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

Implementation of the CRC in Japan: Perspectives of NGOs on the Fourth and Fifth Periodic Report of Japan

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Committee for NGO Reporting on the CRC (JAPAN)

Secretariat

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Committee for NGO Reporting on the CRC (Japan): List of Participating Organizations

ACE (Action against Child Exploitation)
ARC (Action for the Rights of Children)
Association for Returnees from China
Children & Law 21 [Citizens in the 21st Century for Children's Development and Legislation]
Child Information and Research Center
Child Welfare Institute
Federation for the Protection of Children's Human Rights
General Research Institute on the Convention on the Right of the Child
Human Rights Association of Korean Residents in Japan (HURAK)
International Foster Care Alliance (IFCA)
Japan Teachers' Union
Save the Children Japan
Shiawase Namida [Network for the Eradication of Victimization through Sexual Violence]
Society for Abolishing the Family Registration System and Discriminations against Children Born out of Wedlock (AFRDC)
Soka Gakkai Women's Peace Committee
Tokyo Citizens' Forum for Local Ordinances on Children's Rights
Tokyo Seikatsusha Network

Note: A number of persons were involved in the preparation of the present report in individual capacity, although they are not listed here.

Abbreviations

CEDAW: Convention on the Elimination of Discrimination Against Women
CERD: International Convention on the Elimination of All Forms of Racial Discrimination
CESCR: International Covenant on Economic, Social and Cultural Rights
HRC: Human Rights Committee
MEXT: Ministry of Education, Culture, Sports, Science and Technology
MHLW: Ministry of Health, Labor and Welfare
MoJ: Ministry of Justice
NPA: National Police Agency
SPR: State Party's Report

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Introduction

Who Prepared the Present Report for What Purposes

The present NGO report was prepared to highlight the problem areas and challenges of the combined fourth and fifth periodic report of Japan on the Convention and to help the UN Committee on the Rights of the Child to examine the periodic report more effectively and adequately.

The report was prepared by the Committee for NGO Reporting on the Convention on the Rights of the Child. The key members of the NGO Committee have started observing the sessions of the UN Committee since its second session (1992) and played a role as a liaison between the UN Committee and Japanese society as well as working on implementation and dissemination of the Convention in Japan.

The NGO Committee has submitted its reports to the UN Committee in 1997, 2003 and 2010 and worked to follow up the concluding observations adopted by the UN Committee. The General Research Institute on the Convention on the Rights of the Child, an NGO with Special Consultative Status with the United Nations Economic and Social Council, serves as the secretariat of the NGO Committee.

Main Problems in the Fourth and Fifth Periodic Report of Japan: An Overview

It is very regrettable that we have to point out similar problems that have been indicated in our previous reports again with regard to the fourth and fifth periodic report of Japan (hereafter referred to as "SPR" [State Party's Report]).

While SPR formally follows the Committee's reporting guidelines (CRC/C/58/Rev.3, 2014), in fact, it does not meet the Committee's expectations in many areas. The main problems can be summarized as follows.

(a) It is positive that SPR seeks to respond to the Committee's previous concluding observations and that it provides the relevant data to a certain extent. However, it often fails to understand what was precisely recommended in the previous concluding observations and refers to the previous recommendations only formally, failing to show proactive attitude towards the effective implementation of the Convention by making use of the reporting process. Some parts of SPR can be regarded as "defiant attitude" [e.g. paras. 31 and 123]. In addition, references to the relevant paragraphs in the previous report continue to appear in many sections, making it difficult to see progress or challenges in the relevant areas for the past decade.

(b) In this context, SPR demonstrates insufficient understanding of the

Convention on the part of the Government, including in relation to a child-rights approach enshrined in the Convention [e.g. para. 38]. This indicates that the Government is not proactive enough to seek to solve and improve the problems concerning children from the child rights perspectives and rights-based methodologies. Some inconsistencies are found in SPR as well, including in relation to the descriptions about the 2016 amendments to the Child Welfare Act, which can be regarded as a positive step in the area of legislation.

(c) While SPR describes the relevant legislation and institutions rather in detail, it does not make the actual status of children and the impact of the measures visible. Above all, it does not report on how the Great East Japan Earthquake and the Fukushima nuclear accidents in 2011, one of the major social issues in Japan, have affected children. The descriptions about the measures against child poverty are not sufficient in terms of the implementation of the Convention, either.

(d) SPR does not refer to positive initiatives undertaken at the municipal level, demonstrating the reluctance on the part of the central Government to learn from such initiatives to improve the implementation of the Convention.

(e) Sufficient and meaningful efforts were not made to reflect the views and achievements of civil society, including NGOs. No attempts were made to hear from children about the implementation of the Convention, either.

Towards "Constructive Dialogue" and the Effective Implementation of the Convention

Given the above-mentioned fundamental problems in SPR, at least the following additional information should be provided by the Government in the spirit of constructive dialogue:

(a) Information about major issues affecting children's rights, including the impact of disasters (including the Great East Japan Earthquake and the Fukushima nuclear accidents in 2011) and child poverty, from the viewpoint of the implementation of the Convention;

(b) Specific data and statistics on the actual status of children and on the effectiveness of the measures taken, along with the interpretation of such data, especially with regard to non-discrimination (including the issue of hate speech), stateless and unregistered children, non-attendance at school and dropout from upper secondary school, bullying, suicide, corporal punishment, child abuse and neglect as well as juvenile justice;

(c) Detailed explanation on the challenges in pursuing general measures of implementation of the Convention and, in particular, on the prospects of the

establishment of structures and systems for the promotion and monitoring of the effective implementation of the Committee's concluding observations; and,

(d) Information on municipal initiatives to implement the Convention, along with the outcomes of such initiatives and challenges in the provision of support by the central Government.

In order to prepare sufficient additional information for the Committee, the Government is encouraged to have opportunities of "constructive dialogue" with the relevant NGOs between the pre-sessional working group in February 2018 and the public meetings with the Committee.

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

The Great East Japan Earthquake, which occurred on 11 March 2011, brought about death of 15,824 persons (as of 29 February 2016; the total sum of the number of the deceased in Iwate, Miyagi and Fukushima Prefectures). The identity of the deceased have been confirmed for 15,749 persons, among whom 893 were children. As a result of the earthquake, 241 children lost both and 1,514 lost either of their parents (as of 1 March 2014). A significant increase of the number of reports on child abuse and neglect, dealt with by the child guidance centers, was observed in these three prefectures in the year 2011/12: 524 in Iwate (an increase of 45% from the previous year), 1,314 in Miyagi (an increase of 75% from the previous year) and 564 in Fukushima (an increase of 182% from the year 2009/10; the figures are not available for the year 2010/11 in Fukushima because of the earthquake and the nuclear accidents), according to the *Reports on Social Welfare Administration and Services* compiled by MHLW.

As such, the Great East Japan Earthquake has brought about significant consequences for children. However, the situation of the victimization of and support for many of these children has not been grasped on a comprehensive and continuous basis across the affected areas. Although the accidents at the Fukushima Nuclear Power Plants have also affected the children's lives in extremely serious ways, the relevant issues are not taken up as if the accidents did not happen or have been completely resolved, as is demonstrated in the whole SPR (and in particular para. 37). Although the Reconstruction Agency was established, the Government has not set up a central focal point to collect information on the situation of the affected children as well as support for them and coordinate such support; the bodies entrusted with such tasks exist only in each of the three prefectures mainly affected by the earthquake. Support measures for the affected children are planned and implemented in line with the policies developed respectively by the relevant ministries and agencies, not on a comprehensive and continuous basis. Official support measures are limited to the minimum level, including the arrangement for admitting the affected children into schools in other areas, the dispatch of school counselors and the flexible treatment concerning the payment of different benefits and allowances. Other areas of support, such as providing the affected children with safe and comfortable spaces and opportunities for play as well as creating opportunities for

children and guaranteeing their right to participate in the reconstruction process actively, are mostly covered by civil society organizations. In spite of the fact that Japan is prone to natural disasters, inadequate measures have been taken to prepare for and respond to major disasters that are likely to happen in the future.

Recommendations

1. The Government should prepare a white paper on the children affected by the Great East Japan Earthquake, with a view to having a comprehensive picture of how the earthquake and the accidents at the Fukushima Nuclear Power Plants have affected children and sharing the experiences of these children among the general public. Mechanisms should be developed to reflect these experiences in the relevant policies through active participation of children in the reconstruction process. Measures should be taken to make use of the knowledge, information and experience learnt from support activities in the future efforts for disaster prevention and reduction, with a view to developing tools to support children in future disasters.
2. The Government and the Diet should take measures to ensure that the efforts of civil society to support reconstruction from the Great East Japan Earthquake and the nuclear accidents in Fukushima, focusing on support and activities for the affected children through the realization of their rights, are institutionally established so that they can be implemented on a continuous basis tailored to the local circumstances.

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

Although efforts have been made to tackle the social issue of child poverty through the relevant laws and policies [SPR para. 14], the situation has not been improved to a sufficient level due to the inadequacy of child rights perspectives.

In its previous concluding observations (para. 67), the Committee recommended Japan to allocate appropriate resources to eradicate child poverty, including through the elaboration of a poverty reduction strategy. The SPR, however, does not provide specific information on the budgetary measures for the eradication of child poverty, only referring to the budgets concerning support for development of children and young people [para. 16].

While the General Principles of Policy on Poverty among Children [SPR para. 14] envisage different forms of financial support for children and families, these measures only focus on single-parent families and households on social assistance and major budgetary measures have not been taken to implement them.

In terms of the public expenditure on education as a percentage of GDP, Japan stood at the lowest among the OECD countries (see I-5 below). Even at the primary and lower secondary levels, which are compulsory and said to be free of

charge, each household bears the burden of the expenses for school education and school lunch that amounts approximately to ¥102,000 (public primary school; $808 or so in USD) and ¥167,000 (public lower secondary school; $1468 or so in USD) on average every year. There are regional discrepancies in the provision of financial assistance for school attendance, under which municipalities provide subsidies for school supplies and school lunch for economically disadvantaged families with compulsory school-age children, because the budgets are allocated from municipal general funds with regard to the assistance for the households that fall short of the qualifications for the assistance.

Recommendations

1. Child rights-based responses and measures should be strengthened for the eradication of child poverty, including through taking necessary budgetary measures on the basis of surveys on the actual situation of child poverty.
2. With a view to reducing the burden of educational expenses on families at the compulsory level, measures should be taken to make compulsory education completely free of charge, including with regard to school supplies and school lunch, in accordance with Article 28 of the Convention as well as the recommendation from the Committee on Economic, Social and Cultural Rights (2013, para. 29). 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.

I. General Measures of Implementation

I-1. A Comprehensive Law on the Rights of the Child Needs to Be Adopted

The SPR mentions different legislative measures that have been taken in the reporting periods as the measures taken to harmonize national laws with the provisions of the Convention [paras. 5-10]. A comprehensive review of the legislation on the basis of a rights-based approach has not been conducted, however, and no measures have been taken to consider "adopting a comprehensive law on child rights", which was strongly recommended by the Committee in the previous concluding observations (para. 12). It is a positive step that the 2016 amendments to the Child Welfare Act [SPR paras. 35 and 39] finally referred to the Convention explicitly and declared that the child is a holder of rights (Article 1), incorporating the principles of the best interests of the child and respect for the views of the child (Article 2 (1)). The amendments are no more than the indication of the philosophies, however, and have not been integrated into legislation,

policy-making and administrative practice, as is illustrated by the fact the SPR quotes the provisions of the Child Welfare Act before the amendments [paras. 48 and 83]. Meanwhile, there have been moves to intervene in families without the perspectives of children's rights and family diversity, such as a Bill to Support Family Education that the ruling Liberal Democratic Party has sought to submit to the Diet.

On the other hand, at least 44 municipalities (as of October 2016) have adopted comprehensive local ordinances on children's rights, which incorporated the provisions of the Convention, at the local level; however, the Government has not promoted such initiatives in an active way. With regard to the reservation and declarations, the SPR only refers to the previous report [para. 4], which demonstrates that the Government has not considered the Committee's recommendations in this regard in good faith.

Recommendations

The reservation to and declarations on the Convention should be withdrawn. The Government and the Diet 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.

I-2. Courts Are Still Reluctant to Apply the Convention, Which Demonstrates the Need to Accept the Communication Procedures

While the SPR provides little information on the court cases where human rights treaties were invoked, courts remain reluctant to apply the Convention and other human rights treaties. A significant exception was the Supreme Court judgment in September 2013, which declared that discrimination against children born out of wedlock in the field of inheritance was unconstitutional, referring also to the observations of the Committee. Although the amendments to the Civil Code to eliminate the discrimination were adopted in response to the Supreme Court judgment, the Government does not mention it in the SPR [para. 29]. The principles and provisions of the Convention, including the principle of the best interests of the child, have not been consistently considered in cases where undocumented children and/or their families sought for special permission to stay, although there have been some judicial decisions in favor of these children on humanitarian and other considerations [See III-B-2].

An effective remedy for this situation is to accept communication procedures established under the Convention and other human rights treaties. While the Government had announced that it started to consider for accepting

these procedures, no progress has been observed in this regard thereafter.

Recommendations

In accordance with Article 98 (2) of the Constitution of Japan, the Vienna Convention on Law of Treaties and other relevant national and international obligations, the Government and the Supreme Court should take all necessary measures, including the provision of training and information to judges, to ensure that the Convention is fully taken into account and applied in judicial cases concerning children. The Government and the Diet should promptly ratify the Optional Protocol on Communication Procedures to the Convention.

I-3. A Rights-Based Approach Is Lacking in Policy-Making and Institutional Basis Remains Inadequate

In spite of the repeated recommendations by the Committee, a comprehensive rights-based national plan of action for children has not been adopted yet. Although the Outline mentioned in the SPR [para. 12] can be seen as positive to some extent as a general policy document concerning children and young people, its reference to the Convention is no more than formalities and, in particular, it does not pay sufficient attention to the implementation of the Convention and to empowerment of children and adults who support them.

Due to the lack of a comprehensive rights-based policy, no mechanisms exist to undertake comprehensive coordination of the measures concerning the Convention and children's rights [SPR para. 15], leading to problems in different fields, including concerning a comprehensive review of the implementation of the Convention and the promotion of the rights of pre-school children. There has been little progress at the national level in the discussion about ombudspersons or other independent institutions to monitor the implementation of the Convention and children's rights, contrary to the explanation by the Government that it is "being discussed appropriately" [SPR para. 19]. (At the local level, ombudspersons for children or equivalent bodies have been established in some 30 municipalities as of September 2016.) Cooperation with civil society [SPR para. 22] has not been sufficiently systematic; and there have been tendencies that the Government does not seek to fulfill public responsibility in adequate ways, relying on the efforts of civil society, including in the field of child poverty.

