



ngo group for the crc

STATE PARTY EXAMINATION OF JAPAN'S THIRD PERIODIC REPORT

54TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

25 MAY – 11 JUNE 2010

Contents

Opening Comments	Error! Bookmark not defined.
General Measures of Implementation.....	Error! Bookmark not defined.
Definition of the Child	3
General Principles	3
Civil Rights and Freedoms	4
Family Environment and Alternative Care.....	4
Basic Health and Welfare.....	5
Education, Leisure and Cultural Activities Education	6
Special Protection Measures	6
Concluding Remarks.....	7

Japan ratified the Convention on the Rights of the Child (CRC) on 22 April 1994. On 27 May 2010, the Committee on the Rights of the Child (the Committee) examined the third periodic report of Japan. It was last examined in January 2004. The State party has a reservation on Article 37 of the Convention.

Opening Comments

The delegation of Japan was lead by H.E. Mr. Hideaki Ueda, the Ambassador in charge of human rights and humanitarian affairs. He was supported by a large delegation, consisting of twenty-two representatives from seven different ministries.

Mr. Ueda began by reaffirming Japan's commitment to the principles of the Convention on the Rights of the Child and enforcing children's rights. He informed the Committee that Japan's recent change of government for the first time in approximately fifty years meant that some of the information in the State party report was outdated, and said the delegation would use the meeting to explain Japan's current policies and priorities.

The new Prime Minister of Japan had explained that he wanted to create a world in which children were protected from dangers such as armed conflict, disease, and hunger, and that it was society's responsibility to create a network of protection so that children could fully access their rights. To this end, in April 2010, the legislature had passed many new initiatives and laws to enable society to effectively support children's rights, while respecting children as partners in the process. The new legislation included the elimination of tuition for public schools and a child allowance system. He explained that civil society could participate in consultations during the legislative process. Moreover, Japan had organised a symposium on the rights of the child with extensive participation from civil society. Mr. Ueda finished by promising to give sincere answers to work towards children's rights in the future.

Mr. Krappmann, the Country Rapporteur, welcomed the delegation and thanked them for the report. He noted that the nature of the review would be imbalanced, as the Committee would focus on the areas which need improving, and would skim over the many accomplishments. He first asked for clarification on the child allowance policy and remarked that the State might need to take other measures to ensure that families have more institutional support, especially in light of reduced social spending and increased poverty. He asked which body was responsible for implementing the CRC and how Japan reconciled its definition of a child (0 – 29) with the Convention’s focus on children from 0 – 18. In addition, he noted that Japan lacked an independent monitoring body to enforce children’s rights.

General Measures of Implementation

Legislation

The Committee asked if there were plans to develop a comprehensive law or code for children to ensure that the legislation was harmonised with the CRC. The delegation replied that the vision of children’s rights provided a framework for legislation, and that Japan would consider additional actions if deemed necessary. It explained that there was the Law on the Development and Support of Children and Young People that would soon be finalised, but it was not clear if a comprehensive code would be passed. This law was based on five pillars: the dignity of children, children as partners, sound development of children, the future of society and comprehensive assistance. Under this law, the community would try to provide the child with education, welfare and a network of support, including child allowance and targeted allowances for single parents, as well as eliminating tuition in public schools and providing scholarships. The Committee expressed concern that the law’s attempt to involve local businesses in providing social support for children would result in child care centres where parents drop their children off and neglect their care. The delegation replied that the day care centres were part of a comprehensive strategy to promote a good balance between work and personal life, and the centres were part of a comprehensive child rearing approach.

The Committee asked if the government had undertaken a study to determine if the domestic laws were in conformity with the CRC. The delegation replied that during the ratification process, the parliament conducted a review to ensure that the laws met the minimum requirements of, and were not in conflict with, the relevant treaty. After ratification, the government solicited views from civil society on how to improve.

Implementation of rights

The Committee asked for clarification on the body responsible for the implementation of children’s rights and the body responsible for independent monitoring. It also wanted assurance that all bodies complied with the Paris Principles. The delegation explained that thus far, monitoring was conducted by the Ministry of Justice in the bureau of human rights. In the event of a complaint, an investigation would be carried out. The delegation acknowledged that this was not sufficient, and that various attempts had been made to reform the system, but they had not been successful. The delegation recognised the importance of the Paris Principles and committed to incorporating them in future reforms.

