

NGO Report on the Convention on the Right of the Child  
(Japan)

**Additional Information from NGOs  
in the light of the developments since the  
submission of the NGO report as well as the  
written replies of the Government of Japan**

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**Committee for NGO Reporting on the CRC (JAPAN)**

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## **Introduction**

The present Additional Information was prepared to complement our NGO report, *Implementation of the CRC in Japan: Perspectives of NGOs on the Fourth and Fifth Periodic Report of Japan*, which was prepared and submitted to the CRC Committee by the Committee for NGO Reporting on the CRC (JAPAN) in October 2017, in the light of the list of issues issued by the CRC Committee (February 2018) concerning the 4th and 5th periodic report of Japan as well as the written replies to it by the Government of Japan (made public in English on 27 November 2018, except the Annex III, and in Japanese on 17 December 2018).

In the meantime, major NGOs in Japan had exchanges of views in advance of the preparation of the Government's written replies with some ministries, including the Ministry of Foreign Affairs, the Ministry of Health, Labour and Welfare, the Ministry of Justice, the Ministry of Education and Science and the Cabinet Office. Although the open attitude on the part of the Government to the dialogue with civil society, it is unfortunate that the written replies do not adequately answer the Committee's questions on many points, which makes it difficult to present an appropriate picture of the reality of children living in Japan (as was the case for the State Party's report itself).

The present Additional Information is intended to contribute to more constructive and effective dialogue between the CRC Committee and the delegation of Japan, including by pointing out major problems in the Government's written replies as well as covering the new developments after the submission of our NGO report to the extent possible.

## **Positive Aspects**

The positive measures taken by Japan since the previous consideration by the CRC Committee include the following:

- (a) The amendments to the Child Welfare Act in 2016, which incorporated the references to the Convention and some of its principles;
- (b) The amendments to the Civil Code in June 2018, which made the minimum age of marriage the same for both boys and girls (18 years of age) and scheduled to come into force in April 2022;
- (c) The amendments to the Civil Code in 2013, which eliminated the discrimination against children born out of wedlock in terms of inheritance;
- (d) The adoption of a series of pieces of anti-discrimination legislation in terms of persons with disabilities, hate speech against persons of foreign origin and Buraku discrimination;
- (e) Responses to violence against children, including awareness-raising activities by the Ministry of Health, Labour and Welfare as well as

participation of global initiatives;

- (f) The amendments to the Penal Code in 2017 with regard to sexual violence against children;
- (g) The formulation of the New Visions of Alternative Care in 2017; and,
- (h) The adoption of the Act on Securing Opportunities for Education Equivalent to Formal Education at the Compulsory Level in 2017.

## **Major Cross-Cutting Issues Affecting Children’s Rights**

### **A. Sufficient Attention Has Not Been Paid to Children’s Rights in Responses to the Great East Japan Earthquake and the Accidents at the Fukushima Nuclear Power Plants**

See III-(5) and VIII-(1) of the present Additional Information.

### **B. Sufficient Measures Have Not Been Taken to Deal with Child Poverty**

See VII-(4) of the present Additional Information.

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

### **(1) The Limited Impact of the Revised Child Welfare Act Indicates the Necessity of the Adoption of a Comprehensive Law on the Rights of the Child**

As is indicated in our NGO Report (I-1), while the amendments to the Child Welfare Act in 2016 was a positive step, the impact of the amendments is still limited to the field of child welfare (see the Government’s written replies, paras. 8-9), in spite of the provision of Article 3 of the revised act, which states that “[t]he provisions of the preceding two Articles [Articles 1 and 2] constitute the basic philosophy to guarantee children’s welfare and this philosophy shall be consistently respected in enforcing all laws and regulations on children”. The Act on Promotion of Development and Support for Children and Young People and other pieces of legislation, indicated in the Government’s written replies (paras. 3-4), are not intended to implement the principles and provisions of the Convention in a comprehensive manner.

The problems raised in our NGO Report and the present Additional Information clearly indicate that the principles and provisions of the Convention are not adequately incorporated in legislation, policy-making and administrative practices in all field. Due to the lack of national legislation covering the rights of the child in a comprehensive manner, national courts have remained very reluctant to apply the principles and provisions of the Convention (see NGO Report I-2).

## (2) Need to Adopt Comprehensive Rights-Based Policies on Children and Corresponding Coordinating Bodies

As is indicated in our NGO Report (I-3), the Outline for the Promotion of Development and Support for Children and Young People (2016) is not a comprehensive national plan of action based on the rights of the child, and there is no mechanisms for the comprehensive coordination of the measures concerning the Convention and children's rights from a rights-based perspective. While the Government plans to organize a panel of experts for the evaluation of the implementation of the Outline, sufficient measures have not been taken to systematically listen to and reflect the views of children and young people themselves as well as civil society organizations working for their rights in the development, implementation and review of this kind of policies.

## (3) The Government Is Still Reluctant to Establish Independent Mechanisms to Monitor and Protect Human Rights / Children's Rights

With regard to the establishment of independent national human rights institutions, the Government has consistently replied that it is being "discussed" (Government's Written Replies, para 11) to other human rights treaty bodies, receiving repeated criticism to the effect that until when the Government will continue to "discuss" the matter. After Japan went through the third UPR (universal periodic review) in November 2017, a recommendation was issued to Japan to establish "an independent national human rights institution and another institution to advocate the rights of the child" (para. 161.48 of the Report of the Working Group on the Universal Periodic Review on Japan); while the Government promised to follow up the former part of the recommendation, it refused to do so with regard to its latter part by stating, "Although Japan continues its efforts to ensure children's rights, Japan currently does not have any plans to establish "another institution to advocate the rights of the child". Given the fact that ombudspersons for children or equivalent bodies have been set up in more than 30 municipalities (as of September 2018), the Government should not exclude the possibility of establishing a separate body to advocate the rights of the child from the outset.

On the other hand, the Ministry of Health, Labour and Welfare started the initiative to develop "mechanisms to advocate the rights [of the child] by making the use of prefectural child welfare councils", which is a step forward, although it is limited to the field of child welfare. The Ministry should make efforts to develop effective mechanisms, including by referring to the CRC Committee's General Comment No. 2.

#### (4) Other Issues That Should Be Taken Up in This Cluster

In addition to the above, the Committee is expected to take up, among others, the issues concerning the allocation of resources, including human resources (e.g. NGO Report I-5), and the dissemination of the Convention and the Committee's recommendations (NGO Report I-8).

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##### ***Recommendations***

1. The Government should initiate a comprehensive review of the legislation on the basis of a rights-based approach as well as the enactment of a Fundamental Law on the Rights of the Child (tentative title), which is to be the foundation of the comprehensive promotion and protection of children's rights.
2. The Government should formulate a comprehensive rights-based national plan of action for children of all ages, including specific targets, timeframe as well as indicators and procedures for evaluation, ensuring full participation of children and civil society. For this purpose, the "child rights impact assessment" procedures should be introduced as well.
3. On the basis of the above-mentioned plan of action, the Government should establish a policy coordination body represented by all the public authorities involved in the implementation of the Convention as well as representatives of civil society and NGOs concerned.
4. In line with the repeated recommendations by human rights treaty bodies, the Government should promptly move to establish an independent national human rights institution in accordance with the Paris Principles, along with measures to support existing local ombudspersons for children or

equivalent bodies and to promote the establishment of such bodies in the municipalities that have not yet done so. In developing mechanisms to advocate the rights [of the child] by making the use of prefectural child welfare councils, effort should be made to make the mechanisms more effective, including in terms of their independence, adequate powers to listen to children and to conduct inquiries and child-friendly access, in the light the Paris Principles and the Committee's General Comment No. 2.

*(See also the recommendations in our NGO report.)*

## **II. Definition of the Child**

### **(1) The Juvenile Act Should Continue to Be Applied to Those below the Age of 20**

As is reported in the Government's written replies (para. 129), the amendments to the Civil Code in June 2018 lowered the age of majority from 20 to 18 and the minimum age of marriage were set at 18 for both boys and girls. (These provisions are to come into force in April 2022.)

While the age of the application of the Juvenile Act is an issue separate from the issues concerning the age of majority or the minimum age of marriage, the amendments to the Civil Code heightened the possibility that the upper age limit of the application of the Juvenile Act be lowered to 18 years of age. The issue is currently under discussion at the Working Group on the Juvenile Act and the Penal Legislation (with regard to the age of the juvenile and the treatment of criminals), established under the Legislative Council of the Ministry of Justice. The Government (the Ministry of Justice) has sought to lead the discussion on the premise that those who are 18 and 19 years of age should be excluded from the application of the Juvenile Act, and it is likely that the proposal will be made to that effect in the near future.

As is pointed out in our NGO Report (II-1), however, it is appropriate to apply the Juvenile Act, which is based on the principle of protection, to young people who are 18 or 19 years old; the exclusion of this age group from the coverage of the Juvenile Act will have very negative impact on the administration of juvenile justice in Japan. The proportion of the juveniles in this age group who are subject to the family court hearings under the Juvenile Act is 31% of all the juvenile cases and, in the majority of these cases, protective measures are taken. The majority of those who are in juvenile training schools belong to this age group and the treatment there has been highly effective in promoting their rehabilitation. If they are excluded from the scope of the Juvenile Act, they will lose the benefit of special measures for their rehabilitation; the choices left for them will be either harsh punishment or non-interference, which is likely to give adverse impact on the prevention of

youth crime. For more information, see Annex to the present Additional Information concerning Juvenile Justice (prepared by Children & Law 21).