Recommendations

1. The Government 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.

2. 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. The institutionalization of dialogue and cooperation with civil society and NGOs should also be sought, including through making a rule to include representatives of civil society and NGOs working for children’s rights in the coordinating body as well as different councils and committees concerned with children.

3. In line with the repeated recommendations by different 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.

I-4. The Government Demonstrates Its Lack of Good Faith to the Committee by Continuing Not to Provide Important Data in SPR

It is a step forward that the Government places more emphasis than the previous reports, including by submitting the compilation of the relevant statistics as one of the annex. The data submitted does not fully encompass the relevant areas, however, and the selection of the data is uneven. In particular, the SPR does not describe the situation of the children affected by the Great East Japan Earthquake and the nuclear accidents in Fukushima (see “Major Cross-Cutting Issues Affecting Children’s Rights” above); it does not provide the existing data on child poverty (ibid.), including on the poverty rates among children and single-parent households, only stating that the Government is “conducting survey research” [para. 14] on this issue. This raises doubt about good faith of the Government with regard to the dialogue with the Committee and even to the protection and promotion of children’s rights. This is particularly true in the field of education; while the SPR states that the Government collects the data on “school aid to guardians of child students living in difficult economic conditions at the elementary and middle school stage” and “acts of violence, bullying, non-attendance, and other problem behaviors for child students at elementary, middle and high schools” [para. 11], it does not provide the Committee with the data.

Recommendations

In order to ensure that the accurate picture of children's rights can be drawn, the Government should strengthen the data collection system further, paying attention to the Committee's reporting guidelines and in consultation with NGOs and civil society. With a view to ensuring the effective use of such data, a comprehensive white paper on children, separate from white papers of the relevant ministries, should be published as well.

I-5. The Best Interests of the Child Are Not Fully Considered in the Budgeting Process

The explanation of the SPR on the budget allocations [para. 16] does not respond to the Committee's previous observations (paras. 19 and 20) at all, only stating that Japan "secures sufficient resources to realize the rights of children" without showing sufficient evidence. For example, however, the comparative survey undertaken by the OECD (published in September 2017) shows that, in terms of the public expenditure on education as a percentage of GDP (as of 2014) , Japan stood at the lowest (3.2%) among the 34 countries surveyed. The proportion of the public expenditure allocated to pre-school education (46%) was also the lowest among the surveyed countries, far below the OECD average (82%); the proportion of the public expenditure allocated to higher education institutions (34%) was less than half of the OECD average (70%) as well. In addition, as was acknowledged by the Cabinet Office on its website, the social expenditure for families as a percentage of GDP was 1.34% in 2014/15, which remained low compared to European countries such as Germany (2.24%), France (2.91%), Sweden (3.63%) and the United Kingdom (3.86%).

Recommendations

The Government and the Diet should take all necessary measures to ensure that the best interests of the child is fully considered in the budgeting process, including the institutionalization of the "child rights impact assessment" in the process.

I-6. Protection and Promotion of Children's Rights in the Business Sector

The SPR [paras. 23-26] demonstrates lack of awareness on the part of the Government of adverse impacts of business activities on children, which is significantly inconsistent with what was recommended by the Committee in its previous concluding observations. The report shows no manifestation of awareness of various possible impacts of business activities on children, including child labor in global supply chains; forced and exploitative labor of parents, caregivers and young workers; land confiscation and destruction of livelihood and environment due to infrastructure development; increase in domestic low-paid and irregular employment among parents and caregivers; challenges in

employment including work-life balance; sexual exploitation of children and child pornography; unsafe and insecure products and services for children; and impacts of marketing, advertisement, and mass media on children. Although it is noteworthy that the Government refers to the formulation of a "National Action Plan on Business and Human Rights" and the dissemination of "Children's Rights and Business Principles", specific measures for these purposes are not indicated in the report.

Recommendations

1. The Government should establish legal and institutional frameworks to respect and protect children's rights in this field and consider ensuring access to remedies for violations of these rights, fully respecting the Committee's General Comment No. 16 and the Guiding Principles on Business and Human Rights (2011).
2. The Government should collect and aggregate information on the adverse impacts of business activities on children, report the Japanese government's current policies, regulations, legislative measures, and other efforts based on the framework of "Protect, Respect and Remedy", lay out challenges, and underline an outlook for future efforts.
3. In order to achieve the two suggested targets above, the Government should ensure the participation of civil society in the process of formulating a "National Action Plan on Business and Human Rights", and utilize and reflect the "Children's Rights and Business Principles" in the action plan.
4. In order to achieve the above-mentioned two recommendations, the Government should establish procurement policies for companies and the government and consider a legal and institutional framework to encourage companies to conduct human rights due diligence in supply chains.

I-7. It Is Necessary to Increase Budget Allocations and to Adopt a Child Rights-Based Approach in the Field of ODA

Japan's ODA as a proportion of GNI remains at 0.2%, which has been decreasing since 2000 and stands at the 20th out of the 29 DAC members. While the SDGs call on countries to commit 0.15-0.20% as a proportion of GNI for the LDCs, Japan's performance was only 0.08% in 2015.

Whereas Japan's total ODA budget has been increasing, it has not led to the increase of aid to education and other basic social sectors. Rather, Japan's ODA to education has been decreasing from 7.4% in 2011 to 2.7% in 2015. 52.2% of bilateral ODA to education went to higher education and senior vocational/technical training in 2015, which is much higher than primary education at 7.5% and pre-school education at 0.2%.

Finally, Japan allocated only 2.3% of total bilateral ODA channeled to and through NGOs in 2014-2015, compared with DAC country average of 16.9%.

Recommendations

1. The Government should develop a plan to achieve the 0.7% ODA/GNI and 0.15~0.2% LDCs targets.
2. Following the adoption of the SDGs, The Government should prioritize and strengthen the protection and respect of children's rights, by reviewing the current ODA focusing on national interests and economic infrastructures. Also, in order to avoid ODA violating children's rights, the Government should ensure in all projects including public-private partnerships, the application of humanitarian criteria/standards such as the JICA guidelines for Environmental and Social Considerations, local community engagement, and impact assessments.
3. The Government should expand aid for basic social sectors that benefits children, such as health, nutrition and education. Especially, humanitarian aid for health, education and child protection in the situation of armed conflict and disasters is in urgent need, demanding immediate increase of aid.
4. To achieve the SDGs principle "Leaving no one behind", the respective areas of activities in ODA, especially for vulnerable groups, should be made open to NGOs working close to local areas and communities which are difficult to reach. In addition, to ensure respect and promotion of children's rights, participation of NGOs, partnership with NGOs, and monitoring by NGOs in ODA/public-private partnership projects should be expanded.

I-8. The Convention and the Committee's Concluding Observations Have Not Been Disseminated Adequately in Qualitative and Quantitative Terms

In spite of the provisions of Article 42 of the Convention and the Committee's previous recommendations (para. 23), the Government has not taken sufficient measures to improve understanding and awareness of the principles and provisions of the Convention (in particular Articles 3 and 12), leading to the preservation of negative attitude among the public towards the notion of children's rights. While Annex II to SPR provide relatively detailed information on training activities, what is important is evaluation of the impact of these measures on "attitudinal change, behaviour and the treatment of children", as was recommended by the Committee in 2014 (para. 21(c)). There are still few cases of systematic and practical education on children's rights in training of would-be professionals concerned with children. Furthermore the dissemination about the Convention among children, who are rights holders, remains to be insufficient because it is not easy for children to have access to the text of the

Convention and because the text is not child friendly.

Recommendations

1. Following the precedent of the surveys about the extent to which the CEDAW Convention is known, the Government should conduct adequate periodic surveys about the extent to which the Convention is known among children, parents and the general public as well as professionals concerning children and about to what degree the philosophies and principles of the Convention have taken root, with a view to taking all necessary measures to disseminate the Convention further on the basis of the findings. In this regard, attention should also be paid to children who do not attend school, children who belong to linguistic minorities and children with disabilities and to the need to adopt methodologies that enable children to exercise their rights in effective ways.

2. In particular, the Government should take the following measures to promote the dissemination of the Convention:

(a) To launch a child-friendly section about the Convention on the website of the Ministry of Foreign Affairs;
(b) To promote the dissemination of the Convention for foreign residents in Japan, especially children, in their mother tongues (at least in Chinese and Korean as is the case for the CEDAW Convention);
(c) To put the text of the Convention on “maternity record books”; and,
(d) To refer to the Convention explicitly the Course of Study so that its principles and provisions are reflected in textbooks.

II. Definition of the Child

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

After the voting age was lowered from 20 to 18 years of age in June 2015, the issue of whether or not the age of majority under the Civil Code (20 years of age) should be lowered is on the agenda. As is explained in the SPR [para. 27], consideration is given in this process to the elimination of the difference in the minimum age of marriage for boys and girls (18 and 16 years respectively). In this process, the lowering of the upper age for the application of the Juvenile Act from 20 to 18 is also being considered. It is appropriate, however, to continue to apply the Juvenile Act, which is based on the principle of protection, to young people who are 18 or 19 years old; the effectiveness of applying protective measures to them is acknowledged by the members of the ruling party as well (the proposals

by the special mission committee of the Liberal Democratic Party on 10 September 2015). The exclusion of this age group from the coverage of the Juvenile Act means that some 55% of the juveniles involved in the justice process would not be sent to the family court (the estimate based on *2016 Annual Prosecution Statistics*, Table 25).

With regard to the age of sexual consent, the SPR states that there are "provisions to penalize sexual activities, regardless of consent, with child who are not less than 13 years of age but less than 18 years of age in the laws other than the Criminal Code as well as in local ordinances [para. 28]. This is not an accurate description, however, because these provisions penalizes inappropriate sexual contact, including sexual exploitation and what is called "sexual misconduct". Although the amendments to the Criminal Code in June 2017 criminalized the involvement in sexual conduct with those under 18 years of age by taking advantage of the influence as a guardian (Article 179), persons other than guardians who can exercise influence over children was not covered by the provision.

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 left as it is now, 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 guardian of the child or not.

III. General Principles

III-A: Non-Discrimination

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

While the Diet has adopted pieces of legislation in some areas, acknowledging the existence of discrimination and providing for measures for its elimination, these legislative acts are not comprehensive anti-discrimination laws and do not establish effective measures to provide remedies in sufficient ways.

Consequently there still remains discrimination against different categories of children, such as: children of national minorities, including *Buraku* people (people from the areas that have traditionally been segregated from the mainstream community and who have been discriminated against) and the Ainu people (see III-A-6 below); children of migrants, returnees from China and who are otherwise linked to foreign countries; children who are LGBTI (see III-A-5 below); and against children affected by the Great East Japan Earthquake and the nuclear accidents in Fukushima. On 26 July 2016, at an institution for persons with intellectual disabilities, a former employee who had strong prejudices against persons with disabilities killed 19 persons who had been admitted in the institution and inflicted severe or minor injuries on other 26 persons; sufficient responses have not been taken on the basis of the acknowledgment that this mass killing was a form of hate crime.

While the reinforcement of the human rights counseling system in foreign languages [SPR para. 34] is a positive step, its impact is limited partly because it was not underlined by comprehensive anti-discrimination legislation. The survey of foreign residents in Japan, published by the Ministry of Justice in March 2017, found that some 30% of the respondents have experienced discriminatory remarks against them and that discrimination in the fields of housing and employment still persists.

Recommendations

In the light of the relevant recommendations by the human rights treaty bodies, 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.

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

Several human rights treaty bodies, including the Committee on the Rights of the Child repeatedly expressed their concern about verbal and physical attacks and hate crime against minorities, especially children attending Korean schools to the Japanese Government. Not only any effective measures have been taken to combat hate speeches and hate crimes against Korean school children, but also the Japanese government has never conducted any research or investigation on incidents targeting Korean schools and their students, in the end, racist groups attacked Korean school where children have lesson inside while the

issue of hate speech against minority groups, especially Korean residents in Japan has been increasing in its number and grossness. The racist attack itself had enormous negative mental damage on the victims, especially the traumatic experience suffered by the Korean elementary school children. What is worse, racist groups filmed the whole process of attack and uploaded the video to several websites so as to incite discrimination, hatred, and violence against Korean residents in Japan.

While the anti-hate speech law was enacted in May 2016, the law only clarified the basic principles with hate speech in Japan and does not prohibit the hate speech. Even after the enactment of the law, there are tons of webpages of hate speech demonstrations against Korean residents in Japan, which make Korean children fear to express their ethnic identity in public places.

Recommendations

1. The Government should conduct fact-finding survey for the damage affected to Korean school children, who is the most vulnerable target of hate speeches and hate crimes and take effective measures towards hate speeches and hate crimes.
2. The Government should enact comprehensive anti-discrimination law which includes regulation of hate speeches and hate crimes on the internet which incites discrimination, hostility or violence against Korean residents in Japan, especially children attending Korean school.

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

The discriminatory provision with regard to the right to inheritance of children born out of wedlock, about which the Human Rights Committee, the CRC Committee and other treaty bodies have repeatedly expressed concerns, was repealed at last in December 2013. Since then, no measures have been taken to eliminate other discriminatory provisions in the Civil Code, the Family Registration Act and the taxation laws. The concept of "legitimacy" has been kept in the Civil Code and discriminatory expressions such as "a legitimate child" and "a child who is not legitimate" are still used. Many discriminatory legal systems, including the provision of the Family Registration Act concerning the discriminatory description in the birth notification, are maintained.

In society there still exists deep-rooted discrimination against unmarried mothers and children born out of wedlock. Many of them have to live secluded in order to keep them undiscovered. There are cases where children born out of wedlock have gotten harassed or expelled from their houses once they were found to be born out of wedlock. For these and other reasons, the percentage of children

born out of wedlock out of all births in Japan was only 2.3% in 2015.

It should be noted that the previous concerns expressed and recommendations made by the CRC Committee as well as those by the CEDAW in 2016 (paras. 12 and 13) refer not only to discriminatory provisions of the Civil Code but also to the indication on birth certificates and family registers and the use of discriminatory terms such as "a child who is not legitimate".

(See *Annex: Discriminatory Legal Systems towards Children Born out of Wedlock in Japan* for details.)

Recommendations

1. The Government should repeal the provision of the Family Registration Act which requires the description, in a birth notification, whether the child is 'legitimate' or 'not legitimate'.
2. The Government should correct the indication of gender on the family registers filed before November 2004, which makes it easy to see that the child was born out of wedlock, on its own initiative in a lump without waiting for the applications from those concerned. If this is not possible because of the present requirement that the family relationship should be indicated so that the birth order of children can be understood at a glance, the requirement itself should be repealed.
3. The Government should consider abolishing the notion of 'legitimacy' itself and eliminate such legal terms as 'a legitimate child' and 'a child who is not legitimate' as soon as possible.

