondents stated that they did not plan to prepare a budget for school library books. In the budget for fiscal year 2002, 25.4% of local governments increased the budget for school library books. 39.4% replied that their budget for school library books was about the same amount as the previous year. 33.8% of them replied that they reduced the budget for school library books.

“Outlays for school library books” is granted to local governments as the distribution of local allocation tax grant, which is not enforced to use for specific purposes. Local governments can use this grant for any purposes they choose. More than 70% of local governments did not use this grant for school library books, but for other purposes. This situation is surely against the spirit of the law.

## **Chapter 118 Higher budget priorities to high schools for elites**

In the government budget draft for fiscal year 2003, the outlays for promoting science and technology increased 3.9% compared to that of the preceding fiscal year. On the surface it appeared to be making progress. This increase, however, derived from the selective distribution of the budget. This policy is not consistent at all with one of the fundamental principles of the Constitution: equally guaranteeing the citizen's right to education. We can also see this selective distribution policy in the field of school education.

### **A. Super Science High School**

The Ministry of Education designated the 26 high schools across the country as “Super Science High Schools” for three years from 2002. These high schools especially emphasize technology, science and mathematics education. The aim of selecting these high schools is to develop a curriculum that focuses on science and mathematics in high schools or unified lower and upper secondary schools to foster world-class researchers and technicians and to promote studies on effective partnership with universities and other research institutes. 727.14 million yen was allocated for those high schools in fiscal year 2002. In the budget of fiscal year 2003, the Ministry doubled the number of Super Science High Schools and allocated 1186.07 million yen (63% increase), while reducing the total budget for education across the country.

In 2002 the Ministry also designated 20 high schools across the country as “Super English Language High Schools” and allocated 146 million yen to them.

The disparity in educational opportunities is widening due to economic gaps. Considering these situations, the policies of distributing the budget to specific schools to fostering elites are strongly against the idea of guaranteeing of the citizen's right to education.

### **B. The Basic Promotion Plan for Education**

On March 20th 2003, the Central Council for Education submitted their report to Minister of Education. In the report they advocated the revision of the Fundamental Law of Education and the formulation of the Basic Promotion Plan for Education. They also stated that education was “a prior

investment for the future” and “we have to improve the quality of educational investment and enhance the effect of investment.” They set the aims of the policy as “fostering individuals who are rich in creativity and originality and can be front runners in this century of ‘knowledge.’” In order to achieve these aims, they called for “pursuing the efficiency of educational investment by the selective distribution of the budget.”

We quite disagree with their claims. They abandoned the very important perspective of guaranteeing the constitutional right to education for all citizens.

Prior to this report, the Ministry of Education formed the Second Basic Promotion Plan for Technology in 2001. In this plan the Ministry had already maintained “the strategic selective distribution of the budget for technology.” By developing the Basic Promotion Plan for Education, the Ministry is trying to spread the idea of selective distribution of investment" throughout the whole educational world.

## Chapter 119 The expansion of unequal opportunity in education

Expenses paid by university students in Japan are remarkably higher than those in America and European countries. This situation never seems to improve. Moreover, the student loan system is curtailed, the beneficiaries' burden is increasing and the national government neglects its duty to improve the student loan system and support for better educational provision. Unequal opportunity in education is worsening more and more.

### A. Abolition of exemption from student loan repayment system

The Japan Scholarship Foundation is prescribed as an official scholarship organization in the Japan Scholarship Foundation Law, but its scholarship is merely a student loan, not a benefit. Student loans of the Japan Scholarship Foundation are divided into two types, Type 1 (interest-free loan) and Type 2 (loan with three percent maximum interest a year). Type 2 has been promoted in recent years. (see the Table below)

Table: Classification Ratio of the scholarship in Scholarship Organization

fiscal year	interest bearing loans (%)	interest free loans (%)
1998	21.3	78.7
1999	37.9	62.1
2000	40.0	60.0
2001	44.0	56.0
2002	49.2	50.8

In the past, those who had got Type 1 (interest-free loan) at universities, junior colleges and colleges of technology had been exempted from repaying their student loan, if they worked in the education or research fields after the graduation. However the system to exempt from the duty of repaying a student loan was abolished in 1998. Now all the students have to repay their student loans unless they go to graduate schools and start to work in the education and research fields within a certain period.

### B. Insufficient private school subsidies

In 2003, at the negotiations for the restoration of deleted items to the budget, Ministry of Finance conceded to add 12.7 billion yen as a subsidy to private schools. The total amount would be 449.1 billion yen, raised 0.8 percent compared with that of 2002.

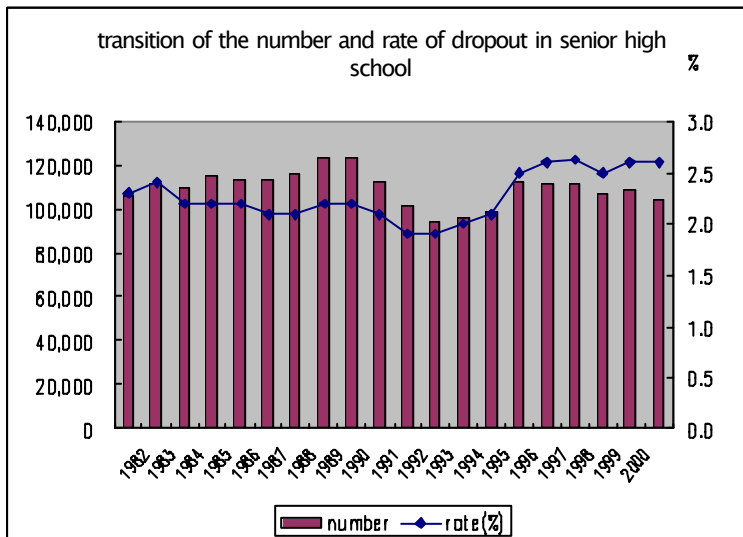
However the guideline for budgetary request, which was proposed by the Ministry of Finance in

August 2002, showed that they reduced 2 percent of the operating expenses for universities and 5 percent of that for senior high schools. The Ministry of Finance is aiming fundamentally at a reduction in the education budget (That is 0.9 percent reduction in subsidy for both public and private schools).

In addition, ethnic schools are defined as “Miscellaneous Schools” and they are not recognized as 'Schools' as defined in School Education Law article 1. This means ethnic schools are not qualified to receive a subsidy. Objecting against this fact, on January 16 in 2003, “The Committees of Ethnic Education for Koreans living in Japan of Osaka and Aichi,” “The Network Hiroshima thinking of the future for Ethnic Education” collected and presented about 230,000 signatures to Ministry of Education. These organizations request the Japanese government to improve the treatment of Korean schools and other foreign schools. This is the second time since 1997 for the organizations concerned with Korean schools to present signatures directly to Japanese government. The government has not taken any measures to improve the situation yet.

**C. Increases in high-school dropouts because of financial problems or undesirable school environment**

The high-school dropouts in 1993 numbered about a hundred thousand (100,000). This was the



lowest number and rate since MEXT commenced their first investigation in 1982, but this number and rate have been increasing since 1994 (See the Chart on the left).

In 1996, the Ministry of Education reported the reason for these dropouts as mostly maladjustment, and in 1997, the rate of high-school dropouts reached 2.6 percent, which was the highest rate since 1982, and this has

continued to rise to 2001.

However if we examine the reason for these dropouts more in detail, we see some other notable facts besides maladjustment.

The investigation by the Ministry in 1992 noted the following reasons:



Career changing: 38.9%

Maladjustment for school environment and study: 26.6%

Underachievement: 11.3%

Family situation: 6.5%

Problem behavior: 5.9%

Table: A component ratio about the reasons of high-school dropouts (ref. "Monthly Bulletin of Board of Education" published by Ministry of Education in April, 2003)

	financial reason	family reason	school maladjust	change course	low school attainment
1982	5.4	9.1	19.2	17.8	19.1
1983	5.2	11.4	23.4	21.8	14.8
1984	5.1	10.1	26.1	24.0	13.8
1985	4.6	9.8	26.6	26.5	14.0
1986	4.1	9.9	26.8	28.3	13.6
1987	3.6	9.2	26.8	30.7	12.4
1988	3.1	8.3	26.9	32.6	12.2
1989	2.6	7.4	26.9	35.1	12.4
1990	1.9	6.5	26.6	38.9	11.3
1991	2.0	5.8	27.1	40.9	10.3
1992	2.1	5.5	26.5	43.3	9.9
1993	2.3	5.5	26.1	43.8	9.4
1994	2.5	5.6	26.9	43.3	8.8
1995	2.2	5.4	28.6	43.3	7.9
1996	2.4	4.7	31.4	42.7	7.0
1997	2.5	4.5	33.4	40.8	7.1
1998	3.0	4.3	35.8	38.5	6.7
1999	3.2	4.4	37.1	36.8	6.7
2000	3.2	4.4	37.4	36.5	6.6
2001	3.3	4.4	38.1	36.3	6.6

We have to pay attention to "Career changing." 66.2 percent of "career changing" group are obliged to alter their study into employment. This means they also have the financial difficulties in continuing school and this is linked with the reason of the "Family situation" group. The financial problem in the family seems quite serious. (see the Table on the left)

The report of the investigation about the actual conditions to resolve the "Dowa" – special community - issue, published by Osaka prefecture in March 2001, showed the high-school dropout rate of educational

allowance recipients, as shown in the Table below. This allowance payment initiative is a part of the specific project for regional improvement.

Table: A comparison of the rate of high-school dropouts in Osaka prefecture

fiscal year	total. .	educational allowance recipient(%)
1995	2.6	4.7
1996	3.0	6.9
1997	3.1	6.9
1998	3.1	5.3
1999	2.9	3.7

Since 1997, the gap in the rate of high-school dropouts between Osaka prefecture in total and Dowa region has been getting smaller. However the rate of high-school dropouts who are suffering from the serious financial problem in the family is always above the average.

To cope with this situation, the Ministry tried to offer more flexible services in recognition of promotion or graduation. However, the rate of high-school dropouts rather has been

increasing. The Ministry has not taken an effective measure to alleviate this yet.

In private schools, the number of the families who cannot pay the school expenses is increasing under the serious current recession.

According to the investigation done by the Nationwide Private School Teachers' Union Confederation (NPSTUC) in October 1998, 1.42 percent of private high school students cannot pay

their school expenses because of the recession.

According to the NPSTUC investigation in November 2002, the number of students who have failed to pay for over three months is 3,175 (13.5 people per a private senior high school on average), 221 (2.3 people per a private junior high school on average). This investigation was made at private schools in 25 prefectures (235 senior high schools - 226,850 students and 93 junior high schools - 38,722 students) as of September 30, 2002.

The number of schools which have students who failed to pay over one year is 30 senior high schools (12.8 percent) and 8 junior high schools (8.6 percent).

The reasons for their arrears are as follows:

- \* No income because of the father's dismissal
- \* Disruption of a family because of the bankruptcy of father's business
- \* Insufficient income only from mother under the paper divorce in order to escape from father's debt.

Those reasons are reflecting the social condition of recession and some other reasons such as father's disappearance, a moonlight flit and father's death, are increasing. Among the reasons for dropout from high schools, "underachievement" has been decreasing and "maladjustment" has been increasing since 1982. "Career changing" was the highest rate in 1993 and has been decreasing little by little. "Financial problem" was the lowest rate in 1990 (1.9 percent) and has been increasing to 3.3 percent in 2001.

Financial support toward the students who cannot help giving up their study under economic disadvantage is not enough to guarantee their school attendance.

High-school Teachers Union in Chiba prefecture says that 44 percent of the high-school dropouts are centralized in twenty schools out of a hundred and fifty schools in Chiba prefecture.

There are more dropouts in undesirable schools, but among those dropouts, there are many people who have financial problems in the families.

We have to pay attention to this serious phenomenon.

#### **D. Heavy tuition burden and unequal educational opportunity**

In June 2001, the National Finance Corporation for Life did a survey of 11,981 homes that were

using "national education loans"(3,928 homes replied to the survey). It revealed that the average expense to enter university is 959,000 yen. The average expense to enter upper secondary school is 506,000 yen. Parents are required to spend 1,346,000 yen a year to care for each child who attends university and 858,000 yen for each child who attends upper secondary school. Therefore, the total expense for one child from the time they enter upper secondary school until the time they graduate from university is 9,415,000 yen.

However, the average annual family income has been declining over the past three years and it is currently 7,222,000 yen. Moreover, the educational expense to families with children in upper secondary and university has reached 33.5% of the family annual income.

The percentage of homes where a child lives alone and goes to college, has reached 41.3%. The average annual allowance for each child has reached 1,217,000 yen. Moreover, to start new lodgings, the parents have to pay 478,000 yen for each child. Therefore, the expense for a family with a child attending college that requires lodging is very high.

Table: Changes in the total amount of annual educational expenses

	(Japanese Yen)			
	1994	1996	1998	2000
public kindergarten	249,603	241,735	243,893	237,708
private kindergarten	485,371	511,288	496,451	496,456
public elementary school	311,948	307,312	302,019	290,106
public junior high school	444,465	432,060	439,522	445,118
public senior high school	521,346	520,655	515,605	508,876
private senior high school	1,017,145	966,259	1,010,125	1,044,464

According to the findings of the expense investigation published January 2002, conducted by the Ministry of Education in fiscal year 2000, the annual auxiliary expenses per 9th grade student (3rd grade of public junior high schools), spent on study such as in a private cram school and of correspondence courses, cost 303,358 yen on average. This is an increase of 9% compared to fiscal year 1998.

The total educational expenses for each public school student, including school tuition fee, school uniform, school lunches, the expense of private lessons etc., have maintained the same level or in some cases decreased. Conversely, the education expenses of private senior high school students have increased by 3.4% over the same period.

The total expense for private junior high school education is 2.8 times as much as those for public junior high school education. The total education expense for private senior high school education is 2.1 times as much as those for public senior high school education. The total education expenses per student from public kindergarten through to public senior high school are estimated at 5,060,000 yen. Taken the same education in private schools (elementary - public), the total education expenses are estimated at 9,590,000 yen.

In case of 3rd grade of public junior high school student, the expense for the private cram school costs 222,876 yen (increase of last ratio 14.7%), whereas it costs 126,185 yen (increase of last ratio 16.6%) in case of 3rd grade of private junior high school student.

Table: The items of annual home training expense (refer to Ministry of Education, "Child's Study Expense Investigation Report")

	(Japanese Yen)		
	1994	1996	1998
<b>public kindergarten</b>	249,603	241,735	243,893
school expenditure	119,728	123,329	129,546
school lunch expense	13,398	15,157	14,636
expenditure for out-of-school activities	116,477	104,249	99,711
<b>private kindergarten</b>	485,371	511,288	496,451
school expenditure	297,466	323,328	321,866
school lunch expense	20,020	19,794	22,707
expenditure for out-of-school activities	167,885	168,166	151,879
<b>public elementary school</b>	311,948	307,312	302,019
school expenditure	58,799	59,234	62,011
school lunch expense	38,213	38,447	40,486
expenditure for out-of-school activities	214,936	209,631	199,522
<b>public junior high school</b>	444,465	432,060	439,522
school expenditure	136,668	135,717	137,581
school lunch expense	33,278	31,348	35,353
expenditure for out-of-school activities	274,519	264,995	266,588
<b>private junior high school</b>	1,108,143	1,177,917	1,228,145
school expenditure	813,289	849,611	905,456
school lunch expense	3,683	1,131	5,020
expenditure for out-of-school activities	291,171	327,175	317,669
<b>public senior high school</b>	521,346	520,655	515,605
school expenditure	316,959	332,549	329,979
school lunch expense	...	...	...
expenditure for out-of-school activities	204,387	188,106	185,626
<b>private senior high school</b>	1,017,145	966,259	1,010,125
school expenditure	714,726	728,917	774,936
school lunch expense	...	...	...
expenditure for out-of-school activities	302,419	237,342	235,189

The expense of tuition fees for private cram school is increasing. Trends show that the gap between families that can afford private cram school tuition and those who cannot is growing more and more. Students from families who cannot afford to attend private cram school are educationally disadvantaged.

Moreover, in Tokyo, according to Tokyo Education Bureau investigation (April 2001), the total education expenses from public kindergarten to senior high school are 5,790,000 yen. The total education expenses from private kindergarten to private senior high school amounts to 18,500,000 yen. These expenses are increasing year by year. Therefore, family financial ability has influence on educational opportunity.

The annual public school education expense for high school (including tuition fee) is 280,000 yen. In private school, it amounts to 1,020,000 yen. As for junior high school, it is 140,000 yen in public school, and 1,050,000 yen in private school.

The annual auxiliary study expenses, such as private cram school fees and private tutor fees for high school student's, is 250,000 yen in public schools, and 360,000 yen in private schools. Those for public lower secondary school students are 410,000 yen and those are 290,000 yen in private schools.

The total education expense for 14 years of education, being from the kindergarten to the senior high school as calculated by the Tokyo Education Bureau, amounts to 8,390,000 yen where only senior

high school is private, and it amounts to 11,640,000 yen in the case where only the elementary school was public.

