

## Framework to Consider the Children's Issues in a "Developed Country," Japan

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## 論 說

### Framework to consider the children's issues in a “developed country,” Japan

In Search of the Core-Concept of the Children's Rights  
Through the Experiences of the Grass-roots Move-  
ments for Making a Citizens-NGO Report from Japan  
to the Committee on the Convention on the Rights of  
the Child

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※ *This paper is an introductory part of the Citizens-NGO Report from Japan submitted to the UN Committee on the Convention on the Rights of the Child, on which the author made a presentation at the pre-sessional conference of the Committee at Palais Wilson in Geneva, October 16, 2003. The Committee issued, to Japanese Government, a wonderful “Concluding Observations (advices and suggestions)” on the issues of children's rights in Japanese society after having examined a report from government and this Citizens-NGO Report of ours as well as having heard the opinions of both of them through the considerations made Feb. 29, 2004.*

*This paper illustrates how enthusiastically the NGO movements for the children in Japan have been acting, while how inappropriately Japanese government have been responding to the requests of the CRC. This also informs you of the latest situations in which the children encounter in an*

*affluent society, Japan. The most important point of this paper is, above all, to present a completely new theoretical framework to consider the children's issues in a "developed country".*

Preface: Is the Convention only for the developing countries?

Japan is often called affluent and rich society. It is true that Japanese children are not at risk by starvation, high rates of mortality and illiteracy, bad sanitary condition, nor even by war. They enjoy affluent daily lives.

Then Japanese Government and society at large say, "What on earth could be wrong? We are so financially blessed! Children ought to be happy." "Think about those poor, starving children in developing countries!. The children in Japan are well protected and we do not need children's rights. The Convention on the Rights of the Child is just for the developing countries and not for the affluent countries like Japan"<sup>(1)(2)(3)</sup>

In this environment, to insist that the core of children's rights abuses in Japan is to be found in the mainstream children, who are in no financial difficulty whatsoever, is a challenge in itself. In order to overcome this, we use the concept of "the deprivation of childhood" as a theoretical framework.

The notion "childhood" indicates "the process of growth and development as a human being". This process, whether taking place in an advanced country, a developing country, the mainstream or the periphery, shall not be violated by force or authority, be it of a parent, a society, a nation. In other words, it shall be guaranteed to all children precisely because they are

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In developing countries, children's lives are endangered by poverty, or their childhood taken away due to insufficient social conditions necessary for their personality formation. However, in Japan, for the sake of national economic growth the political, financial and official arenas have joined forces, and they exclude those children considered unsuitable for the task of developing the economy at the very early age of their lives from the mainstream and sent to the marginal part of the social pyramid. The

- (1) Being questioned whether the government had the idea to deal with juvenile offenders in compliance with the Convention on the Rights of the Child, Mr. Konoike, Minister on Youth Affairs replied, "I do not know much about the Convention on the Rights of the Child. Even if such a Convention exists, I have no will to accept and observe the Convention" (at the Cabinet Committee of the Lower House, July 16, 2003). This assertion by the Minister in charge of youth affairs and other replies of ministers in last five years reveal clearly that the government does not have appropriate understanding and give lowest priority on the Convention and the rights of the child, which would be treated later more in detail.
- (2) President of the Japan Society on the International Human Rights (a university professor), who has been highly trusted by the government and was a member of the UN Sub-committee on Human Rights, stated to a magazine just after the issue of the initial Concluding Observations in 1998, "The Convention on the Rights of the Child was drafted primarily for the protection of children in developing countries in which children are threatened their right to survive by the child labor, slave trade and child prostitution". He wrote one year later, "The child is half share", and "Japanese children who live excessively rich lives pay too much attention on the Articles stipulating freedom of expression".
- (3) Ms. Kawaguchi, Minister of Foreign Affairs asserted (at the Committee on Foreign Affairs of the Lower House, April 23, 2003) that the government had no plan to establish an independent agency for coordination of policies.

majority of the remaining children then lose their childhood by being thrown into a battle for rank, according to the principles of efficiency and ability, by being compelled to be obedient and by losing personal relationships (havens) in which they are accepted for who they really are.

## I Introduction

In accordance with Article 45 (a) of the Convention on the Rights of the Child, the United Nations Committee on the Rights of the Child will examine at its January 2004 session the Second Report of the Japanese government. This is an Alternative Report to the governmental Report prepared by the Japan National Coalition Group of NGOs and Citizens for Preparing the Second Alternative Report (hereinafter referred to as Second NCNAR). Those citizens and NGOs have close relations with children on a daily basis and who are deeply interested in children's issues in every part of Japan.

As will be related more in detail later, the Second Report of the Japanese government submitted to the CRC in November 2002 is inadequate and does not provide minimum information for the CRC to have accurate understanding of children's issues in Japan. Actually, the content of the governmental Report fails to respond faithfully to the Concluding Observations of the CRC issued in 1998. To make it worse, the Report ignores the existence and spirit of the "Convention on the Rights of the Child" further more than before. Quantities and qualities of reference materials and information referred to in the preparation of the Report are inappropriate to reveal the actual situations of children in Japan. The Report totally ignores new infringe-

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ments of children's rights and deterioration of social conditions caused by  
the collapse of so-called "bubble economy", prolonged recession of  
Japanese economy which started in the beginning of 1990s and actualized  
after the consideration of the Initial Report of the Japanese government.  
Furthermore under the on-going globalization (Americanization) of econ-  
omy, the Japanese government has promoted restructuring of industrial  
organizations to restore economic and international competitive powers.  
Along with such policies, the government has radically changed measures  
for children for the first time after the elapse of fifty years since the defeat  
of the War. The Report does neither express its evaluation and views on  
how such drastic changes have affected children in light with the Conven-  
tion of the Rights of the Child nor take notice of it at all. The Second Report  
of the government fails to show sincere attitude of the government for  
drafting children's policies on the basis of the "Convention on the Rights of  
the Child" and for implementing those policies a step further. Nay, the  
Report totally ignores the existence of the Convention and even  
provocatively shows enmity toward it.

