



Convention on the Rights of the Child

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Committee on the Rights of the Child Thirty-fifth session

Summary record of the 943rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 28 January 2004, at 3 p.m.

Chairperson: Mr. Doek

Contents

Consideration of reports of States parties (*continued*)

Second periodic report of Japan (continued)

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

Consideration of reports of States parties (continued)

Second periodic report of Japan (continued) (CRC/C/104/Add.2; CRC/C/Q/JPN/2; CRC/C/RESP/JAP/2; HRI/CORE/1/Add.111)

1. *At the invitation of the Chairperson, the members of the delegation of Japan resumed their places at the Committee table.*
2. **Ms. Ouedraogo** requested additional information on the measures taken to protect Okinawan children against, in particular, rape, accidents and the effects on health of military testing, which was, for example, responsible for low birth weight and deafness.
3. Protective measures were also needed for stateless children because there seemed to be a growing number of immigrants in an irregular situation in Japan and they did not register their children's births for fear of expulsion. The legal status of children born out of wedlock was disturbing, because, as the delegation itself had acknowledged, the method for registering their births differed from that for children born to married couples. Clarification was needed concerning the concept of "unreasonable but founded" discrimination.
4. The State's preferred solution to drug abuse, especially among young people, seemed to be exclusion, whereas what those concerned needed was, on the contrary, treatment and counselling and rehabilitation services. It would also be helpful to look into the underlying reasons why they had turned to drugs, in particular the effects of stress.
5. She asked whether the religious education referred to in paragraph 184 of the report was optional or compulsory, in which event it would be contrary to the freedom of thought, conscience and religion laid down in article 14 of the Convention.
6. **Ms. Chutikul** agreed that the rise in the number of migrant workers in an irregular situation and consequently of stateless children without access to essential services was disturbing. Some countries at least granted children in that situation the rights to attend school and to receive medical care. She asked if, in Japan, some of the children in question received schooling, either in the national system or in a parallel network of institutions established by the immigrants themselves, and if they risked being reported to the police if they went to a medical facility. It would also be helpful to know whether there were contacts with embassies to try to reduce cases of statelessness.
7. The desire to achieve the best possible school results and the stress that caused were fraught with consequences, especially truancy and suicide. The decision to reduce the school week from six days to five was a superficial measure that had not made schoolchildren's lives less stressful. The authorities should tackle the problem at its core, which was the omnipresence of elitism at all levels of Japanese society, the same value system that kept men wrapped up in their professional lives and out of family life, trapping children in an exclusive relationship with their mothers and forcing the State to create large numbers of posts as counsellors and psychologists when what the children needed most of all was a father.
8. **Ms. Ortiz** said she would like details from the delegation of how the system for placing children in foster families operated, the way foster families were chosen and prepared and the measures taken to encourage fostering. It was regrettable that the report said almost nothing about the national adoption system and more about international adoption, even though it failed to describe the difference between "ordinary" and "special" adoption (para. 249) or to say whether Japan intended to become a party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

9. It would be useful to know, with respect to the children of divorced couples, what was done to ensure compliance with maintenance obligations, how children were protected against abduction and sequestration by one of their parents and what were the rules governing the system of custody and visits whereby relations were maintained with both the parents.

10. **The Chairperson**, speaking as a member of the Committee, wished to know about the way children who filed complaints of abuse were treated, in particular by whom they were questioned, how they were helped and what accommodation they could be offered. The delegation should also explain why the number of children in foster families remained so low by comparison with the number of children placed in institutions.

11. **Ms. Kaji** (Japan) said that, as could be seen from its active participation in the negotiations to draw up, under United Nations auspices, a legally binding international instrument to promote and protect the rights and dignity of persons with disabilities, Japan took a close interest in such persons' situation.

12. A programme of exchange scholarships between the Republic of Korea and Japan that would run until May 2005 should help to improve the dialogue between those countries and the impressions that their populations had of each other.