**(2) Need to Raise the Age of Sexual Consent and to Expand the Scope of Punishment against Sexual Acts Taking Advantage of Trust and Influence**

As is pointed out in our NGO Report (II-1), the explanation in the State Party's Report concerning the age of sexual consent, which is 13 (para. 28), is not accurate. On the positive side, the amendments to the Penal Code in 2017 expanded the definition of the offense of rape and eliminated differential treatment on the basis of gender; in addition, sexual intercourse and other forms of indecent act against children by persons having their custody are now criminalized under Article 179, reinforcing protection of children from certain forms of sexual abuse (see the Government's written replies, para. 128). Under the newly introduced provisions, sexual intercourse and other forms of indecent act against a person below the age of 18 will be punished, irrespective of his or her consent, if these acts have been conducted by taking advantage of the influence as a custodian over the victim. Perpetrators of such sexual abuse include teachers, sport coaches and others, however; nevertheless, if the perpetrator is not a custodian of the child, it is necessary to establish the lack of consent of the victim in order to prosecute the perpetrator, as is the case in other sexual offenses. Victims of sexual abuse by those other than custodians will continue to face difficulties in establishing that they did not give consent.

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II-1. The Upper Age for the Application of the Juvenile Act Should Not Be Lowered, While the Age of Consent Should Be Raised

***Recommendations***

1. In the light of the Committee's General Comment No. 10 (para. 38), the upper age for the application of the Juvenile Act (20 years of age) should be maintained, since there is no need to lower the setting of the age, whose purposes are different from those of the voting scheme.
2. The Government and the Diet should amend the Criminal Code further, with a view to raising the age of sexual consent to an appropriate level and to criminalizing the involvement in sexual conduct with those under 18 years of age by taking advantage of the influence over children, whether the perpetrator is the custodian of the child or in other positions (including teachers and sports coaches).

### III. General Principles

#### (1) Discrimination against Different Categories of Children and the Need to Adopt Comprehensive Anti-Discrimination Legislation

The Government states, in its written replies (para. 24), “any discriminatory treatment is already prohibited by the constitution, existing laws and regulations and the operation thereof. Therefore, the GOJ does not think that it is necessary to adopt a specific comprehensive anti-discrimination law”. The scope of the legislative acts referred to in the written replies (paras. 17-20) are limited, however; discrimination on many grounds is not explicitly and effectively prohibited. Discrimination on the basis of disability is now specifically prohibited under the Act Concerning the Promotion of the Elimination of Discrimination on the Basis of Disability, which was adopted to comply with the UN Convention on the Rights of Persons with Disabilities and came into force in April 2016. Problems remain, however, particularly in the following fields.

- There is no legislation specifically prohibiting racial and ethnic discrimination. As is pointed out in our NGO Report (III-A-1), an official survey found that a lot of foreign residents in Japan have experienced discrimination. The anti-hate speech law (the Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan), which came into force in June 2016, does not explicitly prohibit hate speech against persons affiliated in one or other ways with foreign countries and its impact is limited. (As is explained in the Government’s written replies, para. 22, hate speech is criminally sanctioned only when it is directed to “a specific individual or organization”.)
- The Act on the Promotion of the Elimination of Buraku Discrimination, which came into force in December 2016, does not specifically and effectively prohibit discrimination of Buraku people (who have historically been discriminated against on the basis of their inherited social status), although it has significance as the law of principles against discrimination.
- Although discussion has been underway concerning the legislation for the elimination of discrimination against LGBTI persons, the prospect of the adoption of such legislation is unclear at this stage. While major opposition parties have called for the explicit prohibition of discrimination on the basis of sexual orientation and gender identity, the ruling parties have indicated the intention to limit the scope of such legislation to “the promotion of understanding” about LGBTI persons. (See also our NGO Report, III-A-5.)
- In December 2018, the Government released the outline of the Bill concerning the Promotion of Measures to Realize a Society Where the Pride

of the Ainu People Is Respected. According to the reports by the *Hokkaido Shimbun*, the Bill explicitly recognize the Ainu as an indigenous people in Japan; provides for the promotion of the transmission of the Ainu culture and of the regional development through the utilization of the Ainu culture; and declares that discrimination and other forms of human rights violations on the ground of being an Ainu person are prohibited. This is a step forward, and the Government and the Diet should ensure the adoption of the Bill and move forward to the development of more effective legislation to prohibit such discrimination. (See also our NGO Report, III-A-6.)

As such, the explanations in the Government's written replies do not describe the actual situation, and the Government's argument that "it is [not] necessary to adopt a specific comprehensive anti-discrimination law" is not persuasive.

## (2) Progress and Remaining Challenges in the Elimination of Discrimination against Children Born Out of Wedlock

As is reported in our NGO Report (III-A-3), the discriminatory provision against children born out of wedlock in terms of inheritance was removed from the Civil Code in December 2013. Although five years have passed since then, there still remain other provisions and arrangements that are discriminatory against children born out of wedlock. It is still necessary to make it clear whether the child is "legitimate" or "not legitimate" in the "Relationship to the Parent(s)" column of the birth notification form and the family register (respectively under Article 49 (2)(i) and Article 13 (iv) of the Family Registration Act). During the relevant court proceedings and at the exchange of opinions with the Ministry of Justice before the abolishment of the inheritance discrimination, the Government had argued that these forms of different treatment cannot be abolished because the right to inheritance is different between legitimate children and illegitimate children". In spite of the repeal of the discriminatory provision concerning inheritance, other forms of institutional discrimination against children born out of wedlock have not been reviewed with a view to abolishing them. These forms of discrimination have been challenged in court but the Supreme Court has not accepted the plaintiffs' claims. There are persons born out of wedlock who have been forced to feel that they do not deserve to live; it is necessary to review and abolish the legal provisions and arrangements that are discriminatory against them, in order to free them from such plight. (For more information, see Annex 1 of the present Additional Information.)

## (3) Children of Korean Schools Continue to Be Subject to Discrimination

Under the "Tuition Waiver and Tuition Support Fund Program for High

School Education”, which was introduced in April 2010, students in Japanese public high schools are now exempted from paying tuitions fees, while those in Japanese private high schools as well as in foreign/ethnic schools receive public grants for enrolling these schools. As is reported in our NGO Report (VIII-11), however, only the students in Korean schools continue to be excluded from the scheme on the basis of the political and diplomatic reasons, including that “there was no progress in the abduction issue”, which is totally irrelevant to them. Since 2010, more than 5,000 students have graduated from Korean schools without receiving the grants; the total sum of the grants that should have been given to them amount to some 1,782 million yen. The issue is not about money at all but about dignity of the children attending Korean schools. In pursuit of the recovery of dignity and the correction of discrimination, Korean schools and/or their graduates have filed a series of lawsuit to claim national compensation or appropriate administrative responses; students currently in Korean schools have been involved in signature campaigns and street speeches.

Although the central Government has provided no subsidies to Korean schools, all the municipalities where Korean schools exist have provided different forms of subsidies to these schools. After the exclusion of Korean schools from the tuition waiver scheme by the central Government, however, many local governments have stopped the provision of the subsidies or decreased their sum. The central Government, moreover, has been involved in *de facto* interference with the local provision of the subsidies to Korean schools. The present policy of the Government hinders the environment for children in Korean schools to learn their language, culture and history.

In its written replies to the question about the measures to eliminate discrimination (paras. 12-13), the Government refers to such measures as the preparation and dissemination of leaflets for awareness-raising about human rights, the establishment of the Children’s Rights Hotline and the provision of multilingual hotline services. These responses are of a general nature, however, which are difficult to describe as “targeted” measures for the elimination of specific forms of discrimination. In the first place, the exclusion of Korean schools from the tuition waver scheme by the central Government itself forms the basis for the acquiescence of discrimination and hate speech against children attending Korean schools. The protection of their human rights cannot be achieved unless the central Government immediately gives up the discriminatory policy.

Human rights treaty bodies have repeatedly recommended the Government to ensure that Korean schools be covered by the tuition waiver scheme without discrimination, including by the CERD Committee (in 2010, 2014 and 2018) and the CESCR Committee (in 2013). At the Human Rights

Council, two countries (Portugal and the Democratic People’s Republic of Korea) made similar recommendations to Japan after the third UPR of Japan in 2017. With regard to the subsidies, the CERD Committee also recommended Japan “to invite local governments to resume or maintain the provision of subsidies to Korean schools” in 2014.

#### (4) Sufficient Attention Is Not Paid to the Best Interests of the Child in Immigration Procedures

See IX-(1) of the present Additional Information (Separation of Children from Their Parents as a Result of Detention and Deportation of Parents in Irregular Situations)

#### (5) Adequate Support Should Be Provided to Children Still Affected by the Great East Japan Earthquake and the Fukushima Nuclear Accidents for Their Life, Survival and Development

A significant number of children have been evacuated from Fukushima Prefecture in accordance with the evacuation orders issued in the aftermath of the Great East Japan Earthquake and the Fukushima Nuclear Accidents in March 2011. On the other hand, a number of children have voluntarily evacuated with their parent(s), too, in the absence of evacuation orders. The actual situation of the latter group is not necessarily well-known, however. While the families belonging to the former group have received compensations for the damages that they have suffered by complying with the evacuation orders, the families on voluntary evacuation have not received such compensations. The views of these children have not been heard. Several lawsuits have been filed to seek for the recognition of “the rights to evacuation”, including the rights not only to evacuate but also to stay in and to return to the affected areas as well as the right to make informed decisions about when and to where the evacuees return).

Radiation hazards can cause immense damage in the immediate term, while their impact is long-term and widespread, particularly affecting children in serious ways. And radiation cannot be perceived by the senses. Priority has been given to the declaration that some of the affected areas are now safe, although scientific radiation measurement has not necessarily been conducted in adequate ways. Children and their families who have evacuated from Fukushima have been largely left on their own, without adequate efforts to have an understanding of their situation; their rights to evacuation, based on the principles of the best interests of the child and respect for the views of the child, have not taken into account at all. (See also our NGO Report, III-C-1, etc.)

Furthermore the families on voluntary evacuation now face increasing

pressure to return, owing to the gradual lifting of the evacuation orders and the discontinuation of housing support by local municipalities. In October 2018, the UN Special Rapporteur on hazardous substances and wastes, Mr. Baskut Tuncak, called on the Government of Japan to halt the relocation of evacuees who are children and women of reproductive age to the areas of Fukushima where radiation levels remain high. Referring to the CRC Convention, he further pointed out that Japan has a duty to prevent and minimize childhood exposure to radiation and other hazardous substances, adding that “Japan should provide full details as to how its policy decisions in relation to the Fukushima Daiichi nuclear accident, including the lifting of evacuation orders and the setting of radiation limits at 20mSv/y, are not in contravention of the guiding principles of the Convention, including the best interests of the child”.