This Report prepared by the Second NCNAR is entirely different from the  
Report of the Japanese government. All members of the NCNAR have  
common understanding that the Japanese government, regrettably, does not  
recognize the significance of the "Convention on the Rights of the Child".  
They also recognize that the government is utterly indifferent to serious  
infringement of rights of children in Japan and thinks nothing of the faithful  
implementation of the "Convention" in Japan.

The coalition group realizes that the Convention is a monumental landmark

for human rights protection which people in the world have newly attained through various movements for human rights originated in modern civil revolutions and continues to exist in the 21st century. The group is confident that nothing but the full implementation of the “Convention” is the shortest and the best way to truly enable every human beings, not only child but also adult, to live in peace and with dignity on this earth. For its full implementation, adults themselves should be liberated from social burdens and become truly free. It also thinks that the basis of the society should be strongly supported by grassroots democracy in which every citizen and NGO assume respective responsibility. The group thinks it a starting point to listen to the voices of children in a humble way and to utilize experience of each individual who usually tackles with problems of children earnestly. Efforts have to be also made to grasp and analyze the situation of children in Japan realistically and specifically on the common recognition.

A number of citizens and NGOs voluntarily rendered free services to the preparation of this Report from every part of Japan for one and a half years. They met and exchanged views time and again. It is not too much to say that this Report is a treasure house of grassroots information and a compilation of data for understanding issues confronting children in Japan. The main purpose of this Report is to provide information to the members of the CRC who will examine the Second Report of the Japanese government. The NCNAR believes firmly and is deeply proud that the expected goals to sharply illustrate “poor childhood” in an economically affluent Japanese society has been achieved on the basis of firsthand information and materials collected by citizens and NGOs across Japan (Basic Reports).

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## II Organization and Activities of the Second NCNAR

### A. What is the Second NCNAR?

In April 2001, the National Coalition Group of NGOs and Citizens for Preparing the Second Alternative Report on the Convention on the Rights of the Child (Second NCNAR) was formed at the initiative of the DCI Japan. Similarly with the First NCNAR which had been formed for the examination of the Initial Report of the Japanese government in 1998, it was aimed to form a coalition group which would prepare and submit an alternative Report of citizens and NGOs to the United Nations CRC. The group would call upon as many citizens and organization to submit their basic reports and integrate them into a Uniform Report. Through such a process, "the Second NCNAR aims to contribute to the critical and satisfactory consideration of the Second Report of the Japanese government at the CRC and to enhance the prospects of implementation of the Convention in Japan" (Item 1 of agreements of the Second NCNAR).

The Second NCNAR is an only nation-wide grass-rooted non-governmental organization that was formed exclusively for the preparation of the Alternative Report of citizens and NGOs regardless of thoughts and faith and also independent from any political parties, organizations and governmental agencies. Actually, the NCNAR is composed of around 100 non-governmental organizations and 400 citizens geographically ranged from Hokkaido, the northernmost prefecture to Okinawa, the southernmost in Japan. They are either mothers, fathers, teachers, nurses and other experts on children' issues who daily share joy and sorrow with children or lawyers



and researchers who are interested in children's issues. There are fifteen co-representatives from various fields concerning the child, fifteen Secretariat members and 45 members of drafting committee. All of them worked voluntarily without any pay and participated in various meetings and general assemblies over and over again. This Report is the fruits of such thoroughly democratic discussion and cooperative works of a diversified people interested in children's issues in Japan.

It is noteworthy that the NCNAR has, as its members, an independent child's organization "Association to Deliver Children's Voices to the United Nations" as well as adults organizations. With the common aim to submit the Alternative Report to the CRC, child and adult members of the NCNAR actively exchanged views for last 2 years through meetings, lodging together, publication of journals. While keeping close relations, child and adult members implemented the Convention on the Rights of the Child themselves by respecting individual subjectivity as human beings to each other. All of them are proud of the practice.

The Second NCNAR has taken over activities and outcomes of the First NCNAR. The DCI Japan, which had played a leading role in making the most use of the first Concluding Observations of the CRC in Japan, assumed the responsibility of the secretariat of the Second NCNAR. The NCNAR has been so well-known non-governmental organization in Japan that one of its co-representatives was appointed as an adviser to the delegation of the Japanese government to the Special Session of the UN General Assembly on Children convened in New York in May 2002.

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## **B. Detailed activities of the Second NCNAR**

The Second NCNAR was formed on April 6, 2001. However, the preparatory working group started its activities for the formation of the Second NCNAR since early 2001. The Secretariat of the DCI Japan has devoted itself in full force for three years to various secretariat activities. The Secretariat of the Second NCNAR has developed various activities including publication of bimonthly newsletters; invitation for submission of basic reports, edition, publication and arrangement of translation into English of submitted basic reports, etc. It also arranged the preparation of the Uniform Report and its translation into English: organized a great number of meetings including general assemblies; cooperated with other organizations; organized a campaign to examine the Second Report of the government; met with members of the Parliament and officials of various Ministries, etc. The expenses of those activities have been wholly funded by honest money (subscription fees and donation) and members have worked completely on voluntary basis without any pay. Followings are the details of activities.

### **1. Efforts to examine the Second Report of the government**

On April 9 and May 14, 2001, the Second NCNAR had meetings with governmental officials from certain ministries and supra-party members of Parliament to exchange views on the contents which should be incorporated in the Second Report of the Japanese government. Paragraph 3 of the CRC General Guidelines concerning Periodic Report stipulates, "The process of preparing a report for submission to the Committee provides an important

opportunity to conduct a comprehensive review of the various measures undertaken to harmonize law and policy with the Convention". Taking advantages of the above-mentioned two meetings as important opportunities to conduct a comprehensive review to each other on children's issues, representatives of the Second NCNAR submitted at the meetings our publication, "Collections of Opinions of Citizens and NGOs". Regrettably, those voices of citizens and NGOs were not at all reflected in the Second Report of the Japanese government.

