

JAPAN

CRC CRC/C/79 (1998)

Concluding observations of the Committee on the Rights of the Child

147. The Committee considered the initial report of Japan (CRC/C/41/Add.1) at its 465th to 467th meetings (CRC/C/SR.465 to 467) held on 27 and 28 May 1998 and adopted* the following concluding observations:

A. Introduction

148. The Committee expresses its appreciation to the State party for the submission of its initial report, which followed the guidelines set by the Committee on the Rights of the Child, as well as for the written answers to its list of issues (CRC/C/Q/JAP/1). It takes note of the supplementary information provided by the delegation during the consideration of its report and the constructive dialogue with the multi-disciplinary delegation of the State party.

B. Positive factors

149. The Committee notes the efforts by the State party in the field of law reform. The Committee welcomes the amendments to the Child Welfare Law adopted in 1997 as well as the decision in May 1998 aimed at ensuring that all single mothers have the right to a child allowance for children born out of wedlock. The Committee also takes note of the 1996 revision of the immigration rules regarding residency status for foreign mothers who raise children of Japanese nationals.

150. The Committee welcomes the information given by the delegation that the State party is currently considering ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

151. The Committee welcomes the State party's initiative to convene a "Children's Diet" as a means of realizing an important dimension of article 12 of the Convention.

C. Principal subjects of concern

152. The Committee notes with concern the reservation made by the State party to article 37 (c) of the Convention, as well as the declarations made in relation to articles 9, paragraph 1, and 10, paragraph 1.

* At the 477th meeting , held on 5 June 1998.

153. The Committee notes with concern that although the Convention on the Rights of the Child

has precedence over domestic legislation and can be invoked before domestic courts, in practice courts in their rulings usually do not directly apply international human rights treaties in general and the Convention on the Rights of the Child in particular.

154. While noting the establishment of the Management and Coordination Agency and the Committee for the Promotion of Youth Policy, the Committee is nevertheless concerned about their limited mandate and the insufficient measures adopted to ensure effective coordination between different governmental departments competent in areas covered by the Convention, as well as between the central and local authorities. The Committee is concerned that this may result not only in a lack of coordination of governmental action, but also in inconsistency.

155. The Committee notes with concern the insufficient measures to collect disaggregated statistical data, including data related to the registration of complaints from children, and other information on the situation of children, especially those belonging to the most vulnerable groups, including children with disabilities, children placed in institutions and children belonging to national and ethnic minorities.

156. The Committee is concerned at the absence of an independent body with a mandate to monitor the implementation of the rights of children. It notes that the monitoring system of "Civil Liberties Commissioners for the Rights of the Child" in its present form lacks independence from the Government as well as the authority and powers necessary to fully ensure the effective monitoring of children's rights.

157. While recognizing the efforts of the State party in this respect, the Committee is concerned that insufficient measures have been taken to disseminate and promote widespread awareness in all parts of society, among children and adults alike, about the principles and provisions of the Convention and particularly the importance that the Convention attaches to the notion of the child as a full subject of rights. The Committee is also concerned that the Convention has not been made available in any minority language and at the insufficient steps taken to provide relevant professional groups with training in the rights of the child.

158. While noting with appreciation the active participation of non-governmental organizations in issues related to children's rights, the Committee is concerned that the knowledge and expertise of civil society is not adequately utilized at the present stage of cooperation between the authorities and NGOs, which leads to insufficient participation of NGOs in all stages of implementation of the Convention.

159. The Committee is concerned that the general principles of non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12), are not being fully integrated into the legislative policies and programmes relevant to children, in particular in relation to children from vulnerable categories such as those belonging to national and ethnic minorities, especially Ainu and Koreans, children with disabilities, children in institutions or deprived of liberty and children born out of wedlock. The Committee is particularly concerned about unequal access by children of Korean origin to institutions of higher education and the difficulties encountered by children in general in exercising their right to participate (art. 12) in all parts of society, especially in the school system.

160. The Committee is concerned that legislation does not protect children from discrimination on all grounds defined by the Convention, especially in relation to birth, language and disability. The Committee is particularly concerned about legal provisions explicitly permitting discrimination, such as article 900 (4) of the Civil Code which prescribes that the right to inheritance of a child born out of wedlock shall be half that of a child born within a marriage, and about mention of birth out of wedlock in official documents. It is also concerned at the provision of the Civil Code stipulating a different minimum age of marriage for girls (16 years) from that of boys (18 years).

