



Convention on the Rights of the Child

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Committee on the Rights of the Child Fifty-fourth session

Summary record of the 1511th (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Thursday, 27 May 2010, at 3 p.m.

Chairperson: Mr. Zermatten (Vice-Chairperson)

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties (continued)

Third periodic report of Japan on its implementation of the Convention on the Rights of the Child (continued) (CRC/C/JPN/3; HRI/CORE/1/Add.111; CRC/C/JPN/Q/3; CRC/C/JPN/Q/3/Add.1)

1. *At the invitation of the Chairperson, the members of the Japanese delegation took places at the Committee table.*
2. **Ms. Varmah** asked whether the law dated 1 April 2010, which had established a system of child allowances paid until the end of secondary schooling, applied to all children in education, including pupils in Korean schools and the children of migrant workers. She would also like to know whether children from minority groups had the opportunity to be taught in their own language.
3. She would like to know whether disabled children were able to join the mainstream school system, and whether schools were equipped to receive them.
4. She also wished the delegation to indicate whether the State party intended to adopt measures to combat school dropout, truancy and violence in schools.
5. **Mr. Filali** asked whether the plan to abolish secondary school fees also applied to Korean schools.
6. He would like to know why the age of criminal responsibility had been lowered from 16 to 14 years, and why the length of pretrial detention had increased from four to eight weeks. He noted that children held in pretrial detention in juvenile prisons were often subjected to violence by staff, and asked whether any action had been taken against the perpetrators and whether steps were taken to prevent the recruitment of incompetent staff, those without an awareness of children's rights or those predisposed to violence.
7. He invited the delegation to shed more light on the reasons which had led the Government to replace the juvenile court judge with three professional judges supported by three lay magistrates. Lastly, it would also be useful to know whether the legal aid provided for young offenders was dependent only on their financial situation, or also on the seriousness of the offence committed, and whether the State intended to provide such assistance for all minors.
8. **The Chairperson** asked why the Japanese authorities placed in detention thousands of child refugees or asylum-seekers, both accompanied and unaccompanied, who entered Japan every year, particularly from Myanmar and Sri Lanka, and whether they intended to introduce any other procedures. He invited the Government to make use of the Guidelines on Refugee Children of the Office of the United Nations High Commissioner for Refugees in that task.
9. He would like the delegation to explain why the authorities had established a new juvenile justice system which obliged judges to make only limited use of data relating to young offenders, in the interests of respecting their privacy. In fact, relevant international principles recommended that all available personal data should be used, in order to ensure an appropriate response to the situation of the individual child.
10. **Ms. Horii** (Japan) explained that the child benefit system was intended to remedy falling birth rates. Families received 13,000 yen per month for every child until the child finished his/her lower secondary education.
11. It had been decided that the human and financial resources of the child protection centres should be increased so that they could absorb more children. The budget allocation

for issues related to families and children had also been increased, and large amounts had been allocated for the establishment of day-care centres and other children's services.

12. **The Chairperson** asked whether the allowances should not be targeted at single-parent families, which accounted for 19.1 per cent of the population and were generally headed by women. He noted that the women in question often had difficulty in drawing benefits, finding a job and obtaining the maintenance payments which the child's father was supposed to make.

13. **Ms. Horii** (Japan) explained that, in addition to child maintenance allowances, there were also special allowances for single-parent families.

14. **Ms. Maurás Pérez** asked whether the policy of funding new day-care centres was part of a general policy for child development and whether it included the recruitment of specialized staff.

15. **Ms. Horii** (Japan) said that she was aware of the importance of establishing day-care centres providing high-quality care. Various policies had been introduced to help parents to find a balance between their professional and family lives.

16. **Ms. Tabuchi** (Japan) explained that the school system was competitive because places in higher education establishments were awarded by examination. In order to downplay this very difficult exam, it had been decided that recommendations from the child's previous schools and his/her participation — or lack of it — in sports and voluntary activities would also figure among the admission criteria. In any case, competition should now become less fierce, since the number of children, and thus the number of candidates for admission, was in decline.

17. The number of teaching hours had been increased to give schoolchildren extra time to revise the parts of the curriculum they had not yet mastered, not in order to study new subjects.

18. Since April 2010, State secondary education had been free, and the State subsidized schoolchildren in private secondary schools. All children, whether Japanese or foreign, could receive that assistance.

19. Foreign schools with curricula equivalent to the Japanese curriculum, including certain Korean schools, were subsidized. International schools accredited by the Japan Council of International Schools were also eligible to receive a subsidy. The Ministry of Education, Culture, Sports, Science and Technology was currently developing a policy which would cover other foreign schools.