#### (6) Concentration of US Military Bases Continues to Violate Rights of Children in Okinawa, Including the Right to Life, Survival, Development

As is pointed out in our NGO Report (III-C-4), the disproportionate concentration of the US military bases in Okinawa have continued to threaten the rights of children living there, including the right to life, survival and development. (See Annex 3 for further information.)

##### (a) Falling off of the components of US military aircrafts on a nursery school and an elementary school

In December 2017, two incidents occurred in succession where the components of the US military aircrafts fell off on the premises of a nursery school and an elementary school in Ginowan City, Okinawa Prefecture, respectively. The parents started a signature campaign demanding the discontinuation of the flight of the US military aircrafts over the nursery school, collecting more than 130,000 signatures. Although they demanded the immediate discontinuation of the flight to the Government of Japan, including the Defense Agency, on the basis of the signatures, the flight over these institutions has been resumed without thorough investigations or detailed explanation for the residents. The pupils in the elementary school concerned (Futenma Daini Elementary School) had to take refuge in the school building 216 times in 39 days after they started to use the school ground because of the flight; they lead their school life under the condition where another accident may occur at any time. While the clear zones defined by the US safety criteria with regard to military bases are complied with in the US territories, the clear zone established for the MCAS Futenma (Marine Corps Air Station) includes the areas with a number of civilian buildings, including educational facilities, threatening the safety of children and other residents.

##### (b) Sexual and other forms of crime by the US military personnel

Sexual and other forms of crime have been frequently committed by the US military personnel (including civilian workers) in Okinawa since the end of the World War II, often against women and children. Recently the CERD Committee took up the issue of violence against women in Okinawa, along with the problem of military aircraft accidents in civilian areas, in its concluding observations on Japan (August 2018, paras. 17-18). On 7 September 2018, soon after the adoption of the concluding observations by the CERD Committee, a US soldier broke into a house in Yomitan Village, giving great shock to a high school girl who happened to be in the house alone with her 5-month old sister. Thinking that she might be killed, the girl escaped from a window to safety, holding her sister in the arms. Although the suspect was arrested and sent to the public prosecutor's office, the case ended up without prosecution. A sense of anxiety remains for the girl and the neighborhood.

(c) Risk of water contamination by the existence and construction of military bases

The construction of military institutions are planned in different areas in Okinawa Prefecture, including remote islands; some of the plans are already underway, leading to significant destruction of the environment. In particular, the right of the children living near such institutions to clear water is (likely to be) violated: (i) in Miyakojima Island, where the construction of a missile base is underway by the Self Defense Forces; (ii) around the US Kadena Air Base and MCAS Futenma, where PFOS (perfluorooctane sulfonate) and PFOA (perfluorooctanoate), which are likely to bring about adverse health consequences, have been detected; and (iii) in Ishigakijima Island, where the construction of the JGSDF (Japan Ground Self Defense Force) base is being planned around the source of Miyara River. Mr. Kunitoshi Sakurai, a representative of the Okinawa Environmental Network, points out that the biggest contamination sources in Okinawa are the U.S. military bases, JSDF bases and their military activities and that the environmental assessment, an indispensable system to the realization of sustainable development goals (SDGs), has lost substance.

(7) Other Issues That Should Be Taken Up in This Cluster

In addition to the above, the Committee is expected to take up, among others, the issues concerning the inadequacy of minimum standards and guidelines (NGO Report III-C-2) as well as the principle of respect for the views of the child and children's participation rights (NGO Report IV).

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III. General Principles

### III-A: Non-Discrimination

III-A-1. Comprehensive Anti-Discrimination Legislation Should Be Developed Promptly

III-A-2. Hate Speech and Hate Crime Targeting Children of Korean Schools in Particular

III-A-3. Progress in the Elimination of Discrimination against Children Born out of Wedlock and Remaining Problems

III-A-4. Further Efforts Are Needed for the Elimination against Girls Especially in the Field of Education

III-A-5. Further Educational Measures Are Needed to Prevent Discrimination against LGBTI Children

III-A-6. Protection and Promotion of the Rights of the Ainu Children as An Indigenous People Should Be Ensured

III-A-7. Foreign Children Are Subjected to Disproportional Punishment under Immigration Law

### III-B: The Best Interests of the Child

III-B-1. The Principle of the Best Interests of the Child Should Be Integrated into Legislation, Policy and Practice

III-B-2. The Principle of the Best Interests of the Child Should Be Integrated into Legislation, Policy and Practice

### III-C: Right to Life, Survival and Development

III-C-1. Adequate Care Has Not Been Taken for Children and Parents Who Suffer from (Perceived) Radiation Exposure Caused by the Fukushima Nuclear Accidents

III-C-2. Children Are Killed or Injured in Accidents Due to the Inadequate Minimum Standards and Guidelines

III-C-3. Measures against Suicide among Children and Young People Should Be Strengthened

III-C-4. U.S. Military Bases Threaten Life, Survival and Development of Children in Okinawa

### III-D: Respect for the View of the Child/Child Participation

III-D-1. The Rights of Children to Express Their Views and to Have Them Respected Are Not Ensured Sufficiently

III-D-2. The Expression of Views and Participation by Children Remain Difficult at School

III-D-3. Children in Alternative Care Should Be Given Opportunities for Raising Voices and Participating

III-D-4. Child Participation in Legislative and Policy Making Processes is Insufficient and Citizenship Education Should Be Strengthened

### ***Recommendations***

1. The Government and the Diet should promptly develop comprehensive anti-discrimination legislation, which includes provisions on such matters as definitions of prohibited acts of discrimination (including hate speech), effective mechanisms for the provision of remedies, research as well as education, awareness-raising and training. In particular, consideration should be given to the introduction of criminal sanctions and/or the duties of ISPs (Internet service providers) to take prompt responses with regard to malicious hate speech against Koreans living in Japan and other minorities.
2. The Government and the Diet should abolish the distinction between “legitimate” child and “illegitimate” child in the birth notification and the family register. They should also abolish the notion and terms of “legitimate” child and “illegitimate” child in the legal system.
3. Given the fact that the exclusion of Korean schools from the high school tuition waiver scheme is a form of discrimination, the Government should remedy unreasonable discrimination against children attending Korean schools, immediately extend the scheme to them urge local governments to resume or maintain their subsidies to Korean schools, taking in to account the principles of the best interests of the child and of non-discrimination.
4. In addition to even more careful surveys and other efforts to find out the impact of the nuclear accidents on health of the affected population, the Government, Fukushima Prefecture and the Diet should pledge medical, social, financial and other measures to support the children suffering from thyroid cancer and other health conditions well into the future and, on the basis of the precautionary principle, accelerate the development of national and local legislation and institutions to ensure the rights of the children and their parents who suffer from (perceived) radiation exposure to evacuation to and recuperation in safer environments.
5. Recognizing the fact that the children of Okinawa have been forced to bear far more burdens than children living in other areas do, the Government should take immediate measures to eradicate negative consequences of the presence of the U.S. military bases on their education, health and development. Such measures should include, in particular, safeguards to prevent accidents caused by the US military aircrafts (including the prohibition of the flight of such aircrafts over educational institutions) as well as measures to monitor and prevent water contamination. In addition, effective measures should be taken to protect the children of Okinawa from sexual violence and other forms of crime by U.S. military personnel, including through the effective law-enforcement against them.

*(See also the recommendations in our NGO report.)*

#### IV. Civil Rights and Freedoms

##### (1) The Imposition of the National Flag and Anthem Threatens Children's Freedom of Thought and Conscience

As is pointed out in our NGO Report (IV-2), the Government has officially explained that it has no intention to impose respect for *Hinomaru* (Sun-Rising Flag, the national flag) and *Kimigayo* (Emperor's Era, the national anthem) by interfering with what pupils and students think. Nevertheless, guidance and pressure by the boards of education and other authorities is prevalent in practice, often amounting to *de facto* imposition. For example, the following cases have been reported:

- (i) The order of ceremonies of metropolitan high schools in Tokyo explicitly states that the master of ceremonies should urge students to stand up during the singing of the national anthem until all the students do so. Furthermore the Tokyo Metropolitan Board of Education has prohibited teachers from telling their students that they have the right to freedom of inner thought (conscience) since 2005, having issued the circulars to this effect after it had taken disciplinary action against 67 teachers who had conveyed the information to their students.
- (ii) At elementary schools, some pupils who did not stand up during the singing of the national anthem were called by the school administrators or class teachers, being inquired into the reasons and urged to stand up next time. Some high school students were scolded during graduation ceremonies for not having stood up during the singing of the national anthem, being clutched on the shoulders.
- (iii) Some students are forced to sing and practice the national anthem (*Kimigayo*) in classes, especially in music classes, and school administrators come to monitor the classes at times. In 2004, students were instructed to sing the national anthem loudly with their mouth wide open, and the volume of their voice was checked, in Machida City, Tokyo; the case was reported to the city board of education.

##### (2) Contents and Ways of Development of School Rules Should Be Comprehensively Reviewed

As is reported in our NGO Report (IV-3), the problem of unreasonable school rules has emerged on the social agenda again, including the rules providing that students' hair should be black and straight or indicating the color of underwear that should be put on by students. On 29 March 2018, the Minister of Education stated in the Diet, "Although the final decision should be

taken by the headmaster in an appropriate manner, in my opinion, it is desirable that [the school rules] be developed after pupils and students and their guardians have participated in the process in one way or another, for example by providing pupils and students with opportunities for discussion and by collecting views of their guardians”. Nevertheless the Ministry of Education has not recognized the *right* of pupils and students to express their views about school rules (see the State Party’s report, para. 38).

### (3) Other Issues That Should Be Taken Up in This Cluster

In addition to the above, the Committee is expected to take up, among others, the issues concerning the statelessness and non-registration of children (NGO Report IV-1).