The percentage of the guardians who feel that the expense of education is a burden, reaches 53% in public senior high schools, 84% in private senior high school, 61% in public junior high school and 85% in private junior high school. Although the private school education expense burden is greater than that of public school education burden, even the burden placed upon the families of students attending public schools is absolutely considerable heavy.

The findings of the "education expenses of the child" investigation, which the Tokai Bank conducted in 2000, were similar. According to this investigation, the total education expenses for twelve years, in case of public elementary, junior and senior high school 4,162,716 yen, public elementary, public junior high and private senior high school 5,834,892 yen, public elementary, private junior and senior high school 7,810,996 yen, private elementary, junior and senior high school 11,343,364 yen. Also according the investigation, 64.6% of families feel the education expense is a serious or somewhat serious burden.

The disparity in public and private school education expenses is clear. Based upon the data

Table: the difference in the annual education expenses between public and private schools.

	public (thousand yen)	private (thousand yen)	private/public ratio
kindergarten	240	500	2.1
lower secondary school	450	1240	2.8
upper secondary school	510	1040	2.1
university	1540	2050	1.3

collected by the Ministry in the survey on "student life" in 1998 and the survey on "educational expense" in 2000, Asahi Newspaper estimated the disparity in public and private education expense in 2000. The estimation is showed in the Table on the left.

According to the investigation by Professor Takehiko Kariya of Tokyo University, the number of unemployed high school graduates has increased rapidly over recent years, from low income families where parents are employed under unstable conditions.

According to the estimation by Professor Hiroyuki Kondoh of Osaka University, which is based on "the family income and expenditure survey" by the Ministry of Public Management and the survey on "student life" by the Ministry of Education, the percentage of college students who have parents receiving higher incomes (top 40%) was 48% in 1986, and 50% in 2000. The percentage of college students who have parents earning lower incomes (bottom 40%) was 34% in 1986, and has decreased to 28% in 2000. This estimation shows that the chances of a student from an economically disadvantaged home to attending college have decreased. The gap of educational opportunity between the student from a wealthy family and the student from a poorer family is growing wider.

The expense of tuition at universities in Japan is far greater than that of other countries. Compared with other countries (see the Table in the next page), the student fees are too expensive. (see the Table below). In the case of the student who leaves his home and lives alone, the educational expense becomes far greater. The price increase of tuition, entrance fees of national universities and the reduction of government subsidization for the private universities have contributed to this situation. Japanese government needs to understand this problem and attempts to release students and families from the economical burden and thereby gives them easier access to higher education.

Table: Detail of income and expenditure of a college student according to his habitation form (refer to "Statistical Abstract: 2001 edition" by Ministry of Education, 2001, pp.174-175. Original data from "A child's study expense investigation report" in 1998)

detail of income and expenditure of a student (annual amount), 1998 university - day course .. thousand yen

	living at parent's home				university dormitory				rented apartment, etc.				average			
	national	local	private	all	national	local	private	all	national	local	private	all	national	local	private	all
income	1,214.5	1,173.4	1,829.1	1,730.4	1,374.8	1,450.4	2,216.6	1,980.7	1,940.6	1,962.8	2,632.2	2,415.7	1,671.4	1,595.0	2,171.9	2,051.7
parental contribution	701.5	678.2	1,225.2	1,141.4	832.9	873.6	1,819.2	1,541.9	1,455.0	1,431.9	2,101.5	1,897.4	1,173.2	1,078.6	1,607.7	1,502.4
scholarship	103.8	90.6	111.7	110.1	280.7	303.5	211.4	231.4	160.8	167.6	174.9	170.7	150.9	137.2	142.1	143.7
part-time job	375.6	393.7	432.2	423.8	253.3	273.3	178.6	200.1	319.5	354.2	331.8	329.3	332.8	369.5	379.2	369.5
steady job, etc.	33.6	10.9	60.0	55.1	7.9	.	7.4	7.3	5.3	9.1	24.0	18.3	14.5	9.7	42.9	36.1
expenditure	1,085.5	1,071.2	1,705.8	1,607.0	1,260.3	1,247.5	2,121.9	1,878.7	1,811.8	1,811.0	2,510.9	2,291.2	1,543.5	1,463.8	2,050.9	1,928.9
tuition fee	424.5	431.5	796.1	737.4	359.1	399.7	779.1	661.3	420.7	434.4	834.9	705.3	417.7	431.8	810.9	718.9
other fee	6.8	6.7	231.8	196.1	6.6	11.3	275.2	199.5	5.9	10.9	270.5	187.5	6.2	9.0	249.6	192.4
learning activities	48.4	44.6	47.2	47.3	47.4	46.9	56.9	54.2	47.3	49.6	47.2	47.3	47.7	47.3	47.7	47.7
extra-curricular	42.0	37.1	42.7	42.5	48.7	36.4	56.2	53.9	41.0	35.3	44.3	43.0	41.8	36.1	44.0	43.3
transportation	115.3	132.2	122.2	121.5	18.8	12.0	21.9	20.9	21.4	28.5	36.7	32.2	51.1	74.4	82.7	76.1
total expenses for education	637.0	652.1	1,240.0	1,144.8	480.6	496.3	1,189.3	989.8	536.3	558.7	1,233.6	1,015.3	564.5	598.6	1,234.9	1,078.4
meals	129.7	116.2	125.0	125.3	326.7	289.6	299.2	306.2	363.4	342.5	354.6	356.6	286.7	239.8	226.1	238.8
accommodation	6.0	7.5	10.2	9.6	140.6	155.2	308.5	261.5	565.8	580.9	561.2	562.5	359.0	301.6	247.0	271.4
health care	36.8	38.5	39.4	39.1	34.2	32.6	36.5	35.8	38.8	43.3	42.1	41.2	37.9	40.8	40.4	39.9
recreation	152.2	139.7	160.3	158.7	139.3	138.4	153.5	149.5	167.2	158.8	177.1	173.6	160.5	149.7	166.8	164.9
miscellaneous	123.8	117.2	130.9	129.5	138.9	135.4	134.9	135.9	140.3	146.8	142.3	142.0	134.9	133.3	135.7	135.5
total expenses for living	448.5	419.1	465.8	462.2	779.7	751.2	932.6	888.9	1,275.5	1,252.3	1,277.3	1,275.9	979.0	865.2	816.0	850.5

Although Japan has 89 national universities, the educational conditions of each university differ considerably. For example, University of Tokyo is the most traditional university in Japan. The budget given to University of Tokyo is the highest in Japan, which is paid from the national budget 7,180,000 yen per student, which is 7.4 times as much as that of an Osaka University of Foreign Studies student whose budget payments are the lowest in Japan.

There are a greater percentage of successful candidates to University of Tokyo coming from private senior high schools compared to students from the public senior high schools. Private school students have a clear advantage over public school students to catch opportunities to go to 'good' universities. As has already been mentioned, the economic burden on the private high school student's family is larger than that of the public school student. It would seem in the present conditions that the educational opportunities for children are influenced from an early age by the socio economic environment of the family. This factor may decide the future income and

occupational opportunities of the child. Therefore, we cannot say at all that a child's future is secured.

Table: The amount of the money paid to the university of major foreign countries (refer to Ministry of Education, "International Comparison of Educational Index" 1997)

(Japanese yen)

		entrance fee	tuition fee	others	total	
JAPAN	national	270,000	469,200		739,200 (1st year)	1997 by regulation
	local public	373,843	463,629		837,472 (1st year)	1997 average
	private	288,471	757,158	193,907	1,239,536 (1st year, including cost for building and equipment)	1997 average
U.S.A.	state university	none	359,214 (\$3,151)	. tuition, cost for experiments, practice etc.)	359,214	1995 average
	state college		303,354 (\$2,661)		303,354	
	state junior college		141,930 (\$1,245)		141,930	
	private university		1,776,234 (\$15,581)		1,776,234	
	private college		1,287,516 (\$11,294)		1,287,516	
	private junior college		802,446 (\$7,309)		802,446	
U.K.	private, humanities	none	Minister of Education determine a maximum every year		143,250 (. 750)	1995
	private, natural				305,600 (. 1,600)	
	private, medical				534,800 (. 2,800)	
FRANCE	national	none	. annual school fee by regulation)		14,880 (Fr744.)	1996
GERMANY	Bonn state university	none	. no entrance & tuition fee, transportation, student club member fee etc)		12,148 (DM178.65)	1995

### E. School streamlining and part-time high school abolition

The streamlining plans of public high schools are advancing by local governments all over the country. In fiscal year 2002, 30 prefectural governments adopted the high school reorganization plans. In 15 prefectural governments, their advisory bodies had issued their recommendation on

school streamlining to the governors. In two prefectural governments, their advisory organs are now considering school streamlining. Therefore, all the prefectural governments are taking action in support for the school streamlining plan.

For example, in Osaka prefecture, there are plans to reduce the number of high schools with full-day course from 155 to 135 over ten years. In Saitama Prefecture, high schools with full-day course are to be reduced from 153 to 133.138, and those with day/evening course from 35 to about 19. In Chiba Prefecture, high school with full-day course must be reduced from 141 to about 123 and those with day/evening course are to be reduced from 16 to about 12. Moreover, in Tokyo, there are eight high schools with day/night course in six high school districts, but they are planning to centralize all eight schools to one school.

The need to apply streamlining seems to be due to the reduction in the number of students resulting from a decrease in the birthrate. Conversely, in Tokyo in 2005, the number of students will start to increase instead of declining; the student population will increase to the amount of 2002 till 2013 (trial calculation by Tokyo governments). Moreover, in Chiba Prefecture, though in 2005, when the streamlining plan starts, the number of the students who are going to senior high school will be 55664, in 2012, when the streamlining plan is finished, the number of the students who are going to senior high school will be 55190 (trial calculation by High School Teachers Union in Chiba prefecture).

The number of the children hardly becomes fewer; there is no need to reduce the number of senior high school. The premise of the streamlining plan is “Keep class size standard 40 students per class.” Without changes to national standard of class size and teacher allocation, local governments cannot afford to maintain the present number of schools. But national government has done little to reform such actions.

We could say that if national government abandons the duty to support better educational provision and to keep national level of educational condition. Importantly, the streamlining of high schools with day/evening course, which are so few, may force students to travel further therefore increasing travel time and costs. Moreover, it could reduce educational opportunities for daytime or part-time working students who in many cases are in low-income families and are economically disadvantaged.

This type of streamlining will affect seriously those who need education most to improve their employment opportunities in the future.



**Part 5 What ever happened to children 's rights to leisure, play, arts, and  
cultural activities?**

## **Chapter 120 New issue: children are surrounded by commercialism**

### **A. Popularization of New Media and “Children as Consumers”**

From international point of view, one of the characteristic of the social and cultural environment surrounding children in Japan must be its strongly consumer driven nature. Even under the economic recess after the burst of the bubble economy, the consumer driven culture is being strengthening and expanding so quickly as to swallow children.

Cell-phone is the symbol representing this situation. Since 1996 when the government submitted the First Report, cell-phones have spread among children. According to various surveys, 70% of high school students, 30% of junior high students, and 20% of upper grade elementary students possess cell-phones, and the percentage is still increasing. High-rate of teen-agers' usage of cell-phone is internationally exceptional and shows characteristic of Japanese children (“White Paper on Children, 2002”).

It is clear that in the background of this situation there is marvelously quick spread of cell phone usage, which began to increase in the latter half of 90s and in 1999 it finally exceeded the usage of normal home telephones. Especially the addition of e-mail function to cell-phones led to the explosive boom of cell phone usage. But, in exchange of convenience life cell-phone or e-mail brings about, various problems which have given negative impact on children's life have come up.

Firstly, while cell-phones made it possible to cure solitude and loneliness of children and to build a new communicative world with friends, cell-phones supplied a hotbed of sexual crimes, including child prostitution led by “date service web sites.” And cell phones also cut open a straight canal leading children directly to social evil which will sacrifice children.

Secondly, telephone charge, at least ¥5,000, if overused it amounts to ¥10,000 to ¥20,000, is obviously over too much for child's pocket money. The attitude of many industries must be questioned. Those industries only pursue to develop “child market” as their business chance, abandoning their social responsibility and morals for the sound development of children.

The third problem is about children's health; it is pointed out that cell phone usage might create danger of electromagnetic waves, especially it is feared of influences to children.

When we think about the life of children in Japan from the view point of Article 31 of the Convention of the Rights of the Child, we can not ignore those problems occurring from cell phone usages. We need social regulations to protect the life and lives of children and new consumer education and media literacy in which children can also participate.

### **B. Enlargement of “Ready Made Culture” and weakening of “Child Participatory Culture”**

New media, such as TV games, CD and comics have still strong influence on children, but it is said that they have passed their peaks and sales have been stagnating. Now we have a new problem of increasing tendency of long hour media auditing.

According to the survey on the weekday hour of watching TV, carried out by the third-party organization, “Commission on Broadcasting and Youth,” in the case of fifth graders, 50% of boys and 56% of girls watch more than 3 hours, while 23% of boys and 30% of girls do more than 4 hours. When we include television games and videos, pretty amount of children are estimated to be watching and playing with them more than 6 hours on weekdays. We should point out the danger of “Rearing-child-on-television syndrome.” Specialists strongly warn parents and teachers about this tendency, because it affects the growth of children's emotion, language and communication.

Present situations of plays, culture and life around Japanese children can be called enlargement of “ready made culture.” We cannot ignore the influence of “mediamix,” which means that private companies and mass media form coalition and mass media combines goods and media drive children to buy good. Children in thrall to goods become passive recipient of those goods. We're afraid that children will lose their direct relations with things and people, and “virtual reality” will paralyze their actual feeling.

Of course there have been several historical steps until this stage. Firstly, children have been robbed nature and playground by the highly advanced economic growth of Japan since 60s, and car-centered society. At the same time wide spread of television sets bound children at home and children declined playing outside. Furthermore, overheated examination-oriented education, juku, or private schools and various kinds of practices for piano, violin, or ballet have taken away time and playing peers from children.

Japanese children have now been robbed most of their vitality and physical strength which were to be given by their outside playing. They have lost even human relationship with their friends. They face now extreme violation of their human rights, pushed into a ready made culture sold by companies. “Five-day-week school” system was introduced for “relaxed education,” but the government has not prepared appropriate playgrounds and institutions for children to use during

weekends. The places where children can gather are convenience stores, fast food stores, game centers and karaoke shop, or do-it-yourself vocals shop. But, most of them are the places where they receive supervision or they are prohibited to go into by school rules.

Children in Japan are suffering from “double stress.” Stress is brought about by the society which strictly controls them and the highly competitive school system. Because children do not have vents into which they can explode their stress, they feel stress again; the stress is strengthened by being unable to release it. We should now think seriously to give them necessary leisure and recreations, wilderness and nature, autonomous experiences playing with their peers, pleasure of labor and production, and child participatory culture.

## **Chapter 121 Problems in the Second Report of Japan**

### **A. Why police first?**

In the Second Report of Japan, the part which has direct relation with Article 31 is “C. Leisure, Recreation and Cultural Activities (Article 31)”, (paragraphs 279 - 284).

The most surprising and strange point is that the report begins with “Cultural activities by police.” It states, “As sport activities to foster sound development of the youth, we are guiding young people in judo, kendo and so on, using drill halls at police stations, and are also carrying out social participation activities for the youth, such as baseball, softball, soccer meets, environmental cleaning campaigns, and visiting social welfare institutions.”

We have to pay attention to the fact that police activities are set at the beginning of the report - it should not be thought to be accidental. In items such as, “Publicity of the Convention,” “Prevention of Child Suicide,” (related Article 6) “Countermeasure against Bullying” (related Article 28), the roles of police is emphasized. Of course police has an important role to ensure the rights of the child, but a priority position given to police in this report makes us feel dangerous.

Recently “Juvenile Justice Law” was revised to strengthen punitive approach to children. The revised School Education Law made it almost obligatory for students to do social service activities. This revised law also enables school authorities to easily suspend problematic students. What underlies these revisions is the punitive approach to children, or “control-oriented view of child.” The way in which the Second Report of Japan describes the activities by police as contributing to the children’s rights surely reflect the approach currently strengthened by the government. But, this approach or view on the child is incompatible with the view on the child confirmed in the Convention: “child as a partner of adults” or “children as subjects of rights.”

### **B. Dose the government forget its roles recognized by the related laws?**

In the First Report of Japan only two paragraphs were concerned with the children’s right to play. In the first alternative report of ours, titled “The Loss of Childhood in A Rich Society, Japan,” (inherinafter as “Loss of Childhood Report”), we criticizes that two paragraphs are not enough to explain the actual situations.” Probably responding to this criticism, the government increases the number of paragraph to six. Their running heads read as follow: “Cultural activities by police,”

(para. 279) “Offering chances to appreciate arts,” (para. 280) “Encouraging cultural activities,” (para. 281) “Promotion of sports” (para. 282) “Installation of cultural and recreational institutions” (paragraph 283) and “Child and welfare institutions.” (para. 284)

But the way in which the government constructs the paragraphs is less systematic and less reflective of the existing laws than the First Report was. The running heads of two paragraphs in the First Report were “Installation of cultural and recreational institutions” and “Encouraging cultural, art and recreational activities.” These running heads reflected two basic roles of the government recognized in Child Welfare Law and Social Education Law: the installation of building, fields or equipments, and the encouragement of activities.