20. The State encouraged primary and lower secondary schools to make their facilities accessible to children with disabilities and to make their curricula more flexible in order to integrate such children more effectively. There were also specialized institutions for children with various disabilities, including attention deficit disorder, hyperactivity and other conditions. When a child with disabilities was registered for school, local education councils decided on the establishment which he/she should attend. When taking that decision, they were obliged to take account of the opinion of the child's parents, physicians, psychologists and other professionals concerned.

21. **Mr. Krappmann** (Country Rapporteur), noting the differences of opinion between the Japanese and the Koreans in relation to certain historical events and the way they should be portrayed in school textbooks, asked whether such differences might prove a barrier to the accreditation of a foreign school.

22. He had gathered that attention deficit hyperactivity disorder was considered a disability by the State party, and he would like more information.

23. **Ms. Tabuchi** (Japan) said that, if foreign schools were to obtain subsidies from the Government and provide free education for their pupils, they had to propose a curriculum which was equivalent to the Japanese one. In respect of children with attention deficit hyperactivity disorder, the Japanese authorities considered that such children had special needs, particularly where teaching was concerned, and provided special assistance for them.
24. **Ms. Masako Shinozaki** (Japan) said that officers of the national police force received training about suicide. All children's deaths were investigated and, if they proved to be suicides, efforts were made to understand the reasons behind it. In 2009, the suicide rate among young people under 19 years of age had been 2.5 suicides per 100,000 young people.
25. **Mr. Hoshida** (Japan) said that mental health centres offered specialized advice and provided training for physicians.
26. **The Chairperson** said that, by and large, suicide was a serious social problem in Japan and that the Committee would have welcomed more detailed information on awareness-raising, prevention, intervention and rehabilitation measures adopted by the State party.
27. **Mr. Nishizawa** (Japan) said that the Government had drawn up an emergency suicide prevention plan, which included the creation of partnerships with local government and an integrated suicide prevention service. The authorities also intended to strengthen coordination with the various organizations working with unemployed and disadvantaged people. Statistics for each prefecture would be collected in order to give a better idea of the problems encountered in each region and provide a more targeted response.
28. **Ms. Herczog** said that she would like to know whether any studies had been carried out on the main causes of suicide, other than financial problems. Had psychological support programmes been established for children and families, including in schools?
29. **Ms. Shino** (Japan) explained that there were two telephone helplines for children, one provided by an association and the other by the Ministry of Justice; the latter also provided an SOS postcard service. All children received postcards and stickers bearing the telephone number of the service.
30. **Mr. Sugihara** (Japan) said that the Human Rights Bureau of the Ministry of Justice had set up advisory centres which children could consult in each of its 323 district offices. All primary and secondary schoolchildren were given SOS postcards which they could send free of charge to make their problems known. Children could also obtain advice over the Internet. Those were merely a few examples of the activities conducted by the Ministry of Justice.
31. **Ms. Herczog** asked whether calls to the telephone helplines were free of charge, and noted that the SOS postcard system was not suitable for emergencies.
32. **Ms. Horii** (Japan) said that the law on the prevention of ill-treatment of children prohibited corporal punishment and violence against children.
33. **Mr. Otani** (Japan) said that acts of domestic violence against children would lead to prosecution if they constituted a criminal offence.
34. **The Chairperson** asked the delegation to state unambiguously whether Japanese legislation prohibited corporal punishment.
35. **Ms. Horii** (Japan) confirmed that corporal punishment was prohibited by law. In the new version of the child protection Act, staff in children's institutions who ill-treated children were penalized.

36. **Mr. Krappmann** said that, according to the information before him, article 822, paragraph 1, of the Civil Code and article 14 of the Child Abuse Prevention Law permitted corporal punishment within the family. In a judgement on that issue, the High Court had remained vague and had decided that mild punishment was permitted, which was a matter for concern.

37. **Ms. Herczog** asked how the authorities made parents aware of the ban on corporal punishment and encouraged them to bring up their children without resorting to violence.

38. **Mr. Yamaguchi** (Japan) confirmed that the Civil Code permitted parents to punish their children. That by no means meant that all possible disciplinary measures were authorized.

39. **Ms. Maurás Pérez** said that the Committee would not fail to recommend strongly, once again, in its concluding observations that the State party should prohibit corporal punishment within the family and institutions taking the place of the family.

40. **Ms. Shino** (Japan) said that it was important not to confuse disciplinary measures with corporal punishment.

41. **The Chairperson** reminded the Japanese delegation of the Committee's general comment No. 8, which clearly defined the concepts of discipline and corporal punishment and emphasized the latter's unacceptability as a disciplinary measure.