On November 26, 2001 just after the Japanese government submitted its Second Report, the Second NCNAR had the third meeting to exchange views with some governmental officials and supra-party members of the Parliament. On that occasion, the NCNAR requested the officials to explain the contents of the governmental report and asked the reason why the voices of citizens and NGOs were totally ignored. The officials took deliberate care not to reply definitely and unilaterally pronounced the coming of the scheduled time.

## 2. Preparation of ten-volumes of "Collection of Basic Reports"

In order to submit an alternative report full of accurate and firsthand information to the CRC, the Second NCNAR invited a variety of citizens and NGOs around Japan to submit their reports on children's issues which they had faced with on daily basis. The number of those basic reports amounted incredibly as many as 248, though individual reports differ in length to each other. Those basic reports were compiled into 10 volumes of "Collection of Basic Reports". They are the outcomes of one and a half

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### 3. Preparation of the "Uniform Report"

While extracting essence of the 10 volumes of the "Collection of Basic Reports" and supplementing and reorganizing them in accordance with the CRC General Guidelines for Periodic Report, the coalition group prepared a "Uniform Report". This Report was prepared by a drafting committee composed of 45 members (from 13 extended drafting committees of each field) and finally completed after the active discussions by general assembly several times. In the "Uniform Report", some models of recommendations and proposals to the government are attached.

### 4. Publication of a newsletter, "Information"

In order to promote liaison and mutual understandings among members, a newsletter "Information" was published bimonthly.

### C. Composition of "the Second Report of the Citizens and NGOs"

"The Second Citizens and NGOs Report on the Rights of the Child" consists of two parts: the "Basic Reports" by citizens and NGOs and a "Uniform Report" completed by the drafting committee on the basis of the basic reports. In other words, the "Basic Reports" are composed of firsthand information directly obtained by citizens and NGOs struggling to solve problems facing children in Japan. Wishing to facilitate the understanding

of members and the Secretariat of the CRC on circumstances surrounding children in Japan, the drafting committee, with a perspective to highlight distinguishing characteristic of children's issues, rearranged and supplemented a wide variety of basic reports in accordance with the general guidelines of periodic report. The drafting committee aimed to make the "Uniform Report" and the "Basic Reports" organically correlated with each other, for example by citing in the "Uniform Report" some instances from the "Basic Reports" on occasion.

As is clear from the aforementioned, the "Second Report of Citizens and NGOs" is the fruit of cooperative works of a variety of citizens and NGOs who are concerned with children's issues in Japan as well as the outcome of democratic movements at grass-root levels.

### III How the Japanese society reacted to the Concluding Observations

#### A. The "Concluding Observations" hit the right nail on the Japanese government

The Initial Concluding Observations issued by the UN "Committee on the Rights of the Child" to the Japanese government on June 25, 1998 encouraged all citizens and NGOs with deep concern on children's issues in Japan.

The CRC has shown its accurate recognition on the actualities of children in Japan who are exposed to developmental disorders due to the stress of highly competitive educational system. Those actualities include that children's growth and development are strictly controlled by the values based

Framework to consider the children's issues in a "developed country," Japan on the government economic development first policy at home, in school and in other facilities, exposed to competition, violence, and infringement of privacy, and deprived of freedom of expression. Based on the recognition, the CRC "Concluding Observations" suggested and recommended the Japanese government to comprehensively and drastically reform and improve the existing systems and structures which have caused those developmental disorders in compliance with general principles and individual articles of the Convention. The Second NCNAR highly appreciates that the UN Committee on the Rights of the Child issued such timely and appropriate Concluding Observations to the Japanese government.

The Japanese government has, however, not only totally ignored the Observations and but also continued to take contradictory policies and measures on children for last five years, details of which are mentioned later. It might be said that this regrettable attitude of the Japanese government was predicted by the sensational reports by a group of Japanese mass media that completely fabricated the proceedings of the consideration of the government Report at the CRC.

## **B. Bashing on the first consideration**

### **1. Japanese children became pioneers of children by expressing their views at the CRC**

When the UN "Committee on the Rights of the Child" conducted its first consideration, Japanese children expressed their views at the Committee for the first time in the history of the Committee. They stated at the CRC on the "despotism of authorities symbolically shown in the principal's unilat-

eral adoption of school uniform without listening to the opinions of children”. They also stated also on the “realities that a number of children suffered from the stress by the government policy on the child and deprived their rights to live at will” and “the existence of corporal punishment at various child facilities”. A girl high school student stated as follows:

“There are many Japanese who think, ‘As the Convention on the Rights of the Child’ is for those who suffer from warfare and starvation, Japan has no need of such a Convention’. Such an opinion constitutes major obstacles for the Convention on the Rights of the Child to be implemented fully. We children are, only because ‘we are children’, not provided opportunities to talk out. In schools, we are taught to express our opinions but are not given opportunities to do so. Even when we express our opinions, they are not listened to. We live in a materially rich society where children can live in their own ways even without saying anything. On the contrary, some children are frown upon just by having said something, isolated and sometimes suffered from inconceivable unfair practices due to their expression of opinions. Under such circumstances, children are afraid of expressing their opinions, tired of inability of their expression of opinions in changing realities and finally inclined to stop to express their opinions. In other words, Japan has become materially rich society through its remarkable economic growth and become spiritually less rich.”

It is obvious that their expression of opinions left deep impression on the members of the CRC, referred time and again during the later consideration and led to the distinguished Concluding Observations.

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## 2. Those children were scandalized by a group of mass media in Japan

A mass media in Japan gave out false news that the CRC did not show "understanding on the issue of school uniform" with a running title, "High school students failed to appeal an UN Committee They were persuaded that they were happier than those children who had no appropriate clothes". A weekly magazine even used the running title, "Spoilt Japanese high school students were scolded by the United Nations. The UN Committee member said, 'You are privileged children. '" In the article, the writer of the magazine wrote, "The Committee members were rather taken aback by the opinions of those students, because the opinions were too crude". The writer coarsely criticized the students, saying that they "failed to make members understand their opinions", "were scolded by the Committee members", "were given caustic remarks", "were reasoned" and "were reproved".