13. The Government had established a wide network of advice centres and schools known as Amerasian Schools for the benefit of inhabitants of Okinawa of Amerasian origin.

14. **Mr. Kameda** (Japan) said that children's basic rights were enshrined not only in the Constitution but also in the School Education Law and that Japan was committed to ensuring that the provisions of the Convention were reflected in school life. Its efforts to that end were ongoing because a study had been made of the realization of children's rights in primary and secondary education and the family, the Convention was quoted in numerous textbooks and the Ministry of Justice had produced and distributed a variety of brochures to promote those rights. Much, however, remained to be done to instil the idea that the child was a subject of law.

15. The conditions for admission to Japanese universities had been eased to enable foreign high school graduates to study in Japan. Since the beginning of the academic year in 2003, universities had been admitting, irrespective of their nationality and providing they were at least 18 years old, graduates of accredited foreign secondary educational establishments and holders of university degrees equivalent to those in Japan.

16. The history and culture of the Ainu were taught in social studies courses.

17. The Committee's concluding observations concerning the country's initial report, including the recommendations regarding discrimination and the marriageable age, had been published and were still the subject of very careful study, even if account also had to be taken of a number of historical, cultural and social factors that might explain the difference in views between the Committee and the Japanese authorities, for whom some forms of discrimination were reasonable.

18. **Ms. Smith**, stressing that no cultural or historical factor could justify a difference in rules of inheritance for children born out of wedlock, called for Japan to amend its legislation in that respect.

19. **Mr. Citarella** pointed out that article 2 of the Convention left no room for "reasonable discrimination".

20. **Ms. Sardenberg** asked to what extent the Burakumin had access to secondary and higher education.

21. **The Chairperson**, speaking as a member of the Committee, took note of the fact that Ainu culture was taught in schools, but wished to know whether the Ainu themselves had access to education.
22. He also asked whether it was true that children born out of wedlock to a Japanese father and a foreign mother could have Japanese nationality only if they were recognized before birth and that, if they were not, they could obtain it only if the parents married.
23. **Mr. Kamai** (Japan) acknowledged that children born out of wedlock to a foreign mother did not acquire Japanese nationality at birth. However, they could easily acquire it. There were no current plans to amend the relevant legislation.
24. Children born out of wedlock had inheritance rights that were half those of other children. That rule had been the subject of discussion, but, out of concern to protect formally established couples, Japanese society had not changed the situation, which it did not think unreasonable.
25. Burakumin and Ainu children had access to education like all other children.
26. **Mr. Hayashi** (Japan) said that, while it was true that children under the age of 13 could take part in certain artistic performances, the activities in question were subject to labour law, which provided that they must entail no risk to the children's physical or psychological development and must take place outside school hours.
27. The number of children affected by HIV/AIDS had fallen every year for about the previous 10 years.
28. **Mr. Kamai** (Japan) said that, as schools had not been spared by the problem of drug and narcotic abuse, the relevant ministries and public bodies had taken large-scale measures against it: prevention and awareness-raising campaigns and courses had been run in schools and a five-year drug-addiction prevention strategy had been started.
29. Psychologically disturbed child victims of violence and ill-treatment could obtain help free of charge from child guidance centres, consultation and guidance centres and 24-hour telephone helplines. Every effort was made to ensure that children were aware of the support services at their disposal.
30. **The Chairperson**, speaking as a member of the Committee and noting that minors only had access to health care and advice with their parents' consent, asked what confidentiality there was regarding health questions, particularly questions of reproductive health, in Japan. He inquired whether the authorities had adopted any measures besides the New Angel Plan to halt the decline in the birthrate and to create an environment where work and child-rearing were compatible.
31. **Mr. Hayashi** (Japan) said that, under the Civil Code, the age of majority, and therefore of full legal capacity, was 20. If someone below that age concluded a contract or arrangements for medical treatment, including in the sphere of reproductive health, without the consent of his or her parents or legal representative, those persons could cancel it. Such contracts or arrangements were, however, considered valid if not expressly denounced. In addition, minors could obtain medical advice on their own in child guidance centres.
32. The figures from the 2002 census had confirmed the decline in the birthrate. From 1.2 million in 2002, the number of births was forecast to fall to 670,000 by 2050.
33. **Mr. Kamai** (Japan) said that the New Angel Plan, a five-year plan to tackle the decline in the birthrate, had begun in 2000. As part of it, the authorities were working to increase the capacity of day-nurseries and kindergartens and to create employment conditions more conducive to the combining of work and family life. They were also