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##### IV. Civil Rights and Freedoms

IV-1. Measures Should Be Taken to Protect Children from Statelessness and Non-Registration

IV-2. The Imposition of the National Flag and Anthem Threatens Children’s Freedom of Thought and Conscience

IV-3. School Rules Still Impose Excessive Restrictions on Children’s Rights

#### ***Recommendations***

1. The Government (especially the Ministry of Education) should take all necessary measures to ensure that the rights of the child under the CRC, inter alia, the right to thought, conscience and religion (Article 14), the right to express opinions freely concerning matters affecting them and to have them respected (Article 12) and the right to educational environment that permits for a diversity of values (Article 29), are not infringed in the course of the introduction of the national flag and anthem in school events and ceremonies.
2. The Government (especially the Ministry of Education) should take all necessary measures to ensure that unreasonable school rules that unjustly infringe on children’s rights are reexamined and that students’ participation in the development and review of school rules are guaranteed as their right, including issuing circulars, developing rights-based guidelines and establishing independent complaint mechanisms.

*(See also the recommendations in our NGO report.)*

## **V. Violence against Children**

### **(1) Proactive Measures Are Needed to Change Tolerant Attitude to Corporal Punishment**

Although the current School Education Act prohibits the use of corporal punishment at school, Japan still has no law explicitly banning corporal punishment in all settings. (As the Government admits in its written replies, paras. 25-26, what can be considered as prohibited is only a form of corporal punishment that amounts to abuse and/or crime.) Physical and humiliating punishment against children in the name of “discipline” at home seems to be relatively accepted in Japanese society.

In July 2017, Save the Children Japan conducted an online survey on the actual scenario within families regarding the physical and humiliating punishment of children, using a questionnaire to which 20,000 people responded (See Annex 4). The survey results illustrate the following:

- Approximately 60% of the respondents answered that physical punishment can be accepted for disciplinary purposes “if necessary” or “when there is no other way”;
- Approximately 70% of the respondents who were rearing their own children answered that they had experience of hitting their children in the past;
- A certain number of people, in spite of showing a tolerance towards corporal punishment, are interested in parenting without spanking or yelling at children or have difficulties with this in practice.

As is pointed out in our NGO Report (V-1), the Ministry of Health, Labour and Welfare has led awareness-raising activities for the prevention of corporal punishment at home. It is necessary, however, to explicitly prohibit corporal punishment by law in order to make these efforts effective.

### **(2) Challenges in the Reinforcement of Measures against Child Abuse in Response to Death of a Child as a Result of Abuse**

A 5-year-old girl was abused to death in March 2018, partly because of inadequate collaboration between child guidance centers in different municipalities, which triggered reconsideration of the existing measures to respond to child abuse and neglect. In July 2018, the Government adopted the Package of Urgent Measures for the Reinforcement of Responses to Child Abuse and Neglect, identifying the following as “the measures that should be taken urgently”: (i) ensuring information-sharing between the relevant bodies, especially between child guidance centers in different municipalities as well as between child guidance centers and the police; and (ii) ensuring that the safety of the child be confirmed and secured. Other measures in the package include:

(i) the reinforcement of the staff arrangement and their expertise at child guidance centers and municipal offices; (ii) early identification of and response to child abuse cases; (iii) thorough information-sharing between child guidance centers and between municipalities; (iv) increased collaboration between the relevant bodies, including the police, schools and hospitals; (v) the promotion of appropriate judicial involvement; and (vi) the expansion and improvement of the places for children who are taken into care, including foster homes and children's homes. Furthermore, on 18 December 2018, the Government adopted the Plan for the Comprehensive Reinforcement of Institutional Measures against Child Abuse and Neglect. The Plan is intended to strengthen the institutional capacity and expertise of child guidance centers and municipalities, which are the primary bodies to respond to cases of child abuse and neglect, including by increasing the number of professionals and expanding focal points to support children and families.

These measures can be acknowledged as positive steps, and it is particularly urgent to increase human resources allocated for child guidance centers and municipalities. On the other hand, as is pointed out in our NGO Report (V-2), emphasis is still placed on responses after incidents of abuse and neglect have happened; sufficient attention has not necessarily been paid to measures and resource allocations based on the population approach. Concerns have been expressed about increased dependence on the police.

### **(3) Newly Emerged Issue of Sexual and Other Forms of Peer Violence in Children's Homes Should Be Effectively Addressed**

In April 2018, it was revealed through the initiative of a civil society organization (Mie Society for the Elimination of Violence and Sexual Assault in Institutions) that 111 cases of sexual violence among children in child welfare facilities in Mie Prefecture had occurred in nine years (from the fiscal year 2008 to 2016); 274 children were involved in these cases as victims or perpetrators. In Tokyo as well, 197 such cases had been reported from April 2015 to December 2017, according to the report of the Asahi Shimbun, published on 16 April 2018. Moreover, the Society Department of the NHK (Japan's public broadcaster) conducted a survey on this issue after April 2018 by sending questionnaires to prefectures and major cities, to which 59 municipalities have responded as of July 2018. According to the survey, the numbers of incidents of peer violence in children's homes, which occurred in five years from the fiscal year 2013 to 2017, are as follows:

- Physical violence: 831 cases (1,971 children were involved as perpetrators or victims)
- Sexual violence: 961 cases (2,386 children were involved)

- Psychological violence: 248 cases (627 children were involved)

On 27 April 2018, the Ministry of Health, Labour and Welfare issued the circular on “Responses to Cases of Sexual Violence among Children in Children’s Homes and Other Institutions”, inviting the relevant organizations, in particular, to provide children in these institutions with full information about where they can seek for advice and help. It is unlikely, however, that such measures can lead to effective prevention of peer violence in institutions. In this regard, attention should be paid to the initiative by the Ministry to develop “mechanisms to advocate the rights [of the child] by making the use of prefectural child welfare councils” (see I-(3) of the present Additional Information).

#### (4) Comprehensive Approach is Needed to Prevent School Violence, Including Bullying, Corporal Punishment and Sexual Harassment

The Government explains in its written replies (para. 28) that “If a teacher inflicts corporal punishment, the teacher will be subject to disciplinary action according to the circumstances of such corporal punishment”. However, it does not report that some hundreds of teachers are subject to disciplinary action every year (see our NGO Report, V-3), although it provides data on the number of participants in the relevant meetings and training sessions (Written replies, paras. 27 and 29). While certain measures have taken with regard to bullying, including legislative measures (Written replies, paras. 91-94), challenges still remain as is pointed out in our NGO Report (V-4). Moreover, sufficient measures continues to be lacking with regard to sexual harassment in school, in spite of the fact that some 200 teachers are subject to disciplinary action on the grounds of “indecent acts” every year and that sexual violence in the context of school club activities has become a social issue (see our NGO Report, V-5). No measures have been taken to implement the recommendation, made by the CRC Committee after the consideration of the initial report of Japan (1998), to the effect 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”.

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##### V. Violence against Children

V-1. Corporal Punishment of Children Should Be Prohibited in All Settings and Awareness-Raising Measures Should Be Strengthened

V-2. Supportive Interventions and Psychological Aftercare Should Be Strengthened to Respond to an Ever Increasing Number of Reported Cases of Child Abuse

V-3. Initiatives to Eliminate Corporal Punishment and Other Forms of Violence at

School Are Still Insufficient

V-4. More Effective Implementation of the Bullying Prevention Act Should Be Taken

V-5. Appropriate Responses Are Needed to Sexual Abuse of Children That Tend to Remain Unreported

V-6. The Issue of Dating Violence Should Be Officially Acknowledged with Strengthened Preventive Education

### ***Recommendations***

1. The Government should take all necessary steps to introduce policies and a legal framework to explicitly prohibit physical and humiliating punishment in all settings. In addition to this, the Government should promote support programmes for parenting without punishment. It is also necessary to conduct an in-depth and large-scale study to more comprehensively understand people's awareness and the reality regarding physical and humiliating punishment against children.
2. The Government (especially the Ministry of Health, Labour and Welfare and the Ministry of Education) should increase the allocation of resources, including financial, human and technical resources, to strengthen the capacity of child guidance centers and municipalities to respond to cases of child abuse and neglect. At the same time, proactive measures should be further taken to prevent child abuse and neglect in accordance with the population approach.
3. In addition to the further promotion of the deinstitutionalization of alternative care, including through foster care, adoption and the introduction of smaller facilities, the Government (especially the Ministry of Health, Labour and Welfare) should take all necessary measures to effectively protect children in care from violence (including sexual violence and other forms of peer violence), including through the introduction of periodic and unannounced visits to children's homes and other facilities by appropriate independent bodies.
4. Taking into account the Committee's General Comments No. 8 and 13, the Government (especially the Ministry of Education) should develop and implement a comprehensive programme of action to prevent and resolve violence at school, as was recommended by the Committee in the first concluding observations on Japan (1998). In this regard, it is necessary, inter alia, to cover all forms of violence at school, to hear pupils/students and other stakeholders and to promote human rights education and learning about rights, an essential component in the prevention of violence.

*(See also the recommendations in our NGO report.)*

## **VI. Family Environment and Alternative Care**

### **(1) Positive Aspects of the New Visions of Alternative Care (2017) and Challenges in Its Implementation**

The steps “to prevent children being removed from or abandoned by their families” referred to by the CRC Committee in its list of issues, should be understood as including measures to provide adequate support for families so that such removal or abandonment of children will not occur. The Government’s written replies (paras. 44-49), however, only refer to the legal provisions and procedures concerning family separation and to what is done after separation. This suggests that, despite the Committee’s previous recommendations (paras. 50-51), the Government continues to pay inadequate attention to the provision of rights-based support to families (see also our NGO Report, VI-1).

On the other hand, as is stated in our NGO Report (VI-3), it is a positive step that the New Visions of Alternative Care (August 2017) explicitly set forth the policy of deinstitutionalization. (The phrase “a proposal to the GOJ concerning processes to materialize the principles of the revised Child Welfare Act”, mentioned in the Government’s written replies, para. 51, refers to the New Vision.) Since the emphasis has been placed on the institutionalization for a long time, however, society in general continues to have low awareness of the importance of providing family care for children in need of alternative care, and sufficient arrangements are yet to be made for the promotion of foster care and (special) adoption. In addition, adequate data is lacking in terms of the deinstitutionalization of children with disabilities living in residential institutions or of leaving care for young people who cease to be in alternative care, which makes it difficult to identify what should be done for them.