It is difficult to understand the reason why such spiteful accounts were fabricated and published. However the arrogant and tyrannical logic of the economically powerful, now prevailing in Japan, is easily seen through those articles here and there, as if to say, "What else on earth do you want, you who are materially rich and given even school uniforms!", and "Don't behave like spoilt children! You cannot earn yourselves and yet dared to go as far as Geneva to express your opinions". The essence of the Convention on the Rights of the Child has to liberate children from the arrogant and tyrannical control and domination by economic priority policy and to restore the innate rights of the child. Unfortunately, the state of affairs in Japan on which a girl high school student referred at the UN Committee has



remained for last five years since then and even bent over the Japanese society even much more heavily.

3. Senseless words uttered by a member of the Japanese government delegation (also a member of the UN sub-Committee on Human Rights) concerning the Initial consideration of the Japanese government Report

In the above-mentioned article of the weekly magazine, a member of the Japanese delegation to the CRC commented, "They (citizens and NGOs) inoculate members of the CRC with their recognition of seriousness of the situation in Japan. Some members who do not know much about the situation were confused and they asked the government delegation irrelevant interrogations one after another. As a result, the proceedings of the Committee did not move on smoothly as scheduled". Another member of the delegation (a university professor) also stated to the magazine, "The Convention on the Rights of the Child was drafted primarily for the protection of children in developing countries in which children are threatened their right to survive by the child labour, slave trade and child prostitution". She was then President of the Japan Society on the International Human Rights Laws as well as a member of the UN Sub-committee on Human Rights. She wrote one year later, "The child is half share", and "Japanese children who live excessively rich lives pay too much attention on the Articles stipulating freedom of expression".

It is quite strange that nobody else but a member of the government delegation of Japan (she was promoted afterwards) made just after the initial consideration, as mentioned above, a statement which openly show

Framework to consider the children's issues in a "developed country," Japan enmity to the role of NGOs in the consideration procedure of the government report. Her statement, whose expertise on the international human rights laws has been highly trusted by the government, is nothing but the total negation of the "Convention on the Rights of the Child" and the CRC "Concluding Observations". It is not too much to say that it regrettably might be an advance notice of the subsequent attitude of the Japanese government.

### C. Various efforts by citizens and NGOs concerning the Concluding Observations

As mentioned in the beginning of this General Introduction, the Concluding Observations have given a exceeding gleam of hope and encouragement to all citizens and NGOs who are concerned with children's issues in Japan. It is not too much to say every paragraph of the Concluding Observations was fresh for their eyes. They were further more moved by paragraphs 22 "the Committee is concerned that children are exposed to developmental disorders due to the stress of a highly competitive educational system and the consequent lack of time for leisure". Paragraph 43 which states, "the Committee recommends that the State party take appropriate steps to prevent and combat excessive stress and school phobia" was equally impressive for them. Some other citizens and organizations were much more interested in paragraph 13 (concerns with difficulties encountered regarding respect for the views of the child), and paragraphs 35 and 49 (recommendations concerning publicity and generation of debate on the Convention and Concluding Observations). A variety of efforts have been made by a number of citizens and non-governmental organizations to make widely available

the Concluding Observations. In order to protect rights of the child substantially, various campaigns were launched across Japan. Study meetings on the Concluding Observations were organized every part of Japan; various proposals for reform and change were submitted to the local administrative authorities; schools and education boards and a number of requests demanding consultation meetings were presented to the respective authorities. A number of non-governmental organizations made with unbounded vitality multiform surveys on the implementation of the Convention on the Rights of the Child and the CRC Concluding Observations as well as on the publicity of them. The outcomes of those surveys constitute essential parts of the Second NCNAR to be presented to the UN Committee on the Rights of the Child and are used as principal basic data of this Uniform Report.

Unfortunately those efforts of citizens and NGOs have, however, never been rewarded except only with some fortunate cases. On the contrary, as will be mentioned more in detail later, such measures as to be totally against the Convention and the Concluding Observations have been promoted both at central and local levels.

In the following, the efforts made by the DCI Japan are introduced as an example of how citizens and NGOs have made efforts for the dissemination and implementation of the Concluding Observations.

#### **D. Negotiation with the Ministries carried out by the DCI Japan**

Since its formation in 1994, the DCI Japan has developed its activities for the dissemination and implementation of the Convention on the Rights of

Framework to consider the children's issues in a "developed country," Japan the Child. At the time of the first consideration of the government Report by the CRC, the DCI Japan called upon various citizens and non-governmental organizations across Japan to form the First NCNAR and acted as its Secretariat. After the consideration at the CRC and the publication of its Concluding Observations, the DCI Japan has coordinated manifold efforts to make the most of the Observations. The DCI Japan has been particularly interested in ensuring freedom of expression of the child in various spheres, in establishing machinery for grievances, in ensuring substantial training and in improving educational system. Among those activities, the DCI Japan has attached much importance on giving pressure on the government for designating a responsible agency for the management and coordination of measures in compliance with the Convention on the Rights of the Child. The agency might be named "Department of Child Affairs". That is because it had been undecided which departments of the government had responsibilities for the implementation of the Convention ever since its ratification. Whenever the DCI Japan called upon the Education Ministry to have a consultation on educational issues of children, the officials of the Ministry used to say, "You should go to the Ministry for Foreign Affairs, because the Ministry is responsible for the Convention on the Rights of the Child". Then the Ministry of Foreign Affairs repeatedly answered, "We have no responsibilities for drafting concrete measures". All the DCI Japan got from the government offices had used to be the round about. Therefore, the DCI Japan has demanded the government to establish an agency for the implementation of the Convention, recognizing it as an issue to be solved urgently. For last five years, the DCI Japan has made enormous efforts for the implementation of the CRC Concluding Observations. The CRC recommended in paragraphs 8 and 30 to strengthen coordination between various

governmental mechanisms involved in children's rights. Followings are some examples of efforts made by the DCI Japan, which shows how indifferent and unconcerned the Japanese government and its offices are for the implementation of the Convention on the Rights of the Child and how irresponsible they are for the dialogues with citizens and NGOs.