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

Since around 2002, Japan has experienced backlashes against sexuality education and "gender-free" (seeking to free people from gender stereotypes) initiatives by the conservatives. Some parliamentarians tried to inflame the public sentiment by referring to extreme cases in the national and local parliaments as well as the media, putting pressure on local authorities and other actors to refrain from being involved in such initiatives. Teachers were subjected to disciplinary measures in some cases (in one of such cases that occurred in Nanao School for Children with Disabilities, the disciplinary measures against the teachers who had conducted sexuality education were found wrongful by the court, which was finalized by the Supreme Court in 2013), which has discouraged gender equality education and sexuality education at school. While the SPR [para. 31] argues that the removal of the provision on co-education of boys and girls from the Basic Act on Education has not produced negative consequences, gender equality and sexuality education is not systematically integrated in school

curricula, only being addressed sporadically in such subjects as health and physical education, home economics and morality education. Stereotyped attitudes about gender roles still persist in Japanese society, which are reflected in gender gaps in different areas as well as in the distinctively high poverty rate among single mothers.

In October 2017, MEXT announced that it would abolish the Gender Equality Learning Division, which has supported participation of women in society, and merge it with the newly-established Division on the Promotion of Learning for Society Based on Harmonious Coexistence. There is concern that less focus may be placed on the promotion of gender equality in the pretext of pursuing "society based on harmonious coexistence in a broader sense".

Recommendations

The Government, especially the Gender Equality Bureau (the Cabinet Office) and the Ministry of Justice, should integrate gender equality education systematically into school curricula, with a view to promote girls' empowerment and to increase awareness about gender equality among both boys and girls, taking into consideration the recommendations by the CEDAW Committee in 2016 (in particular para. 33).

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

With regard to LGBTI children, MEXT issued a circular in April 2015 and published a guidebook for teachers in April 2016 concerning the treatment of such children; those children were identified as one of the groups "who should be given particular attention" in the Basic Policy for Bullying Prevention, revised in March 2017. In the Course of Study concerning the subjects of (health and) physical education, however, the reference to "the emergence of interest in the opposite sex along with physical and mental growth and development" has been maintained as part of what should be taught in school education. In addition, the Government has taken the position that "it is difficult to take the issue of [LGBTI] as part of what should be taught in school education in the light of the need to ensure teachings in accordance with the developmental stages of each pupil and student, understanding of the guardians and the public and the appropriateness of teachings by teachers", in spite of the fact that it acknowledges that prejudice, exclusion and other forms of discrimination may be a matter of life or death, recognizing that LGBTI children are more likely to have suicidal though in the Guideline for Comprehensive Suicide Prevention Measures (2007).

Recommendations

The Government and the Diet should adopt a comprehensive law that

prohibits people who are LGBTI and strengthen measures, particularly in school, to protect LGBTI children from discrimination. The Government, especially MEXT, should take prompt measures to promote training of all teachers about the issues of sexual orientation and gender identity so that they have proper understanding of sexual diversity. In addition, it should create the school environment where children's dignity and diversity is respected and they can learn with a sense of security, by promoting the introduction of gender-neutral school uniforms and school regulations as well as the repairing of school facilities to make them gender-neutral, whether or not the existence of LGBTI children is recognized by particular schools.

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

The Ainu, a recognized indigenous people in Japan, have been deprived of their land, mother tongue and culture through assimilation policies and continued to face social discrimination and educational disadvantages. According to the survey on the living conditions of the Ainu people in Hokkaido (the northern part of Japan where the majority of the indigenous people live), conducted by the Hokkaido Government in 2013, the gaps have grown in the enrolment rates at the upper secondary and higher education level between the Ainu people and the local average since the previous survey in 2006; the survey also found the decrease in the household annual income, which suggests that the parents have become more concerned about "stable life and employment" than "improvement in education". The survey also found that the proportion of the respondents who have "never experienced discrimination" has decreased significantly from the previous survey, demonstrating that discrimination against the Ainu people has not been eliminated. At school, however, the preparation and use of supplementary readers and other learning materials on the Ainu history and culture has moved backward even in Hokkaido; in other areas, the situation of the Ainu people has not been adequately recognized as a human rights issue in education, only taken up in history classes with regard to the relationship between them and the Japanese to the utmost. Contrary to the recommendations by the CESCR Committee in 2013 (para. 30), the descriptions in a history textbook for lower secondary schools about the discriminatory law that had existed (the Law on the Protection of the Former Aboriginals in Hokkaido) were subjected to a negative opinion in the textbook screening process with regard to the historical fact that the land of the Ainu had been taken away by the government at the time.

Recommendations

1. The Government and the Diet should develop legislation that prohibits

discrimination against the Ainu people and protects their rights as an indigenous people, including the right to ethnic identity.

2. Given the importance of education in the elimination of discrimination and the protection of ethnic identity, the Government, especially MEXT, should guarantee ethnic education for the Ainu children from the preschool stage and, in school education and social education in Hokkaido as well as in other areas, promote rights-based education about the history, culture and actual situation of the indigenous Ainu people in active manners.

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

Although the obligation of foreigners to carry the alien registration certificate all the time was abolished for special permanent residents, it is maintained for medium/long-term residents, who are to be subjected to criminal punishment (a fine no more than ¥200,000 (around $1750 USD)) in case of non-fulfilment.

In addition, foreigners over 16 years of age are obliged to renew the registration by the prescribed period (during six month before the birthday, including the birthday itself), irrespective of whether they are special permanent residents or medium/long-term residents. Those who fail to do so are also to be subjected to criminal punishment (imprisonment no more than a year or a fine no more than ¥200,000). What is strange is that, after the introduction of the new scheme on 9 July 2012, children of foreign nationality who 16 years of age can renew the registration by themselves only on the birthday, because the parents or other relatives in the same households have the duty to do so until the day before. This means that, if parents or relatives fail to fulfil the obligation, these children would be subjected to criminal punishment unless they undertake the renewal procedures on the very day of birthday, even if they have important school events or examinations on the day. See also the concluding observations of the Human Rights Committee in 1993 (para. 9) and 1998 (para. 17).

Recommendations

In the light of the provisions of the Convention, including Article 2 (2) and Article 3 (1), the Government should take legislative measures to repeal the provisions that subject children over 16 years of age to criminal punishment when they fail to fulfill the obligation to carry the alien registration certificate all the time or when they fail to renew the registration by the subscribed deadline.

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

While the SPR [para. 35] does not clearly mention, it is a positive step that the 2016 amendments to the Child Welfare Act explicitly refers to the principle of the best interests of the child in Article 2 (1). However, in spite of the fact that the Act to Support Training of Children and Young People (2009) already refers to the Convention and provides for the need to take the principle into account, the best interests of the child have not been a primary consideration in the legislative, policy-making and budgeting processes since the adoption of the Act, partly because there are no procedures to ensure the implementation of the principle. This tendency is particularly notable in the fields of education and juvenile justice (see VIII-* and IX-B-1). The fact that the SPR takes up the two principles in one section [Section 3 (2)] can be seen as reflecting inadequate awareness of the importance of these principles on the part of the Government.

Recommendations

The Government and the Diet should provide for the principle of the best interests of the child explicitly and systematically in the laws, regulations and other documents concerning children and establish mechanisms and procedures to ensure this principle, including the "child rights impact assessment" procedures, taking into account the principle of respect for the views of the child (Article 12).

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

In spite of the fact that the Committee refereed to "a mandatory process of integrating the best interests of all children, including refugee and undocumented migrant children" in its previous concluding observations (para. 37), the Government does not provide explanations in this regard in its report. In decisions concerning deportation of or special permission to stay for undocumented families, the Government still maintains its position that "the best interests of the child are considered within the framework of the immigration control system". Cases where the best interests of the child have not been sufficiently considered in immigration procedures continue to occur. In one case, for example, a deportation order was issued against a former victim of trafficking of Thai nationality who had been in an irregular situation as well as her son who was born and has been grown up in Japan for 17 years. The courts (the Tokyo District Courts in June 2016 and the Tokyo High Court in December 2016) upheld

the order while suggesting the possibility of granting special permission to stay for the child, virtually forcing their separation.

Recommendations

In addition to withdrawing the declarations on Articles 9 (1) and 10 (1) of the Convention, the Government, especially MoJ, should take legislative, procedural and other measures to ensure that the best interests of the child become a primary consideration in decisions concerning the residence, the maintenance of family unity and/or family reunification of undocumented children and their families.

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

In June 2017, the Prefectural Task Force on the Health Status of the Citizens of Fukushima announced that the number of the children who were diagnosed as suffering from thyroid cancer or as being suspected as such was increased to 191 from 74 in December 2013. In order to avoid focus on this issue, the Fukushima Prefectural Office has described thyroid cancer among children as "malignant [which means cancer] or being suspected as malignant" to implicate that children who do not suffer from thyroid cancer are also included, making it difficult to compare the figures with those from the Chernobyl nuclear accident. While the Task Force acknowledged "the obvious increase in the cases of thyroid cancer", it concluded that they "cannot be regarded as having been caused by the nuclear accidents in Fukushima" without showing solid grounds.

Actually, however, metastasis has been observed in many of the cancer patients; and some of the children who had been diagnosed as A1 (no cysts or nodes have been found) in the first cycle of the screening tests have been found to have cancer in the second cycle of the tests after a short period of time. Some of the children and their families who were told about their status have faced economic difficulties (due to the costs of medical examinations and attending hospitals), isolation and problems in continuing education, finding employment or envisaging future marriage and childbirth; others may be forced to be receive medication and other forms of medical treatment throughout life due to redevelopment and/or metastasis. Different forms of continuous support for these children and their parents, including financial assistance, have been provided by NPOs and other private organizations instead of the authorities.

The children and parents affected by the exposure to radiation have filed suits against the State and Fukushima Prefecture to seek for remedies on the

grounds that the suggested threshold about the annual radiation dose in schoolyards, which is set at 20 mSv, is illegal; that there are still many areas in Fukushima where the criteria for the control areas for radiation are met; that a lot of radioactive fallouts continue to be detected; that the soil pollution level remains high, leading to the refloating of radioactive fine particles in the soil and forcing children to be subject to internal exposure to radiation.

Recommendations

1. 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 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.
2. The Government, Fukushima Prefecture and other authorities should acknowledge their responsibilities for exposing children to radiation, by promoting nuclear power plants relentlessly without fulfilling the obligations of security in adequate manners, and take measures to protect the rights of the affected children to life, survival and development on the basis of the shifted burden of proof.

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

In spite of the previous recommendations by the Committee (paras. 40 and 42), the SPR [para. 35] only refers to the staffing standards in child welfare institutions. Urgent measures are necessary to prevent "unexpected accidents", which are one of the leading causes of death, especially among younger children, as is shown below (the statistics compiled by MHLW).

- Infants: the fourth leading cause of death (unexpected suffocation, among others)
- Children between 1-4 years of age: the second leading cause of death (unexpected suffocation and drowning, among others)
- Children between 5-9 years of age: the leading cause of death (traffic accidents and unexpected drowning, among others)

In daycare facilities, more than ten fatal accidents and some hundreds of other serious accidents (leading to injuries that will take more than 30 days) occur every year (according to the Cabinet Office and other official sources). The obligation to report these accidents, however, had not been imposed on licensed

facilities until 2015 and on unlicensed facilities until October 2017. Fatal and other serious incidents occur in extracurricular activities and sports meetings in primary and secondary schools, too.

Recommendations

While being careful not to put excessive restrictions on creative initiatives by civil society organizations, the Government should establish necessary safety standards and other minimum standards for facilities and institutions concerning children, followed by appropriate supervision of their observance. In addition, all necessary measures should be taken to prevent traffic, school and domestic accidents and to ensure appropriate responses to the accidents that occurred, including the comprehensive re-planning of community roads, the provision of safety and first aid education and the expansion of pediatric emergency care arrangements.

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

While it has been a positive step that measures as are described in the SPR [paras. 46 and 47] have been taken to address suicide among children and young people, the report only provides the data on the general suicide rate. While the suicide rate has exhibited a decreasing trend in general, it has remained almost flat or exhibited a slight increase among children and young people under 20 years of age, which marked 2.4% in 2016 (according to the statistics compiled by MHLW). Suicide is the leading cause of death among those between 15 and 19 years of age and the second leading cause of death among those between 10 and 14 years of age (in 2016, *ibid.*).

According to the NPA, the motive of suicide that is identified most often among primary and secondary students was "school problems" (36.3%), followed by "trouble with parents" (23.4%) and "health problems" (19.7%) in 2016. The finding suggests that stress in school is a heavy burden for children, underpinned by the announcement of the Cabinet Office that the day when the number of suicide among children is the highest throughout the year is the first of September, which is the first day of the second semester after the summer vacation for the majority of schools in Japan. Among the cases of suicide motivated by "school problems", which were identified as the leading cause of suicide, there were six cases found be caused by bullying; the SPR, however, does not provide such data neither.

Recommendations

The Government, especially MEXT and MHLW, should further strengthen the existing measures to prevent suicide among children, including through hearing

children's voices. Emphasis should be placed in this regard on alleviating stress in school, providing counseling services about parent-child relationships and paying more attention to LGBTI children and other children in vulnerable situations.

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

Okinawa, an islands prefecture located in the southern part of Japan, was an independent country called "Ryuku Kingdom" until it was merged into Japan in 1879, after which it has been the subject systematic discriminatory policies. And, due to the concentration of the US military bases in Okinawa (some 74% of all the US military bases in Japan), the children of Okinawa have been subject to severer violation of their rights to life, survival and development as well as to safety and health, compared to children in other areas. Accidents caused by the US military personnel, including during military exercises, as well as rape and other forms of sexual violence against girls continue to be big problems. The noise of fighter planes and other aircrafts have caused health problems, including hearing problems due to the noise. The concentration of the US bases has also infringed the right of the children of Okinawa to education in safe environment significantly, compared to children in other areas.

Recommendations

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. In addition, effective measures should be taken to protect the children of Okinawa from sexual violence and crime by U.S. military personnel, including through the effective law-enforcement against them.

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

While the SPR [para. 35] does not clearly mention, it is a positive step that the 2016 amendments to the Child Welfare Act explicitly refers to the principle of respect for the views of the child in Article 2 (1). In addition to the introduction of the relevant provisions in the Act to Support Training of Children and Young People (2009) [SPR para. 36] and the Act on Securing Opportunities for Education Equivalent to Formal Education at the Compulsory Level (December 2016), it can

also be seen as a positive step that the Domestic Relations Case Procedure Act (2011) consolidated the provisions concerning the child's participation in the proceedings [SPR para. 40]. Some municipalities have established permanent "children's councils" in an attempt to reflect children's views in municipal policies.