### **(2) Comprehensive Review Should Be Conducted about the Organization of Temporary Protection and Judicial Involvement Be Strengthened in Separation of Children from Their Parents and Subsequent Family Reunification (When Possible)**

As is pointed out in our NGO Report (VI-2), courts are not involved in all cases of temporary protection (which is a form of separation of children from their parents) under taken by child guidance centers (see also the Government’s written replies, para. 49). This has often led to troubles, including legal challenges by the parents, which put significant burden on the staff of child guidance centers. These troubles also affect subsequent contact between children and their parents. Some municipalities have started to hire attorneys-at-law as part of the full-time staff of child guidance centers, which is positively noted as one of the sources of effective support for case workers in child guidance centers; however, such initiatives are still in the pilot stage.

Efforts for family reunification have not necessarily been made in appropriate ways, resulting in the high number of children placed in children's homes for a long time.

### **(3) Adoption System, Including Special Adoption, Should Be Further Reviewed from the Children's Rights Perspective**

With a view to remove the problems in the special adoption system (see our NGO Report, VI-5), the Working Group on the Special Adoption System, established under the Legislative Council of the Ministry of Justice, prepared the Preliminary Tentative Proposals for Reviewing the Special Adoption System in October 2018. The specific proposals include, among others: (i) raising the upper age limit of the adopted child (which is, at present, 6 years of age in principle at the time of the initiation of the proceedings) to 8 years of age in principle, 13 years of age or 15 years of age in principle; (ii) allowing the director of a child guidance center to be involved in the special adoption proceedings in addition to the prospective adoptive parents; and (iii) providing for how the biological parents give consent to adoption and making it impossible for them to withdraw their consent after a specified period.

While these are positive developments, follow-up measures have not been taken to implement the CRC Committee's previous recommendation (para. 55(a)) that the Government should ensure that all adoptions are subject to judicial authorization and are in accordance with the best interests of the child. The same holds true for the Committee's recommendation concerning the ratification of the Hague Convention on Inter-country Adoption.

### **(4) Pregnant Teens and Teenage Mothers Should Have the Right to Learn and Comprehensive Support Should Be Provided for Young Parents and Their Children**

As is pointed out in our NGO Report (VII-3), there have been reported cases where pregnant girls were urged or forced to withdraw from upper secondary schools (high schools). The Ministry of Education conducted a survey on this issue and published the findings at the end of March 2018. According to the findings, 2,098 cases of pregnancy of girls attending public high schools were confirmed in two years (April 2015 – March 2017); pregnant girls had "voluntarily withdrawn from school on their own will or on the will of the guardians" in some 30% of the cases (642 cases), and the decisions to "voluntarily withdraw from school" had been made in response to the suggestions to that effect from the school authorities. At the same time of the publication of these findings, the Ministry of Education issued a circular to the boards of education and other relevant bodies across the nation, calling on: (i) to refrain from taking simple responses, such as expelling pregnant students or

making *de facto* recommendations to them to leave the school; (ii) to provide adequate support for students who continue learning; and (iii) to provide appropriate guidance on sexuality on a daily basis.

While this response by the Ministry of Education are a step forward (however, see also VII-(3) below concerning sexuality education), sufficient support is not given to teenage girls who are pregnant and/or gave birth. The proportion of teenage mothers among all women who gave birth has slightly decreased from 4.6% in 2010 to 3.8% in 2016; however, 43.1% of the teenage girls who got pregnant decided to give birth in 2016, showing an increase from 34.9% in 2004. Young people (especially girls) who have become parents in their teens frequently have to raise their children while being isolated in the community, which shows the need to provide special assistance for them. Efforts to provide such assistance have not been made on an adequate basis, however.

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##### VI. Family Environment and Alternative Care

VI-1. Single-Parents, Most of Whom Are Employed, Remain in Difficult Conditions

VI-2. Gaps in Procedures for Temporary Protection in Cases of Child Abuse and Neglect

VI-3. Majority of Children without Parental Care Are Still Placed in Institutions

VI-4. Family Contact and Reunification Should Be Sought in the Best Interests of the Child

VI-5. The Adoption System Should Be Modified Further to Ensure the Best Interest of the Child

#### ***Recommendations***

1. The Government should strengthen measures to support families, which are based on a child-rights approach and backed up by sufficient budgets, especially for single parent households, teenage parent households and other vulnerable families.
2. The Government, especially the Ministry of Health, Labour and Welfare, should steadily implement the policy of deinstitutionalization, reflected in the New Visions of Alternative Care of 2017, while paying sufficient attention to the need to avoid negative consequences that may be brought about by hasty processes. The policy of deinstitutionalization should also be applied to children with disabilities living in residential institutions, and leaving care for young people who cease to be in alternative care should be expanded.
3. In the light of the provisions of Articles 9 (1) and 37 of the Convention, the Government and the Diet should take further measures to ensure that

temporary protection of children is promptly subject to judicial review. Consideration should also be given to reinforcing cooperation with attorneys-at law (including through hiring them as part of the full-time staff of child guidance centers) and to appointing representatives for children in order to support them in expressing their views.

4. The Diet and the Government (especially the Ministry of Justice and the Ministry of Health, Labour and Welfare) should review the legislation on and procedures of adoption of children, while paying special attention to the need to ensure that the best interests of the child be the paramount consideration in all cases. The special adoption system should be applied in principle to children below 15 years of age, since there is no reason to restrict the beneficiaries of the system to young children.

*(See also the recommendations in our NGO report.)*

## **VII. Disability, Basic Health and Welfare**

### **(1) “Special Needs Education” Does Not Sufficiently Reflect the Philosophy of Inclusive Education**

As is pointed out in our NGO Report (VII-1), “special needs education” is still based on the concept of segregation and cannot be regarded as inclusive education envisaged in the relevant human rights treaties. It is evident, for example, from the fact that the number of children with disabilities who are enrolled in regular classes has remained almost the same (2,927 pupils in 2009 to 3,055 pupils in 2017 at the primary level) in spite of the overall decrease of the child population. On the other hand, the number of children who receive special support service in resource rooms have been on the increase; the number of children enrolled in classes/schools for special needs education renews the record high every year (see the Government’s written replies, Annex II, the data provided in response to Question 19). The increase in the number of children with intellectual disabilities who are enrolled in schools for special needs education is particularly remarkable; while there had been only an increase in the number of some 20,000 during 25 years before the entry into force of the Act on Support for Persons with Developmental Disabilities in 2005, the number has nearly doubled in the decade or so after the entry into force of the Act (68,328 children in 2005 to 128,912 children in 2017, indicating an increase of some 60,000).

Although Article 16 of the Basic Act for Persons with Disabilities provides that “[the authorities] must give accommodation to children and students with disabilities being able to receive their education together with children and students without disabilities insofar as possible, ...and must take

necessary measures to improve and enhance the contents and methods of the education”, the term “insofar as possible” is used as an excuse for excluding many children with disabilities from regular schools in their community. The establishment of “various types of schools and learning styles”, promoted by the Government (see the Government’s written replies, para. 63), has led to the tendency that children with disabilities move from regular classes to special support service in resource rooms and further to classes/schools for special needs education; there are not many cases where those children move back to regular classes.

With regard to high school entrance examinations, some high schools refuse to provide reasonable accommodation for children with disabilities, which is obliged under the Act Concerning the Promotion of the Elimination of Discrimination on the Basis of Disability (which came into force in April 2016), on the basis of the circular issued by the Ministry of Education in 1984, which states that “the selection of entrants in high schools shall be undertaken by assessing such factors as the ability and aptitude for receiving education, based on the school records and other documents sent by the principals of respective junior high school as well as the results of the achievement test for the selection, paying attention to the characteristics of each high school and its courses”. Some children with disabilities failed entrance examinations due to the refusal of reasonable accommodation “in terms of equity and fairness”.

The increase in the number of children enrolled in classes/schools for special needs education has been caused partly because their parents fear that they may not be given sufficient support for learning regular schools in their community. Furthermore, sufficient attention has not been paid to the need to support children with developmental disabilities by reviewing how society and schools are organized, instead of focusing on therapeutic approaches only.

## (2) Interference by Public Figures Continues to Hinder Reproductive Health Education

As is pointed out in our NGO Report VII-3, reproductive health education is not provided in a systematic and effective manner in schools in Japan, and backlashes have occurred against such education. In March 2018, a member of the Tokyo Metropolitan Assembly, who belonged to the ruling party, criticized sexuality education lessons provided for the 9th graders in a junior high school as “inappropriate sex education”. The Metropolitan Board of Education accepted the criticism and provided guidance to the district board of education concerned to remedy the situation; the Metropolitan Board of Education considered that the lessons were “inappropriate” because such terms as “sexual intercourse”, “contraception” and “abortion” were used, arguing that

such an approach does not fit to the developmental stage of junior high school students partly because it may promote sexual intercourse among students. During the lessons concerned, students were invited to think about abortion as a result of unwanted pregnancy and were taught about ways of contraception and the period specified by law for abortion. The Metropolitan Board of Education considered, however, that the use of such terms as “sexual intercourse” was a problem because they are not indicated in the Course of Curricula for junior high schools.

The member of the Metropolitan Assembly concerned had interfered in sexuality education conducted in a school for children with disabilities in 1997, criticizing the lessons as “extreme” and demanding the Metropolitan Board of Education to take “firm responses” after he had visited the school with two other members of the Assembly. The court later found that their action had been intervention and interference into sexuality education at school on the basis of their political belief, which is likely to hinder autonomy of education; the member of the Assembly was ordered to pay compensations to the teachers and guardians concerned (see also our NGO Report, III-A-4).