42. **Mr. Otani** (Japan) said that the Penal Code set the age of consent to sexual intercourse at 13 years. Any act of sexual intercourse with a minor who had not reached that age constituted an act of rape, even if the minor had consented. Moreover, under the Act on Punishing Acts related to Child Prostitution and Child Pornography, and on Protecting Children, paying for sexual intercourse with a minor aged under 18 years, whether a boy or a girl, was a criminal offence. Likewise, under the child protection law, any individual who coerced a person under 18 years, whether a boy or a girl, to engage in indecent acts was liable to prosecution.

43. The question of raising the age of consent to sexual intercourse was being discussed, but it would not be resolved in the near future. Indeed, many people in Japan considered that the age at which an individual chose to engage in sexual intercourse was a question of personal maturity and was for the person to decide.

44. Rape, whether committed against a man or a woman, was a sexual offence punishable under the Penal Code as indecent assault under duress. However, Japanese law took account of the physical and physiological differences between men and women and provided extra protection for the latter, which did not constitute discrimination against men. Japan had a law which penalized the rape of boys and men.

The meeting was suspended at 4.30 p.m. and resumed at 4.45 p.m.

45. **Mr. Otani** (Japan) said that the age of criminal responsibility for minors had been reduced from 16 to 14 years so that minors aged 14 or 15 who had committed heinous crimes could be prosecuted. However, despite the amendment to the legislation, the number of cases in which criminal penalties had been imposed on minors aged under 16 years was very low.

46. The increase to eight weeks of the length of protective custody which could be ordered by the family courts was intended to give investigatory bodies the time to collect more information so that court decisions relating to minors could be based on reliable evidence. However, it should be emphasized that detention did not always last eight weeks. The decision in question was reviewed every two weeks by the courts. Young offenders dealt with under those measures were placed in children's homes with staff that included child education specialists and psychologists.

47. **Mr. Filali** asked for more information about detention conditions and wanted to know whether it would not be possible to conduct the investigation without detaining the child.

48. **Ms. El Ashmawy** asked whether the Action Plan on Measures to Combat Trafficking in Persons was a five-year plan, whether the State party had a national organization to monitor it and coordinate its implementation and whether it was allocated sufficient resources. She would also like to know whether the State party planned to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

49. **Mr. Otani** (Japan) said that the detention period was not always eight weeks. The length of detention was decided by judges in the family courts, who were also at liberty to decide that protective detention was not required at all.

50. **Mr. Kimura** (Japan) said that the staff of the Juvenile Training School in Hiroshima who had committed acts of violence against the minors detained in the establishment between 2008 and 2009 had been arrested, dismissed from their posts and prosecuted for cruelty. The case was still in progress. Following those events, in September 2009 the Ministry of Justice had set up a system which allowed young people detained in training schools to lodge a complaint if they considered that their rights had been violated. Training programmes had also been arranged to teach the staff of the centres about respect for human rights. Measures had likewise been taken to improve the management of the centres and the remand process. Lastly, in December 2009 an expert group had been formed under the Ministry of Justice to reflect on issues related to remand care, particularly relevant legislation and training for the staff of juvenile training schools.

51. **Mr. Filali** asked whether juvenile training schools were inspected by independent institutions, either national or foreign.

52. **Mr. Kimura** (Japan) said that the Ministry of Justice was now conducting regular checks on detention conditions in the establishments concerned. One of the issues currently under consideration by the expert group was the possibility of establishing an independent inspectorate for juvenile training schools. Such inspectorates currently existed only for prisons.

53. **Ms. Horii** (Japan) said that teams inspecting child protection establishments ensured that children were able to express their views. The institutions were also instructed to allow children the chance to state their views, to involve them in the planning and preparation of programmes and activities and to set up a complaints mechanism to which the children had access.

54. The relevant ministries and bodies were studying the balance between work life and family life. The Ministry of Health, Labour and Welfare was keen to promote parental leave and a reduction in working hours. Moreover, the Ministry had issued instructions to the prefectural employment offices intended to prevent the dismissal of women during pregnancy or after the birth of their child.

55. The Ministry of Health, Labour and Welfare was also taking steps to improve the child welfare system, in particular by increasing payments to foster parents and recruiting more foster families. It was collaborating with NGOs in that endeavour.

56. **The Chairperson** asked how foster families were selected and supervised.

57. **Ms. Horii** (Japan) said that there were several types of foster family. Some placements led to the child's official adoption by the family.