thinking about ways of improving the health system in general and of compensating for the financial burden of child-rearing.

34. Regarding measures to improve maternal and child health, the Government had, since 1974, been promoting breast-feeding, particularly in rural areas, by stressing its benefits. In addition, the Ministry of Health, Labour and Welfare ensured that kindergarten staff, premises and equipment met very precise quality criteria.

35. **Mr. Kotrane** pointed out that, pursuant to the Convention, the primary consideration in all decisions concerning children must be the children's best interests. Japan should therefore not only give children access to certain essential services such as doctors and lawyers, but also refrain from making any distinction between the legal status of legitimate children and children born out of wedlock. To give preference to one child over another was unthinkable. Such a policy was solely designed to protect a particular concept of the family.

36. **Mr. Liwski** asked whether there were any general regulations governing students' associations, whether individual educational establishments could issue authorizations and lay down rules concerning such associations and what influence the associations had.

37. **Mr. Kameda** (Japan) said that civics and politics were taught in secondary or higher educational establishments. The authorities provided relevant advice and guidance so that students could, when the time came, exercise their rights and duties as citizens and so become responsible members of society.

38. The Constitution guaranteed freedom of association and peaceful assembly for all, but organizations, groups or associations that engaged in subversive political activities could be subject to restrictions or penalties.

39. Privacy was guaranteed in schools, but schools could, for reasons of safety and in certain exceptional circumstances, decide, subject to notification of the parents, to permit the inspection of a child's personal belongings.

40. **Ms. Smith** asked whether students were permitted to engage in political propaganda outside their campuses.

41. **Mr. Kameda** (Japan) said that political activities such as supporting or campaigning for a political party having no educational aim were forbidden on campuses. All political propaganda off campus was also prohibited. It was up to each educational establishment to regulate the situation on a case-by-case basis. It should be noted that the law only punished or banned organizations involved in violent or illegal activities. During their studies, secondary and higher education students could belong to students' associations and take part in their activities.

42. Even though violence between children at school had been declining for the previous seven years, some 22,000 cases of bullying had, according to a study by the Ministry of Education, been reported in 2002. In response, the authorities were striving to strengthen the capacity of teachers, counsellors and school nurses by emphasizing rapid identification of victims, improving consultation services for children, counselling the perpetrators of violence and seeking the co-operation of families and the community. At child guidance centres, support teams that included psychologists offered support and care for victims and their families. A meeting of experts held in 2001 had discussed the problem behaviour of some children and ways of correcting it.

43. Truancy had declined since 1991, although much remained to be done in that regard. The actions needed included ensuring children's safety at school, improving the educational guidance system, expanding advice and guidance systems in educational establishments and

further promoting cooperation between teachers, children, the local community and the network of school support centres to help school dropouts.

44. Corporal punishment was strictly forbidden by the School Education Law and there were training courses and meetings for teachers to ensure the ban was observed. Any teacher who inflicted corporal punishment on pupils was liable to disciplinary proceedings.

45. **Ms. Sardenberg** requested additional information on the system for selecting textbooks and the possible risk of political interference by the Government.

46. **Mr. Wada** (Japan) said that, to maintain the quality of teaching, Japan had an approval system to monitor the accuracy, objectivity and educational value of the information contained in textbooks, which were produced by private publishers. Textbook selection was therefore fair and impartial.