### **C. The Second Report lacks the information on the important issues**

Reading the Second Report of Japan, we have frank impression, “Is this truly an official report made by Japanese government?” Not only because it starts its explanation from the activities of police, or the way in which the paragraphs are constructed is unsystematic, but also because it lacks the information on the important issues surrounding the children’s right to play, leisure, culture, and recreation. At least four issues should have been raised in the Report.

The first is how the government recognizes play, leisure, cultural activities, and recreation as “right,” and how the government identifies its duties or roles to realize this right. In the Concluding Observations in 1998, CRC expressed the concern that “children are exposed to developmental disorders due to the stress of a highly competitive educational system and the consequent lack of time for leisure, physical activities and rest, highly competitive educational system.” CRC recommended that “the State party take appropriate steps to prevent and combat excessive stress and school phobia in light of articles 3, 6, 12, 29 and 31 of the Convention.” Article 31 was pointed as one of the target for the government to realize in order to solve the difficulties children face in our society. If the government took the recommendation from CRC seriously, it should have consider the meaning of play or leisure as “rights” and comprehensively review the policies and laws from the view point of the right recognized in Article 31 of the Convention. But, the government has never done it, and thus, the Second Report lacks the information on how the government reacted to the recommendation from CRC.

The second is how the government evaluates the effectiveness of “five-day-week school” in realizing the rights recognized in Article 31. “Five-day-week school” was carried into force completely. The system was enforced together with the new Course of study, which was aimed at creating “space” in overloaded curriculum. The system and the new Course of Study, substantially has affected the daily life of students. The government should have shown its self-critical analysis

of the system. This is all the more because, in introducing 5-day a week system and carrying out the new Course of Study, the Ministry of Education boasted that they would bring about “leisure time,” they will “return children to their home and neighborhood” and they will result in nurturing children’s “ability to live.”

The third is how the government evaluated the progress made by the new two laws which were originally proposed by cross-party group of the Diet members: the Law on Improvement of Children’s Book-Reading Activities, and the Fundamental Law on Advancement of Arts. There is no description on these laws in the Second Report, even though these laws can be evaluated as the progress in realizing the rights recognized in Article 31.

The fourth is how the government developed the cooperation with NGOs. In the field of children’s leisure, sport, cultural activities, leisure, play, and recreation, there are many NGOs and they frequently submit demands to the related Ministries. The Report from the government should include the self-critical analysis of all the relationships it had with NGOs.

In the following of this part on Article 31, the information which is lacked in the Second Report will be given.

## **Chapter 122 “Five-day-week school” in Japan has distorted the life of children.**

### **A. Busier life of Japanese children**

Japanese children appear to be enjoying safe, free and happy childhood. But when we watch them from the view point of whether they really enjoy of free time in which children can grow freely and spontaneously, we can understand that very critical situations is going on. The children live in the society, which is called “24-hour society,” where people work all night and want seriously “leisure” (leisure time, free time and voluntary playing). The realization of “leisure” is the most important thing for children to be realized.

Under the slogan of creating “leisure” in children's life, the government introduced “five-day-week school” in 1992, and made a Saturday in a month a holiday. In 1995 two Saturdays a month became holidays, and in 2002 all Saturdays were made holidays. But this Japanese “five-day-week school” does not create “leisure, or free time,” but still more has brought confusion into children's life and made their life busier, and robbed children of voluntary playing time. Even teachers' life was made busier and they do not have enough time to listen to children's voices.

It is said that children welcome the “five-day-week school,” because they have a holiday every Saturday. Decrease of the classes on Saturday has changed week-day curriculum and increased week-day classes. In many high schools intending sending their students to college, extra-curriculum in the early morning and in the after school hour have been introduced (where students receive lessons to prepare for college entrance examinations). Children's voluntary activities and cultural and art activities have been decreased out of the normal school curriculum. Even from third and fourth graders have five to six classes in a day, and they have to go home late in the evening, bringing more home assignments with them. They have very little time to play with their friends and the relationship with their peers has been sacrificed. Especially children who are having after school childcare service are suffering very much because they do not have sufficient time to play with peer in after school childcare centers. The number of children using children's center have not increased.

Children's peer relations and playing does not necessarily develop even if Saturdays become holidays. Most important is everyday free time which allows children to see friends every day and to continue their relationship every day, because children can enjoy continuous relationship with friends that is the real base for their development. More and more teachers are forced to attend



school on Saturdays and during the long vacation of summer holidays. “Five-day-week school,” which was begun to realize “free time and leisure,” results in robbing Japanese children and teachers of free time.

### **B. Five-day-week school reduces the time during which children can be subjective.**

Implementation of five-day-week school has not only made children's life busier, but also began to rob children of their time when children can play freely. This is due to the fact that adults impose experience activities, sports activities, voluntary activities, and social welfare activities on children for the purpose of not letting children spend uselessly on Saturdays and holidays.

An especially big problem is that Ministry of Education, which had wanted to increase “free time” for children, issued an appeal of “recommendation of studying” in January, 2002, prior to the complete introduction of “five-day-week school.” This changed the educational policy to the other direction to increase children's learning hours, not in the direction to enlarge time for children's free time, leisure, playing and cultural and art activities.

Supported by uneasiness of parents and public opinions, which worry about “dropping of scholastic ability,” a lot of local education boards carry out “Saturday class” where student prepare for entrance examination. And many parents send their children to cram schools. In many private schools and public high schools which intend to send their students to college, Saturday classes and supplementary classes have been offered to positively appeal parents their efforts not to drop academic level despite of five-day-week school. Students are forced to spend more time to study than before.

Adults who worry about that children have too much free time and do problematic activities on prolonged weekends, have organized play activities, field activities, sport events, activities for sound nurturing, and social welfare activities in order to enclose children. Of course their efforts can not be made light of, but, to enlarge “ready made” activities in which children's voluntary wills are not respected would distort children's world and weaken children's autonomous activities.

In the background of these problems, there exists the problem that children have no place to gather and play in the neighborhood where they can develop their friendship and no specialists with whom children can consult their problem. In a dangerous car-centered society, in the floods of sex information targeted at children, and under the strongly consumer driven culture, specialists and secured places for children are needed. In children's neighborhood, there are few children's libraries and cultural institutions for children. Children's centers also remain very scarce. Especially there is no activity place for teen-agers where junior high and senior high students can act

autonomously. Numbers of children need after school childcare services, but the institutions to receive them are far below the demand. And even when children are received, they suffer from facilities which are very narrow and in bad conditions.

In some cities, the local governments started the programme for “all children in need of care after schools.” In this program, school yard, school library and class rooms are open for children and a few adult supervisor are placed. But, in exchange of carrying out this program, the local governments reduce or abolish the after school childcare center of which target is children both of those parents work during daytime. Furthermore, some local government make light of the professional skills and knowledge required for adult leaders who take care of children after school, and place laymen totally without knowledge or skills.

## **Chapter 123 Children’s right to leisure, the right to rest, and the right to culture have not been socially approved.**

### **A. In Japan, the rights recognized in Article 31 have not been socially approved**

Though “five-day-week school” was officially stated to be aimed at creating “free time” for children, it gave rise to problems which distort both lives of children and teachers; it made them busier. This situation arises from the fact that the meanings of rights recognized in Article 31 of the Convention have not been socially approved and the conditions with which five-day-week school can be really effective have not been provided.

When we compare the history and the present situations in European countries with those in Japan, it becomes clear that in western world they gained the rights of rest and leisure for their family. Five-day-week school and five-day-week work of parents were combined together to allow family members to spend free time with each other during weekend. Furthermore, rest and leisure time in everyday life and long paid holidays – sometimes as long as a month – are secured in order to make working hour short. Therefore, there has never happened the case in Japan where longer weekends is realized in the exchange of longer working hour during weekday or less paid holidays.

There are several reasons why the rights recognized in Article 31 has not been socially approved yet.

Firstly, people still stick to the sense of values which sees rest and leisure as “useless hour” and “spending time without doing anything is an evil.” The way of thinking to put value not on idle away of life or playing leisurely, but on working always diligently, has permeated to every home and neighborhood through school education. “Doing nothing” has not been positively accepted at all. But, leisure time or “doing nothing” stirs up imaginative power of human beings and their sensibility to nature.

Secondly, learning is thought to be more valuable than playing or cultural and art activities. Thus, the importance of “child participatory culture,” namely, the experience of building up cultural activities through their voluntary activities with peers, has not been approved by the society.

Thirdly, the government has not launched the campaign for raising the awareness of the importance of Article 31 by people. If national law clearly declares that rest, leisure, playing and cultural and art activities are the rights of the child, the situation will be different.

**B. Even in the life of adults, the rights of rest, leisure and culture are not realized.**

We should add one more reason why Article 31 has not been socially approved: in the life of the Japanese adults, the rights of rest, leisure and culture are not carried out fully.

In the last decade, since the bubbles of Japanese economy burst and its international economic competitiveness decreased, the working hour has become longer, illegal “overtime-service work” with no pay have become more usual, and less workers have used less paid holidays. As is shown by the survey conducted by New Japan Women's Association, fathers who leave home early in the morning (6:00, a.m.) and come home late at night (12:00) spend less than 1.5 hours with their kids. Fathers who have no holiday over 3 weeks have no time to see their kids and their health is also exposed on the verge of death from stress and overwork. Working mothers are also in a long working hour and put under accumulating stress and overwork.

ILO Revised Convention on Holidays with Pay (No. 132) states that a paid leave should be given at least 3 weeks, 2 weeks of which should be given continuously. The Japanese government has not ratified this Convention. While the average number of paid holidays the Japanese workers can use in a year is 18 days, the Japanese workers used only 9 days. The degree to which the Japanese workers enjoy the rights of rest, leisure and social security is much lower than that in the European countries where workers enjoy a month of vacation with their families.

This situation of Japanese workers rights in rest and leisure weakens the awareness of the importance of the rights of the child recognized in Article 31. To realize the rights of the child, the adult workers' rights should be fully protected.

## Chapter 124 NGOs played important roles in realizing Article 31

### A. Development of activities by NGOs

We'd like to give attention to the facts that local governments, citizen groups and NGO/NPO have developed various movements to realize Article 31. We will introduce here three practices and campaigns.

The first is that the movement to establish various types of places for children has been activated in the local governments. Play parks (adventure playground) and big children's halls (in Suginami-ward, Tokyo, Machida-shi, Tokyo, Mizusawa-shi, Iwate Prefecture, Kawasaki-shi, Kanagawa Prefecture) have been constructed. In this movement, children's opinions, participation and autonomy are valued, and thus, junior and senior high students actively take part in the process. Furthermore, it is aimed at restoration and creation of the relationship among peers, easiness and rest, or play.

The second is "Challenge for No TV" campaign was carried out by the Study Association of Children and Media in Fukuoka prefecture. In this campaign 47 families experienced "no TV week," in which they did not watch TV at all, and "selective TV week," in which they watch TV for two hours, for one months. This campaign led parents and children to stop accepting TV as something natural and to question why they need TV or how TV affects their life. The Association reported that, while families changed they way to watch TV only for one month, the communication among the members of families were enhanced and the members of families found out what their families really are. It also reported that the families realized the pleasure to create playing. ("White Paper on Children, 2002")

The third is the making of chorus suit, titled "What we have sought." This started from 1997 in Osaka city and it took three years to finish making this chorus suit. This is truly a big project to have been completed after many trials and errors, unifying the spirit of the Convention on the rights of the child and the heart of children, through "creative dialogues" among adults (the citizens' chorus group, the council for children's theater and the teachers' union), experts (for poem and music) and children. The NGOs which organized the making stated what this trial has brought forth was the realization of "the rights to participate in cultural and art life" and "the rights to express opinions."

These are only a few examples of the recent practices and movements, and, in spite of a lot of delays

and difficulties, we feel sure that the realization of the rights related to Article 31 in Japan has been making progress especially by the activities of citizens' NGO/NPO.

## **B. NGOs contribute to the development of the new policies**

Although it was not written in the second governmental report, the attention to the “cultural rights of the child” has been strengthened not only in the civil society but also among lawmakers. The role of cultural and art groups should be praised highly; they have been supported not only cultural and art appreciation activities, but also promoted the expression activities, created by children themselves, and collective cultural activities since 70s. Many of those groups have endeavored to make better cultural environments and better cultural policy related to children's life. As they have become widely accepted by the society and strengthened their ability in policy making, they have come to exercise more influence to lawmakers.

For example, recently the two laws were enforced (in December, 2001): the Law on Improvement of Children's Book-Reading Activities, and the Fundamental Law on Advancement of Arts. These laws are originally proposed by the cross-party group of lawmakers. The Law on Book Reading is aimed at stopping the tendency among children and youth not to read. We expect that these law will give a chance to break through the current poor budget for culture -- only 0.2% of the whole national budget--, and to enrich the cultural and art activities of the child, and furthermore to strongly support establishing new institutions and culture creation groups.

In June 2002, Assembly to Promote Theater Art for Children, which consists of groups of children's plays, music, puppet plays, children's theater, etc, submitted a demand related to “cultural and artistic activities for children” to the government. In which they demanded that the government should provide children with opportunities to appreciate a real theater at least once a year in the school education, should assure the time for experiencing culture and art in the school education, and post “local coordinator of culture and art for children.” In August 2002, Children's Theater National Center publish a “proposal to develop children's culture and art,” in which they proposed to train staff, “arts manager” and “kids' art coordinator” to foster a rich relation between children and culture.

As a whole, it is those NGO and NPO groups which are really concerned with the poor situation and are making positive efforts to realize the recommendations from CRC. We expect their further activities to enrich and to give satisfactory results of the governmental measures.

## **X. Juvenile Justice**

**Part 1 Can the Revised Juvenile Law be the Answer to the Concluding  
Observations of 1998?**



## **Chapter 125 How the government reacted to the Concluding Observations of 1998 ?**

### **A. What CRC recommended in the Concluding Observations of 1998?**

The Committee on the Rights of the Child examined the First Report of Japan in 1998 and adopted the Concluding Observations. In the Concluding Observations, CRC recommended the government to revise the juvenile law in many aspects.

First, it was recommended that the Juvenile Law and the Juvenile Justice System should be revised and restructured centered on the Convention of the Rights of the Child, bringing Juvenile Justice System more in line with international human rights rules, such as Beijing rules, Riyadh Guidelines, UN Rules for the Protection of Juveniles Deprived of their Liberty. Second, it was recommended that juvenile detention facilities, systems for probation and parole, and systems for complaints and appeals should be improved; in particular, appeals and complaints systems should be rationalized and made possible throughout the system, rather than limiting these rights and abilities to only a few of the aspects of a juvenile's treatment within the penal system. It was also recommended that closer attention should be paid for the conditions of Daiyo-Kangoku (substitute prison).

CRC specified that to bring Japanese Juvenile Law more in line with international human rights standards, several points needed to be addressed and improved immediately. There should be more dispositional options created for the pre-trial detention, and when juveniles are given their disposition, there should be more options for uninstitutional treatment. CRC highlighted the fact that at present the detention of a juvenile is not necessarily used as a last resort. There is a large risk of violation of rights of the juvenile from the customary, rather than exceptional use of confinement. CRC noted critically that the revisions proposed to the Juvenile Law at that time showed a trend towards heavier use of confinement both before hearings or trials and after sentencing, including longer possible sentences and more restricted chances for commutation of sentences and parole.

Committee recommendation points out clearly that Japan does not establish an independent watchdog system or ombudsman system to scrutinize all aspects of the juvenile justice system. It was recommended that Japanese government made greater openness in all processes, resulting in greater transparency in investigation stage, hearing stage, and dispositional stage. The right to ask for a lawyer at the investigation stage was to be guaranteed through a system of court-appointed lawyers, a system of free legal advisors or attendants was to be created for the hearing stage, and the

need for an ombudsman system for juvenile detention including training school was recognized. These points are clearly supposed by the process of initial scrutinizing for national report.

CRC recommended rationalization of the system for complaints and appeals. These should have included improved and clarified processes for complaints at all stages of a juvenile's involvement within the Juvenile Justice System. These were listed as complaints or appeals from the time of arrest, complaints about conditions in pre-trial detention, appeals for the decision for the transfer to criminal court by juvenile court judge, appeals for the new trial. CRC also recommended that the rights of children to have assistance with the processes of treatment and the legal aspects of expressing their views be guaranteed, including appropriate and timely review of their educational records and behavioral records. And they also recommended about the disciplinary process.

CRC pointed out that the use of Daiyo-Kangoku for the pre-trial detention of children was not ended as it should have been after the 1993 report by Human Rights Committee (ICCPR). CRC pointed out that juveniles should not be detained with adult criminals. And when juveniles should be detained before a hearing or trial, they should be kept in special juvenile facilities. The Daiyo-Kangoku system deprive adults of some of their rights by nature, but the report recognized that juveniles are more vulnerable to inappropriate restrictions of their rights and should be detained only as a last resort. CRC pointed out that confining juvenile with adults violates their human rights but also their rights as a juvenile, to protection from various harms and have a chance to grow and develop. The committee asked for revision to the Juvenile Justice System on this point.