Children's voices have not been systematically heard, however, in the legislative and policy processes, including the budgeting process. Although the SPR refers to the Child Welfare Council by way of example [para. 39], the provision states that the Council "may, when it finds it particularly necessary, hear the views of children and families", showing that the rule and the exception are turned around. Sufficient measures have not been taken, either, to promote children's voices and participation at school (see III-D-2 below), in alternative care (see III-D-3 below) as well as in health and medical settings. While it is a positive step that efforts have been made in some areas to listen to children in the process of reconstruction from the Great East Japan Earthquake [SPR para. 37], advocated and supported by NGOs, only less than 20% of the municipal reconstruction plans include the elements of child participation, many of which have been developed by the municipalities in Fukushima Prefecture.

Recommendations

In the light of the Committee's General Comment No. 12 (2009), the Diet and the Government should amend major laws concerning children other than the Child Welfare Act, including the School Education Act, with a view to introducing explicit provisions on the principle of respect for the views of the child, and add necessary changes to laws and regulations to ensure the effective implementation of the principle. Furthermore, measures should be taken to promote awareness-raising and training about the rights of children to be heard and participate as well as the importance of these rights among children, parents, professional concerning children and the general public as well as to encourage municipalities to develop mechanisms for children's participation.

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

The Government still maintains the one-sided interpretation about Article 12 that "[t]he formulation of school rules, determination of curricula and other related matters at schools are not considered items related to individual children and do not come under the scope of rights for expressing opinions described in Article 12(1)" [SPR para. 38], which is contrary to the Committee's General Comment No. 12 (2009). The fact that it is the rights of children to express their view and participate is not acknowledged, as is demonstrated in the

statement in the report that the opinions of children are taken into account in the school administration "as needed" [*ibid.*]. While "care" is to be taken to give pupils/students opportunities to explain themselves in suspension of attendance or other disciplinary procedures, such "care" is encouraged with a view to ensuring smooth implementation and educational effectiveness of these measures, instead of being required to protect children's rights and guarantee due process for them. Under these circumstances, children's participation remains inactive at school.

Recommendations

1. The Government, especially MEXT, should correct its understanding of the Convention, including in the light of the Committee's General Comment No. 12, and take measures to legally guarantee the rights of children to participate in the school management and to develop institutional basis to this effect.
2. With regard to disciplinary measures or measures to suspend attendance, the School Education Act and the relevant regulations should be amended with a view to imposing legal obligations on schools to make prior notifications to the children concerned and to provide them with opportunities to explain themselves and to guaranteeing those children the right to appeal against such decisions.

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

Children in alternative care are not given adequate opportunities to express their views and participate in the whole processes of temporary protection, placement or changes of placement into foster care or institutional care and daily lives in institutions. In the absence of institutionalized mechanisms, including advocates for them, to support such children in expressing their views and participating, those children have significant difficulties in the expression of their views and in life planning on their own. Children who are or had been placed in alternative care are not heard in sufficient manners in the discussions on policy and institutions concerning alternative care. (For details, see *Annex: Toward a More Meaningful Foster Youth Engagement*.)

Recommendations

The Government, especially MHLW, should take all necessary measures, including the institutionalization of child advocates, to ensure and promote the expression of the views and participation by children who are or had been placed in alternative care in the whole processes of alternative care.

III-D-4. Child Participation in Legislative and Policy Making Processes is Insufficient

and Citizenship Education Should Be Strengthened

There is a growing interest in citizenship education in the aftermath of the lowering of the voting age to 18 through the amendments to the Public Officers Election Act in 2015. MEXT issued a circular on the education for general political knowledge for and political activities by upper secondary school students, announcing that the education for general political knowledge will be promoted. At the same time, however, the Ministry required schools to ensure "political neutrality" in accordance with Article 14 (2) of the Basic Act on Education; it also called on teachers to refrain from expressing personal thoughts and positions and to conduct teachings from impartial and neutral perspectives, while referring to the importance of indicating diverse views so that students can deepen their thoughts and arguments. Since the interpretation of "neutrality" may be arbitrary, these requirements have chilling effects on those working at school. In order to enable children to participate in the construction of better society as citizens and subjects, education should be conducted in the manners that equip students with literacy and that make it possible to explore ways of solving familiar problems and difficult challenges through cooperation and collaboration; citizenship education promoted by MEXT, however, is not committed to the teachings that emphasize democratic values.

Recommendations

In order to build better society, it is necessary to promote education oriented to the nurturing of citizens who form peaceful and democratic society, which should be integrated into school curricula at each level of education. In the light of the principles of the Constitution of Japan and the Convention, children should be provided with active learning opportunities on the universal values of democratic society. For this purpose, citizenship awareness should be fostered in education through academic lessons, class activities, student councils, school events and child-led activities at community.

IV. Civil Rights and Freedoms

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

The SPR ignores the Committee's previous recommendation that called for legislative measures "to ensure the registration of all children and protect children from de jure statelessness" (para. 46 (a)), only responding to para. 46 (b) by stating that "the presence of stateless persons and the protection of their status

and rights have not been a major issue in Japan and domestic needs for concluding the Convention [Relating to the Status of Stateless Persons] are not necessarily clear" [para. 53]. According to the Ministry of Justice, however, there were 191 stateless students (154 at the primary level and 37 at the lower secondary level) as of March 2016; and there were at least 626 stateless persons in Japan as of the end of 2016, among whom 112 were under 18 years of age.

In addition, there are persons who are not registered on the family register because the notifications of their birth have not been submitted for different reasons, including the so-called "300-day problem" (non-registration caused by the provision under the Civil Code that a child born within 300 days after the parents' divorce shall be registered as a child of the mother and her former husband even if it is contrary to the fact). Through the survey conducted between September 2014 and March 2017, the Ministry of Justice found 1305 persons who are not registered on the family register; some people estimate that the number is actually likely to amount nearly to 10,000. While the Ministry of Justice has taken measures to respond to the non-registration, the problem has not been completely solved. Furthermore there are a certain number of children whose whereabouts are unknown: the number is 1349 according to the National Census (2010, 104 according to the Basic Research on Schools (2016) and 35 according to the survey by MHLW (2016).

Recommendations

In order to ensure that all the children living in Japan are duly registered and granted nationality of Japan or other states at birth, the Government and the Diet should amend the Family Register Act, the Nationality Act, the Immigration Control Act and other relevant laws, while taking all necessary measures to ensure that non-registered children can receive education, health care and other essential social services.

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

Hinomaru (Sun-Rising Flag) and *Kimigayo* (Emperor's Era) were formally recognized as the national flag and anthem of Japan respectively through the enactment of the Act on the National Flag and the National Anthem in 1999. Given the fact that a certain number of people maintain negative attitudes about the specific flag and the song, associating them with Japan's acts of aggression before the end of the World War II, the representatives of the Government repeatedly stated, during the drafting process of the Act, that the bill "is not intended to impose duties to respect the national flag and anthem on the people"

and that they "have no intention to interfere with what pupils and students think with a view to forcing them to behave in certain ways". Nevertheless, guidance and pressure by the boards of education and other authorities is prevalent in practice, often amounting to *de facto* imposition; in recent years, such guidance and pressure has been extended to national universities and pre-school institutions (kindergartens and daycare centers), not only to primary and secondary schools (including schools for children with disabilities).

Recommendations

The Government, especially MEXT, 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.

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

Although MEXT instructed, in its circular issued upon the entry into force of the Convention in Japan, that schools should "continue to review school rules … with consideration for the conditions of children, the views of guardians, the current circumstances in the local community, changes of society, and movement with the times", it does not recognize the *right* of students to express their views on school rules, as is acknowledged in the SPR [para. 38] (see also III-D-2). Consequently there still remain unreasonable school rules that impose excessive restrictions on children's body, clothes, behavior and daily lives (including their lives outside school). Even in 2017, there have been reported cases where public high schools in Tokyo require the students whose hair is not black or straight to submit proof that the it is their natural hair or where a public high school in Osaka has instructed a student whose hair is brown by nature to dye it black. Such rules deny diversity among children (including diversity based on disability, sexual orientation and gender identity, ethnic origin and other factors), infringe on the rights of the child, among others, to freedom of expression, to freedom of association and peaceful assembly and to physical integrity and deprives them of opportunities to develop through experiences of autonomous decisions.

Recommendations

The Government, especially MEXT, 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.

V. Violence against Children

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

Several measures have been taken for the prevention of corporal punishment at home and in alternative care settings since June 2010. In 2010, for example, the Civil Code was amended to provide explicitly that the parent's right of custody and education shall be exercised "for the interests of the child" (Article 820). The 2013 revision of the official *Handbook on Responses to Child Abuse and Neglect* made it clear that corporal punishment is inappropriate. The amendment to the Child Welfare Act in June 2016 explicitly provides that the parent(s) "shall not discipline the child beyond the extent necessary for custody and education in disciplining the child" [SPR para. 61]; after the adoption of the amendment, MHLW published a brochure for the prevention of corporal punishment in accordance with the supplementary resolution by the House of Councilors. In the field of education, MEXT responded to the case where a high school student killed himself because of corporal punishment (December 2012) by issuing a new circular to reconfirm the rule of prohibition of corporal punishment.

Corporal punishment and humiliating treatment of children, however, is not explicitly prohibited in all settings yet. Partly due to this lack of total ban, society in general remains to be tolerant of such treatment, leading to the occurrence of many cases of corporal punishment in all settings where children spend their life, including at school where corporal punishment is already prohibited; in several questionnaire surveys of parents conducted by the media, more than 60% of the respondents replied that they have used corporal punishment. Further efforts are also needed to address abuse and other forms of violence against children in alternative care, including violence by other children in institutions.

Recommendations

The Government and the Diet should explicitly prohibit all forms of corporal punishment and humiliating treatment of children in all setting, including at home, by law. The Government should conduct, promote and support campaigns and awareness-raising activities on alternative forms of discipline and on children's rights, targeting parents, professionals concerning children (including teachers and childcare

workers) and the general public. It is also necessary to establish mechanisms to have accurate pictures of corporal punishment and humiliating treatment of children in different settings.

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

Through the amendments to the Child Welfare Act, the Child Abuse Prevention Act and other relevant pieces of legislation, a broad range of measures have been taken to address child abuse and neglect, including the reinforcement of reporting channels [SPR para. 62] and awareness-raising activities [*ibid.*, para. 61]. Those measures, however, still tend to be reactionary in nature and not necessarily focus on the rights of children. For example, abusive parents are sometimes subject to unilateral and directive interventions instead of supportive ones in the processes of temporary protection and the development of child-rearing plans thereafter; children are not adequately heard in these processes, either. In addition, temporary protection primarily focus on the protection of children, paying insufficient attention to the protection of their rights, including the right to education.

While the general public is highly interested in the issue of child abuse and neglect, many of them are not sufficiently aware of what constitutes child abuse and neglect under the Child Abuse Prevention Act and of the importance of reporting. Consequently there are many cases of abuse and neglect that have not been reported to the appropriate authorities. In addition, adequate supportive interventions are not provided at the early stage in many cases. Efforts to encourage parents with difficulties to seek for advice and help have not been successful enough, leading to non-response to or deterioration of abusive acts. Awareness-raising targeted at children has not been sufficient, either, and child-friendly mechanisms are hardly available for children to seek for advice and help. Adequate measures have not been taken to address social, financial and other problems behind cases of child abuse and neglect, which makes it difficult to prevent these cases from occurring.

Recommendations

In order to prevent and eliminate child abuse and neglect and other forms of violence against children, the Government, especially MHLW and MEXT, should strengthen awareness-raising campaigns and training about such violence and take further support measures to deal with the problems behind child abuse and neglect, including poverty and mental health difficulties. With a view to prevent non-response to and deterioration of cases of abuse and neglect, comprehensive early supportive

interventions should be further promoted by reinforcing the existing structures.

V-3. Initiatives to Eliminate Corporal Punishment and Other Forms of Violence at School Are Still Insufficient

As is mentioned above (see V-1), national surveys and training have been conducted to promote school education without corporal punishment in the aftermath of the suicide of a high school student in 2012 driven by corporal punishment. Many cases of corporal punishment are still reported, however; the number of teachers who were subjected to disciplinary measures on the ground of corporal punishment amounted to 952 in 2014/15 and 721 in 2015/16.

During club activities in school at the secondary level, in particular, corporal punishment and other forms of physical and verbal abuse as well as unreasonable conduct on the pretext of "coaching" have been observed, including cases of sexual violence. Observers have been pointed out that violence in club activities in school are exacerbated by excessive burdens on teachers who are involved in club activities, which makes it difficult to spend sufficient time to be engaged with students with care. Other contributing factors include social tolerance of corporal punishment as well as the expectation on the part of schools and/or parents for excellent results, for example in athletic meetings. With a view to reduce such burdens, MEXT amended part of the Ordinance for Enforcement of the School Education Act in 2017, introducing the system of "club activities instructors" recruited from outside, who are to be in charge of club activities in school and who can instruct the members and take them out for games and other purposes.

Recommendations

Taking the Committee's General Comments No. 8 and 13 on violence against children, the Government, especially MEXT, 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 in the prevention of violence.

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

The adoption of the Act for Promoting Bullying Prevention Measures in 2013 [SPR para. 124] was a positive step, although such a measure had been waited for a long time well before the tragic incident of suicide of a junior high school student on the ground of bullying (in Otsu City, Shiga Prefecture, in 2011),

which triggered such a move.

Although the SPR states that the Government "conducts annual surveys and analysis of national conditions related to acts of violence, bullying, and other problem behaviors by children and students at elementary schools, junior high schools, and high schools", it does not provide the outcomes of such surveys (see also I-4). While it is positive that emphasis has been placed on "how cases of bullying were identified" instead of focusing on the non-existence of such cases, the dark figures are likely to be high, as is reflected in the variations in the relevant statistics, which makes it difficult to have an accurate picture of the phenomenon. While the NPA estimates that 1.9% of suicide cases among children were motivated by bullying (2016), the figure is likely to be higher if attention is paid to cases associated with bullying because the causes and motivations of suicide are often multi-faceted (see also III-C-3 on suicide among children and young people).

While the Bullying Prevention Act focuses on the prevention, early identification of and responses to cases of bullying, the responses called for by the Act have not been well-established in each and every school, including in terms of the definition and nature of bullying. This holds true with regard to the obligation to set up an independent task force concerning serious cases of bullying, including those that have led to death or non-attendance at school of the victim, at the school or municipal level. This indicates the need to further improve and promote the guidelines on the task force, developed by MEXT for the purposes of standardizing and ensuring impartiality of the inquiry process.