### (3) A Rights-Based Approach Should Be Fully Applied to Climate Change Mitigation/Adaptation Policies in the Preparation for Recurrent Disasters Caused by Heavy Rainfall

While the Government’s written replies (paras. 73-74) explain about Japan’s policies for climate change mitigation, they do not refer to adaptation policies. In recent years, Japan has experienced a number of disasters caused by heavy rainfall, which may have occurred partly because of climate change, including in Hiroshima (July 2014), in the Kanto and North-East regions (September 2015), in the northern part of the Kyushu region (July 2017) and in the West Japan region (July 2018). Sufficient measures have not been taken to respond to the consequences of these disasters in a rights-based and comprehensive manner, as has been the case after the Great East Japan Earthquake occurred (see our NGO Report, pp. 10-11, “Major Cross-Cutting Issues Affecting Children’s Rights” A). Although the Guidelines for the Management of Shelters (April 2016) identify “considering the establishment of kids spaces (play spaces for children)” as one of the necessary considerations, the provision of spaces for children and play opportunities has largely been left to civil society organizations.

### (4) The Need to Reinforce Measures against Child Poverty and to Prevent Retrogression in the Provision of Public Assistance

As the Government reports in its written replies (paras. 75-81), certain

measures have been made to tackle the issue of child poverty through the relevant laws and policies. As is pointed out in our NGO Report (pp. 11-12, “Major Cross-Cutting Issues Affecting Children’s Rights” B), however, further measures need to be taken from the perspectives of children’s rights. About one in seven children in Japan (13.9%) lived in relative poverty as of 2015; a series of surveys conducted by local municipalities on children’s living conditions have commonly found that children in poverty are deprived of adequate food, clothing and shelter as well as the necessities for schooling, social relationships and opportunities for education and experience.

For example, a number of high school students are in financially difficult conditions that force them to work part-time, even after the introduction of the Tuition Waiver and Tuition Support Fund Program for High School Education (April 2010). A survey on part-time work among students attending 16 public high schools in Chiba Prefecture (2017) found that nearly half of the students who work part-time go to work more than four days a week and that nearly half of them work more than four hours on weekdays. With regard to the purposes of their part-time work, 51% of the respondents stated that they work for “the living expenses” and 18% for “the expenses to go on higher education”. It was also found out that more than half of the students had to cover the expenses to go on higher education with their earnings through part-time work or through scholarships, because their parents cannot afford the expenses. A number of children have to bear heavy burdens to support themselves and their family members and to cover the costs of their education.

With regard to social transfer, the Government started to lower the standard of public assistance gradually in October 2018, while it says in its written replies (para. 77) that the measures have been taken to expand support. Although some additional benefits with regard to children will be expanded or increased, the additional benefit for single mothers will be reduced by some 20% on average; it is estimated that approximately 40% of the families with children on public assistance will receive less allowances and benefits. In addition, since the standard of public assistance is connected with the standard for the allowance for school expenses (see the Government’s written replies, para. 80, concerning the allowance), concerns have been expressed that a number of children may become ineligible for the allowance, which compulsory education is not yet made completely free of charge.

There are large regional discrepancies in terms of child poverty. In particular, the relative child poverty rate amounted to 29.9% in Okinawa Prefecture (according to the survey conducted by the prefectural office in 2015), which is almost twofold higher than the national average. The budget for the development of Okinawa, allocated in accordance with the Act Concerning

Special Measures for Development of Okinawa, is not necessarily made use of in sufficient manners for supporting children and their families in Okinawa, partly because the central Government may exercise wide discretion about the budget in accordance with the national policy.

### (3) Other Issues That Should Be Taken Up in This Cluster

See III-(5) of the present Additional Information for the information on the health impact of the Fukushima Nuclear Accidents on the affected children.

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##### VII. Disability, Basic Health and Welfare

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VII-4. Further Efforts Should Be Made to Admit All the Children in Need to Daycare Centers while Ensuring and Improving the Quality of Care

#### ***Recommendations***

1. In the light of the Committee’s General Comment No.9, the Convention on the Rights of Persons with Disabilities, UNESCO Salamanca Declaration and other relevant international instruments, the Government (especially the Ministry of Education) should take urgent measures to promote inclusive education, including the provision of sufficient human and financial resources to enable children with disabilities to be included in regular schools/classes. In particular, the obligatory nature of reasonable accommodation should be widely known among teachers, school administrators and local officers as well as children and their parents.
2. The Government (especially the Ministry of Education and the Ministry of Health, Labour and Welfare) should adopt a plan of action to improve adolescent health, including reproductive health of adolescents, which contains target figures for the reduction of sexually transmitted diseases, HIV/AIDS and abortion. In this regard, emphasis should be given to the development of education and community-based services which are sensitive to the special needs of adolescents, in the light of the Committee’s General Comments No.4, 5 and 20.
3. In addition to the further promotion of climate change mitigation measures, the Government should promote a child rights approach to the preparation and responses to natural disasters, including earthquakes, heavy rainfall and floods.

4. The Government should strengthen measures against poverty further in accordance with child rights and human rights approaches, on the basis of the philosophy of protecting the lives of children and their families in a comprehensive manner. The Governments should ensure that the allowances and benefits for the households with children on public assistance are not reduced. Measures should be taken to make compulsory education completely free of charge, including with regard to school supplies and school lunch, with a view to reducing the burden of educational expenses on families at the compulsory level; in the meantime, budgetary measures should be taken at the national level to eliminate regional discrepancies in the administration of the system of financial assistance for school attendance.

*(See also the recommendations in our NGO report.)*

### **VIII. Education, Leisure and Cultural Activities**

#### **(1) Reconstruction from the Great East Japan Earthquake and the Fukushima Nuclear Accidents Is Still Underway**

As is indicated in our NGO Report (VIII-1), the impact of the Great East Japan Earthquake and the Fukushima Nuclear Accidents (March 2011) on the schools in the affected areas is yet to be eliminated. In the affected coastal areas of Miyagi and Iwate Prefectures, schools are being merged and/or closed down because of the depopulation caused by the destruction of livelihoods and daily lives because of the disaster, combined with the slow pace of reconstruction of local industries and parents' livelihoods. In Iwate Prefecture, the number of elementary and junior high schools reduced from 548 (with two branch schools) in April 2011 to 467 (with one branch school) in April 2018. In Miyagi Prefecture, 78 elementary and junior high schools were closed by 2017. It now takes more time for many of the children in these areas to go to school, significantly affecting their educational activities and daily living schedules. In addition, the loss of schools in the community may lead to less attention to the need to raise children in the community, which makes it more difficult to return. Many teachers and local officials working in schools and public organizations have to commute a long way from the places to which they have evacuated, partly because they cannot find places to live in the affected areas, which put significant burden on them.

In Fukushima Prefecture, evacuation orders were lifted with regard to many areas in April 2017 and schools have returned to the original places from the temporary relocation places. Many children continue to go to school from the places to which they have evacuated, using school buses, with only a small

number of children living in the municipalities where the schools exist. In the affected prefectures, including Fukushima and Iwate Prefectures, decontamination wastes from schools, private houses and other places are still kept in some school premises “tentatively” or “temporarily”. Although foodstuffs used for school lunch are subject to the inspection for radioactive materials, not all foodstuffs are not subject to prior inspection because of lack of necessary resources; in some cases, frozen samples were inspected two weeks after having been used for school lunches, or leftovers were used for inspection.

According to a survey conducted in November and December 2017 by Rikuzentakada City, Iwate Prefecture, covering parents with children who are junior high school students or younger, it was found that the poverty rate was higher than the latest national average (13.9%), with 16.9% among the households with junior high school students and 15.6% among the households with elementary school pupils. 18.6% of the households in poverty responded that they had been unable to buy necessary foodstuffs “at times” or “oftentimes” during the year before the survey was conducted.

More than seven years after the earthquake, elementary schools have started to admit children who have lived in temporary shelters from their birth. According to survey conducted by Iwate Medical University and other institutions, 36.5% of children who were born in 2011 in the three affected prefectures had emotional or behavioral problems and some 35% of their mothers had mental difficulties. In Fukushima, many children have spent their daily lives indoors since the nuclear accidents, because schools and pre-school institutions have restricted their outdoor activities and play opportunities to protect them from radiation exposure. It was also found that children in Fukushima below the age of eleven (who were not enrolled in elementary schools at the time of the nuclear accidents) are with obese tendency, possibly because they do not know the fun of outdoor play or have missed the opportunities to acquire a habit to be involved in physical exercise.

With regard to education on radiation, supplementary readers prepared by the Ministry of Education or Fukushima Prefecture contain few descriptions about the Fukushima nuclear accidents and their consequences, and the issue thus tend to be disregarded in classes. As a result, for example, a questionnaire survey of the 6th graders in an elementary school in Fukushima showed that some 60% of the pupils states that “I don’t understand why there is so many radiation in Fukushima”.

While the reconstruction of the infrastructure, such as roads and buildings, is on the gradual progress in the coastal affected areas, the reconstruction of daily lives has not necessarily been smooth and the prospect of “community development” is not bright. Many children and their parents

affected by the disaster continue to need psychological care. According to a survey about the pupils/students at the primary and secondary level in Iwate Prefecture, conducted by the Prefectural Board of Education in 2017, 11.3% (13,490 children) of them were considered as “pupils/students who had better receive educational counseling (children in need of support); the proportion was 10.8% in the inland areas and 13.5% in the coastal areas, which suggests that the discrepancy had widened since the previous survey in 2011 (14/3% in the inland areas and 15.8% in the coastal areas).

## (2) The Extremely Competitive Nature of the School Environment Has Worsened

With regard to the issue of the extremely competitive school environment, the Government’s written replies (paras. 94-96) only mention the measures taken with regard to entrance examinations at the upper secondary and higher levels, not referring to the National Survey on Academic Ability and Learning Status, which was introduced in 2007 (see our NGO Report, VIII-2). In the framework of the National Survey, the 6th and 9th graders sit for the exams in Japanese language and arithmetic (mathematics) every year and for the exam in science (since 2012) every three years . The outcomes of this exhaustive survey (which means that all the pupils/students in the grades concerned sit for exams) have been published since 2017, disaggregated by prefectures and major cities, contributing to the stratification of schools and geographical areas on the basis of academic performance. Thus schools are under pressure to achieve good performances, prompting more fierce competition to improve the scores, for example by modifying the curriculum in order to prepare the pupils/students for the exams. Furthermore deviations from the purposes of the National Survey have started to emerge; for example, the mayor of Osaka City announced the plan to reflect the outcomes of the survey in the performance appraisal and the amount of the bonus of principals and teachers.