161. The Committee is concerned at the insufficient measures taken by the State party to guarantee the child's right to privacy, especially in the family, schools and other institutions.

162. In light of article 17 of the Convention, the Committee is concerned at the insufficient measures introduced to protect children from the harmful effects of the printed, electronic and audio-visual media, in particular violence and pornography.

163. In light of article 21 of the Convention, the Committee is concerned at the lack of necessary safeguards to ensure the best interests of the child in cases of inter-country adoption.

164. The Committee is concerned at the number of institutionalized children and the insufficient structure established to provide alternatives to a family environment for children in need of special support, care and protection.

165. The Committee is concerned about the increase of child abuse and ill-treatment, including sexual abuse, within the family. The Committee notes with concern that insufficient measures have been taken to ensure that all cases of abuse and ill-treatment of children are properly investigated, sanctions applied to perpetrators and publicity given to decisions taken. It is also concerned about the insufficient measures taken to ensure the early identification, protection and rehabilitation of abused children.

166. With regard to children with disabilities, the Committee notes with concern the insufficient measures taken by the State party, notwithstanding the principles laid down in the Fundamental Law for People with Disabilities, 1993, to ensure effective access of these children to education and to facilitate their full inclusion in society.

167. While taking into account the advanced health system and the very low infant mortality rate, the Committee is concerned about the high number of suicides among children and the insufficient measures to prevent this phenomenon, the insufficient access by teenagers to reproductive health education and counseling services, including outside schools, and the incidence of HIV/AIDS among adolescents.

168. While noting the importance given to education by the State party, as illustrated by a very high literacy rate, the Committee is concerned that children are exposed to developmental disorders due to the stress of a highly competitive educational system and the consequent lack of time for leisure, physical activities and rest, in light of the principles and provisions of the Convention, especially its articles 3, 6, 12, 29 and 31. The Committee is further concerned about the significant number of cases of school phobia.

169. The Committee is concerned about the insufficient measures taken by the State party to introduce human rights education into school curricula in a systematic manner, in accordance with article 29 of the Convention.

170. The Committee is concerned at the frequency and level of violence in schools, especially the widespread use of corporal punishment and the existence of numerous cases of bullying among students. While legislation prohibiting corporal punishment and such measures as hot lines for victims of bullying do exist, the Committee notes with concern that current measures have been insufficient to prevent school violence.

171. While noting the draft bill on sexual exploitation, introducing penal sanctions against nationals involved in the exploitation of children through prostitution or pornography, and taking note of the conference organized as a follow-up to the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996, the Committee is concerned at the lack of a comprehensive plan of action to prevent and combat child prostitution, child pornography and trafficking of children.

172. The Committee is concerned about the insufficient measures undertaken to address issues of drug and alcohol abuse which are increasingly affecting children in the State party.

173. The situation in relation to the administration of juvenile justice and its compatibility with the principles and provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty is a matter of concern to the Committee. In particular, the Committee is concerned about the insufficiency of independent monitoring and adequate complaints procedures, the insufficiency of alternatives to detention and to the use of pre-trial detention as a last resort. The conditions in substitute prisons are also a matter of concern.

D. Suggestions and recommendations

174. In light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservation to article 37 (c) and its declarations with a view to their withdrawal.

175. With regard to the status of the Convention in domestic law, the Committee recommends that the State party provide, in its next periodic report, detailed information on cases where the Convention on the Rights of the Child and other human rights treaties have been invoked before domestic courts.

176. The Committee recommends that the State party strengthen coordination between the various governmental mechanisms involved in children's rights, at both the national and local levels, in order to develop a comprehensive policy on children and ensure effective monitoring and evaluation of the implementation of the Convention.

177. The Committee recommends that the State party take measures to develop a system of data collection and to identify appropriate disaggregated indicators in order to address all areas of the

Convention and to facilitate the identification of sectors where further action is needed and the assessment of progress achieved.

178. The Committee recommends that the State party take the necessary steps to establish an independent monitoring mechanism, either by improving and expanding the existing system of "Civil Liberties Commissioners for the Rights of the Child" or by creating an Ombudsperson or a Commissioner for Children's Rights.

