



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fifth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: Japan

1. The Committee considered the second periodic report of Japan (CRC/C/104/Add.2) at its 942nd and 943rd meetings (see CRC/C/SR.942 and 943), held on 28 January 2004, and adopted, at the 946th meeting (CRC/C/SR.946), held on 30 January 2004, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's comprehensive periodic report, as well as the detailed written replies to its list of issues (CRC/C/Q/JAP/2), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the cross-sectoral delegation and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

B. Positive aspects

3. The Committee notes with appreciation:

(a) The adoption of the Law on Punishing Acts related to Child Prostitution and Child Pornography and on Protecting Children (1999) and of the Child Abuse Prevention Law (2000);

(b) The establishment of a National Plan of Action against Commercial and Sexual Exploitation of Children in 2001;

(c) The formulation of the National Youth Development Policy in 2003.

4. The Committee notes with appreciation that the State party is the largest donor of official development assistance in absolute figures, and the fact that a considerable amount of that assistance is allocated to social development, including health and education.

5. The Committee welcomes the ratification by the State party of ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment in 2000 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001.

C. Principal areas of concern and recommendations

1. General measures of implementation

The Committee's previous recommendations

6. The Committee notes that some concerns and recommendations (CRC/C/15/Add.90 of 24 June 1998) made upon the consideration of the State party's initial report (CRC/C/41/Add.1) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, non-discrimination (para. 35), the excessively competitive nature of the school system (para. 43) and violence in schools, including bullying (para. 45), have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

7. The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.

Declarations and reservations

8. The Committee is concerned about the State party's declarations on articles 9 and 10 and its reservation to article 37 (c).

9. In accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993 (A/CONF.157/23), the Committee reiterates its recommendation that the State party withdraw its declarations on and reservation to the Convention.

Legislation

10. The Committee is concerned that domestic legislation does not fully reflect the principles and provisions of the Convention (see, for instance, paragraphs 22, 24 and 31 of the present concluding observations), and that while the Convention can be invoked directly by the Courts, in practice this does not occur.

11. **The Committee recommends that the State party undertake a comprehensive review of its legislation and take all necessary measures to ensure its conformity with the principles and provisions of the Convention and the rights-based approach enshrined therein.**

Coordination and National Plans of Action

12. The Committee notes the establishment of the Headquarters for Youth Policy within the Cabinet Office which is mandated to coordinate policies on children and youth, and, as previously noted, the elaboration of the National Youth Development Policy. However, the Committee is concerned that the National Youth Development Policy is not a comprehensive plan of action and that the participation of children and civil society in the elaboration and implementation of the Policy has been insufficient.

13. **The Committee recommends that the State party:**

(a) **Strengthen, in collaboration with civil society and youth organizations, the National Youth Development Policy to ensure that it is rights-based, covers all areas of the Convention and takes into account the commitments made in the outcome document of the General Assembly special session on children entitled “A World Fit for Children”;**

(b) **Continuously review the National Youth Development Policy, together with civil society and children, in order to ensure that it effectively addresses emerging issues and problems.**

Independent monitoring

14. The Committee is concerned that there is no independent nationwide system to monitor the implementation of the Convention. At the same time, the Committee welcomes information that three prefectures have established local ombudsmen and that the bill on the establishment of a Human Rights Commission will be resubmitted to the Diet at its next session. In light of the information provided by the delegation that the draft bill envisages a Human Rights Commission that is responsible to the Minister of Justice, the Committee is concerned about the independence of that institution. In addition, it is concerned that the planned Human Rights Commission does not have an explicit mandate to monitor the implementation of the Convention.

15. **In light of its general comment No. 2 (2002) on the role of independent national human rights institutions in the protection and promotion of the rights of the child, the Committee recommends that the State party:**

(a) **Review the Human Rights Protection Bill to ensure that the planned Human Rights Commission will be an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex);**

(b) Ensure that the Human Rights Commission has a clearly defined mandate to monitor the implementation of the Convention, to deal with complaints from children in a child-sensitive and expeditious manner and to provide remedies for violations of their rights under the Convention;

(c) Promote the establishment of local ombudsmen within prefectures, and establish a system for them to coordinate with the Human Rights Commission once it is established;

(d) Ensure that the Human Rights Commission and local ombudsmen are provided with adequate human and financial resources and easily accessible to children.

Data collection

16. The Committee is concerned at the lack of comprehensive data on all areas of the Convention for all children aged 0-18 years, and regrets the lack of information on resources allocated to children aged 0-18 years.