The Committee asked how its recommendations were considered after each review. The delegation assured the Committee that it took the recommendations seriously and made every reasonable effort to implement them. Recent legislation on matters such as welfare, child pornography and prostitution and child abuse were evidence of such efforts.

The Committee asked for examples of how the State party was working with NGOs to implement the CRC. The delegation responded that while NGOs were not directly involved in the parliamentary procedure, there were consultations held with NGOs, international organisations and children. The delegation had asked for NGO opinions in four separate hearings and read through the alternative reports, as well as co-hosting a conference with UNICEF on the future of the Convention. The Committee clarified that child participation did not mean having a token boy and girl at meetings, but rather providing opportunities for participation at the local level.

Dissemination and training

The Committee asked how officials were trained to collect relevant data on the implementation of the Convention, and whether an international exchange programme was in place to disseminate the CRC. The delegation explained that it was committed to the Millennium Development Goals and that its foreign aid was focused on education in Africa. There was extensive data collection by the national and local governments as well as private research firms on issues relating to children's rights.

The Committee asked if judges were trained in using the CRC, given that the status had primacy over domestic law, and whether the primacy of the Convention was recognised in practice. The delegation replied that the Supreme Court circulated a monthly newsletter which had explained the content of the CRC. In addition, judges attended trainings where the curriculum included the CRC. The delegation gave the example of a case (2008) involving a child with a Japanese father and foreign mother who was demanding Japanese citizenship, which the child was denied under the former Japanese nationality law. The Court's decision made reference to the Convention in the opinion.

Definition of the Child

The Committee asked why Japan had not raised its age of sexual consent from 13 to 18, as the Committee had recommended. The delegation replied that many factors were involved in setting the age of consent, and that they did not want to infringe excessively on personal choice. The delegation pointed out that it was a crime to force children under 18 to engage in obscene activity, and that sex with any girl under 13 was considered rape. Boys, however, could only be the victims of sexual assault, not victims of rape.

The Committee also asked why the age of marriage eligibility was different for boys (18) and girls (16). The delegation attributed this to differences in physical development in men and women, and said that the parliament might reconsider the age difference at a later date. The Committee also noted that the age of majority in Japan was 20 instead of 18, and asked how this affected the implementation of the CRC.

General Principles

Non-discrimination

The Committee asked if Japan would consider eliminating any distinctions between children born from married parents and those born from unmarried parents. The delegation explained that in 1996, the revision had been considered, but reform had not taken place because the State wanted to preserve the incentive to marry. In 2004, Japan had revised its laws on birth registration so that it was impossible to tell if a child was born in or out of wedlock.

The right to be heard

The Committee remarked that Japan needed a mechanism for children to express thoughts and feelings, and asked if they were a member of Child Helpline International. The delegation replied that there were multiple helplines, one of which was run by NGOs, and another by the Ministry of Justice. Children could seek counselling and receive child-friendly notepads and stickers with contact information to report any violations. The Committee noted that few calls had been received, and asked if calls were free.

Civil Rights and Freedoms

Preservation of identity

The Committee asked about the measures in place to ensure that children born in Japan would not lose their nationality through the reservation system. The delegation replied that a child denied Japanese nationality could submit an application to the Ministry of Justice to appeal. A child could be naturalised under much more lenient conditions. The Committee also asked what would happen in the case of divorce between a Japanese national and a foreigner in terms of visitation rights. The delegation replied that it depended on the individual arbitration of the case.

Protection from abuse and neglect

The Committee asked if corporal punishment in homes had been prohibited by law. The delegation explained that appropriate discipline to guide children was allowed, but not to the extent that it constituted abuse, and that it was only permitted when it promoted the care and education of the child. The Committee urged Japan to revise the law. The delegation said that there had been some confusion in translating “discipline” and “corporal punishment” and clarified later on, saying that corporal punishment was very distinct from discipline to guide children and that it was considered child abuse under Japanese law.

The Committee stressed that the high expectation of educational success commonly caused low self-esteem, hopelessness, depression, suicidal tendencies and increased bullying and aggression, and asked what initiatives were taken to stop this pattern. The delegation responded that counselling was available, as well as helplines and Child Guidance Centres.

The Committee asked if the State party had a plan to amend the Prevention of Spousal Violence and Victims Act (2001) to protect all family members and how the act provided rehabilitation for the offender to recreate a better family life. It also enquired if the State promoted nonviolent communication and conflict resolution to address domestic violence. Finally, it asked if there was any monitoring of shelters for victims or research on rates of recidivism.