The National Institute for Educational Policy Research, established under the Ministry of Education, identified “competitive values” as one of “the factors affecting bullying” in its material about student guidance published in 2012. Some municipalities have also expressed concerns about the stratification of schools and the intensification of competition that may be caused by the publication of the survey outcomes by major cities. In the aftermath of a case of suicide of children, the Fukui Prefectural Assembly submitted a position document against excessive emphasis on academic abilities, stating that “efforts to keep the status of ‘the prefecture with the best academic performance in Japan’ have given tacit pressure on schools across the prefecture, contributing to stress both among teachers and pupils/students”.

In addition, the 9th graders are to sit for the exam in English in the

context of the National Survey every three years, starting in 2019; the subject of English is to be introduced for the 5th and 6th graders in 2020. The Basic Plan for Promoting Education, adopted every five years by the Government, has introduced target figures for the ability to use English, which will be assessed through examinations conducted by private organizations. Concern has been expressed about possible pressure on children in order to achieve the target figures.

### (3) State Interference with Education Should Be Stopped

As is pointed out in our NGO Report (VIII-3 and -4), politicians and the Government continue to interfere unjustly with what is taught in school education. For example, during the textbook authorization process in 2006, the Ministry of Education made a comment about the descriptions in textbooks about the Battle of Okinawa, which brought about an extensive number of victims, demanding that the use of force by the Japanese Army against civilians in Okinawa should be deleted from the descriptions. Different organizations in Okinawa issued statements to protest the comment, and the mass meeting of the citizens in Okinawa, organized in September 2007 for the purpose of protest, was participated by 116,000 citizens, which made it one of the largest mass meeting after the return of Okinawa to Japan. Another incident of the official interference happened in October 2017, when the Ministry of Economy, Trade and Industry (METI) requested a research associate of a university, who was to give a lecture for high school students about energy issues, to modify the part of the lecture about the danger of nuclear power plants. Although the lecture was part of a project commissioned by the Agency of Natural Resources and Energy under the METI, it is problematic that the METI, which is in charge of the policies concerning nuclear power plants, requested the modification of what would be spoken about the problems of nuclear power plants. See also VII-(3) of the present Additional Information concerning interference with sexuality education.

### (4) The Fact that Teachers Have Become Busier and Its Impact on Education

The OECD's TALIS (Teaching and Learning International Survey) in 2013 found that the teachers' weekly working hours amounted to 54 hours, which is significantly higher than the OECD average (38 hours). According to the findings of the survey on teachers' working conditions, published by the Ministry of Education in 2018, 60% of the teachers in junior high schools worked overtime beyond the threshold of possible *karoshi* (death by overwork), which is set at 80 hours of overtime work in a month (see also our NGO Report, VIII-5, concerning the survey findings by a private organization).

In this context, the Special Working Group on the Improvement of Working Conditions at School of the Central Council for Education, established under the Ministry of Education, has been involved in the discussion on this issue since July 2017. In accordance with the 1971 Act (the Act on Special Measures concerning the Wages of Teachers in Compulsory Education Schools), which stipulates that the teachers in public schools shall receive 4% of the monthly wages instead of allowances for working overtime or on holidays, most of the overtime work undertaken by teachers have been considered as “voluntary work” and excluded from the scope of the allowance for working overtime. Thus the administration of teachers’ working hours has hardly been undertaken, which has contributed to their long working hours. While the Special Working Group considered the introduction of the allowance for working overtime as an option, it was not included in the proposal to the Minister of Education by the Special Working Group, because it would require the extra budget of some 900 million yen.

The Special Working Group proposed the introduction of the “one-year variable working hours system” in order to eliminate overtime work. This system, however, is based on the existence of busy periods and less busy period; it is not appropriate to introduce the system to schools, where teachers constantly work overtime. In order to reduce their long working hours, it is essential to reduce the workload itself or to introduce incentives for the educational and school administrators to make teachers’ working hours shorter, including through the introduction of the allowance for working overtime.

*White Paper on Measures against Karoshi* (2018), published by the Ministry of Health, Labour and Welfare, identified the teaching profession as one of the major professional group who are likely to be victims of *karoshi* (death by overwork); it is urgent to reduce their workload in order to prevent their health and lives. The report of the independent committee to inquire into a case of suicide of a child caused by bullying also called for comprehensive measures by the central Government in this regard, including budgetary measures, pointing out that “the present working conditions of teachers, which are too harsh”, make it impossible for them to identify and respond to children’s covert signs for help and lead to their health problems in physical and mental terms.

#### (5) Protection of the Rights of Children of Foreign Origin to Education Is Inadequate

As is pointed out in our NGO Report (VIII-10), the right to education is not guaranteed to foreigners, partly because education for them is not considered compulsory; if they are enrolled in schools, sufficient accommodation is not provided for them.

##### (a) Issues concerning compulsory schooling

The Ministry of Education explains that, “while foreigners are not subject to compulsory schooling, they are admitted into public compulsory schools if they wish and provided with educational opportunities to the same degree as Japanese citizens, including in terms of the waiver of tuition fees and the provision of textbooks free of charge”. Children of foreign nationalities are not regarded as subjects of the right to education, however.

According to the article of the *Nikkei Shimbun* on 13 March 2016, it was found that the status of some 13,000 children with foreign nationalities (16% of children with foreign nationalities who are in compulsory schooling age, which is 7-14 years) with regard to schooling was “unknown” according to the analysis of the 2020 national census; the proportion is much higher than the figure for Japanese citizens (0.01%). Some 430 children with foreign nationalities (0.55%) are found to be “out of school”; in addition, many respondents are likely to refrain from answering the question because they do not send their children of schooling age (See Annex 5 (a) of the present Additional Information). While the schooling status of children of compulsory schooling age is usually surveyed by municipalities, many of them exclude foreign children from these surveys, because the Ministry of Education explicitly mentions that “foreigners are excluded from the survey” in the notes of “the survey form on pupils/students who are not enrolled in school”, conducted in the annual Basic Survey on School.

#### (b) Issues concerning instruction of Japanese language

The number of children who need instruction of Japanese language, which is identified through “the survey on admittance of pupils/students who need instruction of Japanese language” is on the continuous rise; the number reached the highest-ever level in 2016, amounting to 34,335 children, which is an increase by 17.6% (5,137 children) from 2014 (29,198 children). The numbers and rates of increase according to the school types are: 3,272 children (by 17.3%) at the primary level, 983 children (by 12.6%) at the lower secondary level, 643 children (by 28.3%) at the upper secondary level and 84 children (by 47.5%) in schools for special needs education.

In spite of the increase, the arrangements for their instruction have not been developed to a sufficient level. The proportion of pupils/students with foreign nationalities who are in need of Japanese instruction and who are actually given special instruction was 76.9% (26,410 children) in 2016, having decreased by 6.0 points since the 2014 census. Reasons for the lack of special instruction include “lack and shortage of Japanese instructors (specialized teacher, supporters for Japanese instruction, etc.)” and “assessment that their needs can be accommodated through instruction in their classes”. While more and more schools and municipalities have pupils and students who need instruction of Japanese language, the human resources and the arrangements

of instruction for special instruction have not been sufficiently developed, which means that children with foreign nationalities are not given enough opportunities to develop their language capacity and academic ability at school where they are arguably given educational opportunities “to the same degree as Japanese citizens”. Furthermore the number of children with Japanese nationality, who are of foreign origin and in need of instruction of Japanese language, are also on the rise in recent years.

#### (6) Other Issues That Should Be Taken Up in This Cluster

In addition to the above, the Committee is expected to take up, among others, the issues concerning the expansion and quality of day-care, preschool education and after-school care (NGO Report, VII-4 and VIII-6). See V-(4) of the present Additional Information for the information on the need to adopt a comprehensive approach to the prevention of school violence, including bullying, corporal punishment and sexual harassment.

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<b><i>Recommendations</i></b>
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1. The Government should maintain the structures for reconstruction and ensure the necessary budgets to resolve the problems remaining in the areas affected by the disasters in March 2011, especially the challenges in the field of education, including through the continuation of the functions of the Reconstruction Agency (which is to be ceased to function except in Fukushima Prefecture). The merging and/or closing down of schools should be minimized, fully taking into account the views of the children enrolled in the schools concerned, and sufficient support should continue to be provided to the pupils/students and teachers. Furthermore the Government should ensure that appropriate education is provided with regard to the nuclear accidents and the risks of radiation so that the lessons learnt from the nuclear accidents can continued to be shared.
2. The Government (especially the Ministry of Education) should thoroughly review the organization and management of the National Survey on Academic Ability and Learning Status in order to eliminate its contributing effects on the stratification of schools and competitiveness in education, including by making it a sampling survey rather than involving all the pupils/students in the specific grades.
3. The Government (especially the Ministry of Education) and municipalities should respect the right of each school to formulate the curriculum and focus on the development of educational arrangements for better education, refraining from interfering with what is taught in classes of each school on the basis of the realities of children and communities. The Course of Study should be treated a general outline and should not be used as the basis for interfering with the content of teachings.
4. In order to reduce burdens on teachers, the Government (especially the Ministry of Education) should decrease the number of pupils/students in a classroom to the level of the OECD average (approximately 23 children) and take necessary measures to ensure that teachers do not have work overtime, including through allocating more teachers and other staff, reducing tasks that should be performed by them and requiring school administrators to manage their working hours properly. Other proactive measures should be taken to make teachers less busy and to realize decent work for them, including by seeking to transfer club activities to the field of social education and by repealing the Act on Special Measures concerning the Wages of Teachers in Compulsory Education Schools, which fosters indeterminate overtime work.
5. In order to ensure the right to education (the right to learn) for all children, irrespective of their nationalities, the Government (especially the Ministry of Education) should develop the arrangements at the national level to

admit children with foreign nationalities in the same manner with children with Japanese nationalities, including through surveying the schooling status of children with foreign nationalities in the Basic Survey on School. It is also necessary to develop appropriate curricula for improving the language capacity and academic ability of children with foreign nationalities or of foreign origin, including in terms of instruction of Japanese language and preservation of their mother tongue, and to train and employ the specialized staff for this purpose across the country.