Recommendations

The Government, especially MEXT, should implement and promote practical measures that take into consideration the nature of bullying, rather than seeking to conclude cases in formalistic ways (simple apologies from the bullies, for example) or only taking punitive measures. Such measures should include: the establishment of effective channels for children to seek help, including independent complaint mechanisms at the local and national levels; the placement of school counselors and school social workers and the arrangements for systematic and effective collaboration of the relevant professionals; and the improvement of the functions of independent task forces set up under the Bullying Prevention Act in serious cases, including through sharing lessons learnt from the activities of the existing task forces.

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

While 1622 cases of child sexual abuse were reported to child guidance

centers in 2016/17, the number of arrest on the ground of child sexual abuse was limited to 162 in 2016. While 989 cases of rape (including those against adult women) were reported to the police in 2016, the figure cannot be regarded as reflecting the actual picture of sexual violence, since 6.5% of women have experience forced sexual intercourse but only 4.3% of them reported to the police (according to the Gender Equality Bureau, the Cabinet Office). In the field of education, some 200 teachers have been subjected to disciplinary measures on the grounds of "indecent acts" every year, although not all the acts were conducted within the schools where they were employed; as has been mentioned above (see V-3), the issue of sexual violence in school club activities have become a social issue. While the amendments to the Criminal Code in June 2017 removed the requirement of a formal complaint to bring the perpetrator to justice and criminalized the involvement in sexual conduct with those under 18 years of age by taking advantage of the influence as a guardian (see also II-1), no changes have been added to the statute of limitations and sufficient support is not provided to help the victims to file complaints.

One of the reasons why sexual abuse of children remain hidden is that lack of professionals who can conduct interviews of child victims in appropriate manners (forensic interviewing). While MHLW encouraged the use of the technique in its circular in October 2015, the numbers of such interviews have been limited to 188 (those interviewed under the jurisdiction of the MoJ), 214 (MHLW) and 139 (NPA); the official statistics in this regard are not available on a periodic basis.

In addition, the official statistics specifically concerning sexual abuse of children with disabilities are not available, making it difficult to have a picture of the situation. While cases of abuse and neglect of children with disabilities are dealt with under the Child Abuse Prevention Act instead of the Act on the Prevention of Persons with Disabilities (2011), the primary institutions in charge of responding to cases of child abuse do not necessarily have the expertise and experience concerning disability.

Recommendations

With a view to protecting children from sexual abuse and violence, the Government and the Diet should take further legislative measures, including making the initial date for reckoning the statute of limitations the day when the victim reached majority. Further measures should be taken to encourage and support complaints by the child victims (including children with disabilities) as well as to avoid re-victimization in the investigative and judicial processes, including the development of appropriate human resources.

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

The number of violence from dating partners (dating violence) is increasing. According to the surveys by the Cabinet Office, 10.1% of the respondents reported that they had experienced this type of violence in 2011/12; the figure increased to 14.8% in 2014/15, with more males reporting the victimization. While more females in their twenties and thirties as well as more males in their thirties have been subjected to this type of violence, cases of dating violence also occur among younger people, including adolescents. 20.5% of the victims reported the experience of risks to their lives; in some cases, dating violence led to killings of the partners' family members. Due to the widened use of mobile phones, the Internet and SNS services, the victimization tend to get invisible, serious and prolonged.

Under the amendments to the Spousal Violence Prevention Act in January 2014, it is now possible for the victims to apply for restraining orders or other protective orders when they are subjected to violence from their partners, provided that they are cohabiting couples. It is often difficult for the victims, however, to submit necessary evidence when they become disempowered by violence; in addition, most cases of dating violence occur between couples who are not cohabiting, making the protective scheme still inadequate.

According to the above-mentioned surveys, the victims of dating violence are more likely, with a significant difference, to suffer from spousal violence after getting married. This finding indicates the importance of the measures to deal with dating violence, including with a view to preventing future victimization through domestic violence. In addition, there is a significant shortage of advisory services and skilled supporters for gays and lesbians who suffer from dating violence, which is further likely to go unreported because such relationships are often kept secret.

Recommendations

The Government should develop effective measures to support victims (including males and LGBTI persons) of dating violence, including through the consolidation of protective schemes on a statutory basis. Specific preventive education on this issue should be provided in all educational institutions in accordance with children's developmental stages. Effective responses to perpetrators of dating violence should also be explored.

VI. Family Environment and Alternative Care

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

In spite of the high employment rate among single-parents (80.6% of single mothers and 91.3% of single fathers were employed in 2011), many of them, especially single mothers, continue to be disadvantaged in terms of financial and other conditions. The poverty rate among single-parent households was 50.8% in 2015; two in one single-parent households live with the annual income less than 1.22 million yen, which is one fourth of the average income in Japan.

The rate of income redistribution through taxation and social security schemes is extremely low, ranking at the bottom among the OECD countries. According to a survey conducted in 2014, the amount of the social welfare benefits constitute no more than 18.7% of the total annual income of single-parent households on average. These circumstances make it difficult for them to get out of poverty on their own. While some efforts have been made with regard to the recovery of maintenance for the child, many single parents (around 80% of single mothers) do not receive maintenance for their children from the previous partners. Conflicts concerning the payment of maintenance often affect regular contact between children and their separated parents.

Those factors affect the rate of enrolment in higher education among children in single-parent households, which was 23.9% in 2011 compared to the general enrolment rate (53.7% in 2014).

Recommendations

The Government, especially MHLW, should development and implement comprehensive policies to support single-parent households, including through measures to increase their income (for example by raising the amount of various social benefits and/or grant-type scholarships) and the reinforcement of advisory services on different aspects of their lives.

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

In 2015/2016, child guidance centers dealt with 103,286 reported cases of child abuse and neglect. Among such cases, children were separated from their parents and placed into temporary protection by child guidance centers in 11,607 cases and 6,194 children were placed in child welfare facilities.

Child guidance centers have the power to separate abused children from their parents and to provide them with temporary protection on their own initiative against the will of the parents. Although temporary protection of

children amount to the deprivation of liberty under Article 37 of the Convention, the relevant procedural rights are not guaranteed to children who are subjected to temporary protection and their parents. While temporary protection can be challenged through administrative suits on an *ex post* basis, it usually takes a few months to reach to the conclusions, which makes the scheme virtual separation of children and parents without judicial review not in line with Art. 9 (1) of the Convention. The gaps would be partially remedied by the amendment to the Child Welfare Act in June 2017, which provides that the permission of the family court is required when the child guidance center seeks to extend the period of temporary protection beyond two months against the parents' will.

Recommendations

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.

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

In spite of the Committee's previous recommendations (para. 53), the majority of children without parental care are still placed in residential institutions. While measures have been taken to promote foster care, the proportion of placement in foster care stood at 17.5% as of March 2017; most of the children without parental care (74.5%) were placed in children's homes and young children (8.1%) were placed in infant homes.

In *Challenges and the Future of Alternative Care*, a policy document prepared by the Government in 2011 to improve the situation, the target figure concerning the proportion of foster care was set at one third of all the placement, while one third of the institutions were to be maintained. In 2017, a task force of MHLW formulated the New Visions of Alternative Care and announced the future policies, including that young children under the age of 3 should be placed in family environment as a rule and that institutions should be made small and community-based, which are basically in line with the UN Guidelines on Alternative Care of Children. Children with disabilities who live in residential institutions are not included in the statistics on alternative care, however, and the deinstitutionalization of such children was not explicitly mentioned in the 2011 document.

On the other hand, sufficient human resources have not been allocated so far to promote foster care. The number of the staff who are primarily involved in the task in child guidance centers, the primary organ in this field, is only 1.5 on average. This is one of the reasons why more children without parental care are

not placed in foster care and why there are many cases where foster children are moved to other faster families. The shortage of the staff also makes it difficult to provide foster parents with sufficient care and support.

Recommendations

The Government, especially MHLW, 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. Proactive measures should be taken to strengthen the capacity of child guidance centers with regard to foster care and to promote appropriate involvement of civil society in this regard.

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

Children in alternative care (including temporary protection) often prevented from having regular contact with their parents at the discretion of the head of the child guidance center. While restrictions on such contact may be necessary in the light of the circumstances of specific cases, sufficient safeguards have not been taken to avoid unnecessary restrictions.

In addition, some 60% of children in child welfare institutions have stayed there for more than three years, which indicates that efforts for family reunification have not been successful enough. It is a positive step that the 2017 amendments to the Child Welfare Act empowers the family court to recommend the prefectural authorities to provide guidance to parents with a view to promoting family reunification in cases where children and parents have been separated for a prolonged period of time.

Recommendations

1. The Diet and the Government, especially MHLW, should ensure that restrictions on contact between children and parents in separation are imposed in accordance with due process prescribed by law and consider the introduction of judicial review in this regard.
2. In line with the UN Guidelines on Alternative Care of Children, the Government, especially MHLW, should strengthen efforts to promote family reunification for children in alternative care, provided that it is in the best interests of the child. It should also consider the institutionalization of the arrangement for adoption or other permanent solutions in case of non-cooperation on the part of the parents.

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

While the special adoption system is intended to serve the best interests of the child by securing permanent families for children without parental care, there are many factors that hinder the use of the system, including the upper age limit of the adopted child (6 years of age), the rigid requirement to obtain the consent of the biological parents and the non-involvement of child guidance centers in the process in many municipalities. Consequently the number of special adoption is very small, being 500 cases or so per year, compared to the number of children placed in alternative care for a prolonged period of time.

In addition, follow-up measures have not been taken to implement the Committee's previous recommendation that all adoptions should be subject to judicial authorization and be in accordance with the best interests of the child (para. 55 (a)), as is acknowledged in SPR para. 94. The same holds true for the Committee's recommendation concerning the ratification of the Hague Convention on Intercountry Adoption [SPR para. 95-96].

Recommendations

1. The Diet and the Government should review the legislation on and procedures of adoption of children, including the removal of the factors that restrain the use of special adoption, while paying special attention to the need to ensure that the best interests of the child be the paramount consideration in all cases.
2. The Diet and the Government should take concrete steps to ratify the Hague Convention on Intercountry Adoption in the near future, including the consideration of the possibility to adopt specific legislation on intercountry adoption.

VII. Disability, Basic Health and Welfare

VII-1. "Special Needs Education" Should Be Shifted to Inclusive Education

Although the Convention on the Rights of Persons with Disabilities was ratified and the relevant legislation was amended or adopted, necessary reasonable accommodation has not been provided on a sufficient basis because of the shortage of human and financial resources as well as of the inadequate dissemination of the Convention and the relevant legislation. On the other hand, the number of "special needs schools/classes" and of pupils/students who are given "special instruction in resource rooms" have been on the steady increase. "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.

Under the revised Course of Study for special needs schools, one of the objectives of special needs education is to help pupils/students with disabilities "to ameliorate or overcome the difficulties caused by their disabilities in daily lives and learning", which focus on the instructions based on the medical model.

Since the adoption of the Act on Support for Persons with Developmental Disabilities in 2005, an increasing number of children who are "found" to have developmental disabilities have been placed in special needs schools/classes. Under the Ordinance for Enforcement of the School Education Act, which was revised in 2013, "the wishes of the pupil or student and his/her parents shall be respected to the maximum extent" with regard to the educational placement of children found to be with disabilities, abolishing the rule that the placement in a special needs school should be prioritized; after the revision, however, some 80% of children with disabilities are enrolled in special needs schools.

In addition, there has not been sufficient progress in terms of admission of children with disabilities at the upper secondary level; cases of non-admission on the ground of disabilities continue to occur even if the number of applicants for an upper secondary school does not exceed the prescribed quota.

Recommendations

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 MEXT, 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.

VII-2. Re-Introduction of the Color Perception Test at School Should Be Reconsidered

Persons with color-vision deficiency had faced many obstacles in continuing education or finding employment. Since the deficiency does not interfere with daily lives or most of jobs in serious ways, and since there were cases where persons with the deficiency were not employed in spite of the fact it would not interfere with the work, the Industrial Safety and Health Act was amended in 2001 to exclude the color perception test from the medical examination at the time of employment. In 2003, the test was excluded from the medical examination of pupils/students on the ground that the deficiency does not affect their school lives in most cases.

After the amendments to the School Health and Safety Act in April 2014,

however, MEXT recommended that the appropriate arrangements be made to conduct the color perception test when necessary. Since then, an increasing number of schools have started to conduct the color perception test again, partly in response to the arguments from ophthalmologist calling for the necessity of the test at school. Concerns have been expressed about the involvement of teachers in the color perception test, which is a form of genetic screening.

Recommendations

The Government, especially MEXT, should reconsider the policy concerning the color perception test at school, including the possibility of prohibiting the test at school. Restrictions on education and employment on the ground of color-vision deficiency should be lifted further and efforts should be made to eliminate social barriers faced by persons with color-vision deficiency, including the provision of training for teachers.

VII-3. Reproductive Health Education Is Not Provided in Systematic and Effective Ways

The descriptions of SPR concerning sex education at school [para. 112] do not reflect the actual situation. According to a questionnaire survey conducted by the Japan Teachers' Union, more than 30% of the respondents reported that "sex education is not included in the curricula in my school" or "I don't know (about sex education in my school". 30% of the respondents answered that they do not provide sexuality education and the proportion got higher in the order of primary, lower secondary and upper secondary levels. Concerns have been expressed from teachers that they cannot find many good examples of sexuality education; that the curricula on sexuality education are not systematic and consistent; and that they cannot have common understanding of the necessity of sexuality education at school.

Resistance on the part of the general public about reproductive health education is still persistent. Backlashes against such education have been recorded, including the disciplinary measures imposed on the teachers who had provided sexuality education for children with disabilities (see III-A-4). There have been reported cases where pregnant girls were urged or forced to withdraw from upper secondary schools. Concerns have been expressed that sex education promoted by MEXT might lead to the promotion of birth given the declining birthrate faced by Japan.

There are other gaps in the field of adolescent health, including those concerning mental health.

Recommendations

The Government, especially MEXT and MHLW, 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. Support should be given to teenage mothers and their partners, including counseling, educational and occupational assistance and the provision of opportunities for community exchanges.

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

As an increasing number of women get employed, demands for daycare centers are rapidly growing, especially with regard to children under the age of three. Consequently the number of children on waiting lists (who cannot be admitted to daycare centers even if both of their parents are working) have been on the increase in recent years, mainly in urban areas. The number amounted to 26,081 (the increase of 2,528 from the previous year); children under the age of three constitute 88.6% (23,114 children) of them.

Although the central and local governments have tried to solve the issue, including through the implementation of the Plan to Accelerate the Elimination of Waiting Lists for Nursery Schools (daycare centers) [SPR para. 119], it has become difficult to open new daycare centers in urban areas due to different reasons, including lack of appropriate spaces and shortage of skilled childcare workers. Concerns have been expressed about the quality of daycare in this context, including about fatal and other serious accidents (see also III-C-2). Similar problems have been pointed out with regard to afterschool care of primary school pupils.