Family Environment and Alternative Care

Family environment

The Committee asked what was done when a child petitioned in domestic matters. It also enquired about support to single parent families, who may need both financial support and adequate time to raise children. The Committee also asked when Japan would amend the laws discriminating against children from unmarried parents, who received reduced inheritance and face other difficulties. The delegation replied that it provided an allowance specifically for single parent families, based on four pillars: assistance in everyday life, assistance with

employment, assistance securing child maintenance and economic support including welfare benefits. The Committee asked if there were any services provided to help educate parents on how best to uphold children's rights and promote their best interest.

Separation from parents

The delegation explained its reservation, saying that while efforts were made in judicial proceedings to prioritise the best interest of the child and preserve family unity. However, in cases of deportation, confinement, imprisonment or detention, the State retained the right to separate families. The Committee expressed concern about children deprived of a family environment and asked if there was any support network for foster families or measures to minimise the time separated from parents. The delegation replied that it had raised fees paid to foster parents, expanded the pool of potential foster parents and worked with NGOs. The Committee asked how foster families were selected and monitored. The delegation answered that it was in coordination with various agencies to increase the number of foster families.

Adoption

The Committee asked to what extent there was judicial regulation of adoption proceedings, and if there was a data on adoption. The delegation explained that family courts oversaw all adoptions, except adoptions by close relatives, in which case the State had determined that there was not a high risk of trafficking.

The Committee pointed out that ratification of the Hague Convention could give Japan useful tools to combat international illegal adoption. The delegation replied that although Japan was committed to fighting international illegal adoption, there was no consensus on the Hague Convention.

Basic health and welfare

Children with disabilities

The Committee asked if children with disabilities had access to education, both specialised and mainstream, depending on the preferences and abilities of the child. The delegation responded that they promoted a barrier-free educational system and that when the local Board of Education placed children, they were required to listen to the guardian's views. There was also a psychological and medical evaluation.

Health and health services

The Committee asked if children were able to get access to medical care without parental permission and whether or not they had access to information on sexual health. The delegation said that it depended on the age of the child and the nature of the information being requested.

The Committee noted that Japan had a very high suicide rate, and asked what was being done to address it. The delegation replied that suicide was a serious problem for people of all ages, and had formed an emergency plan for suicide prevention as well as a cabinet level council. However, better coordination was needed.

Social security

The Committee noted that social spending was fairly low, particularly on early childhood, and that poverty as well as inequality had increased. It asked for further information on the impact

on children's rights and if it had considered targeted social spending to address inequality. The Committee expressed concern that the child allowance system, which granted 13,000 yen per month per child to families, was not enough without additional support. The delegation replied that the allowance system was supplemented by increased funding for child care and the Child Guidance Centres. The budget earmarked for child and family matters was 6.1 trillion yen (approximately 66.6 million dollars).

The Committee noted that deregulation of the private sector had made it more difficult for families to provide support to children, due to increased work hours or layoffs. It asked if the State planned to incorporate child rights into their economic policies. The delegation reiterated that children's rights were a priority in Japan.

Education, leisure and cultural activities

Education

The Committee asked how they promoted the best interest of the child in schools, as there was data illustrating that children were dissatisfied and felt their needs were not being met. It cited studies that showed that children were generally unhappy and had few opportunities to play. It suggested that this was the result of a highly competitive educational system and asked if perhaps it was time to re-evaluate the priorities of the educational system. The delegation cited university entrance exams as the reason for the high levels of competitiveness and had begun to supplement those with other evaluations of the candidates for admission, such as personal recommendations. In addition, the declining population should ease the competition. In order to help students who were struggling, there were now extended school hours for tutoring to focus on particularly difficult subjects. In addition, there were mental health experts available for counselling at special centres.

The Committee asked how schools handled cases of disease or injury on school grounds, and specifically, how Attention Deficit Hyperactive Disorder (ADHD) was treated. The delegation stated that ADHD was treated as a disability, and they tried to provide appropriate support and assistance.

The Committee asked about the measures to create a culture in the educational system of respect for human rights and promote healthy personal relationships in schools to address the increasing dropout and nonattendance rates. It was specifically concerned about bullying and aggression. The delegation responded that there were social workers and efforts were made to raise awareness. In addition, the definition of "attendance" was becoming more inclusive, so that alternative school or work programmes could be included for children who would normally be considered truant. The rates of truancy were 1.18% for primary school, 1.5% for middle school and 2.0% for high school.