Japanese NGOs took the CRC Report seriously and have been working hard to make its contents readily available to the public through study sessions and seminars open to the public where these issues are explained and discussed. They have also made appeals and demands to the government to put the proposals of CRC into action. This process is still continuing.

## **B. The Government's Response to the Concluding Observations of 1998**

The government has been slow to act on the Concluding Observations of 1998. There has been no move to create alternatives to detention before hearings or trials. In fact the trend has been in the direction of keeping more children in detention longer. Daiyo-Kangoku system is still used to keep children under detention. The situation after disposition is not improved. Juvenile training schools are overcrowding. Juvenile detention centers are filled with children whose cases are unresolved. Improvements of the trial or hearing stage have also not been carried out. The promised system of court appointed lawyers to have been made available to children from the investigation stage has not been established. The system of free court attendants for children throughout the trial process has not been established except in a few localities; public debate on the subject has generally concluded

that attendants are unnecessary except when public prosecutors participate in family court hearings. An ombudsman system has not been created. As for the complaints and appeals system, though only one system has been created, it is limited in scope. For example, there is no method of appealing the transfer of a case to adult court (criminal court) for trial, and complaints systems and systems for appeals of reviews of records in detention are inadequate.

It is not too strong an expression to say that the government appears to have virtually ignored the Concluding Observations of 1998. It appears that the government has no intention to put the proposals into effect or revise laws or systems in line with the committee report. As will be shown, the government has instead allowed laws to become more draconian, showing a trend towards “punitive approach” and away from “educational approach.” Recent revisions of the Juvenile Law in 2000 show this tendency clearly.

## **Chapter 126 Problems in the punitive approach taken by the Revised Juvenile law**

### **A. The revision process: Spectacular crimes, Media attention and Lack of Debate**

A series of serious crimes were perpetrated by young children in the 1990s, crimes in which the investigation process appeared to fail in its duty of providing appropriate and timely evidence to the family court. Sensational crimes such as the Kobe slash-and-run murder case in which a boy attacked many people, killing one child, provided the social impetus towards stricter sentencing and heavier punishments, with fewer chances of probation, parole or commutation of sentences. The public called for a lowering the age of criminal responsibility from 16 to 14, and the Ministry of Justice took action and called for revisions to the law.

A bill to revise the Juvenile Law was proposed by the government in March 1999, but dropped from consideration in June 2000. However, a new piece of legislation was proposed in September through the Diet. The proposal made by the group of the Diet's members contained an even greater emphasis on stricter punishment and lowering age and other requirements for bringing juveniles to criminal court for serious crimes. Election-time was near, and the proposal of this legislation allowed incumbents to tell voters that they were "doing something about the youth problem." Due to inter-party conflicts, members of parties opposed to the bill absented themselves from the Diet debate and, as a result, assisted the bill's progress by their silence.

The Committee work on this bill began in October and had finished by the end of November. During the first half of this period party politics prevented opposition members from attending meetings. During the latter half other subjects occupied some other members who did not attend most meetings. From start to finish of the committee stage there was a complete failure to debate the issue of juvenile justice seriously. The committee did only the minimum required to put the proposal into shape as legislation, and then just placed a rubber stamp on the finished product.

The Supreme Court also failed to make a contribution, though it was in a position to deal with the most difficult of the serious crime trials involving children. This wait-and-see policy was also followed by the Ministry of Justice, which declined to comment on the legislation in process. The reason for this was that the bill already contained many points which the Ministry had asked for, such as increased use of public prosecutors in trials involving children. All this allowed the bill to gain momentum rather than lose it.

## **B. Revision to the Philosophy of Juvenile Justice**

In Japan the accepted philosophy of Juvenile Justice was educative, which give more focus on the rearrangement of social or family environments of children and the provision of social welfare service to children. The cause of juvenile crime was considered to be mostly the environment in which the juvenile was raised: the home, the family, and society. When juveniles commit serious crimes, environmental factors were looked for, and part of the blame for crime was placed squarely on social factors.

A juvenile tends to lose a sense of place in society, and fails to find his or her own path in life when he or she does not have a nurturing, loving environment. Acts of mischief, vandalism or crime are one of the ways juvenile attempts to confirm his or her existence and place in the world. Children who can express themselves and have their self-expression accepted by those around them find, through the repetition of this process, that they can mature and discover themselves. The Convention clarifies this approach in Article 12. However when juveniles are not given the chance to learn how to express themselves, or have their opinions rejected by society, they cannot help but try to express themselves through whatever avenues are left to them. One of the avenues left is antisocial behavior.

This philosophy of juvenile justice as a social interaction between offending juveniles and the society which shares the blame for inappropriate action, led to the treatment of juveniles who offend against the law through educational means, often removing them to foster homes or juvenile training schools so that they may “grow up again” and “be raised again” in a new environment.

The trend towards punitive approach places the blame for crime solely on the juvenile while removing blame and responsibility from surrounding adult society. This trend is also isolationist and intolerant: The revised law gives no second chance to juveniles who offend but attempts to remove the “stain” from society and place offenders in prisons and other institutions. Japanese adult society thus shows its inability to forget offenses and lack of forgiveness in social interactions. The main work of adults in Japanese society is thought to be to raise juveniles in a healthy way. Adults can be said to have failed in their responsibility when only juveniles are forced to take responsibility for crime, which surely they committed, but the causes of which lie elsewhere. A society which finds it easy to label children as “brutally evil” and reject them is one which makes it ever harder for young people to live normally. Even ordinary trial and error is no longer tolerated; only good behavior is recognized as valid. Some juveniles find themselves in a negative spiral of rejection and being rejected, and respond with increasingly antisocial behavior until they find themselves committing crimes.

The Revision puts the punishment of juveniles as a top priority, and thus cannot be said to have the best good or benefit of children in mind.

### **C. Issues within the Revision**

A primary example of the penalization of juvenile crime is the lowering of the age of juveniles who may be sent to the adult courts. This is termed as the “standardization of the practice of sending a case to the public prosecutor (criminal court) when it meets certain criteria.” There have also been unfavorable changes in the conditions of the commutation of sentences, the length of sentences which may be given in prisons or other facilities, conditions for prosecutors to become involved in cases of misdemeanor being tried in the closed Family Court, and the use of a collegiate system for difficult cases.

With regard to the lowering of the age of offenders eligible for trial in adult courts, the original law did not permit juveniles who had not reached the age of 16 at the time of committing the crime to be sent to criminal court. However, after the revision juveniles over the age of 14 who committed serious crimes could be sent to criminal court and tried as adults. Moreover, juveniles over the age of 16 who commit murder in the first degree, formerly considered for the Family Court hearings, will now be sent to criminal court as a standard practice. This removes juveniles from the Family Court system, which aims to provide juveniles with the chance to reform, and instead places them in adult courts where determining the degree of punishment is the main work of the court. This now occurs not only in unusual cases “when the nature of the crime or the mental state of the criminal indicates the need” but in cases which, though difficult, used to remain at the Family Court level.

Sentences handed down by the adult courts to juveniles are not as liable to commutation. While it is still the rule that a juvenile under the age of 18 at the time a crime is committed who receives a death sentence has that sentence commuted to a life sentence, if the juvenile receives a life sentence, the original practice was to reduce the life sentence to 10 to 15 years. This has changed; courts now have the alternative of keeping the original life sentence. As for consideration for early release or parole, a prisoner given a life sentence as a juvenile used to become eligible for parole after serving 7 years of a reduced life sentence (10 to 15 years). Now, if a prisoner was under 18 at the time of the crime and was eligible for a death sentence but given a life sentence instead, eligibility for parole is no longer granted.

In the name of “making the admission of evidence more just” prosecutors are permitted to be involved in family court hearings, and rulings in cases of crime committed by juveniles may be decided using a “three judges panel system.” Until now all cases of juvenile crime were heard by a

single judge in a closed family court. However, judges increasingly felt that a more appropriate process for difficult cases should include a lawyer or legal attendant for the defense, and a prosecutor borrowed from the adult court. These two plus the presiding judge would then form a collegiate system in which rulings would be decided in council.

However three people judging a case does not guarantee that a juvenile will be better able to give evidence or that the evidence given will be more accurate. It is far more likely that the juvenile and the adults handling his or her case will become diverted from the process of counseling and reforming the juvenile, and instead will argue legal points to the confusion of the juvenile and his or her guardians, who will be hard put to it to understand what is going on. Prosecutors trained in the adult criminal courts will likely bring to the juvenile courts the accusatory, penalizing nature of their work, putting the reforming and remedial work of the juvenile court at risk.

The Second Report of Japan states that the revised version of the Juvenile Law does not trend away from international standards of human rights including the Convention. Such a statement must have been made with a complete misunderstanding of the nature of the international standards of human rights to which it refers.

## **Chapter 127 Discriminatory treatment for female children and the criminalization of misdemeanors**

### **A. Discriminatory Treatment for Female Children**

The increasingly penal trend of the juvenile justice system extends to the treatment of sexual misdemeanors of female juvenile delinquents. Sexual misconduct by girls under the age of 16 has until now not been criminalized, but has been classified as juvenile delinquent behavior. The social reform paradigm has usually been applied, and offenders have been sent to training schools or other institutions and given the chance to learn better sexual morals and lifestyles. Girls receive much harsher penalties for the same misdemeanors, which raises the issue of possible discrimination against female children. Instead of addressing this existing issue by providing equal treatment for all juveniles involved in sexual misconduct regardless of sex, recent legislative efforts have focused on criminalizing the sexual misconduct of girls and increasing the level of punishment for sexual misdemeanors overall

### **B. Origins for Criminalizing Sexual Misconduct**

It may not be entirely clear why girls are being penalized more severely for sexual misconduct, when research shows that it is generally the male sex partner who initiates dating and sex with younger women. In fact, proposals by the ruling parties to criminalize the sexual misconduct of juveniles were part of the initial effort to control the use of telephones and the internet for soliciting sex, and to limit the use of devices and sites for sex and pornography to adults.

The idea was to control, first telephone dating services, and later, internet “dating service websites.” At these services or websites men and women make contact with potential dating or sexual partners. As services and websites developed, it became easy for women to make contact with sex partners. In particular, female children were singled out by authorities as “soliciting” sex and attempting to arrange for “compensated dating.”(*enjo kosai*) The internet dating service websites allow strangers to arrange meetings privately, and they are freely accessible to juveniles using their mobile phones, telephones or the internet. According to police reports on this phenomenon, in cases of child prostitution most of the initial contact between the juvenile and the sex partner were made using these sites, and 93.8% began as middle and high school age girls contacting older men for supported dating.



Steps will be taken to forbid access to such sites to juveniles, for their protection and to make them conscious of the evil of prostitution. A junior high or high school girl applying to the website could be accused of the new crime of “soliciting compensated dating” if she makes an arrangement to meet a partner. The criminalization of “soliciting compensated dating” is to “raise the effectiveness of the ban on accessing meeting sites.” Police surveys on the subject showed that over 80% of those polled agreed with the ban on juvenile’s access to meeting sites, and over half of those polled agreed with the criminalization of access.

These efforts do not address the issue of the sexual misconduct of female children and its root causes. It is doubtful that the sole purpose that juveniles have for site access and soliciting supported dating is the desire for money. Although some juveniles may look on the use of sites and possible prostitution as a profitable part-time job, it is very unlikely that simply criminalizing such behavior and increasing the severity of penalties will improve conditions.

“Dating service websites are hotbeds of crime,” “it is inexcusable that juveniles solicit supported dating,” “Children these days have no idea of good and bad”: these are the popular feelings which have led to increased police enforcement of the ban on dating service website access for juveniles. However, closer examination of the 93.8% of cases in which girls accessed these websites reveals that the desire for money was not the reason most often given for attempts to arrange meetings with adults. In cases of actual sexual misconduct, most often it can be clearly blamed on the persuasions and offers of the adults, and thus classed as child prostitution. Even if a child’s sense of values has been distorted to the point that the “desire for money” was the main reason given for accessing websites and going on dates, it is questionable that criminalizing this moral flaw will help the child reform. Education and reform measures, such as have been carried out in equivalent cases until recently, appear to be far more effective. Japanese society is choosing, increasingly, the act of making juveniles wear the Scarlet Letter of their crime in the form of full criminal penalties, rather than trying to understand the problems surrounding the juvenile, untangling internal factors and environmental influences and providing the chance to reform.

Adults who profit from child prostitution or sexual activity must pay for their crimes, and criminalizing their behavior is unavoidable. However, aligning the punishment of juveniles with that of adults only obscures the issue. Adult society must examine the message being sent to them from juveniles who misbehave, and seriously ask why they are going to sites and soliciting supported dating, and take responsibility for setting up appropriate facilities and systems for treatment.

## Chapter 128 The juvenile justice in the constructive human relationships

The Convention on the Rights of the Child guarantees children the “right to grow and develop.” This right includes the guarantee that children may have the chance to form good relationships with others and have the right to express their opinions without interference. The revised Juvenile Law instead criminalizes children’s misbehavior, sending them into exile instead of helping them reform, using severe punishments as a solution to the issues of juvenile crime. Japanese adults are failing to take responsibility for listening to what juveniles have to say, and making the effort to persuade them to take a constructive role in society.

Article 40 of the Convention states that, even if juveniles are prosecuted for crimes, they should have the opportunity for education and reform, so that they may become adults who can respect others’ rights and participate in society when they return to it. The child’s individuality and individual personality must be respected, and a constructive relationship built between adults and juveniles so that they may both participate in the existing social system. When a child commits a crime, he or she must be given the opportunity to express opinions and give evidence in an atmosphere in which they will be listened to, and be allowed to participate as much as possible in their own trial or reform procedures. This should include the right to have a representative to speak for them in court, the right to due process, fair trial, cross examination, interpreters, and privacy. The Beijing Rules further enforce these rights. International standards of human rights also say that it is important for juveniles and adults to maintain good relationships and express their views freely to each other.

In the following parts, two main issues have been addressed. The first is an evaluation of the degree to which the Japanese government is putting into effect the articles of the Convention and the Concluding Observations of 1998. The second is an analysis of the effect of increased criminalization of juvenile crime in causing the juvenile justice system to move further away from international standards of human rights.

Article 3 of the supplement to the revised Juvenile law of 2000 requires the government to report its review on how the revised law is implanted to the Diet in five years after the enactment. This article also requires the government to take appropriate measures including legislative one when they are necessary. CRC is going to consider the Second Report of Japan before the government reviews the actual situation and problems of the revised law. This consideration by CRC is expected to be an important opportunity to check the revised law from the view point of the international instruments on juvenile justice and children’s rights.



**Part 2 Issues Concerning Investigation Stage**

## **Chapter 129 The right to counsel and the right to be notified of rights**

The movement to increase the fairness of hearings in the Family Court took shape as part of the Juvenile Law Revision of April 2001, and focused on defining the nature of admissible evidence given at hearings, and making a greater variety in the presentation of evidence. When case is referred to the Family Court, the hearing is preceded by a period of investigation into the facts of the case. During this period, a juvenile is often detained, induced to confess to the crime, forced to relate details and admit names of accomplices, and confess to guilt. The extraction of confessions without regard for the rights of the juveniles, and the use of these confessions in court usually makes up the main corpus of evidence. Actually the issues are in the fact-finding proceedings at the Family Court. Needless to say, the risk of false confessions is great, and recently has led to many cases of false accusations and miscarriage of justice.

The investigation stage is important for the juvenile, because it is the first stage for the juvenile involved in juvenile justice procedures, and thus how he or she is treated in this pointed makes a strong impact on the juvenile's perception of society and later efforts at reform. For this reason international human rights standards call for the juvenile to have the right to participate as much as possible in all juvenile justice proceedings, to have his or her human rights guaranteed from the investigation stage, to have legal assistance and interpretation available, to be kept in police custody as a last resort, to be handled by investigators specializing in juvenile's justice, and to have his or her future return to society assured through the guarantee of privacy. The Second Report of Japan failed to state clearly how these issues are being addressed, and in this lack merely reflects the tone of the revised Juvenile Law. Based on two Basic Reports, the issues and practices which are revealed by the Reports are discussed in chapter 126-136, in particular from the points of International Human Rights Law and Japanese Juvenile Law.

International standards of human rights state clearly that juveniles must be given the right to attend court proceedings to exercise their rights to confront their accusers and to express their opinions. To do this effectively they require legal representation (attendants). Arresting police officers and investigators are required to notify juveniles of their rights to silence and to have representation as stated in Article 40-2 and Article 12-2 of the Convention, and Article 7 of Beijing Rules. The First Report of Japan states that "the Criminal Procedure Act guarantees that the suspect or the accused has the right to appoint a legal representative, and in the case of minors, the juvenile or the juvenile's guardians have the right to appoint a legal representative or attendant..." (para. 264) However, the Basic Report 46 shows that the Second Report of Japan does not mention juvenile's rights to

representation in court. The Basic Report further states that it is not enough to simply guarantee rights to silence and to representation; the government is also responsible for providing juveniles with clear explanations of how to exercise these rights.