Recommendations

The Government, especially MHLW, should take all necessary measures, including budgetary ones, to meet the demands for daycare services on the basis of a child rights-based approach. In this regard, special attention should be paid to the needs to ensure both the quantity and quality of daycare.

VIII. Education, Leisure and Cultural Activities

VIII-1. Impact of the Great East Japan Earthquake and the Nuclear Accidents in

Fukushima

In the aftermath of the Great East Japan Earthquake in March 2011, many schools are still in the process of reconstruction. Many children continue to school infirmaries for support because of their unstable mental conditions caused by such factors as financial difficulties faced by their parents or changes in family relationships. The reconstruction budget to allocate more teachers to provide care for children affected by the earthquake has been reduced, however; in Iwate Prefecture, for example, the number of the additional teachers was reduced to 180 in 2017/18 from some 200 in the previous fiscal year. School counselors are sent to primary and lower secondary schools on a rotational basis, which makes it difficult for them to provide thorough care for children. Psychological care for parents as well as teachers and other school staff is also required.

In the affected prefectures, temporary shelters still remain in schoolyards in some areas. Some children are forced to go to school by bus or their parents' cars, which is not often the case in Japan, because of the heavy traffic of large construction trucks. While there are children who stay in temporary shelters with their parents because they do not want to leave the areas where they have lived, the population of the affected areas have been on the decrease, which has led to closing and consolidation of schools.

In Fukushima, some schools still operate in temporary buildings or classrooms in other schools. In Futaba County, located in the proximity of the Fukushima nuclear power plants, the number of children in primary and lower secondary schools has dramatically decreased; even after the evacuation orders were lifted in some areas, the proportion of the children who returned to the primary schools in the areas does not exceed 45%; with regard to some schools in the difficult-to-return zones, only 1% or so of the original pupils attend the relocated schools. In some schools, wastes produced through the decontamination process have been "temporarily" placed in their schoolyards but have not been completely removed yet. Even after the evacuation orders were lifted, the residents who had been ordered to evacuate must wait for a few years to have their houses repaired, while their children are forced to travel a long way to go to school after the re-opening. Sufficient efforts have not been made to provide radiation education, including human rights perspectives, which is essential to deal with such issues as exposure to radiation and damage caused by harmful rumors and to provide care for children.

Recommendations

1. The Government, especially MEXT, should take measures to continue "the program to support the school attendance by the pupils/students affected by the

disaster" by allocating sufficient budgets to the program and to improve the measures to help them to continue education at the upper secondary and higher levels, including the provision of grant-type scholarships. Measures should be taken to continue and increase the allocation of additional teachers for the affected schools and to have school counselors permanently stationed in each school.

2. The Government should continue to provide support for the construction and repairmen of the school buildings and facilities in the affected areas and to remove temporary shelters set up in the schoolyards.

3. In Fukushima, budgetary and other measures should be taken to strengthen radiation education and provide opportunities for recuperation in order to reduce and prevent exposure to low doze radiation among children. With a view to preventing discrimination and bullying against the children affected by the Fukushima nuclear accidents, human rights-based radiation education should be provided at school across the country.

VIII-2. The Competitive Nature of the Education System Has Been Fostered through the Academic Ability Surveys for All Pupils/Students

The National Survey on Academic Ability and Learning Status, which is not in the SPR [para. 123], was introduced in 2007, targeting at the 6th- and 9th-graders, and now involve all the pupils/students in the relevant grades. In 2017, the outcomes of the Survey began to be published not only on the prefectural basis but also with regard to major cities designated by cabinet order, contributing to the stratification of schools and geographical areas on the basis of academic performance. In this context, municipalities and schools have begun to make use of supplementary learning materials, workbooks, tests and teacher training marketed by business enterprises for the improvement of the scores. Pressure has been given on teachers to improve the scores, for example by reflecting the outcomes of the Survey in their performance appraisal. The competitiveness in education has been exacerbated through this process, with overheated preparations for the Survey or similar tests conducted by municipalities for the other grades not covered by the Survey. Consequently concerns have been raised that children become less willing to learn or that pressure is given to teachers by school administrators and/or boards of education. The exclusion and selection of children has been reported as well, including children with developmental disorders who are sometimes excluded from the reported outcomes to MEXT.

Recommendations

The organization and management of the National Survey on Academic Ability and Learning Status should be thoroughly reviewed to eliminate its contributing

effects on the stratification of schools and competitiveness in education, including making it a sampling survey rather than involving all the pupils/students in the specific grades. With regard to the Course of Study, which constitutes the basis of the Survey, MEXT should maintain the position that the document is a general outline of what should be taught in school and instruct municipalities and boards of education not to interfere with the content of teachings, paying attention to the Recommendation concerning the Status of Teachers adopted by ILO/UNESCO.

VIII-3. Problems in the Present "Education Reform" Process and Strengthened State Interference with Education

During the process of major reforms of the education system undertaken so far, there has been total lack of a child rights-based approach; education has been considered primarily as a tool to serve specific policy objectives, such as adjustment to the globalization or the development of patriotism. During the process, the provisions of the Convention or the relevant general comments of the CRC Committee and the CESCR Committee have barely been referred to or mentioned; systematic measures have not been taken to involve civil society, children and young people on a broad basis, either. In addition, the new Basic Act on Education focuses only on "citizens" (those who have Japanese nationality in this context) and seeks to foster "an attitude to …love the country [Japan]", ignoring the fact that there are minority children who are different from "Japanese" in terms of ethnicity, language and nationality. Furthermore the State interference with education has been reinforced, including through the imposition of "the national flag and anthem" (see IV-2) and of the official views in the textbook screening process.

Recommendations

In the light of the Convention and the Committee's general comments, the Diet and the Government, especially MEXT, should conduct comprehensive review of the Basic Act on Education and amend it in accordance with a rights-based approach. In this process, effective participation of children, parents, teachers and other teaching staff, NPOs and other stakeholders should be guaranteed. The State interference with education should be terminated and the "education reform" should be proceeded with respect for autonomy of the stakeholders in the field.

VIII-4. The Government Views Are to Be Reflected in Textbooks through the Authorization and Adoption Process

The Government amended part of the Textbook Authorization Standards in January 2014 and then, three months after, revised the Guide of the Screening

of the Textbook Authorization. Consequently textbook publishers are now required to reflect official views, such as the Government's positions expressed in Cabinet decisions and other documents as well as the jurisdictions of the Supreme Court. Contrary to the recommendation by the CESCR Committee (2013) that Japan should "educate the public on the exploitation of 'comfort women'" (para. 26), a lot of screening opinions have been put forward on the descriptions about "comfort women" or "the massacre of Koreans during the Great Kanto Earthquake [of 1923]", to which many publishers responded by deleting the descriptions. Concerns have been expressed about self-restraint on the part of textbook publishers, which has resulted in insufficient presentation of historical facts (see SPR para. 128).

The Act on Free Provision of Textbooks in Schools at the Compulsory Level was also partially amended in April 2014, which made it mandatory to adopt the same textbooks for all the schools in the area in accordance with the conclusion of the area conference for the selection of textbooks. Consequently some municipalities have reduced transparency of the textbook adoption process, especially when there are disagreement about the adoption, including by making the meetings of the area conference closed to the public on the pretext of ensuring "the peaceful environment for the adoption" or by not announcing the result immediately.

Recommendations

Since homogeneous values should not be imposed in education by the State, the Government, especially MEXT, should stop the textbook authorization practices that may amount to censorship or excessive imposition of specific descriptions. In the light of the Recommendation concerning the Status of Teachers adopted by ILO/UNESCO and other relevant instruments, the views of teachers and other stakeholders should be reflected in the textbook selection process.

VIII-5. The Improvement of Educational Conditions Falls behind the Needs of Children While Teachers' Working Conditions Have Worsened

Teachers' overtime work has continued to be on the increase. According to the survey undertaken by MEXT in 2017, the average working hours on weekdays were 11 hours and 15 minutes per day (including 29 minutes' work at home) for primary school teachers and 11 hours and 32 minutes per day (including 20 minutes' work at home) for lower secondary school teachers. According to the survey conducted by a private institution, 70% of primary school teachers and 90% of lower secondary school teachers do overtime work for more than 80 hours per month, which is one of the threshold of recognition of *karoshi* (death from

overwork). Many teachers are exhausted both physically and mentally due to these working conditions, resulting in the high number of teachers who are on leave of absence on the grounds of mental disorders or other health conditions, who die before retirement and who leave the job before the retirement age.

The factors contributing to these harsh conditions include: lack of proper management of working hours in most schools; excessive burdens of work caused by the number of pupils/students in a classroom that is higher than the OECD average (approximately 23 children), the high number of class teachings required for a week, the need to respond to questionnaires and other survey requests sent by the central and local authorities, etc.; and the duty to instruct club activities, including on weekends, which are virtually imposed on teachers working in lower secondary teachers despite its extracurricular nature. Consequently teachers have less time to interact with children, which makes it difficult for them to understand the situation and developmental status of each children, resulting in negative consequences for children's development.

Recommendations

In order to reduce burdens on teachers, the Government, especially MEXT, 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.

VIII-6. The Expansion of Preschool Education Should Be Promoted

The Government started to discuss the possibility of making early childhood education, whose importance has been acknowledged at the global level, available free of charge. Public daycare centers and kindergartens play important roles, in the context of an increasing number of children in need of support, as the safety net in the community for children and their parents.

The new Child and Child-Raising Support System [SPR para. 119] was introduced to realize the philosophy that all children should be provided with quality preschool education, whether or not both of their parents are employed. Since the system had been envisaged on the prerequisite that the consumption (VAT) tax rate be raised to 10%, however, it became difficult to secure sufficient

budgets for the operation of the system due to the sudden decision of the Government to postpone the raising. This has caused confusion among children, parents, communities and preschool teachers and workers, together with the lack of sufficient dissemination about its objectives and of the time for adequate preparations. Some municipalities have focused more on the reduction of public spending than on the realization of the objectives of the system, promoting the privatization of public facilities for preschool education; 422 public kindergartens were closed in one year from 2015 to 2016. Since emphasis has been placed on the elimination of waiting lists for daycare centers (nursery schools), it has been found out that some licensed day care centers were involved in mismanagement, including admission beyond the permitted capacity.

The working conditions of preschool teachers are poor and they are exhausted, as their counterparts in primary and lower secondary schools are, from long working hours and excessive burdens of different tasks. Due to the recent budget reduction, the number of non-regular and short-time workers is on the increase in preschool institutions in many municipalities. It has gotten difficult to secure an adequate number of teachers and other staff, partly because the wages are low in the light of the professional responsibilities and workloads; some kindergartens were not able to secure class teachers before the new term starts, while employees without the teacher's license for preschool education became class teachers in other kindergartens. Thus it has become difficult to ensure quality education at the preschool level.

Recommendations

In order to ensure the right of children to learn in the community from the preschool level, the Government should maintain and improve public preschool education institutions, which have functioned as a safety net of education and childcare at the community. MEXT, MHLW and the Cabinet Office, among others, should promote inter-agency coordination for the improvement of preschool education, including in terms of the prescribed number and working conditions of preschool teachers and of the facilities and equipment of preschool institutions.

VIII-7. Equal Educational Opportunities Should Be Provided at the Upper Secondary and Higher Levels

More than 50% of students in higher education receive scholarships or student loans. The proportion of the students who receive grant-type scholarships is less than 1% of the total, however. While the Government announced that it would give grant-type scholarships for some 20,000 students on an annual basis after the year 2018, young people in more difficult situations may be excluded

because the thresholds of academic performance for receiving the scholarships are high and because the would-be beneficiaries consist less than 3% of the total number of students at the higher level.

The proportion of the private expenditure for higher education in Japan is higher than many European countries; students have to pay high school expenses that cannot be covered by the amount of the scholarships to be introduced after 2018. While most students use student loans to study at higher education institutions, 60% of the loans are not interest-free. There are many students who are in debt at the time of graduation that may amount to 10 million yen or so. The increase in the proportion of non-regular workers in the workforce, which reached a record high (37.5%) in 2016, makes it difficult for many to repay the loans.

At the upper secondary level, the Tuition Waiver and Tuition Support Fund Program for High School Education was introduced in 2010. The scheme was modified in 2014, however, to introduce the income cap and the requirement to apply for the support. This has led to the exclusion of some children who are in real need of such support on the ground of non-application.

Recommendations

The Government, especially MEXT, should have a clear picture of the financial burdens of upper secondary and higher education on children and their families, with a view to making necessary arrangements for the responses to and elimination of poverty and discrepancies among children and young people. For this purpose, secondary and higher education should be made available free of charge as soon as possible; in the meantime, the grant-type scholarship schemes should be expanded and student loans should be made interest-free.

VIII-8. Alternative Forms of Education Should Be Further Promoted and Strengthened

According to the survey by MEXT, the number of children who did not attend school (who were absent from school for more than 30 days a year on the grounds other than diseases or financial reasons) reached a record high in 2017/17, amounting to 134,398; the figures were 31,151 at the primary level (0.5% of the total number of pupils) and 103,247 at the lower secondary level (3% of the total number of students). While those who have not completed compulsory education or who have graduated from lower secondary school only in formality may be able to attend “evening junior high schools” to receive basic education, such schools have been officially established only at 31 places across the country so far, making it difficult to realize their right to learn in adequate ways. SPR, however, does not provide a picture of and the data on children who do not attend school and alternative opportunities for them to learn.

In response to the reality of the deprivation or insufficient provision of educational opportunities and to the initiatives taken by parents and civil society in this regard, the Act on Securing Opportunities for Education Equivalent to Formal Education at the Compulsory Level was adopted in December 2016. Article 1 of the Act states that its purpose is to promote measures to secure opportunities for education in comprehensive manners in accordance with the objectives of the Basic Act on Education and the Convention on the Rights of the Child and other treaties concerning education. The implementation and impact of the Act is yet to be seen.

Recommendations

In order to ensure the effective realization of the right of children to education (Articles 28 and 29 of the Convention), the Diet and the Government (especially MEXT) should interpret and implement the Act on Securing Opportunities for Education of 2016 in the light of the principles and provisions of the Convention, in particular its general principles (Articles 2, 3, 6 and 12) as well as the provisions concerning the rights and responsibilities of the parent (Articles 5, 18 and 27). In this regard, measures should be taken to improve financial and institutional arrangements, including in terms of teachers' working conditions, while respecting the views of the children and civil society organizations concerned.