(1) Immediately after the first consideration of the Initial Report in June 1998, the DCI Japan has organized briefing sessions in various parts of Japan, translated into Japanese and printed the detailed proceedings (only one proceedings in Japan with about 100 paged booklet which was reproduced from tape-recorded discussion of the first consideration, typed in single space and edited according to the order of time and also according to themes) and distributed copies among members of the Parliament and certain ministries as well as citizens and various organizations. The DCI Japan has also translated and published the Concluding Observations of the CRC.

(2) In December 1998, the DCI Japan invited Mrs. Judith Karp to visit Japan. It was Mrs. Karp who presided the session of the first consideration of the Report of the Japanese government. The purpose of the invitation was to have her lecture meetings for the dissemination of the significance of the Concluding Observations and the implementation. In December 7, 1988, Mrs. Karp visited and had talks with Speakers of both Upper and Lower Houses and Assistant Minister of Foreign Affairs. She also participated in the social gathering with supra-party members of the Parliament, representatives of related ministries as well as with citizens and non-governmental organizations. The gathering was the first epoch-making

Framework to consider the children's issues in a "developed country," Japan opportunity to exchange views among tripartite parties. Through these opportunities, the Ministry of Foreign Affairs was compelled to answer that it would make efforts for the dissemination of the Convention and examine the possibility to establish an organ for the promotion of the Convention and for the coordination of various measures concerning the Convention. The Speaker of the Lower House stated that he would make efforts to call upon some representatives of children to a special session of the Budget Committee and to make children express their views on how the national budget should be used. Unfortunately it has turned out to be his lip service and no such a session has been called upon.

(3) On February 1, 1999, the DCI Japan had a consultation with the responsible department of the Ministry of Foreign Affairs to actualize the issues (e. g. how to disseminate the Concluding Observations, actualization of the Observations and an organ for the management and coordination) which were discussed at the gathering mentioned above. The officials of the Ministry answered that it would be difficult to establish an inter-ministerial organ for the management and coordination due to considerable difference of recognition among ministries however hard the Ministry would make efforts to have closer contacts with other ministries. They also pointed out that the goal to establish such an organ would be political issue beyond the authority of the Foreign Ministry.

(4) On February 14, 1999, the DCI Japan submitted a letter of request to the Prime Minister and Chief Cabinet Secretary for holding a special session of the Parliament on children's issues and for the establishment of an organ for management and coordination of the measures to implement the Con-

vention on the Rights of the Child. On March 24, 1999, the DCI Japan had a meeting with Mr. Uesugi, Deputy Secretary of the Cabinet but he avoided discretely to commit himself.

(5) In June and July 1999, the DCI Japan exchanged views with officials of the Foreign Ministry and of then-Management and Coordination Agency on how to make the written text of the Concluding Observations available as well as on the establishment of an organ for the promotion of the Convention. An Agency official informed the DCI Japan that in relation to the scheduled reorganization of central ministries and agencies, youth related measures would be transferred from the Agency to the Cabinet Office. He also made known that issues of the child would be treated in a department of the Office instead of by the inter-ministerial organ. The DCI Japan demanded to establish a “Department of Child Affairs” in any case.

(6) On November 11, 1999, the DCI Japan organized the second tripartite gathering at the Parliament building with the participation of Mr. Jacob Egbert Doek, member of the CRC (who visited Japan to attend the “International Symposium on the Rights of the Child” organized by the Graduate School of Law, Hitotsubashi University) and other five foreign expert researchers on the rights of the child. Participants of the gathering exchanged views on the intrinsic value of the Convention on the Rights of the Child, the Concluding Observations and the establishment of a monitoring organ for management and coordination of activities concerning the Convention. Mr. Doek emphasized the importance of establishing such a monitoring organ. The government officials reiterated the same answer that the government made efforts for the dissemination of the Concluding Observations

Framework to consider the children's issues in a "developed country," Japan through its homepage and did not show any concrete measures at all.

(7) On February, 2001, the DCI Japan had a consultation with the Ministry of Foreign and the Cabinet Office immediately after the reorganization of the central ministries and agencies. Though a new Gender Equality Office was established in the process of the structural reorganization of the central ministries and agencies, a monitoring organ of the Convention on the Rights of the Child, "Department of the Child Affairs" was not established. Both Foreign Ministry and the Cabinet Office replied that they had made their utmost efforts to comply with the repeated requests by various organizations only to find it in vain.

(8) Since then the DCI Japan had tripartite gatherings for three times in April, May and November 2001 concerning the Second Report of the government. The government's answers retreated gradually, saying, "Frankly speaking, the matter has not been examined at the internal meetings of related ministries and agencies". And finally, the Second Report of the government explicitly states that "So far, we have no plans to establish a new system for coordinating these measures within the Government".

#### **E. The Japanese government has thoroughly ignored the Concluding Observations**

As stated in (2) of this General Introduction, the Japanese government has thoroughly ignored the Convention and the Concluding Observations immediately after the observation of the Initial Report of the government and



taken hostile attitude to them. The reason why might be that smooth proceedings of the observation was filibustered by fire of questions from the CRC members who had been inoculated both fact and fiction without discrimination by the citizens and non-governmental organizations. As a result, the government has come to consider the Concluding Observations as “irrelevant and insignificant”. The Concluding Observations might be nothing but a sort of international ceremony for the government who had publicly stated that there would be no need to change any measures on the child even after the ratification of the Convention. Or the Japanese government might regard the Observations as an “unreasonable imputation” by those who are unable to understand the Japanese society. At all events, the indifference and enmity of the Japanese government toward every paragraph of the Observations cannot be adequately explained in words. Followings are some episodes to illustrate the basic standpoints of the Japanese government.