A survey carried out among lawyers specializing in juvenile law on this issue showed that juveniles are informed by police officers of their right to remain silent and their right to counsel, but there is no way to tell if explanations have been made clear, or whether the juvenile understands. Juveniles do not appear to receive much support in their attempts to exercise those rights. It is often the case that “the juvenile is often not in a mental state to understand the explanation,” and “when the juvenile actually resorts to the right to remain silent, this is taken as proof that he or she committed the crime.”

The lack of understandable explanations aside, it is also clear that juveniles themselves put up barriers because of their nature. For example, lawyers who support juvenile offenders revealed that they generally have strong negative self-images, and are often under the impression that retaining a legal representative will not change anything in their favor. Others decline legal representation because police officers warn them that lawyers are expensive. Some juvenile offenders, who have been victims of abuse, tend to have an irrational fear of lawyers. Victims of abuse by those in authority over them cannot help but fear new authorities, even though these may be genuinely trying to help them.

Statistics support these actual conditions, showing that juveniles may be informed of their rights, but fail to exercise them. The percentage of the general protection cases in which a legal representative was retained was only 5.1% and the total number of attendants involved in was 3,903 in 2000. In addition, in 1999, juveniles who were accused by criminal acts only retained duty lawyers in 3,345 cases. It is clear that a greater effort must be made by courts to provide legal assistance free of charge during all stages of investigation and the Family Court proceedings. The Japan Legal Aid Association provides some financial support for legal representation of juveniles, but is not able to help out in all cases. A duty lawyer system is becoming more common, a movement worthy of praise. For example, the Fukuoka Bar Association has launched a duty lawyer (legal representative) system in which judges inform juveniles of the existence of the system, their right to representation, and the fact that the first case is free of charge, and that a lawyer will come to see them if they ask for this service. The system aims to get legal representation to any juvenile under detention who asks for it.

On the other hand, the revised Juvenile Law limits court-appointed, free legal representation to those cases which involve a prosecutor, when the juvenile has no legal representative. In such cases a lawyer will be assigned to the juvenile by the court systems for legal representation.

In the preliminary plan for the overall revision of the justice system (approved March 19, 2002, at the Cabinet meeting) a system of public defenders or legal representatives to be made available to juveniles was considered, along with system of legal assistants to help juveniles through the Family Court proceedings. However, some believe that adequate legal assistance in hearings is only one side of the equation; thought should also be given to reducing the necessity for prosecutors' involvement. Also some insists that the Family Court Probation Officers take a role of representative in particular at the dispositional proceeding for the juvenile, additional legal representatives might cause a confusion of roles.

It is also becoming clear that every case does not require a qualified lawyer absolutely. Others can support juveniles in the exercise of their rights. Cases in which there is debate over admissible evidence require a lawyer's training to deal with. Limiting legal representation to lawyers might bring about only risks limiting the supply to the number of lawyers available, which in Japan is kept to a very low compared to other countries. However, in the dispositional proceedings, in which a juvenile is in need of protection or fostering, obviously, not qualified lawyers but other appropriate assistances for juveniles, for example parents or teachers might be able to safeguard the right of the juveniles to grow healthy adults, the right to participate in the hearing, and support to express his or her opinion according to international standards of human rights. This philosophy is stated in Article 10 of Juvenile Law that a juvenile and his custodian may appoint an attendant ...and a custodian may act as attendant with the permission of the Family Court.

## **Chapter 130 The issues concerning the investigation stage**

### **A. Attendance of parents or legal guardians**

Until January 2003, the Guidelines for Police Activities Involving Juvenile Cases (A circular of the National Police Agency) were followed in cases of juvenile crime, but these guidelines were abolished at the end of 2002, citing the Code of Practice in Criminal Investigation (adult) already in place. In Article 12 of the revised General Guidelines for Police Activities Involving Juvenile Cases it was simply stated that “in cases of serious juvenile crime or cases of crime involving juveniles police should make their investigations and arrange for custody and sentencing based on the Juvenile Law and the Juvenile Welfare Law.” This was to include complete explanations to parents or guardians and the juvenile and relaying information to schools and other institutions.

The Code of Practice in Criminal Investigation (adult) also states in article 203 that “those investigating juvenile crime and cases bound for the Family Court should do so keeping in mind the overall healthy growth of the juvenile, and always remember that they are working for the Family Court.” However Basic Report 47 states that frequently there is no “accompaniment of parent or guardian when a juvenile is called in for questioning” or “no parent present when the juvenile is being questioned at the police station.” Some juveniles also have told lawyers that “they never had the chance to see their parents from start to finish of the investigation.” This is in clear violation of Articles 37 and 40 of the Convention, and also of Articles 7 and 10 of the Beijing Rules, all of which clearly state that a juvenile in custody has the right to have contact with his or her parents and family.

Article 12 of the old police guidelines states that “meetings with family and representatives should be refused only under exceptional circumstances.” However the revised General Guidelines for Police Activities Involving Juvenile Cases have no equivalent article. The police rules thus fail to conform to international standards of juvenile’s rights. Other countries have, on the other hand, strengthened the enforcement of these rights. In England, if a parent or a representative of their family is not present when the juvenile is questioned, the evidence gained cannot be used in court. In Japan, juveniles are almost always questioned without legal representatives or guardians present, and their confessions are always considered to be admissible evidence.

### **B. Questioning of juveniles**



In Japan court cases are heavily weighted by confessions. This leads investigators (police officers and prosecutors) to put confessions high on the list of priorities, and thus the extraction of confessions by coercion and force is common. Juveniles are frightened and make confessions in the face of severe questioning by investigators, even if they are not guilty of the crime they are confessing to. Investigators make misleading statements, question coercively, and proceed under the assumption that the juvenile is guilty. They sometimes attempt to bribe the juvenile with promises of leniency or offer to convert the juvenile's guilt from "chief perpetrator of the crime" to "aiding and abetting a crime." The weight given to the extraction of confessions leads to poorly run investigations and resulting miscarriage of justice. What the juvenile actually says is less important than bringing a case to court and attaining a guilty ruling. The lack of a third party observer system has allowed this kind of "investigation" to become the rule, rather than the exception.

In Basic Report 46 clients of the responding lawyers report the following abuses of the investigation process. "An officer whispered to me, 'you are a murderer,'" and "they took me to a Judo room and threw me around, saying it was practice," and "they kicked chairs and desks around so that they slammed into me." Physical violence of this kind is reported frequently. Also "they question juveniles trying to invite their confessions," "they attack a juvenile's character," using mental and emotional violence. A chief justice in Fukuoka High Court ruled one such case out of court, saying that "enough mental and physical violence was used against the accused that the risk of mental and emotional damage cannot be ruled out, and the cooperative statements of the accused must be said to have been gotten by coercion."

The Second Report of Japan states in paragraph 294 that "in investigating a juvenile case, it is necessary to clarify not only the fact of misconduct or a crime, but also the facts regarding the correction of a juvenile's character and adjustment of the environment, or the necessity of protective measures." The section continues to state simply that "in interviewing juveniles, full consideration is given to time, place and their conduct, etc." By contrast, the First Report of Japan clearly referred to the juvenile's right to remain silent and confessions are referred to as admissible only if voluntary. Therefore, it is obvious that the Second Report of Japan neglects juvenile's rights from this point of view.

When a juvenile gives him or herself up voluntarily to the police, the First Report of Japan states that an investigator should work to gain the juvenile's trust and respect the sovereignty of the juvenile. However, the Second Report of Japan only states that juveniles should "receive care" in line with the General Guidelines for Police Activities Involving Juvenile Cases.

To prevent acts of violence and coercion against juveniles within the justice system, in particular in the investigation stage, there is a movement to make audio or visual records of all questioning sessions. In England, for example, tapes of questioning sessions are mandate and they are available

to lawyers who arrive after questioning is over. Although the Human Rights Committee strongly recommended to Japanese government to introduce the electronic records system, this is not considered. When it is launched, it is necessary that tapes are not permitted to be edited so that police officers and prosecutors may use only the favorable points of investigators.

### **C. Investigations biased towards and assumption of guilt**

The slogan “strong and gentle police” sounds ideal, but this style of policing has unfortunately contributed to the criminalizing youth misdemeanors. The “strong and gentle police” were given more power to act at their own discretion in cases of juvenile crime, leading to increased emphasis on the extraction of confessions and the assumption of guilt of the juvenile. This is related to the old police guidelines statement in Section 1, Article 3 that “police should investigate juvenile cases not only in order to solve the cases but to allow to achieve correction and healthy growth of juvenile delinquents.” The revised General Guidelines for Police Activities Involving Juvenile Cases strengthen the development of the moral status of juveniles.

In Soka Case, when police were trying to get confessions from juveniles, they used a range of factors outside the actual incident as justification for coercing confessions. The suspect’s refusal to go to school, a history of running away from home or the presence of bad acquaintances, which might be relevant in a purely welfare case, were here considered to be related to the crime. This tendency to predict or assume the existence of crime based on unrelated behaviors is seen elsewhere in the Second report of Japan, for example Paragraph 315 relates that runaways should be found and protected by police and also paragraph 335 states that “since it has been pointed out that uncontrolled behavior such as drinking, smoking or going out at night is often repeatedly conducted before serious delinquencies are actually committed, and thus proper measures are to be conducted at the early stage of such behaviors.” Based on this assumption, the police investigation often questions the suspicious juveniles without ascertaining the evidence. Article 37 of the Convention forbids “juveniles to be treated in harsh and inhuman ways which hurt their dignity” and Article 10 of Beijing Rules states that investigations “will be carried out to promote the well-being of the juvenile and avoid harm to her or him.” However Japanese law enforcement not only commits direct violence on a juvenile by extorting confessions, but considers factors unrelated to the actual crime as part of the evidence against a juvenile.

### **D. Supplemental investigations**

The Revised Juvenile Law states in articles 41 and 42 that if a juvenile is determined to be probably guilty of a crime, he or she is then formally sent to the Family Court. While the juvenile’s case is

being heard, the Family Court may ask for supplementary investigations. These are often conducted when it is suspected that the original investigations were biased, or incomplete. The matter has been ruled on by the Supreme Court which said that the Family Court may order investigations even while a hearing is in progress. The recent spate of careless investigations and suspicious confessions has led to an increase in this kind of supplementary investigation. While it is a sign of progress that at least the existence of poor investigations and over reliance on extorted confessions is being recognized, the investigative process is still in need of substantial revision to conform to international human rights standards.

## **Chapter 131 Detention should be as the last resort and for the shortest period**

Article 27 of the Convention states that “the arrest, detention or imprisonment of a juvenile shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.” The same intent is clear in Article 10.1, 10.2 and 13.1 of the Beijing Rules. The UN Rules for the Protection of Juveniles Deprived of their Liberty also uses the terms “as a last resort” and for the “shortest possible period,” and further specifies that special facilities should be prepared for the purpose.

The Juvenile Law states in article 43 that even though the arrest of a juvenile appears to be necessary for the investigation, requests for the detention of juveniles shall be granted only when other means of investigation fail, and should a juvenile be detained the court must not permit casual extensions, and detention shall take place in a separate youth jail. The Yokohama Family Court, in a court decision on July 12, 1961, elucidated the meaning of “only when other means fail” in the following manner: “any given court must not allow juvenile to be detained in jail unless there is no other available means to detain them; (furthermore) they must be kept in a special facility for youth, such as the Juvenile Detention and Classification Home, unless such facilities do not exist within the court district or if such places exist but the conduct or behavior of the juvenile requires greater vigilance or methods of detention than such facilities can provide.”

However in the actual administration of cases, Basic Report 47 states that juveniles are frequently taken into custody when the investigation process does not require it. In cases of theft, extortion, or violence against teachers at the junior high school level detention is often used. This seems hard to justify, as young juveniles have not yet developed a wide range of places to hide from authorities. Yet they are arrested, taken into custody, their custody periods are extended and if they are released re-arrests are frequent. It is hard to discern in this the utilization of “as a last resort” or “for the shortest possible time.” The number of juveniles arrested and the length of time they remain in detention are increasing, and so is the number of cases for which a sentence of detention is handed down. In 1996 14.1% of total cases seen by the Family Court were given a sentence of a period of detention or probation within a facility such as a reform school. In 2000 this rate had increased by 22%. The rate of cases in which the juvenile was sent to a juvenile home or other facility rose from 7.14% of sentences to 9.93% in 2000.

Paragraph 306 of the Second Report of Japan states that “consideration is given to the character of juveniles detained in the investigation stage, for instance no juvenile may be detained without

unavoidable reason; if he/she is to be detained, the Juvenile Classification Home may be designated as the detention place, and detention and shelter care may be taken as an alternative measure to detention.” This is in line with Article 43 of the Juvenile Law which further limits the use of alternative facilities to ten days. However alternative facilities were only used in 13.1% of cases in 1999, with most cases of detainment taking the form of ordinary detention (83.8%). This alternative facility clause offers the only alternative to ordinary detention. The facilities used for ordinary detention are often crowded to capacity, but the Family Court may have no other choice than to send juvenile to inadequate or inappropriate detention facilities; local resources vary greatly.

Basic Report 47 suggests that the overcrowding and inappropriate use of facilities could be prevented by using stricter criteria to determine who will be detained and how long: “current conditions indicate that greater care should be taken to detain only those juveniles who most need it.” The Riyadh Guidelines define “need” clearly, and include factors such as danger to the juvenile from parents or guardians. If “need” were more closely and accurately defined in the light of international guidelines, it would be possible to restructure this portion of the Juvenile Law centered on the needs of the juvenile.

## **Chapter 132 Substitute prison facilities (Daiyo-Kangoku)**

In the consideration of the First Report of Japan, the delegation from the government stated that as substitute prison facilities occasionally become necessary to confine problem cases, the nation had no intention of getting rid of that alternative. The Second Report of Japan makes no mention at all of these facilities. Basic Report 46 states strongly that this is proof that the government has refused to consider getting rid of the substitute prison system as recommended in the Concluding Observations of 1998. There are no plans to construct new facilities to take the place of these substitute prison facilities. The UN Manual on Juvenile Justice Systems, section 166, explains the necessity for building and maintaining separate facilities with enough capacity to guarantee the rights of the detained juveniles. It appears that Japan has chosen to ignore the UN Manual guidelines regarding the detention of young criminals.

It is well known that when young people are placed in full adult prison facilities, with 24-hour police observation and the presence of older violators of the law, they are relatively defenseless and may be induced to make false confessions. This is in violation of Article 26 of the Beijing Rules, which states that “juveniles who are kept in adult prisons must be kept separate from adult prisoners.” The Juvenile Law indicates that such detention must always be the exception; however Basic Report 47 indicates that it is becoming the rule, not the exception.

When juveniles find themselves in this situation, those who have the courage or resources to exercise their right to legal representation and legal attendance do manage to change their situation for the better. As mentioned earlier, the actual exercise of this right is very low in this country; however in cases where juveniles do get legal help they are often able to appeal the conditions of their detention, prove the unsuitability and even illegality of confinement in adult prisons, and are able to make the court change the method of detention.

## **Chapter 133 Investigators' Powers have increased**

### **A. Decision making powers allowed to investigators: summary indictments**

The Family Court rarely looks at actual evidence in juvenile cases. Evidence is left in the hands of the investigating police officers, who, according to the demands of the case, may choose to prepare summary indictments containing reports of the investigation and the available facts and evidence, together with recommendations for sentencing. Occasionally the Family Court will request some of the evidence, but the summary indictment and its' recommendations for sentencing generally are allowed to stand. In the case of less serious crimes, this results in robbing the juvenile of the right to contest the facts of the case in court, as well as the right to receive adequate care.

### **B. Frequency of use of summary indictments**

A summary indictment is often used in the case of lesser misdemeanors. Basic Report 47 analyzes the broadening use of summary indictments. Investigators and courts make use of summary indictments when a juvenile's case has caused a low degree of monetary damage or loss, even if the case is serious in other ways. The number of cases thus treated were only 10.7% in 1979, but rose to a peak of 41.9% in 1990 before dropping to 36.6% in 2000. Over one third of all cases sent to the Family Court take the form of summary indictments.

This system is broadly used by police, and results in depriving a juvenile of the right to defend him or herself in court. As the summary indictment makes recommendations for sentencing, and these recommendations are generally followed, juveniles find that their case has been "decided" before the actual hearing.

The same financial factor affects another issue: cases which are not sent by the police to the Family Court, but dealt with by the police within the police stations. Suspects are questioned at police stations and given instruction and warnings; though other factors may be serious, if there is little financial loss or damage requiring compensation, a case may stay in the hands of police. Thus juveniles are kept from exercising their right to have their case heard, as well as to take advantage of opportunities to reform.

## **Chapter 134 Training of juvenile law enforcement officers**

The Second report of Japan states that “with the aim of ensuring police personnel’s attitude toward juvenile cases, police schools provide education on juvenile issues, and also to prosecutors” (paragraph 45). Basic Report 46 notes that the quality and amount of training are not specified. In surveys, the number of incidents in which educated awareness of human rights and juvenile’s rights issues appears to be absent indicates that the training is far from adequate.