179. The Committee recommends that greater efforts be made by the State party to ensure that the provisions of the Convention are widely known and understood by both children and adults. Systematic training and retraining programmes in the rights of the child should be organized for all professional groups, including members of the police, the security forces and other law enforcement officials, judicial personnel, lawyers, magistrates, teachers and school administrators at all levels of education, social workers, officials of central or local administrations, personnel of child-care institutions and health and medical personnel, including psychologists. In order to reinforce the status of the child as a full subject of rights, the Committee recommends that the Convention be incorporated in the curricula of all educational institutions. It further recommends that the Convention in its entirety be made available, and when necessary translated, in minority languages.

180. The Committee encourages the State party to interact and cooperate closely with non-governmental organizations in implementing and monitoring the principles and provisions of the Convention.

181. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention, in particular the general principles of non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12), not only guide policy discussions and decision-making, but also are appropriately reflected in any legal revision, judicial and administrative decisions, and in the development and implementation of all projects and programmes which have an impact on children. In particular, legislative measures should be introduced to correct existing discrimination against children born out of wedlock. The Committee also recommends that discriminatory treatment of minority children, including Korean and Ainu children, be fully investigated and eliminated whenever and wherever it occurs. Furthermore, the Committee recommends the same minimum age for marriage of boys and girls.

182. The Committee recommends that the State party introduce additional measures, including legislative ones, to guarantee the child's right to privacy, especially in the family, in schools, and in childcare and other institutions.

183. The Committee recommends that the State party adopt all necessary measures, including legal ones, with a view to protecting children from harmful effects of the printed, electronic and audio-visual media, in particular violence and pornography.

184. The Committee recommends that the State party take the necessary steps to ensure that the rights of the child are fully protected in cases of intercountry adoptions and to consider ratifying the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

185. The Committee recommends that the State party take measures to strengthen the structures established to provide alternatives to a family environment for children in need of special support, care and protection.

186. The Committee recommends that the State party collect detailed information and data regarding cases of child abuse and ill-treatment, including sexual abuse, within the family. The Committee recommends that cases of abuse and ill-treatment of children be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in order to enhance understanding of this phenomenon, and that in order to achieve this, an easily accessible and child-friendly complaint procedure be established.

187. In light of the Standard Rules for the Equalization of Opportunity for Persons with Disabilities (General Assembly resolution 48/96), the Committee recommends that the State party make further efforts to ensure practical implementation of the existing legislation, take alternative measures to institutionalization of children with disabilities, and envisage awareness-raising campaigns to reduce discrimination against children with disabilities and encourage their inclusion into society.

188. The Committee recommends that the State party take all necessary measures to prevent suicides and incidents of HIV/AIDS among adolescents, including the collection and analysis of information, the launching of awareness-raising campaigns, reproductive health education and the establishment of counseling services.

189. In view of the highly competitive educational system in the State party and its negative effects on children's physical and mental health, the Committee recommends that the State party take appropriate steps to prevent and combat excessive stress and school phobia in light of articles 3, 6, 12, 29 and 31 of the Convention.

190. The Committee recommends that the State party take appropriate measures to include human rights education in the school curricula, in a systematic manner, in accordance with article 29 of the Convention.

191. In light of, *inter alia*, articles 3, 19 and 28.2 of the Convention, the Committee recommends that a comprehensive programme be devised and its implementation closely monitored in order to prevent violence in schools, especially with a view to eliminating corporal punishment and bullying. Additionally, it recommends that corporal punishment be prohibited by law in the family and in childcare and other institutions. The Committee also recommends that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention.

192. The Committee recommends that the State party design and implement a comprehensive plan of action to prevent and combat child prostitution, child pornography and trafficking of children, in line with the outcome of the 1996 World Congress against Commercial Sexual Exploitation of Children.

193. The Committee recommends that the State party strengthen its efforts to prevent and combat drug and substance abuse among children and take all appropriate measures, including public

information campaigns in and outside the schools. It also encourages the State party to support rehabilitation programmes for child victims of drug and substance abuse.

194. The Committee recommends that the State party envisage undertaking a review of the system of juvenile justice in light of the principles and provisions of the Convention and of other United Nations standards in this field such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to the establishment of alternatives to detention, the monitoring and complaints procedures and the conditions in substitute prisons.

195. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the report be published, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a wide distribution should generate debate and awareness of the Convention and of its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.