The Committee asked if Japan would consider allowing non-native Japanese speakers to have education in their own language, and asked specifically about the status of Korean schools. The delegation replied that there was a council that gave accreditation to international schools if they met the Japanese education standards, and the accredited foreign schools were also eligible for the new government subsidies.

The Committee noted that there was a controversy involving Japanese history textbooks, which gave a different perspective on 20th Century history than the textbooks of other Asian countries. If Japan was unwilling to coordinate its textbooks with the regional powers, then the Committee hoped that these historical controversies would not keep international schools

from being accredited. The delegation explained that if the curriculum was the same as in Japanese schools, then the international school would be accredited.

Special Protection Measures

Administration of juvenile justice

The Committee asked for clarification on the role of the Child Guidance Centres. It expressed concern that these centres deprived children of their liberty in an attempt to protect them. The delegation explained that local governments installed the centres, of which there were 201 nationwide, with 8,804 staff members who were trained in counselling or psychology and acted as child welfare officers. The centres provided professional guidance and advice to children and parents. Sometimes temporary protection measures were provided. The centres were funded by both the local and national government. They were more or less child care centres, which handled cases involving families as well as children with disabilities, who had been involved in delinquency or had behavioural problems. The Committee asked who was responsible for the facilities and if children could pursue a case in court if they had a complaint. The delegation did not know of any cases that had gone to court, and stated once again that the local governments were responsible.

The Committee expressed concern about the reduction in the age of criminal responsibility from 16 to 14 years of age, and the increase in potential pre-trial detention from 4 weeks to 8 weeks. The delegation explained that the reduction in the age of criminal responsibility was done to increase a sense of civic responsibility, and that it was only applied in a few cases of particularly heinous crimes that previously could not be adequately addressed without sanctions. The detention time was protective, not punitive and it was done so that family courts could gather evidence. The Committee asked about the conditions of detention and asked why the child had to be in a facility in order for the State to collect evidence. The delegation explained that protective detention did not occur in every case. When it did occur, it was not always for eight weeks and was always overseen by a judge.

The delegation discussed a case in a Hiroshima Juvenile Training Centre, in which it was found that four staff members had used violence against detained children and were prosecuted and punished. The case had inspired a new system of complaints to the Ministry of Justice and training for staff at Juvenile Training Centres. The Committee asked if there was any independent monitoring of the facilities, and the delegation said that while the Ministry of Justice had conducted periodic inspections, it was possible that a third body would be created.

The Committee asked about the balance between the privacy of children in judicial proceedings and the need to make the trial as personalised and appropriate as possible based on private information about the child. The delegation explained that in very important cases, the State was required to provide legal assistance for children. There was also the new system of courts, where lay judges or citizens at large could participate in trials, rather than simply traditional judge, that might have different rules on the introduction of evidence or legal assistance.

Immigration and refugees

The Committee observed that refugees were almost systematically detained upon arrival, despite the fact that alternative solutions were outlined by the UN High Commissioner for Refugees (UNHCR). The delegation replied that refugees were entitled to much more

recognition than in past years. For example, the immigration bureau took steps to avoid having children housed in detention centres in the event of a deportation order, and the children could stay with relatives. In addition, children or their parents could apply for refugee status. The Committee noted that the procedures, despite having improved, were not in line with international standards and urged reform. The delegation said that there was cooperation between UNHCR and the government, and that the latter was trying to prioritise the best interest of the child as much as possible.

Concluding Remarks

Mr. Krappmann thanked the delegation for the productive dialogue. He reminded the delegation that the dialogue had to be, by its nature, unbalanced towards the areas where Japan needed to improve. He anticipated that drafting the Concluding Observations would be difficult because of the changing situation in Japan, but predicted that areas of primary concern would be loneliness and low self-esteem, competition in schools, the vision of the child as needing guidance rather than a child who participates, the legal system, cooperation with civil society, impoverished children, refugees and coordination. He asked that the Japanese overcome their differences to maximise children's rights, and wished the best to the children of Japan.

The head of delegation expressed his appreciation on behalf of the delegation for the Committee's input, and apologised for any confusion, as the changing situation meant that there was some confusion even amongst the delegation. He acknowledged that Japan had shortcomings in the field of children's rights but reaffirmed Japan's commitment to implementing the Convention, saying that Japan would cooperate with international bodies and civil society. He promised to carefully consider the Concluding Observations.