58. **Mr. Yamaguchi** (Japan) said that, under the Civil Code, the adoption of a minor was generally subject to authorization by a family court.
59. **The Chairperson** asked whether the adoption of children by the foster family in which they had been placed had to be the subject of a judicial decision.
60. **Mr. Yamaguchi** (Japan) replied that authorization by a family court was required.
61. **The Chairperson** asked whether a court decision was required in the case of adoption by close relatives. He also wished to know what control the State party exercised over international adoptions, since he was aware that Japan was not party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.
62. **Ms. Maurás Pérez** asked whether, in the event of separation or divorce, the foreign parent of a Japanese child with one foreign and one Japanese parent had access to the child.
63. **Mr. Yamaguchi** (Japan) said that access was decided during the mediation process connected with the separation agreement or divorce decree.
64. A person who adopted a child to whom he/she was directly related did not need the authorization of a court. A decision by the family court was required in cases where it was necessary to ensure that the child did not run the risk of being trafficked.
65. **Ms. Shino** (Japan) said that the Japanese authorities were aware of the value of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, but it had to consider in more detail whether Japan needed to accede to it, in the light of existing domestic legislation in that area.
66. **Mr. Yamaguchi** (Japan) said that the inheritance of children born out of wedlock was half that of children born in wedlock and that, as early as 1996, the Ministry of Justice had proposed that the Civil Code should be revised to remedy that inequity. The question was on the agenda of the current session of Parliament.
67. **Mr. Krappmann**, referring to paragraph 219 of the report under consideration (CRC/C/JPN/3), asked whether civil registers still made a distinction between children born in and out of wedlock, which might lead to discrimination.
68. **Mr. Yamaguchi** (Japan) said that such a distinction had been made in the past, but that had ceased to be the case in 2004.
69. **Mr. Nakayama** (Japan) said that the Immigration Control and Refugee Recognition Act allowed any foreigner on Japanese territory to submit an asylum claim, regardless of his/her age. In the case of minors under 16 years of age, the father, mother or legal representative was authorized to undertake the necessary procedures on behalf of the child. The Act stated that, while awaiting the decision to grant or refuse refugee status to a minor, the latter must be cared for in a child protection centre. The same principle applied to minors on whom an expulsion order had been served and who were waiting to be sent back to their country of origin. However, on the rare occasions when a minor had found himself/herself in such a situation in recent years, the child had had the choice of remaining with his/her family in a detention centre, being placed in the care of relatives or going to a child protection centre. Japan was now granting refugee status to more asylum-seekers than previously. It also observed the UNHCR Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum Seekers and enjoyed the support of the UNHCR office in Tokyo, which organized training courses on that subject for immigration officials.

70. **The Chairperson** said that, according to information before the Committee, it appeared that UNHCR standards were not always respected in the State party and that minors were kept in detention as part of the asylum procedure, which was very protracted.

71. **Mr. Koompraphant** asked why centres dealing with children were called “child guidance centres” rather than “child protection centres”, and asked about the level of training of their staff. He would also like to know whether those establishments took in children who were disturbed by the inordinately high achievement expected of them in the Japanese education system or, indeed, those who had attempted suicide for that reason.

72. **Mr. Nakayama** (Japan) said that in 2009 there had been almost 200 centres, located in prefectures and cities of over 500,000 inhabitants. In total, they employed approximately 8,800 people, including psychiatrists and psychologists, who worked on a case-by-case basis with the children attending the consultation services. They provided various services, including counselling for parents and children and, where necessary, temporarily took charge of children who were experiencing difficulties of some kind, whether they were young offenders, children with disabilities, children with behavioural problems or victims of sexual abuse. In that task, the centres worked in tandem with the police. The staffing and operational costs of the centres were paid by local communities, which received State grants for the purpose.

73. **Mr. Krappmann** asked who had drawn up the operating procedures for the centres and who was responsible for monitoring compliance with those procedures. He would further like to learn whether a minor’s detention in such a centre required a judicial decision and whether a minor could appeal.

74. **Ms. Horii** (Japan) said that, to her knowledge, no minor had ever instituted legal proceedings for such a reason and that the procedures were laid down in the child protection legislation which had created those establishments.

75. **Mr. Otani** (Japan) said that, in order to protect minors’ privacy, the use of personal data in court was now very strictly regulated. However, minors could ask for their data to be made public and used if they thought it necessary.

76. **Mr. Shino** (Japan) said that all citizens were covered by the national health system and that physicians could not refuse to give a diagnosis. If a risky operation needed to be performed on a minor, the parents’ consent must be obtained in advance.

77. In order to combat truancy, schools had recruited more school counsellors and social workers, and study groups on the issue had been set up.

78. **Mr. Hoshida** (Japan) said that, under the law on preservation of nationality, a child born abroad to Japanese parents might, indeed, lose his/her Japanese nationality in certain circumstances. However, it was possible to regain it at a later stage. If the person’s application was unsuccessful, he/she could begin naturalization proceedings, under conditions which were particularly favourable to persons in that situation.

79. **Ms. Tabuchi** (Japan) said that, in 2008, the school dropout rate had been 1.18 per cent in primary education, 1.5 per cent in lower secondary education and 2 per cent in upper secondary education.

The meeting rose at 6 p.m.