VIII-9. Human Rights and Child Rights Education Has Gone Rather Backward

Morality education is to be introduced as a subject in April 2018 at the primary level and in April 2019 at the lower secondary level; authorized textbooks for the subject will be used in the teachings of the subject.

In Japan, morality education has not been included as a subject in school education after the end of the World War II, reflecting the recognition that pre-war morality education had contributed to Japan's war efforts. In 2006, however, the Basic Act on Education was amended to incorporate the fostering of "sense of morality", "the public spirit" and "an attitude to …love the country and region" into the objectives of education, leading to the incorporation of morality education as a subject and the specification in the Course of Study of the "virtues" that should be taught in the subject. Given the textbook authorization system and the obligation to use authorized textbooks in Japan, this means that the State is significantly involved in the development of moral values that influence the lives of individuals.

On the other hand, human rights education has not been incorporated as a subject and the number of children who receive human rights education at the primary and lower secondary levels have decreased. Even if they receive such

education, it is often the case that they do not given specific knowledge about human rights, simply being taught about desirable values and attitudes. Many teachers may have not learned about human rights and in particular children's rights at universities and colleges, since human rights and children's rights education is not mandatory in the teacher training curricula. Although MEXT argues that it has been involved in human rights education [see SPR paras. 131-133], it is actually not proactive in promoting human rights education, as is reflected in the fact that it has not conducted surveys on the status of human rights education since 2013 and that human rights education has been replaced by morality education in the relevant initiatives taken by the Ministry.

Recommendations

Taking into consideration the provisions of the Convention, the Committee's previous recommendations as well as the World Programme for Human Rights Education and other relevant international and regional initiatives, and in accordance with the Act on the Promotion of Human Rights Education and Awareness-Raising (2000), human rights education and children's rights education in particular should be integrated in educational curricula so that such teachings are conducted in all schools and classrooms.

VIII-10. Children of Foreign Origin Are Not Guaranteed Opportunities to Learn Their Own Languages and Cultures

In 2017/18, MEXT started to allocate one teacher for 18 pupils/students who have difficulties in terms of Japanese language to help them to learn Japanese; the total number of the teachers allocated in the first year was 190, and it intends to increase the number to 1900 by the year 2026. The number of children who need Japanese instruction amounts to some 37,000, however, irrespective of their nationality (foreign or Japanese). In addition, more than 60% of schools have one or two such children and, in some 60% of the municipalities, there are less than ten such children in the whole area of each municipality, which indicates the need to allocate far more teachers to support them in respective schools.

Furthermore MEXT only focuses on Japanese instruction for them, lacking considerations for the need to expand teaching of their mother tongues and cultures to foster their ethnic and cultural identity. A survey conducted by MoJ found that their parents also want "places where children can learn their mother tongues and cultures" rather than "instruction of Japanese language". In addition, since the Government maintains the position that it is not obliged to guarantee compulsory education for children of foreign nationality, MEXT is not

be able to confirm their enrolment status with regard to 17.5% of such children. Although the notifications for enrolment in schools are sent to parents of such children as well, provided that they are registered on the municipal basic resident resisters, the notifications are not sent if they are unregistered or if they had moved without reporting to the authorities; some parents may not be able to read the notifications if they are written in the languages that they do not understand. Consequently the right of children of foreign origin to education is not adequately guaranteed.

Recommendations

Given the steady increase in the number of children of foreign origin, the Government, especially MEXT, should ensure their right to education, including education of their mother tongues and cultures, in accordance with their individual needs and in the formal curricula instead of in the framework of extracurricular activities.

VIII-11. Foreign/Ethnic Schools in Disadvantaged Status and Institutional Discrimination against Children in Korean Schools

Foreign schools, including Korean schools are not provided enough subsidies although social recognition of those schools' educational level and contents are equal to those of Japanese general schools is spreading in the Japanese society. Thus, foreign schools must rely exclusively on high tuition fees and financial contributions by parents and supporters. However, while regular Japanese schools and even Western foreign schools can receive support from the central government in terms of tax exemptions, non-Western foreign schools such as Korean schools and Chinese schools cannot receive such benefit.

Although several human rights treaty bodies, including the Committee on the Rights of the Child have repeatedly made recommendation to correct the discriminatory policy, diplomas from Korean schools are still not recognized as direct university entrance qualifications. Thus, there are cases when graduate of Korean schools are refused to access to higher education systems such as universities.

By enforcing "Tuition Waiver and Tuition Support Fund Program for High School Education" (hereafter, "Tuition Waiver Program"), in 2010, the Japanese Government exempted tuition fees for students of Japanese public high school and provided funds equivalent to tuition fees of Japanese public high school for students of private high schools, including technical schools and foreign schools. However, students of 10 Korean schools have only been excluded among other foreign schools since 2010, owing to the political and diplomatic reason, that is,

"there was no progress in the abduction issue" which is totally irrelevant to children attending to Korean schools. Seeking for inclusion of "Tuition Waiver Program" without discrimination and recovery of dignity which was severely hurt by the Japanese Government, graduates of Korean schools filed lawsuits and current students carry street campaign and collection of signatures.

In spite of the lack of central government subsidies, all local governments where Korean schools are located have provided subsidies in their own ways. However, with exclusion of Korean schools from "Tuition Waiver Program", some of local governments have started to suspend or to reduce subsidies that had been provided to Korean schools over decades, which threatens the environment which children attending Korean schools learn their own language, culture and history.

Recommendations

1. The Government should recognize foreign schools including Korean schools as equivalent to "School of Article 1" defined in article 1 of School Education Act and eliminate discrimination with regard to tax exemption and health care.
2. The Government should recognize diplomas from Korean schools as direct university entrance qualifications.
3. In view of the principles of the best interest of the child and non-discrimination, the Government should correct unreasonable discrimination against children attending Korean schools, extend "Tuition Waiver Program" to them immediately and urge local governments to resume their subsidies to Korean schools.

IX. Special Protection Measures

IX-A: Trafficking in Persons & Sexual Exploitation

IX-A-1. The Efforts against Child Trafficking Remains Inadequate

The Government has addressed the issue of human trafficking internationally and domestically, by becoming a State Party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in July, 2017, and formulating the Action Plans to Combat Trafficking in Persons in 2009 and 2014.

The number of people arrested for trafficking in persons had peaked in 2005 and decreased from 81 to 19 in 2010. Since then, the number has been on the increase, recording 44 in 2016. Most victims were Thai, Pilipino and Japanese, and in particular Japanese victims and victims below twenty years old had

sharply increased. Although the Government's measures have had some impacts on human trafficking across borders, it has not taken sufficient measures within Japan and targeting children.

It must be noted that the number of arrests is far from the actual number of victims of human trafficking. For example, a Japanese NGO, which supports child victims of human trafficking, dealt with 150 cases only in 2016. Efforts are needed to grasp a full picture of this issue. It is also necessary to impose more severe punishments. In 2016, only 26 out of 42 suspects were indicted, and the heaviest sentence was only three-year imprisonment suspended for five years and a fine of around US 16,000.

The Government says that police stations and child guidance centers collaborates in supporting child victims, but it does not mention if children are well informed about court procedures and are provided with trauma care and physical and psychological rehabilitation.

Recommendations

- More severe punishment should be imposed on criminals of human trafficking to reduce the number of first and repeated offenders.
- Comprehensive and child-friendly supports and rehabilitation should be provided to child victims.
- Training on child's rights and child forensic interviews should be provided to personnel who contact with child victims.
- Tools for awareness-raising on human trafficking and easy access consulting services should be conducted for children.
- Collaboration with and financial assistance to civil society organizations that provide support and care to child victims.

IX-A-2. Commercialization and Sexualization of Children

Businesses which commercialize and sexualize children are prevalent and this situation is accepted by people in Japan. So-called, "Idols," who wear school-uniform-like costumes, provide men with services, such as shaking hands and giving hugs, in return for money. Photography events are organized, in which men take photos of girls in swimming suits, sometimes in one-to-one settings.

In JK business (JK stands for Joshi-Kosei which means high school girls), girls are employed to entertain men by providing such services, as hugging, simple massaging, going to karaoke, and chatting in private rooms. This business is said to be a hotbed of child prostitution, but new types of services are created one after another, when Police tightens control on certain types of JK business. Business owners run JK business to secure profits in short periods of time, after

finding loopholes of laws, and considering profits, risks of arrests, and incurred losses.

Since it is not easy to crack down on business owners and customers in the present legal framework, Police catches girls on streets who are involved in JK business as delinquents, and reports the incidents to their parents. According to the Act on Regulation on Soliciting Children by Using Opposite Sex Introducing Service on Internet, criminal sanctions are imposed on not only adults but also children, when children offer themselves for prostitution. Children, who are not provided sufficient protection and instead are labeled as delinquents, might be obliged to drop out of school.

Recommendations

- A comprehensive law on banning businesses which commercialize and sexualize children should be formulated, in order for Police to be able to crack down on business owners and customers.
- The law should include severe punishment to prevent from starting business which exploits children.
- Protection and support should be provided to children involved in JK business and prostitution, rather than catching and penalizing them.
- Awareness-raising and child-friendly consulting service should be provided, given that business exploiting children is likely to go underground as Police tightens control over such business.
- Cooperation among Police, Government agencies, schools and civil society is of vital importance in providing protection, support and care to children.

IX-A-3. Child Labour and Exploitation of Part-time Child Workers

Two to three hundred cases are reported as violation of articles on minors in the Labour Standards Act, in each year between 2011 and 2015. High numbers of violations are found in retail and restaurant businesses for working hours and night work, followed by in the construction industry for restrictions on dangerous and harmful jobs. For example, boys below eighteen years old worked in the nuclear power plant or were engaged in decontamination work in Fukushima. JK business, which is mentioned earlier, is certainly categorized as hazardous work.

Children aged sixteen and over can work in Japan, and many high school students work at part-time jobs. A problem recognized in recent years is that young part-time workers are exposed to economic exploitation and power harassment. For example, they are not properly paid for overtime work, are fined for mistakes (e.g. breaking dishes), and are forced to work during examination periods.

In the background two factors can be pointed out. Firstly, Awareness on child labour is low in Japan. Many people do not think child labour exists in Japan. Some employees hire children being unaware of the Labour Standards Act. When people see children working, but they do not always report to Labor Standards Inspection Offices or Police.

MHLW has no department in charge of child labour, including compiling data and information. Secondly, child poverty has become a serious problem, which may increase child labour. Reportedly, some children are involved in JK business or prostitution to earn and support their families. These cases and other illegal cases are not easily identified. It is necessary to address child labour to achieve SDG 8.7 — by 2025 end child labour in all its forms.

Recommendations

- The situation of child labour should be surveyed and policy measures should be taken to eliminate child labour.
- A mechanism should be established for society as a whole to monitor and prevent child labour.
- Education on workers' rights and labour standards should be conducted for children at school.
- Awareness on child labour should be created among employees, teachers, and public.

IX-A-4. Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

The Government formulated the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children in 1999, and revised the Act in 2004 and 2014. Measures against this issue has been strengthened, including punishment for possession of child pornography. However, the number of people arrested for child prostitution did not decrease between 2011 and 2015, and those for child pornography is increasing. Given that some children may not recognize themselves as victims or find difficult to report what happened to the them, the actual number would be higher than the number reported. As more and more people use internet and SNS, new types of crimes are emerging.

In particular, an increasing number of child victims are found among those who are asked or forced to take naked photos of themselves and send them to perpetrators. Children are also involved in "Adult Chat" on online video services, in which they are asked to take off closes or have sexual relationships. If photos or videos are uploaded, they will not easily be deleted and children will suffer for a long period of time. Furthermore, ages of victims become lower. Videos,

in which elementary school girls wear micro bikinis in sexual poses, are sold at shops on main streets in Tokyo.

People's awareness on child pornography is low in Japan. Often time, they do not see any problem in TV commercials, cartoons and photos that are identified as child pornography in other countries.

Recommendations

- The Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children should be revised to ban sexual images of children even though they put on clothes.
- Efforts should made for prevention and early intervention, such as revising laws which can punish people at the time when they ask to send naked photos or for prostitution.
- More severe punishments should be imposed on child prostitution and child pornography, and rehabilitation should be conducted for criminals, since criminals tend to repeat offences.
- Education should be conducted at schools to prevent children, especially small children at elementary schools, kindergartens, and nursery schools, from child prostitution and child pornography.
- Child victims should be well protected and rehabilitated through close cooperation between Police, child guidance centers, and civil society.

IX-B: Juvenile Justice

Note: The Annex on Juvenile Justice (hereafter referred to as "Annex" in the present section) will be submitted in due course.

IX-B-1. Growing Gaps between the Convention and the Domestic Law through a Series of Amendments to the Juvenile Act

Children involved in delinquency needs "special protection" because cases of juvenile delinquency, especially serious ones, reflect significant problems in family and society, including child abuse and neglect. This is why the Juvenile Act of Japan had maintained the fundamental principle of protection based on welfare and educational approaches. Since 2000, however, a series of Amendments to the Juvenile Act have expanded the gaps between the Convention and the domestic law.

- The 2000 amendments lowered the minimum age for criminal punishment from 16 to 14 (the age at the time of disposition); made it a rule to apply criminal sanctions instead of protective measures in specified cases; allowed prosecutors to participate in juvenile proceedings; and extended the maximum period of pre-hearing detention.

- The 2007 amendments made it possible to place juveniles under the age of criminal responsibility and who breached the conditions of probation into juvenile institutions. The procedures were introduced to appoint public attendants (legal representatives) on a discretionary basis in serious cases.
- The 2008 amendments made it possible for the victims and/or their family members (hereafter referred to as "the victims") to observe the juvenile trials.
- The 2009 amendments introduced the *Saiban-in* (a kind of lay judge) system for juvenile cases that have been referred to the criminal court.

In spite of the concerns and recommendations by the Committee in the previous concluding observations (paras. 11, 83 and 84), the Government only provides misguided responses in its report [para. 155], stating that these measures were necessary "to foster the morality of juveniles … and to have them recognize their responsibility in social life by clearly stipulating that they can be criminally punished if they commit a crime, in order to ensure their sound upbringing". In spite of the fact that the number of cases of juvenile crime has been dramatically reduced and that there is no tendency of growing brutality among juvenile offenders (see Annex (1)), the amendments to the Juvenile Act has continued.

- The 2014 amendments expanded the involvement of prosecutors in juvenile cases, together with the expansion of the appointment of public attendants (legal representatives), and introduced tougher penalties for juvenile offenders.
- In February 2017, the Minister of Justice referred the issue of lowering the upper age of the application of the Juvenile Act to 18 to the Legislative Council of the Ministry of Justice.

In this context, we would like to raise the following four issues as the most urgent ones that cannot be overlooked: (i) the criminalization of juvenile justice; (ii) increased restrictions on personal liberty of children involved in justice procedures; (iii) inadequate access to education for children in detention and (iv) the police-led measures for children with delinquent behavior and other challenges.