Article 9 of the old police guidelines states that police officers trained as juvenile crime specialists will be assigned to cases. However, revised General Guidelines for Police Activities Involving Juvenile Cases simply state that “cases will be seen to with a deep understanding of juvenile and youth psychology and physiology (physical factors),” without a mention of special training or specialization. Article 12 of the Beijing Rules asks for the specialization of police officers to deal with a juvenile delinquency and youth crime, and Article 58 of the Riyadh Guidelines also calls for specialized youth officers and workers “in all institutions connected with juvenile justice.” It is clear that the Japanese juvenile justice system fails to comply with international standards of juvenile’s rights.

Police officers in actual police stations, investigating juvenile delinquency, tend not to consider the juvenile’s human rights, but make instead a series of assumptions about a juvenile, and proceed with their investigations and questioning based on these assumptions. The first of these assumptions is that juveniles will naturally lie to get out of trouble. The second is that juveniles have not yet developed a sense of responsibility. Police see their role as one of reform education, and seek out and condemn every misstep or act of deviant behavior. They grill juveniles mercilessly to make the facts of the case indisputable, not only to the court but to the juvenile. They seek to establish an absolute instructor’s authority over the juvenile. This positive absolutism translates in practice as unavoidable condemnation and inevitable punishment.

This system of proving the facts of juvenile crime cases absolutely requires vast effort. Special juvenile delinquency investigation commanders have been created, and special investigation units for juvenile delinquency were formed to make the most efficient use of limited resources for investigation. To allow better investigators to bring their skills to the investigation of juvenile delinquency, the police have created a “designated youth crimes investigator” class of officer. Great effort is made to prevent youth crime, detect it as early as possible. Juveniles within this system are seen as immature people who repeat mistakes, and who must be chastised or punished,



not people with rights, worthy of education and opportunity.

It would be difficult to deny that such a system requires the healthy openness of a third party observer system such as is called for in the Riyadh guidelines.

## Chapter 135 The prohibition of speculative reporting

The First Report of Japan referred to Article 61 of the Juvenile law: “the Family Courts shall avoid the use of the juvenile’s name or mention of any information that could lead to the identification of the juvenile, his or her family or residence, and shall limit itself to describing the demeanor of the juvenile or explaining the nature of the crime to the media.” This gives the impression that the privacy of juvenile suspects on trial is preserved. However, the Second Report of Japan mentions nothing about this issue--prohibition of publication of accounts, etc.

The Nagoya High Court ruled in June 2000 that speculative reporting on a juvenile case, based on partial knowledge of the facts and attempting to discover the juvenile’s name or photographic images, including speculation and guesses, risks infringing the juvenile’s right to grow up in an environment free from prejudice, the right to have a good name, and the right to privacy. Such actions also endanger efforts to reform the juvenile and return him or her to society. The court also stated that if a juvenile is named and labeled with the stigma of criminal, the return to society after serving the sentence would be problematic. Meanwhile, the Osaka High Court ruled in February 2000 that Nagoya ruling misunderstood the aim to Article 61 of the Juvenile law. It does not mean that a juvenile has a right that name could not be used in reports. In fact, in cases of public interest juvenile’s names have been used in newspaper and magazine articles, and their pictures have sometimes been displayed.

Speculative reporting or reporting which includes the name or photograph of the suspect at the investigation stage violates rights of privacy, and risks causing the public condemnation of a juvenile before a trial takes place, as well as virtually preventing a smooth return to society after serving a penal sentence. More effective measures must be taken to preserve juvenile’s rights at this stage, and not allow them to be stigmatized as criminals without the chance for a fair trial. The failure to preserve the privacy of juvenile criminals violates the rights guaranteed in Article 40 of the Convention, as well as Article 8 of the Beijing Rules.

In March 2003, the Supreme Court ruled about Nagoya High Court decision that the reports infringe the privacy of juvenile, but no violation of Article 61 of the Juvenile law which prohibits speculative reporting. Government should take severer attitude toward mass media to deal with these issues than as stated in the First Report of Japan.

## **Chapter 136 The issues and problems in need of change**

The International Human Rights Law, Japanese Juvenile Law, and the circular of National Police Agency provide the issues concerning the investigating stage. However, it is reported that the investigation is not carried out in proper accordance with these rules. In order to ensure these rules and philosophy in the Convention --encourage juvenile participation and expressing views at the investigation stage-- problems and issues in need of change are as follows:

First, the way of investigation which confessions are heavily weighted should be changed. The police interview technique is that suspicious juveniles are questioned without ascertaining the evidence. The police may exploit the timidity, ignorance, and lack of foresight of the juvenile suspect with coercive measures and detention. Furthermore the approach may be to secure a confession by promises of lenient treatment so that the police obtain a false confession and make a record which is far from the truth. In order to avoid the coercive confession, firstly right to counsel, in particular the presence of parents or guardians, lawyers and other appropriate assistance at the initial stage of investigation and right to remain silent should be guaranteed. Secondly, tape recording and video recording system might be helpful to make the investigation visible.

Second, juveniles shall be detained only the limited cases and also detention should be the shortest possible period of time. The international standards provide that only when no other means available to detain. Detention should be allowed with strict requirements and at the same time the need for alternative measures are important.

Third, the substitute prison should be abolished. Despite of the CRC Report recommendation, Japanese government ignores this issue. Detention in substitute prison is utilized to obtain confession and it might bring about false confession and indeed miscarriage of justice. In addition, the substitute prison the separation from adult suspects is not strict and thus it may cause negative influence of adults on juveniles.

Fourth, professional education and special trainings for police officers and prosecutors should be provided. Particularly for police officers to whom juvenile suspects encounter the first stage of justice system are well trained for dealing with juvenile cases. Also it is required to establish a mechanism to evaluate the system such as ombudsman.

Fifth, no information such as name, age, occupation, and photograph that may lead to the

identification of the juvenile suspect shall be published. The presumption of innocence shall be guaranteed. In order to ensure juvenile smooth return to the society and to achieve the interest of the juvenile to develop healthy adults, labeling is prohibited.

**Part 3 The Issues Concerning Hearing Stage**

## **Chapter 137 The lowered minimum age to criminal disposition**

The Family Court has not only a judicial function, determining misconduct and punishment, but also a welfare function, determining the necessity for protective measures, uncovering causes of delinquency, and preventing recurrence as states in the paragraph 295 (ii) of the Second Report of Japan. According to Articles 5 and 17 of the Beijing Rules, priority should be given to understanding the child committing the crime. Juvenile justice, in all its functions, should make clear not only the facts of a case, but also the background behind the case and the need for custody or other forms of treatment. Court decisions must have as their top priority the growth and reform of the juvenile. Unlike adult crime, the juvenile delinquency is not possible to decide the weight of a crime simply from its immediate effects.

However the revised Juvenile Law is apt to put stress on the fact of the crime, rather than on the needs or state of the perpetrator. It demands severe punishment for juvenile delinquents. The juvenile justice system is losing sight of its welfare function, in which the problems of children and their possibilities are observed and understood, and their best interests are exercised. This changed stance has led to the violation of the human rights of juveniles, and the constant risk of violation. The Second Report of Japan fails to mention this tendency, nor indicate the degree to which the revised Juvenile Law is moving away from international standards of human rights and towards a highly punitive policy. In Chapter 137 to 146, the actual situations of “hearing” under the punitive approach will be examined.

As mentioned in previous sections, the minimum age under which a juvenile’s case could be sent to adult criminal court has been lowered from age 16 to age 14 at the time a crime was committed, and the level of punishments for serious crimes connected with such cases has risen. Commutation of sentences has been severely limited, and parole conditions tightened. The “tightening” of the Juvenile Law brought age definitions in line with the Criminal Law for adults. Parliamentary debate on this issue concentrated on “the double standard of age”; “under the Criminal Law, a juvenile over 14 years of age has criminal responsibility, but under the Juvenile Law juveniles aged 14 to 16 may not be tried as adults, and are instead protected by the state as juveniles.” Also some insisted that “even juveniles under the age of 16 should be given social responsibility, and realize that they can be punished and sent to prison if they commit serious crimes.” These points were used for justifying the lowering the age of criminal liability. (Paragraph 295 (iv.) of the Second Report of Japan)

However, the “double standard of age” was originally a rationalization of how the state must condemn crime and punish it, and protect children as subjects of the welfare state at the same time. Article 4 of the Beijing Rules recognizes the variations of member states’ definitions of the age at which a person is determined to have criminal responsibility, and many United Nations member states balance their two roles by having different age criteria for criminal responsibility and liability to public trial and punishment. Though a juvenile over 14 years of age may have criminal responsibility, it is not grounds for exposing children to open court proceedings. The intent of the original Japanese Juvenile Law was not to absolve young juveniles of criminal responsibility but to avoid subjecting them to public criminal trials. In Japan, children aged 15 or under have various rights, such as the right to education, whereas at the age of 16, education in high school becomes optional, rather than compulsory. In Japanese society there are legal differences between 15 and 16-year-olds, and the socially line between 15 and 16-year-olds is clearly drawn, a point is not raised in the revision debate.

Young juveniles commit serious crimes, without exception, as a result of bad environment, extreme deviance of personality, or both. If these juveniles are dealt with in criminal proceedings and are given sentences of imprisonment, there is a strong possibility that they will not reform, becoming criminals as adults. This is one effect of social rejection and isolation from society. Given appropriate protective measures, and enough time, juveniles have the possibility to achieve a degree of self-esteem, become aware of themselves as “people of society,” and become strong enough to take responsibility to obey the law.

Deterrent effects of the threat of punishment and imprisonment have less effect on juveniles, for they tend not to consider risks such as criminal court trials. It is doubtful that the threat of punishment will deter juveniles from committing serious crimes.

The number of murder cases committed by young juveniles in 1998 was much the same as that in 1948, when the old Juvenile Law was enacted. In 1998, the number of murders committed by juveniles had increased five times over 1996 and 1997. However, in 1999, the number of murders committed by young juveniles decreased to 16 cases. The statistics of the past 40 years show no steady change in frequency for young juveniles to commit heinous crimes. They show extremely low percentages of murders, for example, the number of young juveniles arrested for murder or attempted murder being less than one per 100,000, though the numbers have changed slightly from year to year.

Regardless of this evidence, the National Police Agency has consistently released distorted interpretations of these statistics, and the media have aggressively published them, as well as pouring effort into collecting details of exceptional cases and reporting them as sensationally as possible. As a result, public feeling is that “since young juveniles have a tendency to commit serious offences,

they should be dealt severe punishment.” This false image of the seriousness and widespread nature of juvenile crime has led to the strengthening of the Juvenile Law.



## **Chapter 138 Automatic transfer to adult court conflicting with the ideals of the juvenile justice system**

The old Juvenile Law, based on a welfare philosophy, stated that criminal trials of juveniles should only occur in the most exceptional cases, wherein the nature and circumstances of the offence were very serious. Now cases of this kind remain in the Family Court as exceptions. The revised Juvenile Law may transfer juveniles over the age of 16 who commit heinous crimes to adult criminal court in principle, rather than exceptionally. (Paragraph 295 (iv) of the Second Report of Japan)

The old Juvenile Law was based on the philosophy that delinquency could be a turning point for a juvenile to think about life sincerely, the first step towards rehabilitation, realizing that juveniles are amenable to appropriate forms of education and treatment. The system aimed at providing opportunities for reform and rehabilitation, rather than punishment. Consequently, good results could often be expected in a system which expected that not all juvenile delinquents would inevitably grow up to be adult criminals. Statistics show that while adult crime rates have remained level or decreased, juvenile crime rates have varied greatly from year to year. Thus Japan enjoyed the reputation of having one of the lowest crime rates in the world.

However, the philosophy of the revised Juvenile Law is to “get tough” on even juveniles who have committed only one crime, with the intent of removing delinquents from society. Japanese society has become exclusionary, and adults have lost tolerance for even minor social misdemeanors, which are equated with the potential for serious crime. Such a social attitude towards juveniles results in a vicious cycle of rejecting and being rejected, forcing juvenile into tightly controlled limits, in which misdemeanors and errors of youth are criminalized. The revised Juvenile Law shows this societal trend clearly, prioritizing punishment over development and education.

Article 20-2 of the revised Juvenile Law has a proviso which says that the Family Court may not send a juvenile to adult court when investigations reveal that the motivation and manner of an offense, the circumstances surrounding the child after the crime, the child’s character, age, behavior or environment indicate that criminal trial is not appropriate. In other words, if the court finds that in spite of the seriousness of a crime, there are extenuating circumstances, the Family Court may retain jurisdiction over the case. Judges are reluctant to exercise this proviso, however, as Article 20-2 exceptions are difficult to define and justify. The Convention on the Rights of the Child forbids equating criminal responsibility with depriving a juvenile of the possibility of reform, or allowing criminal trials for lesser offenses than murder. The rights of victims in cases of murder

require representation through criminal trials, but the rights of the offending juvenile to reform and return to society risk being revoked within the adult penal code.

## **Chapter 139 The discretionary collegiate court system and prosecutor's involvement**

As mentioned previously, the discretionary collegiate system has been introduced into the Family Court, allowing a judge, a prosecutor and a lawyer or legal attendant to discuss a serious or complex case as a council. The involvement of a prosecutor, who used to work only in adult criminal courts, was to increase the efficiency of establishing the facts of the case and allow victims legal representation. Juveniles in such a case are given a court-appointed defense lawyer. (Paragraph 295 (iii) of the Second Report of Japan) The discretionary collegiate system attempts to judge a case from several points of view, allowing more complex cases to be heard in greater detail.

A prosecutor's job in the Family Court juvenile hearing is to collect and collate evidence, to allow a plurality of viewpoints, to help avoid a confrontational atmosphere between the judge and the juvenile and to exercise the rights of the victims or the public for representation. When prosecutors are involved, the court must provide a lawyer or legal attendant for the delinquent.

The result of this new system is that in a case with conflicting evidence, a juvenile risks being grilled by three adults in the pursuit of the truth, with no guarantee that truth will be established any better than the old system of a single judge in not adversarial hearing. Juveniles risk becoming intimidated, nervous and confused. A prosecutor's involvement also influences arguments toward the discussion of legal points. Actually, it is reported that in practice juveniles and their parents might not understand the issues in question, in spite of being present in the courtroom.

A juvenile is best provided the ability to exercise the right to self expression when a hearing is conducted in a warm atmosphere, and a judge discusses matters with the juvenile face to face, as one human being to another. Article 14 of the Beijing Rules states that hearings should be conducted with the profit and best interests of the juvenile in mind, in circumstances which allow the juvenile to take part in proceedings and express him or herself freely. The original goal of the juvenile justice system provided opportunities for juveniles to confront their actions and to understand their deviation, and begin reform. The increase of the number of adults in the hearing risks destroying this fundamental function and degenerating the quality of the juvenile justice system, without guaranteeing that the establishment of facts will be more accountable.

The welfare function of the Family Court hearing must be considerably weakened by the involvement of several adults. Legal points and levels of punishment, not the reform of the juvenile,

will become the focus of hearings and cause inappropriate disposition. The stress on impartiality, objectivity and establishment of facts reduces understanding of subjective causes of crime and the problems of the juvenile. It also causes the juvenile to be considered only as a delinquent by society. A child thus labeled tends to have harder disposition handed down as well.

## **Chapter 140 Get-tough policies develop rapidly in revised Juvenile Law**

The revised Juvenile Law came into force in April 2001. In that year the number of cases transferred to criminal court increased by 52% (167 juveniles). During the period from April 2001 to March 2002, 65 juveniles over 16 years of age committed a crime that caused death from an intentional act (crime that fell under article 20-2). Of these 65 cases 44 were transferred to adult court. This means that 44 cases transferred to criminal court resulted from the revision to the Juvenile Law, but the remaining 123 cases were not directly related to the revision. Though the juveniles had not committed “20-2 crime” and previously would have been dealt with in the Family Court, their cases were transferred. The acceleration of the “get tough with crime” policy is part of the same social trend as the revision.

Judges attitudes changed with the revision of the Juvenile Law. According to Zenshiho (All Judiciary Employee’s Union) survey, judges now transfer cases very readily. This is true not only for “20-2” offenses, but also for cases which have nothing to do with 20-2. The ease of transfers has made judges more willing to make them, and they are less controversial than before, almost routine.

Furthermore there is no possible appeal of transferal. When a sentence is handed down from a family court hearing, it can be challenged in a higher court, and may be dismissed. By contrast, there is no appeal of transferal to criminal court. This is a serious inconsistency in the law, as Zenshiho points out, one which should be amended as soon as possible. In addition, during the discussion of the revision (or before revision), the rate of disposition to juvenile training school has dramatically increased. The statistics shows that these ten years the rate of protective disposition has increased, in particular the rate of probation and sending to juvenile training school has doubled. This causes an excess population in juvenile training schools.

It is apparent that judges at the Family Court tend to get-tough policy because of the revision of Juvenile Law.

## **Chapter 141 Treatment of cases of delinquency and misdemeanors**

### **A. Summary indictments**

The Second report of Japan states that “in Japan, when juveniles commit crimes, their cases are sent or reported to the Family Court with a view to ensuring that juveniles have a sound upbringing and to correct their characters and adjust their environment” (paragraph 295 (i)) which may lead a reader to believe that the “principle that all cases are sent to a Family Court” is properly carried out in practice. However, the reality is that most cases receive no meaningful investigation, nor a full hearing, and are handled using a summary indictment system.