47. Foreign pupils and students who asked to attend public educational establishments in Japan had access to them on the same footing as all other children. They could be taught in their mother tongue if necessary. In accordance with the instructions issued to schools, non-Japanese pupils could not be compelled to salute the Japanese flag or sing the national anthem.

48. **Ms. Yamada** (Japan) said that, to protect children against violence and sexual exploitation, the authorities had adopted the Law on Punishing Acts related to Child Prostitution and Child Pornography and on Protecting Children in 1999 and amended some provisions of the Child Welfare Law in 2003. The age of sexual consent was still 13 and child sex abusers were liable to heavy criminal penalties. Legal investigations could now be conducted by women and protection was available for victims who were called upon to testify.

49. The decision in the year 2000 to lower the age of criminal responsibility from 16 to 14 had been prompted by a rise in the juvenile crime rate.

50. **The Chairperson**, speaking as a member of the Committee, expressed concern at the fact that, under the system of local ordinances, sexual relations with female minors did not incur criminal penalties in all parts of the country.

51. **Ms. Yamada** (Japan) said that only one prefecture would not punish such behaviour. Boys were protected by the provisions penalizing obscene conduct towards minors.

52. **Mr. Filali** expressed concern at the tendency to close evening schools. That seemed to go against the desire to combat truancy and the dropout rate.

53. **Mr. Kameda** (Japan) said that a decision to close an establishment offering evening classes could be taken if enrolments were too few and an alternative establishment was available. Only the prefectural authorities could take such a decision.

54. The objective was to provide all children, whatever their level, with a high-quality education and to help them to develop their critical faculties and an open mind. Surveys of 100 elementary and 70 secondary schools in June and July 2003 had shown that teachers thought that the standard of their pupils was generally satisfactory, but that their workload was too high. Measures would shortly be introduced to address that concern.

55. **Mr. Krappmann** asked how far and in what ways parents and pupils participated in the running of educational establishments.

56. **Ms. Smith** expressed concern at, and asked the delegation to comment on the general attitude in Japanese society to certain of children's rights, particularly the right to freedom of expression.

57. **Ms. Kaji** (Japan) said that a brochure distributed in all schools encouraged children to express their opinions.
58. **The Chairperson**, speaking as a member of the Committee, requested information on juvenile suicide, including the reasons why cases were handled principally by the police and not by the social or medical services.
59. **Mr. Hayashi** (Japan) said that the two main reasons for juvenile suicide were problems at home, such as misunderstanding by parents and the generation gap, and difficulties in school.
60. **Mr. Kusume** (Japan) said that the police dealt solely with the investigative aspects of cases.
61. **Mr. Liwski** asked whether there was a suicide prevention strategy and, more generally, a mental health policy relating to young people.
62. **Mr. Hayashi** (Japan) said that, along with training for school nurses and school counsellors, there were periodic awareness-raising campaigns in schools.
63. **Mr. Citarella** said that, the reform of juvenile justice legislation notwithstanding, there did not seem to have been any real improvement on the ground. Juvenile judges' decisions did not afford permanent protection from criminal prosecution, since young offenders could be retried and resentenced for the same offence once they became adults. The maximum period of preventive detention had been increased from four to eight weeks. For crimes for which an adult risked the death penalty, a minor could be sentenced to life imprisonment. Imprisonment seemed to be the commonest penalty for minors.
64. **Mr. Kotrane**, expressing concern at Japan's reservation to article 37(c) of the Convention, pointed out that in 2003 a member of the Government had said that the best interests of the child were only one of the considerations to be borne in mind with regard to detention. That was entirely contrary to the Convention.
65. **Ms. Khattab** observed that, according to some sources, children of illegal immigrants who were detained with their parents often suffered degrading treatment.
66. While welcoming the progress made in combating the commercial sexual exploitation of children, she said that the focus should be not only on repression but also on the rehabilitation of victims. Note should also be taken of the absence of cases of extraterritorial application of the Child Abuse Prevention Law.
67. **Ms. Aluoch** asked if decisions to place families of illegal immigrants, including the children, in detention could be appealed.
68. **Mr. Al-Sheddi** asked to what extent refugee children, of whom there had been over 12,000 in ten years, had access to social services.
69. **Mr. Filali**, referring to paragraph 423 of the report, requested information on the classification homes for the preventive detention of juveniles. He wished to know in particular their status, their mandate and their activities. He also wished to know more about the role of the prosecutors in family courts.
- The meeting was suspended at 5.10 p.m. and resumed at 5.20 p.m.*
70. **Mr. Kameda** (Japan) said that parents could be involved in the management of schools, inasmuch as appointment to school councils, of which some 60 per cent of schools had an example, had been open to them since April 2000. As council members they had a say in the development and application of teaching policies.
71. **Mr. Hayashi** (Japan) said that a bill to increase the duration of maternity or paternity leave to a year and a half was currently before the Diet.