17. The Committee recommends that the State party strengthen existing mechanisms for data collection, and, where necessary, establish additional mechanisms for data collection, in order to ensure that data is collected on all areas under the Convention and that it is disaggregated, inter alia, by age for all persons under 18 years, gender and ethnic and indigenous minorities. It also recommends that the State party gather data on budgetary allocations for children, identifying the amount and proportion of the State budget spent on children aged 0-18 years in the public, private and NGO sectors in order to evaluate the impact of the expenditures and also, in view of the costs, the accessibility, the quality and the effectiveness of the services for children in the different sectors.

Cooperation with civil society

18. While noting the information provided by the delegation that there is a growing tendency to improve cooperation with civil society, the Committee is concerned about the lack of interaction between the Government and NGOs, in particular, in the area of children's rights.

19. The Committee recommends that the State party systematically cooperate with civil society in implementing the Convention and the Committee's concluding observations.

Dissemination and training

20. The Committee welcomes the training activities undertaken by the State party for judges, teachers, police officers, officials at correctional institutes, probation officers and immigration officers. However, it remains concerned that children and the public at large, as well as many professionals working with and for children are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

21. The Committee recommends that the State party:

- (a) Strengthen public awareness campaigns for the general public and children on the Convention and, in particular, the fact that children are the subject of rights;**
- (b) Continue to carry out systematic education and training on the principles and provisions of the Convention for all persons working with and for children, in particular, teachers, judges, lawyers, parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, and social workers;**
- (c) Evaluate the impact of awareness-raising campaigns, training and education programmes on attitudinal change, behaviour and the treatment of children;**
- (d) Include human rights education, and specifically child rights education, in the school curriculum.**

2. Definition of the child

22. The Committee is concerned that the minimum age of marriage is still different for boys (18) than girls (16) and that the minimum age of sexual consent (13 years) is low.

23. The Committee recommends that the State party:

- (a) Raise the minimum age of marriage for girls to that of boys;**
- (b) Raise the minimum age of sexual consent.**

3. General principles

Non-discrimination

24. The Committee is concerned that legislation discriminates against children born out of wedlock and that societal discrimination persists against girls, children with disabilities, Amerasian, Korean, Buraku and Ainu children and other minority groups, and children of migrant workers.

25. **The Committee recommends that the State party amend its legislation in order to eliminate any discrimination against children born out of wedlock, in particular, with regard to inheritance and citizenship rights and birth registration, as well as discriminatory terminology such as “illegitimate” from legislation and regulations. The Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination and ensure access to basic services, in particular, for girls, children with disabilities, Amerasians, Koreans, Buraka, Ainu and other minorities, children of migrant workers and refugee and asylum-seeking children, through, inter alia, public education and awareness campaigns.**

26. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account general comment No. 1 on article 29 (1) of the Convention (aims of education).

Respect for the views of the child

27. While noting the State party's efforts to improve respect for the views of the child, the Committee remains concerned that traditional attitudes towards children in society limit respect for their views within the family, schools, other institutions and society at large.

28. The Committee recommends that the State party, in accordance with article 12 of the Convention:

(a) Promote respect for the views of children and facilitate their participation in all matters affecting them, in the family, courts, administrative bodies, institutions and schools, as well as in policy development, and ensure that children are aware of this right;

(b) Provide educational information to, inter alia, parents, educators, government administrative officials, the judiciary and society at large on children's right to have their views taken into account and to participate in matters affecting them;

(c) Undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policies, programmes and children themselves;

(d) Ensure that children participate systematically in meetings of boards, committees and other groups determining policies in schools and other institutions providing education, leisure and other activities for children.

4. Civil rights and freedoms

Freedom of expression and association

29. The Committee is concerned about restrictions on political activities undertaken by schoolchildren both on and off school campuses. It is also concerned that children below the age of 18 require parental consent to join an association.

30. The Committee recommends that the State party review legislation and regulations governing activities undertaken by schoolchildren on and off campus and the requirement for parental consent to join an organization, in order to ensure the full implementation of articles 13, 14 and 15 of the Convention.

Name and nationality

31. The Committee is concerned that a child of a Japanese father and foreign mother cannot obtain Japanese citizenship unless the father has recognized that child before its birth, which has, in some cases, resulted in some children being stateless. It is additionally concerned that undocumented migrants are unable to register the birth of their children, and that this has also resulted in cases of statelessness.

32. **The Committee recommends that the State party amend its Nationality Law and all other relevant legislation and regulations to ensure conformity with article 7 of the Convention so that no child born in Japan should become stateless.**

Right to privacy

33. The Committee is concerned that children's right to privacy is not fully respected, in particular, with regard to the searching of a child's belongings, and the fact that staff in institutions may interfere with a child's personal correspondence.

34. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of a child's right to privacy, including with respect to personal correspondence and searching of personal effects;**

(b) **Amend the Minimum Standards for Child Welfare Institutions so as to bring them into conformity with article 16 of the Convention.**

Corporal punishment

35. The Committee notes with concern that corporal punishment, although legally prohibited in schools, is widely practised in schools, institutions and the family.

36. **The Committee recommends that the State party:**

(a) **Prohibit corporal punishment in institutions and the home;**

(b) **Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes towards corporal punishment, and promote positive, non-violent forms of discipline in schools, institutions and at home as an alternative to such punishment;**

(c) **Strengthen complaints mechanisms for children in institutions and schools to ensure that they deal with complaints of ill-treatment effectively and in a child-sensitive manner.**

5. Family environment and alternative care

Child abuse and neglect

37. The Committee welcomes the measures undertaken to improve reporting and investigation of child abuse which have had significant results. However, it is concerned that:

- (a) There is no comprehensive and multidisciplinary strategy for the prevention of child abuse;
- (b) The number of cases prosecuted are still quite low;
- (c) Recovery and counselling services for victims are insufficient to meet the increased demand for such services.

38. **The Committee recommends that the State party:**

- (a) Develop, in collaboration, among others, with civil society, social workers, parents and children, a multidisciplinary national strategy for the prevention of child abuse;**
- (b) Review legislation with a view to improving protective measures for the victims of child abuse in the family;**
- (c) Increase the number of trained professionals providing psychological counselling and other recovery services in a multidisciplinary fashion to victims at Child Guidance Centres;**
- (d) Increase the training provided to law enforcement officials, social workers, staff of Child Guidance Centres and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner.**

Adoption

39. The Committee is concerned that there is limited monitoring or control of domestic and intercountry adoptions, and that there is very limited data available on domestic and intercountry adoptions.

40. **The Committee recommends that the State party:**

- (a) Strengthen its system for monitoring domestic and intercountry adoptions;**
- (b) Ratify and implement the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.**

Child abduction

41. The Committee is concerned that there are insufficient safeguards to protect children from abduction.
42. **The Committee recommends that the State party ratify and implement the Hague Convention on the Civil Aspects of International Child Abduction of 1980.**

6. Basic health and welfare

Children with disabilities

43. The Committee is concerned that children with disabilities, including mental disabilities, remain disadvantaged in the enjoyment of their rights guaranteed by the Convention, and are not fully integrated into the education system as well as other recreational or cultural activities.
44. **Taking into account the Committee's 1997 day of general discussion on "The rights of children with disabilities" (CRC/C/66, annex V) and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993), the Committee recommends that the State party:**
- (a) In collaboration with children with disabilities and relevant non-governmental organizations, review all policies affecting children with disabilities to ensure that they meet the needs of children with disabilities and are in accordance with the Convention and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities;**
 - (b) Promote greater integration of children with disabilities in education and recreational and cultural activities;**
 - (c) Increase the human and financial resources allocated to special education and services for children with disabilities.**

Adolescent health

45. The Committee is concerned about the prevalence of mental and emotional disorders among adolescents, including stress and depression, and the lack of a comprehensive strategy on adolescent mental health. The Committee is also concerned that sexually transmitted diseases among youth are on the rise and shares the State party's concern about drug abuse by adolescents in the State party. The Committee is also concerned that children under the age of 18 require parental consent for medical treatment and counselling.
46. **The Committee recommends that the State party:**
- (a) Undertake a study of adolescent health with a view to developing a comprehensive adolescent health policy, which includes preventive measures, where appropriate, that addresses mental health, reproductive and sexual health, drug abuse and other related issues;**

(b) **Amend legislation so as to allow children under 18 to access medical counselling and information without parental consent;**

(c) **Develop and implement programmes for the prevention of mental and emotional disorders among adolescents and train teachers, social workers and others working with children on how to address adolescent mental health issues in a child-sensitive manner.**

Youth suicide

47. The Committee is highly concerned about:

- (a) The increasingly high rate of youth suicide;
- (b) The lack of qualitative and quantitative data on suicide and attempted suicide and its causes;
- (c) The fact that the police have been designated as one of the primary organizations to deal with the issue of youth suicide.