The summary indictment system is used when “there is no doubt of delinquency.” A summary report is sent to the family court, detailing the case and listing the evidence. The evidence and original documents remain in the hands of the police. The Family Court may request evidence to be submitted, but such a request is rare. Therefore, though these cases are presented in the Family Court, there is no full hearing. The case is “dismissed without a hearing,” and juveniles are not called to a hearing. Juveniles lose the right to contest their case in court.

The principle that all cases are referred to the Family Court aims to imposing appropriate preventive measures at an early stage. Summary indictments may reflect the chronic shortage of human resources in the police and the family court, but at the same time exclude a juvenile from exercising the right to contest a case in court and to receive protective treatment. More detailed investigations and hearings for minor cases should be carried out based on the philosophy that the welfare of the juvenile should be given priority, and the relevant agencies should aim to increase the number of staff for this purpose.

### **B. The treatment of petty crime cases**

A category of crime was proposed in the 1980s which is generally translated as “petty crime.” The treatment of these cases by the courts differs from both full hearing and from the summary indictment system. The Family Court officials weed out cases of petty crime for dismissal after correspondence with parents or a brief interview. The practice stemmed from the dramatic rise in petty juvenile crime cases in the 1980s. The re-categorization of this level of offense reserved the energies of the police and the courts for cases which require more effort. However, though petty

crime went down in the 1990s, the practice was not discontinued; in petty cases it was thought better to use the simplified procedure.

It is desirable to release juveniles from the justice system as soon as possible if there are no serious background issues justifying protective measures. Often it is not possible to judge the need for protective measures from superficial details of the incident. It should be considered an infringement of the principle that all cases should be sent to the Family Court to dismiss cases based on surface details and to treat cases mechanically without considering underlying problems.

### **C. The lack of resources at the Child Guidance Center**

Juvenile Law provides that any juvenile under 14 years of age who is alleged to have violated any criminal law or ordinance may refer to Child Guidance Center, if necessary the case is examined at the Family Court. However, in the Child Guidance Center, because of lack of resources, juveniles who need care are sometimes neglected or easily sent to the Family Court.

## Chapter 142 Appeal systems

In its Concluding Observations of 1998, CRC recommended that Japan should establish an overall appeal system. According to the recommendation, the Japanese Government created some new appeals procedures, allowing juveniles to appeal detention conditions, for example, or complain about or appeal educative measures even after completion of a sentence. On the other hand, the revised Juvenile Law allows prosecutors involved in a case to make counter-appeals and does not allow juveniles to appeal transfers to adult court.

Allowing juvenile to appeal against detention makes some favorable changes at the Family Court, for example, judges and court probation officers try to make deliberate judgments for detention.

The Family Bureau of General Secretariat of the Supreme Court announced that 96 appeals against detention were made from April 2001 to March 2002, five of which were granted, this means 5% of successful appeals. However, cases appealed detention represent less than 1% of the total number of cases sentenced to detention, which makes abysmally low. This indicates that the right to appeal is not well understood, and rarely explained to juveniles. If it were, it is certain that appeals would be more frequent as children and their guardians and legal representatives become better informed.

In principle, juvenile hearings and trials are handled speedily, recognizing that juveniles grow up greatly in a short time and change surprisingly. However, juveniles do not have the right to appeal the involvement of prosecutors or transfers to adult criminal court, resulting in longer trials at the convenience of prosecutors. Prosecutors have the right to petition courts for the acceptance of counter-appeals. These petitions can keep trials running far longer than planned, and can keep the juvenile in trial limbo. The petitions are usually granted unless there are drastic mistakes in the paperwork.

A juvenile may be temporarily relieved of liability to retrial only in cases of prosecutor involvement and mistrial. However the need to relieve children of the danger of double jeopardy across the board becomes apparent when it is noted that there have been cases in which juveniles were sued in civil court after the Family Court hearings. The guarantee of temporary freedom from retrials and double jeopardy should apply to all cases, not only those involving prosecutors.



## **Chapter 143 The guarantee of procedural due process**

Children must be guaranteed procedural due process. This includes not just court procedures, but involvement and understandable explanations of court procedures. Judges, lawyers and legal attendants must take every opportunity to involve the juvenile in the legal process and allow him or her to ask questions freely. Juvenile procedures should not be modeled too closely on adult courts and their adversarial, admonitory nature.

### **A. Trial and hearing rights**

The right to remain silent, to view evidence, to examine witnesses and cross-examine witnesses were mentioned in the Second report of Japan. (paras. 299-301) The report stated that the right to remain silent must be explained to children clearly and is taking root in Japan. This implies that other rights to self expression are also fully guaranteed and exercised. However, there are many rights which are not fully explained to juveniles, and other rights which are infringed or violated through the summary indictment system and the lack of legal attendance through all levels of crime.

### **B. The Right to Legal Representation**

Article 40 of the Convention and Articles 7 and 15 of the Beijing guarantee the right to have legal representatives. While this right is guaranteed in principle in Japan, the actual rate of its exercise is low. Juveniles are informed of the right to legal representation when they are detained, pending referral to family court. A juvenile is asked whether or not he or she wishes for a legal attendant, and one is provided in principle if the child asks for it. However the cost of representation causes many children to fail to exercise their right. The Fukuoka Lawyers Association responded by having a roster of lawyers on call, and when juveniles are told of their right to legal representation, a judge arranges for a legal attendant, free of charge for a first meeting, then the choice of getting their own lawyer for the usual legal fees. Article 22-3 of the revised Juvenile Law only requires the provision of a court-appointed lawyer when the public prosecutors are involved.

Elsewhere in this report it has been mentioned that courts must appoint legal attendants for children free of charge, in cases of prosecutor involvement when the children do not already have legal representation. However courts do not actually have funds for this purpose. The fees for free

legal attendants are paid by Japan Legal Aid Association (JLAA) and sometimes reduced or exempted in other cases, or fees may be paid in installments at the request of juveniles, their guardians or the Family Courts. However, there is no system that government pays for legal representation for every case, thus causing juveniles and their guardians to hesitate because of the expense.

In the Juvenile Law Revision Legislative Council in 1998, the matter of legal attendants was discussed. A public attendant system was also proposed in the Judicial System Reform Plan (March 19, 2002). However, the Supreme Court and the Ministry of Justice came out against the creation of a system of court-appointed free legal attendants. At the same time JLAA is under threat of dissolution “to make way for a better system.” The existing system has great flaws, but at least it exists. Japan faces risks eliminating all recourses for children who cannot pay legal fees.

International human rights standards indicate that attendants for juveniles do not have to be limited to lawyers or even trained legal staff. Many kinds of attendants should be allowed to function at the request of the juvenile, at lower cost or even as volunteers.

### **C. Expert training**

As stated in the Beijing Rules, those who exercise discretion for the juveniles shall be specially trained and qualified. Basic Report pointed out that opportunities for vocational trainings, in particular about juvenile justice for the trainees to be qualified as judges, prosecutors, and lawyers are definitely insufficient.

### **D. Family court probation officers**

Family Court Probation Officers, though they are involved in judicial administration, they are professionals of psychology, sociology, and social welfare. Therefore they bear the burden of case work in tune with judicial aspects. However, it is ironic that court probation officers tend to take Juvenile Law article seriously and insist tough disposition, because of the hierarchy system and lack of human resources. In addition, their training will be uniformed to the all court employees, this will bring about to reduce their professionalism as case workers.

## **Chapter 144 The revised Juvenile Law and detention**

Under the revised Juvenile Law detention can be extended up to 8 weeks, and an appeal system against detention has been established. This is a violation of Human Rights Law stated as juvenile detention as a last resort and shorten the duration of detention.

The Family Bureau of General Secretariat of the Supreme Courts says that from April 2001 to March 2002 there were 40 cases in which juveniles were put into detention for more than 4 weeks. Of the 40 cases, 2 cases were given detention for more than 7 weeks before courts proceeded with hearings after refusing further extensions. Extended detentions of more than 8 weeks may become possible in future revisions of the law.

As explained before, past cases in which the establishment of facts became difficult usually reflected problems in the police investigation. The period of detention before a hearing has been kept at 4 weeks in principle. This has been determined to be the most effective period of time for police to complete their investigation and the maximum effective time for keeping a child in custody. According to Zenshiho survey, in one case where the suspect pleaded not guilty, the detention period was extended to 84 days, because the schedule of the attendant lawyer was so busy that the court schedule could not be fitted in, resulting in the prolonged period of detention.

Ensuring education for junior high school students during detention has become an issue, as the detention periods lengthen. While the Second Report of Japan says that computers are being provided in all Juvenile Classification Homes (para. 312), the reality is that they are mainly used for self-study to learn Kanji characters. Government Report 2 also mentions interviews with the teachers at the school that the juveniles attended (para. 296). However, most of the interviews with teachers are cursory, consisting of 15~20 minute interviews under the supervision of officers of the Juvenile Classification Home. This is called a learning opportunity. But it is very rare that teachers give juveniles instruction or assignments for self-study, or check assignments. Although living guidance or guidance for the future is given in the homes, a system in guaranteeing and providing the ability to exercise the right to education has not been established. At the very least, professional teachers should be posted in each Juvenile Classification Home to assure learning opportunities for juveniles as stated in Article 38 of the UN Rules for Protection of Juvenile Deprived of their Liberty.

## Chapter 145 The rights of the victim

The rights of the victim in Japan have been little considered until recently, but some of these rights have received attention in the revision of the Juvenile Law. These are (1) the right for the victim or the victim's family's evidence or accounts to be heard at trials or hearings through the involvement of a public prosecutor and (2) the right of the victim or victim's family to view the records of the suspect or convicted juvenile and (3) the right of the victim or victim's family to be notified of the results of a hearing or trial.

These points alone fail to allow the full rights of the victim to be exercised. There is still no support for victims of crime or their families. The three provisions are frequently not exercised by victims themselves or their families.

Supporting victims does not necessarily mean increasing punishments of juvenile criminals. In juvenile crime, victim's rights should be supported while providing the offender chances to reform. More than anything else victims want to live in safe, crime free areas, and offenders need to be able to return to society and live free from harassment and the label of criminal. The two desires are not opposed, but are one and the same. The government efforts may be lagging in this respect, but civil rights groups are attempting to encourage the dialog between victims and their representatives and criminals and their representatives in order to construct a society where everyone can live together.

## **Chapter 146 The issues and problems in need of change**

The revised Juvenile Law shows a lack of basic understanding of juveniles and is against the international standard of human rights, by allowing and even aiding the trend toward criminalization of juvenile misdemeanors and heavier punishments.

It is the responsibility of society to prove to juveniles that there are people in society who want to offer them a helping hand. They need to be educated so that they may understand that it is not true that society is always cold and persecuting them. Juveniles have the right to receive education, so that in the future they may rejoin society as functioning members. The Juvenile Justice system must provide rehabilitative treatment for children who have been rejected by their families, other adults, and society, or been abused. If such juveniles are punished more severely they will become even more distrustful of people and society, more anti-social and less able to become fully functioning members of society.

In spite of the government's statements implying that there are no conflicts between the Juvenile Justice System and international standards of human rights, a panic reaction to a few exceptional juvenile crimes caused Japanese society to revise Juvenile Law, removing responsibility for crime from society as a whole and placing it instead on the juvenile, resulting in a steady erosion of the rights of the child. This is an inexcusable trend, and runs contrary to Japan's duties as a country signatory to the Convention of the Rights of the Child. Unless steps are taken promptly, Japan risks violation of many terms of the Convention.

First, the government should address this problem by encouraging courts not to put into practice aspects of the revised Juvenile Law which violate terms of the International Human Rights Law, such as lowering the age of criminal liability, handing down life-imprisonment and death sentences to juveniles under the age of 16, and sending serious cases to adult courts as a general practice instead of in only exceptional cases.

Second, reviews and the establishment of new standards should be carried out to make a healthier Family Court System. This should include a review of involving prosecutors in juvenile cases and the use of the discretionary collegiate system. Increased specialization of judges, court workers and lawyers in the field of juvenile law should be pursued more actively, including specialist training at the academic level, not merely periodic seminars and occasional courses. Reducing the involvement of prosecutors and the collegiate system would allow the juvenile justice procedure to move back to

educational priorities and away from the high priority currently given to the establishment of criminal liability which over-values the act of delinquency and its punishment. Specialist judges could be educated, and the number of Family Court Probation Officers will be increased along with enough training.

Third, to avoid the use of imprisonment as punishment, reform of juveniles at the stage of the Family Court procedure should be promoted, instead of attempting to lower the social burden of responsibility by sending juveniles to reformatories or to adult court for serious crimes. All those concerned with the administration of justice for juveniles and adults in society should think seriously how they should act and what they should do to truly reform juveniles. To avoid imprisonment a system to reform juveniles positively should be developed, and it should be put into action from the moment of arrest and continue throughout the treatment of the juvenile by the Justice System.

The staff needed for this kind of work cannot be provided by the government, which is at this point attempting to reduce staff all through the civil service, including court systems. Rather than expect more court staff to be hired, other social resources and regional volunteers should be put to use. This idea is in line with Beijing rules article 25, which suggests that an effective way to create a system to really help juveniles is to not leave it up to just police and court systems to catch and admonish juveniles, but to allow other agents to provide legal aid and assistance to children, open up dialogues between victims and criminals, provide shelters and other means of rehabilitation, and be active in many other fields related to Juvenile Justice.

Fourth, simplified treatment of cases of petty crimes and misdemeanors should be reviewed, and all cases should be actually sent to family court for proper hearings. The hearings are not only for the sake of society, they are for the sake of the juvenile to exercise his or her rights to fair trial and to express his or her opinions. To meet the need for protection of juveniles and realize the ideal of juvenile law to educate juveniles it is necessary to recognize the need to protect the juvenile's rights by allowing the Family Court hearings to proceed, allowing the court to investigate even minor cases more deeply and provide protective measures if needed. By taking effective measures with juveniles in trouble at an earlier stage, serious cases that may happen through neglect can be prevented. We wish to advise the government that it should (1) adhere to the principle of the system under which all cases of juvenile crime are sent to the family court, (2) review the treatment of coping with minor cases in simplified ways, (3) post more staff to each institution, and (4) investigate and judge minor cases more precisely in the spirit of pursuing the welfare of juveniles.

Fifth, a system for making appeals for all juvenile justice procedures and sentences should be established. Juveniles should be able to appeal against transferring their cases to adult criminal court, and appeal against the risk of double jeopardy even in cases where the prosecutors are not involved. The inability to appeal a criminal court transfer violates a child's right to the welfare aspects of the

Family Court system.

Sixth, a more substantial system of legal attendants and representatives should be established, so that all juveniles may secure their full right to representation and legal assistance throughout juvenile proceedings. It is necessary that juveniles understand proceedings, state their opinions fully, and understand their punishment. Juveniles should secure their right fully so that the juvenile proceedings have an educational role. Hearings should give juveniles an opportunity to reflect on their way of life and grow up through the process. They should be given legal representation if they cannot afford it themselves, and enthusiastic lawyers who deeply understand juvenile law and work for juveniles should be trained for this purpose. To promote such a system, rules should be changed so that not only lawyers but also well-informed-people from the private sector can become attendants. For example, every prefecture should build an attendant center with financial aid from the government. A system should be made in which staff including lawyers, experts on child development, businessmen, social workers, and councilors are registered, trained, and appointed as attendants at the request of juveniles and the courts. For cases of domestic violence and neglect, cases where juveniles are assailants and parents are victims, or parents who abandon bringing up children and don't play the role of guardians, and when there is no contest of the act of delinquency, the fees for attendants under a system such as this could easily be paid by the government. Children themselves could become involved; it could also be made possible for student volunteers of the same age as young criminals to assist attendants from the perspective of the juveniles.

Seventh, pre-trial detention of young juveniles should be forbidden except in serious cases, and detention when given should be for as short a time as possible. International standards of human rights prescribes that detention of juveniles should be for a minimum length, and 8 week periods of detention of junior high school and senior high school students are too long. The postponement of hearings should no longer be permitted at the convenience of the court, the attendant or the prosecutor. Terms of pre-trial detention should be used for the education of the child, doled out sparingly and not wastefully extended. As originally stated, the detention of juveniles should be no more than 4 weeks as stipulated by the law before the revision. More effort is necessary to keep the length of the detention of juveniles to the minimum length in serious and complex cases. Education should be provided within detention, posting qualified teachers for junior high school education at the Juvenile Classification homes and other facilities where juveniles are detained, so that they may secure opportunities to study while under detention.

**Part 4 The Issues Concerning Disposition Stage**



## **Chapter 147 Procedures surrounding criminal court transfers**

Within the Japanese judicial system, there are two possible outcomes for juveniles who are under the continuing state's action after completing the Family Court procedures. First, a juvenile may be transferred to criminal procedures by the Family Court. Second, the Family Court may rule protective dispositions of juveniles who are committed to a juvenile training school as treatment in institution or who are placed probation under the supervision of the Supervision Office as treatment in society.

In the former case, the juvenile is dealt with using criminal procedure similar to those for adults, though of the distinct differences between the needs and states of adults and juveniles, indicating the need for a different procedure for children. In the latter case a juvenile is treated within protective dispositions, with a clear effort at positive social help to aid the juvenile's return to society and with clear protection of the juvenile's rights.