72. Under the Civil Code, special adoptions could not become effective without the consent of the child's biological parents. That impeded accession to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. Like national adoptions, international adoptions required a decision by a family court. The delegation had no statistics on foreign adoptions.

73. The volunteers for children's rights protection came under the authority of, and reported to the Ministry of Justice. As volunteers, they received no salary, but were reimbursed for their expenses.

74. The Juvenile Law had been amended in 2000 to focus on identifying minors' acts with a view to correction, not punishment. If an act was so serious as to warrant prosecution, the minor concerned was automatically assigned counsel. It should be noted in that regard that Japan was currently considering introducing a State-funded legal aid system.

75. Under the Criminal Procedure Code, minors could be detained for up to eight weeks, but they were rarely held for so long. Detention did hinder freedom of movement, but it was sometimes necessary in order to determine the gravity of the offence, move the investigation forward and prevent the destruction of evidence. Under article 32 of the Juvenile Law, minors placed in preventive detention, or their legal representative, could appeal.

76. **Ms. Yamada** (Japan) said that by frequenting bars or public places in the evening minors would render themselves liable to a reprimand but would not be committing an offence.

77. Foreigners, whether adults or minors, who had no residence permit were liable to deportation. Deportation decisions and orders for provisional detention took account of the person's age and state of health. As far as possible, children were not detained, but when detention was necessary, they were, preferably, separated from adults and held with their parents. Deportation decisions could be appealed to the Ministry of Justice; such appeals were examined by a special commission that could grant the appellant a temporary residence permit.

78. It was obligatory for municipalities to report to the immigration authorities illegal immigrants within their jurisdiction.

79. Japan's geographical position explained why the country had so many fewer refugees and applicants for refugee status than European countries. Refusal of refugee status because they did not meet the criteria in the Convention relating to the Status of Refugees did not deprive applicants of protection; they could, in particular, be granted a temporary residence permit.

80. **Ms. Lee** welcomed the constructive dialogue with the Japanese delegation, which had resulted in a clearer picture of the situation of children in the country. In its concluding observations, the Committee would state its wish to see Japan withdraw its reservation to article 37(c) of the Convention and ratify the two Optional Protocols to the instrument. Japan should adopt a rights-based approach placing more emphasis on respect for children's views and best interests and should spare no effort to end the de jure and de facto discrimination against the Burakumin and, more generally, against children born out of wedlock, children of Amerasian origin, children with disabilities and children belonging to minorities, particularly those of Korean parentage. She invited the delegation to ensure that both the second periodic report and the Committee's concluding observations were widely disseminated in Japan.

81. **Mr. Citarella** recommended that Japan should adopt a more global approach to the Convention in the future.

82. **Ms. Kaji** (Japan) pledged to ensure that the Convention, the second periodic report and the Committee's concluding observations were distributed throughout Japan and to strengthen the already close links with the community of non-governmental organizations and civil society in general, which were valuable partners at the local level.

The meeting rose at 6.05 p.m.