1. Persistent stance to maintain “May 20 Notification” issued just before the effectuation of the Convention in Japan

The (then) Ministry of Education issued a notification (“May 20 Notification”) to every prefecture education board and educational institutions on May 20, 1994 just before the effectuation of the Convention. It stated that “The school would be managed in the same way as before even after the ratification of the Convention on the Rights of the Child”. For example, it refers to Article 12 (right to express views freely) and the succeeding Articles on civil rights, the most characteristic ones in the Convention. The notification states as follows; “Article 12 and succeeding Articles from 13 to

Framework to consider the children's issues in a "developed country," Japan 16 stipulate the right to express view, to freedom of expression. However, any school has authority to instruct and direct students and to decide school regulations in rational manner for attaining the educational goals of the school concerned". It further states that as the school regulation is a certain arrangement for the promotion of growth and development through healthy school life of individual students, it should be decided by the responsibility and judgement of school authorities". It emphasizes that "In school, pupils/students should be enabled to understand their responsibilities appropriately as well as their rights". In other words, the "May 20 notification" states that despite the provision of the Convention on the Rights of the Child, school can with its responsibility and judgement instruct and direct pupils/students and decide school regulations to attain educational goals without listening to the opinions of children as before. The notification states that before being taught on the execution of their rights, children should be taught to fulfill their responsibilities. It has been already clarified through the proceedings of the first observation of the government report that such an interpretation of the Convention goes against the Convention on the Rights of the Child.

Nevertheless, the officials of the Ministry of Education and Science reiterated the same words with the "May 20 notification" at the tripartite gathering convened in April 2001. Furthermore, the Ministry wrote in the chapter 'The Convention on the Rights of the Child and Improvement of School Education' of its White Paper 2001, "The Ministry notified on May 20 each prefecture education board some major points which should be improved in light with the gist of the Convention". It cannot be but said that the above-mentioned sentence not only disregards but also shows enmity toward

Paragraph 13 and 35 of the Concluding Observations.

2. The Convention on the Rights of the Child was totally disregarded when three basic laws were “revised”.

The Japanese government has continued to work for the drastic revision of three basic laws on children, i. e. Child Welfare Law, Juvenile Act and Fundamental Law of Education which have been applied for more than 50 years since the enactment of those laws just after the defeat of the War. Provided that there is any historical necessity to “revise” those laws, the reason why should be derived from that every national law concerning the child has to be in compliance with the Convention on the Rights of the Child. Only through such a revision, current serious situation as to be called “loss of the childhood” could be drastically reformed.

However, the government has never distributed the text of the Convention on the Rights of the Child as resource material for the consideration of the Child Welfare Law revised in 1998 just before the consideration of the Initial Report at the CRC. The Convention on the Rights of the Child and the CRC Concluding Observations were totally disregarded when the government submitted the bill for the revision of the Juvenile Act (revised in 2001). Concerning the scheduled revision of the Fundamental Law of Education, a great number of citizens and non-governmental organizations demanded the government to take regard of the Convention and the CRC Observations. However, the government has taken no notice of the request. The National Commission for Educational Reform, an advisory organ to the Prime Minister, was established in March 2000 and it proposed in December

Framework to consider the children's issues in a "developed country," Japan 2000 basic principles to revise basic education system maintained for more than 50 years. In response to the proposal, the Central Council for Education prepared a draft for the revision of the Fundamental Law of Education. The government has never distributed the CRC Concluding Observations to members of these two major organs, not to mention of the Convention on the Rights of the Child itself as reference materials. The NCNAR cannot help expressing its deep resentment for such a government attitude to take measures for children successively which openly disregard and show enmity toward the Convention on the Rights of the Child and the CRC Concluding Observations.

### 3. The government has totally neglected to disseminate the CRC Concluding Observations

How has the government disseminated the CRC Concluding Observations? "The Committee (on the Rights of the Child) considered in May 1998 the Initial Report of our country and adopted its Concluding Observations. The Observations include suggestions and recommendation by the Committee on the comprehensive programme to eliminate corporal punishment and bullying in school, etc. The Ministry is now making efforts to take necessary measures, respecting these suggestions and recommendations as far as possible".

The above-cited paragraph is printed in the Ministry's "Principles for Human Rights Education" with the title "'The Convention on the Rights of the Child' and the Improvement of School Education". This seems to be the only one governmental document that referred to the contents of the CRC

Concluding Observations. What a pity that a government has such a poor comprehension of the Concluding Observations! It means that the government has wholly covered up the most important parts of the Concluding Observations from the eyes of the people.

Eventually, the government has not fulfilled its minimum responsibility suggested in Article 49 of the Concluding Observations. It states, “ the Committee recommends that the report be published, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a wide distribution should generate debate and awareness of the Convention and of its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations”. Only one media to a wide distribution was the Home page of the Ministry of Foreign Affairs. (But it does not cite the summary records.) The government has totally neglected to print and distribute those records among relevant governmental bodies, the Parliament, courts of justice, education boards, schools and relevant institutions.

It is not too much to say that the government has not had the slightest intention to “generate debate and awareness of the Convention and of its implementation and monitoring”. For last five years, the government has never actively approached the NCNAR on any measures to implement and monitor the Convention and the Concluding Observations. All of the above-mentioned tripartite gatherings and meetings to exchange views were planned and implemented on the initiative of citizens and non-governmental organizations. It is quite obvious from the dialogues between the government and the DCI Japan (3. (4) ①~⑧) that the government has said something just to suit the occasion concerning the establishment of an organ

Framework to consider the children's issues in a "developed country," Japan for management and coordination.

4. The governments views expressed in the replies at the Parliament

For last five years, deliberation has been made for several times at the Parliament sessions on the implementation of the Convention on the Rights of the Child and the CRC Concluding Observations. Those members of Parliament who have demanded the active implementation of the Convention asked the government's views at the Committee on Education and Culture, Committee on Foreign Affairs and Committee on Budget, etc. on a variety of issued pointed out in the CRC Concluding Observations. The CRC pointed out in its Concluding Observations following points. (a) difficulties encountered by children in expressing their views and their right to participate (paragraph 13), (b) highly competitive educational system exposing children to developmental disorders due to the stress (paragraphs 22 and 43), (c) establishment of the Management and Coordination Agency of the Convention on the Rights of the Child (paragraphs 8 and 43), (d) establishment of ombudsman system (an independent monitoring mechanism) for the protection of the rights of the child (paragraph 32) and (e) plan of action to prevent and combat with juvenile delinquency (paragraph 46).