However, in Japan, in both cases, there are crucial issues which contravene international legal standards.

### **A. The term and place of detention of juveniles**

There is nothing written in Government Report that a juvenile may be detained from transferring to criminal court to completing criminal trial. Here lie many problems. So far a juvenile who is detained remains so, even if the case is transferred to adult court at a much later date. The question of bail might naturally arise. In 2001, according to annual judicial statistics, 73,473 defendants were detained, and of these, only 9561 were allowed bail. (Adults and juveniles; in Japan, bail is only allowed after formal indictment. Criminal Procedure Code article 88). Data for juveniles alone is not available, but we can assume from these statistics that there were numerous unnecessary detentions.

In principle, the period of detention between transfer to adult court and the formal indictment is 10 days. (Time is limited under the Criminal Procedure Code article 208. Juvenile Law article 48 clause 4 states that the term may not be extended at the pre-indictment stage.) After the formal indictment, a juvenile may be detained for 2 months at initial ruling, and the term may be extended every 1 month with no limits. When a child is put on trial in the adult court system, they are often unaware,

or are not informed of many of the procedures including the number of hearings, their dates, and the intervals between hearings. They may often be waiting for a few months or even a few years until their trials complete. Article 48 of the Juvenile Law states that the detention of juveniles should be avoided if possible, but in spite of this stipulation juveniles are often detained, and when awaiting trial in adult courts juveniles are often sent to temporary prison facilities, such as a custody rooms in police stations (Daiyo-Kangoku), receiving the same services as adults. These practices run contrary to Article 37 of the Convention and Article 13 of the Beijing Rules, which say that detention should be the last resort and should be as short as possible. Many localities have established facilities for the detention of juveniles awaiting family court hearings. These are Juvenile classification homes. However, children awaiting trial in adult court come under the adult crime law, and are therefore not sent to such facilities, though they would be more appropriate in many ways. Also, juveniles awaiting trial are prevented from meeting family members and are not allowed contact with the outside world. This is contrary to Article 37(c) of the Convention.

## **B. Retraction of special consideration for parole**

The Second report of Japan touches on Articles 51 and 58 of the revised Juvenile Law in paragraph 314. Article 58 was revised to forbid juveniles convicted of serious crimes in adult court and sentenced to life imprisonment, or the death penalty commuted to life imprisonment from being considered for parole early in their sentences. Originally parole was considered after a juvenile had served 7 years for a life sentence and 10 years for a commuted death sentence. The revision of this point was made without rational explanation as to why the original law, in place since 1948, required change. No explanation is given in the Second Report of Japan.

## **Chapter 148 Treatment in juvenile training school**

### **A. The trend towards long-term incarceration and the increased use of juvenile training schools**

Treatment at juvenile training school is administered by the Ministry of Justice based on the sentencing of the family court, which defines the needs of the juvenile and determines how long term and what form of treatment is to be given. Originally, the length of the detention was determined according to how much protection, and how much time the juvenile needed to change his or her life and thinking, and to prepare to return to society. However, in recent years, determinations of terms and types of treatment are more likely to be made according to the amount of physical or financial damage the juvenile caused. This is especially true when comparing with cases that are transferred to the criminal court, through which longer detentions (sometimes more than 5 years) may be handed down. The number of juveniles sent to juvenile training schools is increasing year by year as mentioned charts in Paragraph 307 of the Second Report of Japan.

Article 37 of the Convention states clearly that detention should be considered as a last resort and for the shortest appropriate period of time, and Article 19 of the Beijing Rules further states that the shortest appropriate time may also mean the minimum necessary period. Articles 1 and 2 of the UN Rules for the Protection of Juveniles Deprived of Liberty stress the same “last resort” and also mention the need for strict observance of the Beijing Rules and the least restriction of liberty. International documents are consistent on these two points. In Japan, juvenile justice practices are contrary to international conventions.

### **B. Inexistence of third-party observation and appeals within the juvenile training school**

The Second report of Japan mentions monitoring systems in paragraph 310. In the Juvenile Training School Law, Article 3-2 states that the “Minister of Justice maintains the juvenile training school and has responsibility to supervise thoroughly,” but while Prison Law and the Prison Law Enforcement Regulations (adult prisons) require regular inspections, there is no regulation defining regular inspections or third party observation for juvenile institutions. The Second Report of Japan says that juvenile training schools allow juveniles to state dissatisfaction and register complaints and appeals during scheduled interviews with the principal. However, Article 4 of the Juvenile Training School Law Enforcement Regulation actually doesn’t guarantee the right of juveniles to make

complaints or appeals at any time. There are no legal rules in Japan providing the right of juveniles to appeal in terms of treatment or complain. The Second report of Japan doesn't touch on the extent to which Article 4 is used or the detailed numbers of complaints and appeals and the result of these efforts. We feel that the unequal condition between juveniles and schools makes juveniles not to complain or appeal inappropriate treatment (Basic Report 46, 47). Recently, an adult prisoner died due to excessive disciplinary measurement in Nagoya Prison so that we found complaining system has not worked.

The weakness in the present system lies in the fact that there is no recognition of the need of a third party monitoring system to keep track of the actual exercise of rights such as the internal process for juvenile complaints and representation by legal counsel. Furthermore, action is not being taken to use the systems which are in place, such as regular reports, collection and publication of statistics and inspections. In the Concluding Observations of 1998, CRC said specifically that "it is possible to consider creating a system to monitor systems such as appeals, complaints and representation to correspond with United Nations regulations," This recommendation was never acted on, and existing systems were only slightly improved.

### **C. Other problems in the treatment of juveniles at juvenile training schools**

There are many problems with the treatments at the juvenile training schools. (See Basic Report 46.47)

Firstly, juvenile training schools are very overcrowded, a fact not mentioned in the Second Report of Japan. To increase accommodation the penal system has modified rooms meant for four juveniles in one room to six or seven juveniles together. Other problems due to overcrowding have been left to the staff, depending entirely on their flexibility, enthusiasm and willingness to work overtime. However, the stress of overcrowded accommodation places heavy burdens on juveniles and the institution staff, and has led to a number of unpleasant incidents, including violence towards inmates.

The working conditions of the staff, too, are far from satisfactory. Though the number of the juveniles is increasing, the number of staff remains the same. However, it is extremely difficult for the staff to create a sense of unified purpose, and almost impossible for them to request improvement of their working conditions and rights, and great effort is demanded to make the attempt. Workers become frustrated and some become mentally unstable.

Secondly, Paragraph 296 of the Second Report of Japan states that at juvenile training schools inmates may work for qualifications useful for future occupations. This is supposed to build their

confidence. However, the only qualifications they can actually acquire at present are very limited: “Handler of Dangerous Substances,” “Small Vehicle Construction Machine Operator,” “The Abacus User Grade,” “Word Processing Skill,” “Home Helper (various grades),” “Sales Person,” “Bookkeeping,” and so on. In theory these are useful skills, but their use on release is not guaranteed. There is a need to update and rationalize the qualifications programs at juvenile training schools, so that the qualifications acquired have real value in the outside world. There must be clearer guarantees that all juveniles may have equal access to such programs.

Thirdly, Paragraph 150 of the Second Report of Japan elucidates the Juvenile Training School Law Regulation that the use of personal goods is permitted as long as there is no violation of school regulations and sanitation. Administration of this rule is left up to the discretionary judgment of the individual institutions, but it is not clear as to whether the article is being adhered to. Article 16 of the Convention recognizes privacy as right. Article 35 of the UN Rules Protection of Juveniles Deprived of Liberty elucidates this to include the possession of private property as a basic element. Article 36 states also the right to wear sufficient clothes. In 1998, CRC recommended that greater rights to privacy should be secured at institutions for the treatment of juvenile delinquents, and that there should be legislation created to define and guarantee these rights, but no action was taken.

Fourthly, there are many problems regarding juveniles meeting with family members, mentioned in Paragraph 179 of the Second Report of Japan. Article 37(c) of the Convention states that “every child deprived of liberty shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.” In practice, however, juveniles at juvenile training schools may meet family members only on weekdays and office hours and only at other times by special exception. In practice these visits are regulated to 30 minutes once a month with staff attendance. There is no adherence to Article 59 of the UN Rules for the Protection of Juveniles Deprived of Liberty, which prescribes visits or contact with the family once a week at least, and Article 60, which allows unlimited communication, and Article 61, which further suggests the free use of letters and telephones.

Fifthly, the Second Report of Japan doesn’t touch on what action is taken regarding the treatment of juveniles at the juvenile training school and their future place in society. When released from school on parole, inmates are generally placed under supervision. The institution must provide assistance to the juvenile to allow him or her to take up a new life in society after release from the school. Supported parole is indispensable for the juveniles to achieve a smooth return to society.

At present, the system is extremely weak in this area. Inmates thus fail to be “treated with dignity” as stated in Articles 37 and 40 of the Convention on the Rights of the Child articles 37, and Beijing Rules and UN Rules for the Protection of Juveniles Deprived of Liberty.

## **Chapter 149 Community based treatment**

In fact Japanese Juvenile Law depends almost entirely on probation under the supervision of the Supervision Office and has not developed a system allowing children to be treated while living in the community or in halfway houses. Various local projects have been attempted, but these have not been taken up nationally or made into national law, as suggested by Article 18 of the Beijing Rules. The Beijing Rules propose that physical restrictions should be considered the minimum and last means, and that alternatives should be found to reformatory. (Articles 37 and 40) In its Concluding Observations of 1998, CRC requested specifically that other forms of treatment should be developed as alternatives to the restraint of physical freedom but the Second Report of Japan makes no comment on that.

### **A. The limited options of the community based treatment**

The development of non-institutional treatments in Japan has lagged behind the development of various punishments and stricter sentencing. Probation is the only clearly developed alternative to reform education. Probation rules and procedures for juveniles are based on the Law for the punishment and Rehabilitation of Criminals enacted in 1949. Probation with supervision is limited, and does not tend to develop into a fully supportive, educative procedure.

Juveniles under the age of 18 may be protected by the child welfare law. A juvenile aged 18 or over is only given the alternative of simple supervised probation or commitment to a Juvenile Training School. This lack of flexibility is a weakness of the system, which should be addressed. Rather than separating probation and institutions, appropriate combinations should be arranged, to the benefit of both systems and the juvenile. For example, a program could be organized in which a juvenile stays at home during the week, going to school or work during the day, and spend weekends at a reform institution.

Community based treatments may be linked to institutional treatments from the first, as well as perform roles as transition stages from institutions to society. Specifically, more protective reformatories and self-support homes should be considered for foundation or improvement. In addition, we need to examine facilities such as group homes for the drug addicts. Particularly, it is essential to promote use of private volunteers or NGOs, which are expected to play an important role in the creation of new social procedures, diversify social treatment and increase the cooperation of

the community in building up such institutions as group homes and halfway houses. Also, state and local agencies have to make financial measurement.

### **B. Lack of sufficient probation staff**

Probation and parole are the only community based treatments offered by the government to juvenile offenders. Probation and parole fail to develop into useful educative and reformatory programs in the main because of the lack of sufficient staff and the absence of training for staff.

Probation is operated by probation officers as specialist and voluntary probation workers. The number of volunteers to be recruited is set at 52,500, though in fact only about 48,700 positions are filled. Volunteers offer their time as ordinary citizens and are not necessarily civil servants. They volunteer as probation workers and offer their services through the justice department. The Office of the Protective Custodians for Reform (Probation Office) reported that in 2000 there were only 1,341 probation officers, a number recognized as drastically low by the Board of Correction and Protection. This fact has been pointed out for decades. In spite of this, the overall government policy of reducing the number of civil servants throughout the government has resulted in a reduction of even this low number. The quality of probation officers has been reduced, as officers leave by attrition and new officers are permitted to offer services without any training in juvenile justice, resulting in the lowered specialization in this field.

This small number of probation officers and voluntary probation workers take charge of the nearly 20,000 adults who receive probation or supervised parole, in addition to the over 50,000 juveniles given probation, and the over 5,000 juveniles who are released on parole from the reformatories annually. A greater number of both of probation officers and voluntary probation workers need to be recruited as a standard practice; greater specialization in the supervisory staff and the voluntary staff could be achieved through aptitude testing, defining selection criteria clearly, providing systematized training, and improving the pay and conditions of the support staff.

## **Chapter 150 The issues and problems in need of change**

### **A. Issues concerning the treatment of children during and after criminal trials**

First, the detention of a child who has been sent to adult court by the family court must not only be for the shortest possible period, but also if such detention is determined to be unavoidable, it must take place in a secure facility for juveniles. The pace of adult court trials involving children must be particularly fast.

The Convention on the Rights of the Child, the Beijing Rules and the UN Rules for the Protection of Juveniles Deprived of Liberty unite in requesting and requiring that children be arrested and detained as a last resort and for the shortest time possible. This recognizes the extremely negative effects of such treatment of children on their future lives and on the citizenry as a whole. The careful application of existing Japanese laws would result in conformation with international standards in the treatment of children, but it is imperative that appropriate structures and facilities be created to adequately put existing rules and laws into effect.

Second, Japan must consider the reinstatement of the special parole conditions for children who have been convicted and sentenced to terms in prison in adult jails, which was removed from the law in the 2000 revision. This could be done when the law comes up for review three years from now.

This revocation of parole for juveniles under certain conditions is a prime example of the punitive and condemnatory nature of the Juvenile Law as revised in 2000. There was no reason for the change in this particular rule, and serves only to delay the juvenile's successful return to society. The revocation of this rule would bring Japan more into conformation with Article 39 of the Convention, which advocates the full support of the child's mental and physical recovery and earliest possible return to society.

### **B. Regarding juvenile training schools**

First, as part of the effort to make reform of treatment of juveniles in society, the number of sentences to juvenile training school should be reduced, and the terms of these sentences should be shortened. This should be done in line with international standards of human rights and the treatment of juvenile inmates.



As has been stated repeatedly in this report, international standards of the treatment of juvenile inmates without exception require that confinement of any kind should be for the shortest time possible and as a last resort. This standard applies across the board, to all situations—pre-hearing, pre-trial, the period between the two courts, and all forms of sentencing. One issue is that this standard is not fully applied in Japan; another issue is the overcrowding of Juvenile Training Schools because of the over-use of the practice of sending juveniles there, resulting in the lowering of the quality of these facilities, not only for the inmates but for the workers and officers involved. Immediate improvement in this field would improve conditions not only within the institutions, but would make the return to society much smoother for the children.

Second, efforts must be made to put into effect the recommendation of the Concluding Observations of 1998; a system for making appeals on treatment to Juvenile Training Schools should be created. This system should be run with the support of a third party observer system, which would see that appeals are given the attention they deserve, and that children are aware of the existence of the system and their right to use it.

Article 12 of the Convention states that children must be guaranteed the right of expression of their opinions, and this guarantee would be easy to put into effect in this case with the creation of a third-party observer system. Furthermore, it is one of the conditions under which a juvenile could be guaranteed a review of his or her sentence, receive appropriate conditions for release and parole, and return to society when the sentence is deemed to have served its purpose.

Third, as for the overcrowded institutions, increasing staff and improvement of institutions is needed as well as institutionalization as a last resort and for the shortest appropriate period of time thoroughly. As mentioned above, overcrowd leads to many bad influences such as getting worse of quality of treatment.

Fourth, it is necessary to secure juveniles' equal access to occupation qualification programs and to reconsider the programs to update.

Fifth, as for the protection of privacy, the additional measurements must be taken including legislation. Definitely, the contents in UN Rules for the Protection of Juveniles Deprived of Liberty must be realized. The attitude of Government that neglects Committee's recommendation must be in question.

Sixth, the contentions in UN Rules for the Protection of Juveniles Deprived of Liberty that provides juveniles meeting with family members must be realized. Article 9 of the Convention generally provides child's integration with family, and Article 37(c) particularly provides the rights of child

deprived of liberty to access to family members. Articles 59, 60 and 61 of the UN Rules for the Protection of Juveniles Deprived of Liberty must be realized. And additional positive measurement must be considered for financial aid to family members meeting juvenile in institution and so.

Seventh, during institutional treatment measurement must be taken to realize the smooth shift to treatment in society and the achievement of certain juvenile's rehabilitation. It is prerequisite for juvenile's rehabilitation to provide juveniles social aid for future lives. For that, every school must have social workers who adjust environment of lives of juveniles.

### **C. Community Based Treatments**

First, for variety of treatment in society, development of halfway treatment from institution to society must be considered. Corresponding to variety of needs of juveniles, various treatments and institutions must be secured.

Second, much effort must be made for securing variety of means of treatment in society promoting cooperation to community. For variety of treatment, government must not work solely, but utilize voluntary citizens or NGOs and cooperate with community. Financial measurement is also needed.

Third, measurement is needed for increasing of, selecting and training of, and wage increasing of probation officers and voluntary probation workers. We appreciate various local efforts. However, from the viewpoint of juveniles under probation, the conditions are insufficient. As mentioned above, it is necessary to develop programs of treatment in society as well as to improve the system of probation itself.

[Reference] Basic Reports 46 and 47.