48. **The Committee recommends that the State party undertake an in-depth study of youth suicide and its causes and use this information to develop and implement a national plan of action on youth suicide, in cooperation with Child Guidance Centres, social workers, teachers, health workers and other relevant professionals.**

7. Education, leisure and cultural activities

49. The Committee notes the State party's efforts to reform the education system and bring it into greater conformity with the Convention; however, it is concerned that:

(a) The excessively competitive nature of the education system has a negative effect on the children's physical and mental health and hampers the development of the child to his or her fullest potential;

(b) Excessive competition for entry into higher education means that public school education must be supplemented by private tutoring, which is not affordable for children from poorer families;

(c) Communication and cooperation between parents and teachers with regard to children's problems and conflicts at schools is very limited;

(d) Although eligibility criteria have been broadened for graduates from foreign schools in Japan applying to university, some continue to be denied access to higher education;

(e) Night schools in the Tokyo metropolitan area, which offer flexible education opportunities, in particular for dropouts, are being closed down;

(f) Children of minorities have very limited opportunities for education in their own language;

(g) Despite review procedures, some history textbooks are incomplete or one-sided.

50. The Committee recommends that the State party:

(a) Taking into account the views of students, parents and relevant non-governmental organizations, review the curriculum with a view to reducing the competitiveness of the school system while maintaining a high level of quality of education so as to ensure that all students graduating from high school have equal access to higher education;

(b) Develop measures, in collaboration with students and parents, to effectively address problems and conflicts in schools, in particular violence, including bullying;

(c) Encourage the Tokyo authorities to reconsider the closing down of night schools, and to expand alternative forms of education;

(d) Expand opportunities for children from minority groups to enjoy their own culture, profess or practise their own religion and use their own language;

(e) Strengthen review procedures for textbooks to ensure that they present a balanced view.

8. Special protection measures

Sexual exploitation and trafficking

51. As noted in paragraph 3 above, the Committee welcomes the adoption and implementation of the Law on Punishing Acts related to Child Prostitution and Child Pornography and on Protecting Children (1999). However, it is concerned that:

(a) The Penal Code maintains a narrow definition of rape as an act committed by a male against a female;

(b) All victims of sexual exploitation do not have access to appropriate recovery and assistance services;

(c) There have been reports of child victims being treated as criminals;

(d) There have been reports of the practice of “enjo kosai”, or compensated dating;

(e) The low minimum age of consent, which might contribute to the practice of “enjo kosai”, hampers the prosecution of sexual abuse of children.

52. The Committee recommends that the State party:

- (a) Amend legislation on sexual exploitation and abuse to ensure equal protection for boys and girls;**
- (b) Increase the number of trained professionals providing psychological counselling and other recovery services to victims at Child Guidance Centres;**
- (c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner;**
- (d) Develop preventive measures that target those soliciting and providing sexual services, such as materials on relevant legislation on the sexual abuse and exploitation of minors and education programmes, including programmes in schools on healthy lifestyles;**
- (e) Raise the minimum age of sexual consent.**

Juvenile justice

53. While noting that the State party has undertaken a reform of the juvenile justice law since the Committee's consideration of its initial report, it is concerned that many of the reforms were not in the spirit of the principles and provisions of the Convention and international standards on juvenile justice, in particular, with regard to the minimum age of criminal responsibility, which was lowered from 16 to 14 years, and pre-trial detention, which was increased from four to eight weeks. It is concerned that an increasing number of juveniles are tried as adults and sentenced to detention, and that juveniles may be sentenced to life imprisonment. Finally, the Committee is concerned at reports that children exhibiting problematic behaviour, such as frequenting places of dubious reputation, tend to be treated as juvenile offenders.

54. The Committee recommends that the State party:

- (a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), in light of the Committee's 1995 day of general discussion on the administration of juvenile justice;**
- (b) Amend legislation so as to abolish life imprisonment for juveniles;**
- (c) Strengthen and increase the use of alternatives to detention, including pre-trial detention, in order to ensure that deprivation of liberty is used only as a measure of last resort;**
- (d) Review the existing possibility for Family Courts to transfer a case against a child of 16 years or older to a criminal court for adults with a view to abolishing this practice;**

- (e) **Provide legal assistance to children in conflict with the law throughout the legal proceedings;**
- (f) **Ensure that children with problematic behaviour are not treated as criminals;**
- (g) **Strengthen rehabilitation and reintegration programmes.**

9. Optional Protocols to the Convention

55. The Committee notes that the State party has not ratified the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

56. **The Committee recommends that the State party ratify the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

10. Dissemination of documents

57. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

11. Next report

58. **The Committee expects to receive the third periodic report from the State party, which should not exceed 120 pages (see CRC/C/118), by 21 May 2006, date on which the report is due.**