However, the government replied without exception that it has made its sincere efforts to implement faithfully the Convention on the Rights of the Child on the basis of the "May 20 notification" and that children's rights are protected sufficiently and coordination of measures is fully implemented within the current system. Ms. Kawaguchi, Minister of Foreign Affairs asserted (at the Committee on Foreign Affairs of the Lower House, April 23,

2003) that the government had no plan to establish an independent agency for coordination of policies. Being questioned whether the government had the idea to deal with juvenile offenders in compliance with the Convention on the Rights of the Child, Mr. Konoike, Minister on Youth Affairs replied, “I do not know much about the Convention on the Rights of the Child. Even if such a Convention exists, I have no will to accept and observe the Convention” (at the Cabinet Committee of the Lower House, July 16, 2003). This assertion by the Minister in charge of youth affairs and other replies of ministers in last five years reveal clearly that the government does not have appropriate understanding and give lowest priority on the Convention and the rights of the child, which would be treated later more in detail.

#### **F. Move of the local municipalities concerning the Concluding Observations and the Convention on the Rights of the Child**

As mentioned earlier, the Concluding Observations of the CRC encouraged citizens and non-governmental organizations and influenced them greatly. Consequently, their activities have come to produce fruitful outcomes at local municipality level. Campaigns carried out in close cooperation among citizens and non-governmental organizations resulted in the enactment of the Act on the Rights of the Child and the Act on Ombudsman System (Kawanishi City, Kawasaki City, Saitama Prefecture, etc.). A number of municipalities established “Section of Child Affairs”, a section comprehensively dealing with children’s affairs (Kochi Prefecture, Tone City, Gunma Prefecture, etc.). Regarding moves of municipalities more in detail, see “General Measures on the Implementation F3”.

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#### IV Appraisal of the Second Report of the government by citizens and NGOs

Frankly speaking, the Second Report of the government does not fulfill the minimum requirements of the general guidelines regarding the form and contents of periodic reports. It is nothing but a low level and even scandalous report to show lack of understanding on the Convention on the Rights of the Child, insincerity toward the CRC and its Concluding Observations and arrogant attitude not to provide the minimum necessary information for the consideration of the Report.

Such attitude of Japanese government is derived from various factors affecting Japanese society as a whole. Those factors include followings. 1) outmoded stereo-typed views on children and human rights, 2) nationalism attaching more importance on the interests of the state than interests of children, 3) cultural dualism disliking idealistic and universal international human rights, and 4) retreat of equality and social welfare under the prolonged recession and also under the drastic conversion of industrial structures based on "neo-liberalism".

Since the Japanese government ratified the Convention on the Rights of the Child, it is obliged to faithfully take measures suggested and recommended by the Concluding Observations. It is the responsibility of the Japanese government to the international society and to children in Japan. It is not questioned whether the government has implemented the Concluding Observations or not. The government is requested to provide information on the



measures adopted, factors and difficulties encountered in the implementation and steps taken to overcome them as well as overall or sectoral policies for children in compliance with the Convention. It is difficult to find out in the Second Report a bit of sincerity and honesty to face with the consideration of the Report at the CRC. The NCNAR considers the Second Report of the government as follows.

1. Extremely insincere and defiant attitude to the Concluding Observations

The Second Report thoroughly disregards the Concluding Observations issued in 1998 and copes with the CRC extremely insincerely and defiantly. One of the major reasons why such circumstances took place can be attributed to the non-existence of the unified action plan as well as of an agency responsible for responding comprehensively to the Concluding Observations. Paragraph 19 of the government Report states that the Committee for the Promotion of Youth Policy of the Cabinet Office has been making according to its guidelines general coordination of all measures and harmonizing law and policy with the Convention on the Rights of the Child. However there is a great disparity between the basic stances of the guidelines and the Concluding Observations. The CRC made 39 recommendations in total to the Japanese government, on which more detailed mentions are made later in the "General measures for implementation G". Twenty-eight recommendations out of 39 (71.7%) are not dealt with in the guidelines. Even when some mentions are made, most of them refer only a part of those recommendations or rather lead to the infringement of the rights of children. Thus, there are neither machinery nor action plan to cope

Framework to consider the children's issues in a "developed country," Japan with the Convention on the Rights of the Child and the CRC Concluding Observations.

## 2. Lack of understanding and serious efforts

The Second Report of the government totally lacks the description on how the government comprehends the Convention on the Rights of the Child as well as the rights of children in general. It is hardly possible to find out a glimpse of sincere efforts by the government for the implementation of the Convention.

For example, the governmental Report proudly describes that authorities provide training sessions concerning the "Convention" to public service workers whose works are related to the child (paragraphs 44 55). In reality, the training is, however, restricted only to specialized training according to types of occupations of public service workers. There is hardly any sessions in which trainees have opportunities to learn about the Convention on the Rights of the Child as a whole and the Concluding Observations as well. Actually, training sessions organized by the "National Center for Teachers' Development, an independent administrative institution responsible for unified and comprehensive implementation of government-controlled training programs" (paragraph 44) have no programs with the title, "The rights of the child" or "The Convention on the Rights of the Child". According to the surveys made by citizens and non-governmental organizations, every teacher who participated in the " (training) opportunity for newly-employed teachers" (paragraph 44) replied that he/she was not provided training on the Convention on the Rights of the Child and the CRC Concluding Observa-

tions. In fact, authorities provide a number of training opportunities. However, in those training sessions, some mentions are made on the Constitution of Japan and the Convention on the Rights of the Child as one of various international laws on human rights. There are, however, not a single session specially organized for the understandings of the Convention on the Rights of the Child, particularly on its uniqueness and significance.