*(See also the recommendations in our NGO report.)*

## **IX. Special Protection Measures / Optional Protocols**

### **(1) Separation of Children from Their Parents as a Result of Detention and Deportation of Parents in Irregular Situations**

Separation of children from their parents frequently occur when the immigration authorities deport families in irregular situations, without protecting the best interests of the child concerned. On the other hand, it is extremely difficult for families to return to the country together when their children only speak Japanese or when family members left in Japan are refugees and at risk of persecution in the countries of origin.

#### **(a) Case 1 (see Annex 5 (b))**

In 2017, a Peruvian woman and her two children filed a lawsuit at the Osaka District Court, seeking for special permission stay in Japan, after they were order to be deported by the immigration authorities on the basis of their irregular status. Her two children were born and have been brought up in Japan; one is a junior high school student and the other is a high school student (respectively 15-years old and 17-years old as of November 2018). They argue that the children will face difficulties in daily lives and education if they are returned to Peru and seek for humanitarian considerations, wishing that their best interests are given priority and that they are permitted to stay in Japan.

#### **(b) Case 2 (see Annex 5 (c))**

It was found, on the basis of the documents and information from the Ministry of Justice, that members of 12 Vietnamese families living in Japan were separated from other family members, including their wives, husbands and children, when the immigration authorities deported 47 Vietnamese in irregular situations collectively by a chartered plane in February 2017. One of the members of the 12 families, an undocumented women (46 years of age), came to Japan using her sister's passport in 2007 and has lived in Gunma Prefecture with is husband (former refugee) and a 5-years-old son, both of whom have status of residence. She was separated from her son at the office of the

immigration authorities and deported. She said, “My son was crying. I still cannot forget his crying voice”.

Other than the above-mentioned cases, the immigration authorities have continued to deport undocumented immigrants as well as asylum-seekers whose applications were rejected, resulting in cases of separation of families.

## (2) The Juvenile Justice System Should Be Reconstructed in Accordance with the Convention and the Relevant International Standards

(a) The Juvenile Act has been amended four times since the major amendments in 2000. All the amendments, however, went further against the principles of the Convention and other relevant international instruments, including the Beijing Rules and the Riyadh Guidelines. Specific problems include the following:

- Lowering the minimum age for criminal punishment from 16 to 14;
- Making it a rule to apply criminal sanctions instead of protective measures in specified cases (when the juvenile is 16 years of age and older and has committed serious offenses that affect victims’ lives), which made it possible to sentence a juvenile to death even if the offence was committed when he/she was younger than 18 at time of the commission;
- Allowing prosecutors to be involved in juvenile proceedings, on the justification that it is necessary to find out what happened, and expanding the scope of the cases in which prosecutors can be involved, which has led to the situation where juveniles hearings have become similar to criminal trials; and,
- Extending the maximum period of pre-hearing detention from four weeks to eight weeks, without taking specific measures to improve the present procedures that treat juveniles in the same manner with adults suspects at the stages of investigation by the police and prosecutors (including the routine use of police custody facilities after arrest and during pre-trial detention).

In addition, it should be emphasized that the fifth amendments are currently underway, which seek to lower the age of application of the Juvenile Act from 20 to 18 and to treat young offenders of 18 and 19 years of age as adults. This will lead to the complete denial of Japan’s juvenile justice after the end of the World War II, which has succeeded in deterring delinquency among those under the age of 20 years as well as youth crime. The proposed amendments seek to prioritize criminal punishment than treatment with educational and welfare perspectives, which is likely to cause serious violation of children’s rights (see also II-(1) of the present Additional Information).

While the number of juvenile delinquents, including who are under the

age of criminal responsibility, has been on the decrease in Japan for almost three decades, the victims of child abuse and neglect are on the increase. Although social awareness about the issue of child abuse and neglect has been improved, sufficient measures have taken to prevent abuse and neglect. In addition, social awareness about child witnesses and their expression of their views, partly because the concept of child witnesses itself is not so familiar in Japan.

(b) With regard to preventive detention of children, a certain degree of consideration is given to custodial measures taken by the family court. On the other hand, the procedures for adult suspects are generally applied to arrest by the police and detention by the prosecutor.

(c) Continuous study has not been conducted into the root causes of juvenile delinquency and specific budgets are not allocated for this purpose, although the Research and Training Institute of the Ministry of Justice and the Training Institute for Family Court Research Law Clerks publish findings of such study at time. The Supreme Court has not sought to contribute to the prevention of juvenile delinquency and other problems among children by widely disseminating the findings about the root causes of juvenile delinquency, which should have been compiled through the practical experience of and study by the family courts. In addition, sufficient attention has not been paid in research about juvenile delinquency in Japan to the socio-economic conditions, seriously affected by the global economy since the late 1990s, including the increasingly unstable nature of labour market, the decline of the national income as well as the emerging issues of poverty and economic discrepancies.

For more information about these issues, see Annex 6 of the present Additional Information as well as our NGO Report (XI-B and Annex II-7).

### (3) OPSC: Children Are Continued to Be at Risk of Sexual and Other Forms of Exploitation

Although the Government's written replies (paras. 122-124) explain only about transnational human trafficking, the number of victims of trafficking with Japanese nationality (some of whom are children) is also increasing mainly in cases of forced prostitution under confinement. The actual situation of such trafficking is not adequately clear, although the Government has taken certain measures in this regard as well (see also our NGO Report, XII-A-1).

In the context of the commercialization and sexualization of children (see our NGO Report XII-A-2 and -4), cases of child prostitution and child pornography continue to occur. For example, according to the National Police Agency, the number of victims of the offenses under the Act against Child Prostitution and Child Pornography has increased from 1,678 in 2011 to 2,113 in 2015. The number of the persons arrested in child pornography cases amounted

to 1,483 in 2015; the number of victims (under the age of 20) was 905, and some 80% of them were secondary school students (39.7% were junior high school students and 41.3% were high school students).

Among child pornography cases, victims of “being asked or forced to take and transmit pornographic selfies” are most common (36.6%) and the number is increasing; the second most common form of such offenses is “peeping photos” (32.4%), according to the National Police Agency. In this regard, the Tokyo Metropolitan Assembly amended its Ordinance Regarding Healthy Development of Youth in February 2018, criminalizing the act of wrongfully demanding children to transmit self-images equivalent to child pornography.

On the other hand, the number of parlors involved in what is called “JK (high school girl) business”, confirmed by the National Police Agency as of June 2017, was 114 (not including the businesses operating without parlors). Approximately 70% of the parlors were in Tokyo and 25% in Osaka; the most common form was “massage services” provided by high school girls in school uniform. The Tokyo Metropolitan Office found that the number of such parlors increased from 136 in 2014 to 174 in 2016 and that many of them took the form of “having tea with high school girls”, “reflexology by high school girls” and “combination of reflexology by and taking a walk with high school girls”. Some prefectures, including Tokyo, Kanagawa and Aichi, have started to regulate the business through local ordinances.

With regard to victims of such offenses, the police started the operation of “cyber protection and guidance of youth” on a pilot basis in April 2013 and officially in October in the same year. In this operation, the police conducts “cyber patrol” by monitoring online posts inducing “*enjo kosaï*” (compensated dating, often involving sexual contact) or trade of used underwear, and seek to have direct contact with the children who posted such messages by exchanging e-mails or text messages as “customers”. The number of children who were protected in this process was 158 in 2013 and 439 in 2014; 95.8% of them were girls and the youngest one was 13 years old. Most of the inappropriate messages posted by the girls who were subjected to “cyber protection and guidance of youth” were concerned with “*enjo kosaï*” (approximately two thirds), trade of used underwear (approximately one third) and the combination of the two (1.3%). About half of them had been victims of child prostitution or other forms of offenses against welfare of children. On the other hand, the police has failed to have direct contact with these children in 11,995 cases, which shows that the cyber approach is not necessarily effective. The similar approach is not taken with regard to customers who seek to contact children online.

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IX-B-4. Inadequate Access to Education for Children in Detention

IX-B-5. Police-Led Measures for Children with Delinquent Behavior and Other Challenges

### ***Recommendations***

1. With regard to undocumented children, the Government (especially the Ministry of Justice) should prioritize the best interests of the child and refrain from separating them from their parents and other family members, including by reviewing the deportation procedures and granting them special permission to stay, taking into account their circumstances. The declarations on Article 9 (1) and 10 (1) of the Convention should be withdrawn.
2. In the light of the Convention and the relevant international instruments, the Government (especially the Ministry of Justice) and the Diet should undertake a comprehensive review of the policies concerning the prevention of juvenile delinquency and crime, in particular in accordance with the Beijing Rules, and correspondingly amend the Juvenile Act again.
3. The Government should seek to prevent and prohibit different forms of sexual exploitation of children more effectively, including through further amending the Act against Child Prostitution and Child Pornography. In this context, the principle that children should be treated as victims must be adhered to, and priority should be given to the provision of necessary support to victims of sexual exploitation.

*(See also the recommendations in our NGO report.)*

## **List of Annex**

Annex 1: Society for Abolishing the Family Registration System and Discriminations against Children Born out of Wedlock (AFRDC) – Discrimination against Children Born Out of Wedlock

Annex 2: Human Rights Association of Korean Residents in Japan (HURAK) – Extract of Concluding Observations by International Human Rights Bodies, relating to the Issues of Korean Schools

Annex 3: Status of Children in Okinawa

Annex 4: Save the Children Japan – Corporal Punishment

Annex 5: Solidarity Network with Migrants Japan (SMJ) and Hurights Osaka – Migrant Children

Annex 6: Children & Law 21 – Juvenile Justice