IX-B-2. Criminalization of Juvenile Justice

(1) Involvement of Prosecutors in Juvenile Trials

The 2000 amendments to the Juvenile Act allowed prosecutors to participate in juvenile proceedings, which distorted the nature of juvenile trials. In addition, prosecutors were given the right to appeal to higher courts through the amendments. In 2014, the Juvenile Act was amended again to increase the number of the offences that prosecutors can be involved even if defendants are

juveniles. Consequently, prosecutors had taken part in some 20 juvenile cases every year since 2001; the number has doubled after the amendments in 2014 (See Table 1 of the Annex (1)).

(2) Lowering of the Minimum Age for Criminal Punishment and the Introduction of the Rule of Transfer to Criminal Courts

The 2000 amendments lowered the minimum age for criminal punishment from 16 to 14 (the age at the time of disposition) and made it a rule to apply criminal sanctions for juveniles who killed someone through intentional criminal acts and who are 16 years old or over at the time of the commission of the acts (the rule of transfer to criminal courts under Article 20, para. 2 of the Juvenile Act). How the rule has been applied is shown in Table 2 of the Annex (2). While the SPR states, "Based on the investigation and other evidence the family court makes a decision, and the juvenile is subject to the criminal procedure only if the family court finds it appropriate" [para. 155], in practice, the introduction of the rule has diminished one of the fundamental principles of the Juvenile Act that calls for decision-making concerning dispositions in the light of the individual circumstances.

(3) Criminal Trials and *Saiban-in* (Lay Judge) Trials for Juveniles

a. While there are some exceptions, juveniles who are subjected to criminal procedures are basically treated as adults and are subjected to *Saiban-in* (lay judge) trials if the conditions, which are the same with those for adults, are met. Almost all the juvenile criminal cases are tried in *Saiban-in* courts.

b. Unless they are released on bail, those juveniles are held under police custody or in detention houses for prolonged periods of time. While it takes significant time to deliver judgments in the cases tried in *Saiban-in* courts, they cannot receive education while in detention. Hearings are conducted in public through the adversarial procedures, with a number of adults present (in the case of *Saiban-in* trials, six lay judges, three professional judges, a prosecutor and legal counsel). The victims can also attend. The structure gives pressure on juveniles and make it difficult for them to express themselves adequately.

c. *Saiban-in* courts are composed of three professional judges and six lay judges (citizens chosen from the electoral roll). Some citizens who served as lay judges reportedly stated, "It's unreasonable to impose lighter sanctions because the offenders are juveniles. I regarded them as adults". This kind of attitude is compatible with the findings of the survey on sentencing for juveniles, conducted by the Supreme Court in 2006. *Saiban-in* courts cannot keep up with the philosophies of the Juvenile Act, because it is practically impossible to make the lay judges understand the philosophies through the explanations given in a

limited time. In its previous concluding observations, the Committee expressed its concern that the *Saiban-in* system "constitutes an obstacle to the treatment of child offenders by a specialized juvenile court" (para. 83) and recommended the review of the system; no reviews have conducted, however, and the above-mentioned problems remain. (For the details in this regard, see Annex (3)).

(4) Diminishment of the Scientific Approach in Juvenile Justice and the *Saiban-in* System

The SPR [para. 156] states that, in the course of the criminal trial, "the results of the investigation conducted by the family court can be taken into consideration as evidence". This refers to "family court inquiry reports" (juvenile inquiry sheets), compiled through inquiries on the basis of Article 9 of the Juvenile Act. It is pointed out, however, that family court probation officers have been repeatedly told to try to prepare "concise" juvenile inquiry sheets, only entering "what is necessary" and not putting on "what is unnecessary" (For more information on this issue, see Annex (4) and (5)). Furthermore, when only professional judges sit in criminal trials, they used to read full juvenile inquiry sheets prepared by the family court, which include detailed private information of the juvenile defendants. In *Saiban-in* trials, however, the Supreme Court has recommended that only the concluding opinions of the family court probation officers concerning the measures that should be taken should be submitted, on the pretext of reducing the burden on lay judges and protecting personal information; lower courts have followed this recommendation.

While the SPR [para. 156] refers to the procedure of transferring the case back to the family court when the criminal court judges found that the juvenile should be put under protective measures (Article 55 of the Juvenile Act), such cases are rare in reality because of the above-mentioned practice. Some two years after the introduction of the system, a case was transferred back to the family court by the decision of the *Saiban-in* court for the first time; thereafter, such cases have happened only about once every year or two. Not having integrated the scientific approach in adequate ways, the *Saiban-in* trials for juveniles so far have failed to achieve "the discovery of the truth of the case", which is sought for in the Criminal Procedure Code and the Juvenile Act, and to ensure the treatment envisaged in the Juvenile Act. For more information in this regard, see Annex (5) and (6).

(5) Observation by the Victims

While it is essential to maintain confidentiality and protect juveniles' privacy in the administration of juvenile justice, the 2008 amendments to the Juvenile Act allowed the victims and/or their family members to observe the

juvenile trials in the prescribed cases. As far as the statistics indicate, courts have allowed the observation of the victims in most of the cases (some 90%) where the victims had applied for observation. On the other hand, judges have pointed out negative consequences of the observation by the victims; some of the juveniles who experienced the observation by the victims have suffered from worsening of their physical and mental conditions. For more information in this regard, see Table 3 and (ii) of Annex (7).

Recommendations

The Government and the Diet should take the following measures:

(a) To abolish the involvement of prosecutors and their (virtual) right to appeal in juvenile procedures;

(b) To raise the minimum age for criminal punishment again to 16 and to abolish the rule of the transference of the prescribed cases to criminal procedures;

(c) To exclude juvenile cases from the jurisdiction of *Saiban-in* courts;

(d) To make sure that Articles 3 and 9 of the Juvenile Act, which provide for the scientific approach in the administration of juvenile justice, are fully implemented; and,

(e) To keep juvenile trials not open to the public by repealing the provisions that allow victims and/or their family members to observe juvenile trials.

IX-B-3. Increased Restrictions on Personal Liberty of Children Involved in Justice Procedures

The statistics shown in the SPR only indicate absolute figures. Discussion in this field, however, should be based on the proportions and rates of the total number of arrested juveniles because the population of young people has dropped and because the number of arrested juveniles has been reduced as well both in absolute and relative terms. Thus the relevant proportions and rates are shown in the following explanation.

(1) Expansion of Deprivation of Liberty during Judicial Procedures

a. *Arrest and detention* (para. 167 of the SPR)

The arrest rate of juvenile suspects (except for arrests on the charges of traffic offences) has been on the increase (from 12.2% in 2007to 15.4% in 2012, 16.6% in 2013, 17.4% in 2014, 19.2% in 2015 and 20.4% in 2016), illustrating the expansion of deprivation of liberty of juvenile suspects.

Articles 43 and 48 of the Juvenile Act prohibit detention of juveniles after arrest in principle; if deprivation of their liberty is absolutely necessary, "measures for observation and protection in lieu of detention" (protective custody measures) should be taken. In 2016, however, 75.47% of the arrested juveniles

were placed in detention; on the other hand, the rate of protective custody measures has dropped from 9.94% in 2007 to 7.04% in 2016, indicating that the above provisions has completely become dead letters. While the Juvenile Act provides for separation of juveniles from adults during detention, stating that a juvenile "may be detained in a juvenile classification home" (Article 48, para. 2), the placement in these homes rarely happens and most of the juveniles are placed in police detention facilities (what is called "*daiyo-kangoku*" or substitute prison). For more information, see Tables 4 and 5 as well as (iii) of Annex (8).

b. *Prolonged period of protective custody measures*

After having been referred to family courts, juveniles are kept under protective custody for a prolonged period of time, as is shown in Annex (9).

(2) Expanded and Prolonged Placement in Institutions after Judicial Proceedings

a. *Increase in the rate of placement in juvenile training schools*

While the rate of placement in juvenile training schools through juvenile trials was 1.5% in 1996, the rate has steadily increased and more than doubled (3.1%) in 2016, as is shown in Annex (10).

b. *Placement of children under the age of criminal responsibility in juvenile training schools*

The 2007 amendments to the Juvenile Act made it a rule to send juveniles under the age of criminal responsibility (14 years of age) who are in conflict with criminal law, who should be subject to welfare measures in principle, to family courts. In addition, the amendments also made it possible to place juveniles "roughly of 12 years of age and over" to juvenile training schools, lowering the age from the previous level (14 years of age), about which the Committee recommended the Government in the previous concluding observations to "[e]nsure that children under the age of criminal responsibility are not treated as criminal offenders or sent to correctional centres" (para. 85(c)). As a result of the amendment, a certain number of juveniles under the age of criminal responsibility have been placed in juvenile training schools, which are correctional facilities, every year. For more information, see Table 7 of Annex (10)(ii).

c. *Placement in institutions on the ground of breaches of the conditions of probation*

The 2007 amendments made it possible to place the juveniles who conducted serious breaches of the conditions of probation into juvenile training schools and other institutions. After the amendment, indeed, a certain number of juveniles have been sent to institutions on this ground every year. For more information, see Table 8 of Annex (10)(iii).

d. *Tougher sentencing on juveniles* (para 170 of the SPR)

With regard to the mitigation of sentencing for "a person who is under 18 years of age at the time of the commission of an offense", the Juvenile Act before the 2000 amendments stipulated that (i) death penalty shall be replaced by life imprisonment and that (ii) life imprisonment shall be replaced by imprisonment for a definite term. The second option was changed to a discretionary one by the 2000 amendments; and the 2014 amendments provided for tougher terms, stipulating that "the term of imprisonment imposed shall be neither less than 10 years nor more than 20 years" instead of "… neither less than 10 years nor more than 15 years" in the previous provision.

Furthermore the upper limit of the term of imprisonment declared by criminal courts for juveniles was also extended by the 2014 amendments. When a juvenile is given an indeterminate sentence, which is to be declared as "neither less than X years nor more than Y years", the maximum terms were five years and ten years respectively; after the amendments, these terms were extended to ten years and fifteen years respectively. For more information, see Annex (11).

Recommendations

The Government and the Diet should take the following measures:

(a) To establish a system to ensure that deprivation of liberty is used for juveniles as a measure of last resort and for the shortest possible period of time, including, at least, through (i) the vigorous implementation of Articles 43 and 48 of the Juvenile Act, (ii) the abolishment of the system of "daiyo-kangoku" (substitute prison) and (iii) the repeal of the extension of the period of protective custody measures;

(b) To review the present administration of the measures that involve deprivation of liberty in the light of the Convention and other relevant international documents, with a view to ensuring that placement in institutions should always be a measure of last resort and limited to the shortest term as may be necessary, including through proactive use of preliminary observation before the final decision;

(c) To raise the minimum age for placement in juvenile training schools again to 14 and to repeal the provisions that allow the placement of the juveniles who conducted serious breaches of the conditions of probation into juvenile training schools and other institutions; and,

(d) To reintroduce mandatory mitigation of sentences for persons who are under 18 years of age at the time of the commission of the offense and to repeal the amendments in 2014 concerning the terms of imprisonment.

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

In spite of the Committee's previous recommendation that the State

should "[e]nsure that children deprived of liberty are not detained together with adults and have access to education, including in pretrial detention" (para. 35(g)), children cannot receive formal education in juvenile training schools. Consequently the parents (guardians) of the school-age children placed in juvenile training schools may apply for suspension or waiver of their obligation to send their children to school for "compelling reasons". While those juveniles may be provided with the certificates of the completion of lower secondary education by formally keeping their names on the registry of the junior high schools where they used to attend, this does not mean that they received formal school education.

Since juvenile training schools are to admit children roughly of 12 years of age and over in accordance with the amendments to the Juvenile Act, it is a serious problem that children cannot receive formal education in these correctional facilities where they usually stay for about a year.

In addition, since the minimum age for criminal punishment was lowered, children of 14 years of age who are in the compulsory education stage may be subject to criminal procedures and punishment. Criminal trials for younger children usually involve serious cases, which means that it takes significant amount of time from the preparation for the trials through to the hearings and the judgments. Although these children remain in custody throughout the procedures, access to education is not guaranteed for them at all. For more information, see Annex (13).

Recommendations

The Government, in particular the Ministries of Education and Justice, should ensure the right of access to education for children deprived of their liberty.

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

In spite of the fact that the Riyadh Guidelines states, "Formal agencies of social control should only be utilized as a means of last resort", the police have led the responses to and measures concerning the issues of bullying, delinquency and other challenges that children face, including through "youth support centers" set up by prefectural police (SPR, Annex 2, para. 73).

In addition to the powers to identify and investigate juvenile offenders, the juvenile police have been given more legal powers through the 2007 amendments to the Juvenile Act, which officially mandated the juvenile police to identify and/or investigate pre-delinquent juveniles and juveniles under the age of criminal responsibility who are in conflict with criminal law. Before the amendments, these activities had been undertaken without legal basis. The further problem is that

the police have conducted various activities for "sound upbringing" of juveniles without legal basis, which are defined as "activities for the prevention of juvenile delinquency", by issuing circulars and other documents on their own. The Regulations on Juvenile Police Activities state, "The activities should be conducted in the spirit of promoting sound upbringing [of juveniles], paying attention to the need to contribute to the improvement of their morality and their rehabilitation" (Article 3 (1)). Through the activities for "the protection and guidance" of juvenile delinquents, which consist of "necessary warning, advice, etc.", they make the records on these juveniles and encourage guardians and/or schools to give direction to them. The number of juvenile delinquent who are subject to "the protection and guidance", which has no legal basis, is significantly higher than the number of the arrests of juvenile offenders conducted in accordance with law. For more information, see Annex (14).

Recommendations

1. The measures for the prevention of juvenile delinquency should be undertaken in accordance with the Riyadh Guidelines rather than being led by the police. For this purpose:

(a) Children with problematic behaviors should be treated through protective measures, including effective support for parents and others who are involved in their care, and through measures addressing the root causes of such behaviors.

(b) The importance of a welfare approach should acknowledged, and budgetary and other measures should be taken for more effective implementation of the approach.

2. The Government should ensure that children with problematic behaviors are not treated as offenders.

List of Annex (as of October 2017)

- Society for Abolishing the Family Registration System and Discriminations against Children Born out of Wedlock (AFRDC): **Discriminatory Legal Systems towards Children Born out of Wedlock in Japan**
- Human Rights Association for Korean Residents in Japan (HURAK): **Human rights situation of children attending to Korean schools in Japan with relate to the International Convention on the Rights of the Child**
- International Foster Care Alliance (IFCA): **Toward a More Meaningful Foster Youth Engagement**