The Convention on the Rights of the Child recognizes, contrary to the “common sense” of the theories on human rights, the child with no (or insufficient) thinking faculty and legal capacity as a subject to exert its rights. It has a revolutionary content in trying to cope with the expression of opinion by the child rightfully and to recognize the child as a subject with dignity. On this more detailed mentions will be made later. Then why has the child to be treated as human beings with dignity? Wisdom of human race has taught the fact that the child can grow and develop into autonomous adult with social morality, only when it is treated not as an “object” for rearing and fostering but as a “subject” to exert its rights to express views (a human subject with dignity). The fact is supported by various academic truths.

Therefore, so far as the training sessions provide no special program on the rights of the child for growth and development and in particular on the right to express its views, it is difficult to recognize those training sessions as appropriate training to make known the Convention. As shown in the above-mentioned example, it is hardly possible to recognize from the Second Report how the Japanese government has understood the Convention on the Rights of the Child and rights of the child as a whole. Consequently, the

Framework to consider the children's issues in a "developed country," Japan Report is far from the sincere periodic report for the implementation of the rights of the child as well as the Convention on the Rights of the Child.

### 3. Negligence of accountability

The Second Report of the Japanese government only cites measures and issues one after another undertaken for last 5 years. The Report does not make appraisal and positive verification whether those measures are harmonized with the Convention and the CRC Concluding Observations (are they really useful for the implementation of the Convention or do they obstruct the implementation, and what have brought difficulties, etc.).

Last five years, period of great upheaval, were the turning point of the government policies on the child. The government proposed one after another various reform plans including drastic change of educational system and privatization or conversion to Private Finance Initiative of nurseries and after-school centers for latchkey children. Bills concerning children have been submitted to the Parliament in succession including on "Juvenile Act", "Prevention of Child Abuse", "Penalty Regulations on the Commercial Sexual Exploitation", "Conversion of National Universities into Administrative Institutes". The bill to amend the "Fundamental Law of Education" is scheduled to coming session of the Parliament. It was not, of course, decided whether these bills would be submitted to the Parliament sessions when the government had been preparing its Second Report. However, some mentions should be made on whether these bills give positive or negative influence on the implementation of the Convention on the Rights of the Child. Actually, the "Juvenile Act", "Law on the Preven-

tion of Child Abuse” and “Law concerning Penalty Regulations on the Commercial Sexual Exploitation” were “revised” or enacted. Nevertheless, juvenile delinquency, child abuse, girl prostitution take places one after another. These subjects are written more in detail in following chapters of this Report dealing with individualized issues.

#### 4. Farfetched composition

The Second Report of the Japanese government is unilaterally composed of political ideologies of the government and it states in roundabout way or conceals the troublesome parts.

Followings are some examples. The Second Report refers to “daily promotional activities to eliminate prejudice and discrimination against foreigners” in paragraph 93. It further states that “students are guided towards respecting culture and tradition in their own hometown or country, trying to befriend other people in the world, and contributing to world peace and human happiness” in paragraph 273. However, in reality, the Report shuts its mouth hard about the governmental policy to disqualify graduates from Asian ethnic high schools including Korean schools to the university entrance examinations, while the government qualify graduates from Western international schools to university entrance examinations. The Report does not also mention about the strengthened national control over education. For example, in accordance with the National Course of Study with legal binding force, the government has directed every school to hoist “Hinomaru” (rising sun flag) and sing “Kimigayo” (song for emperor’ reign). It has also strengthened performance evaluation of teachers, infringed

Framework to consider the children's issues in a "developed country," Japan students' rights to express their views and dared to appraise patriotic minds of individual pupils and students. The Report states, " (a child is to be engaged) in pupil council of students council activities, ensuring the participation of students in decision-making". It is totally against the realities. There is really no end to list contradictory examples, including strengthening of school regulations and enforcement of graduation ceremony shutting out the voices of teachers and students, etc.

#### 5. Deceptive process in the preparation of the Report

Article 3 of the general guidelines of the CRC states as follows. "The Committee believes that the process of preparing a report for submission to the Committee provides an important opportunity to conduct a comprehensive review of the various measures undertaken to harmonize law and policy with the Convention and to monitor progress made in the enjoyment of the rights set forth in the Convention. Such a process should encourage and facilitate popular participation and public scrutiny of government policies." It is evident from what are mentioned (a) to (d) that the process of preparing the Second Report of the government does not fulfill the above-mentioned requirements. Wishing to conduct comprehensive review of various measures of the government and to monitor progress made in the enjoyment of the rights set forth in the Convention, the Second NCNAR requested the government to have a consultation meeting, preparing a number of materials. Thanks to the participation of supra-party members of Parliament, two consultation meetings were convened but unfortunately opinions expressed by citizens and non-governmental organizations on those opportunities are not totally reflected in the government Report, just

like as on the occasion of the Initial Report.

6. The Report does not provide essential and general features of children's issues

The introduction of the Second Report of the government states, "Japan has been expanding its welfare and educational programs particularly since the end of World War II. Every program has attained high-level achievement". It refers to two examples concerning the current big issues of children, "declining birthrate" and "new social problems as child prostitution, child pornography, bullying, juvenile delinquency, suicide, drug abuse and child abuse" caused by more and more complicated social environment. It is impossible to grasp whole situations surrounding children only by mentioning these aberrant acts of children.

Those symptoms are a partial eruption of serious situations surrounding children in Japan. However hard individual "new social problems" are held down by punitive means, the magma explodes one after another. Why are children inclined to do prostitution, bullying, delinquency, commit suicide and indulge in drug abuse? Why do the grown-ups abuse children and fail to establish a home? There has emerged a society where children are unable to grow and develop and the grown-ups find it difficult to live. Such social values and social structure for the attainments of those values are nothing but the very magma that brings about new social problems one after another. Nothing but such social situation surrounding children should be now coped with.

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Such critical social situation was already pointed out clearly by the Committee on the Rights of the Child concerning the Initial Report. The CRC pointed out that children in Japan are exposed to developmental disorder due to a stress of being too strictly controlled at home, in school and in institutions by economy-first social values. It also pointed that children are exposed to competition and violence, infringed privacy, and deprived of the right to express views and to play. On the recognition as mentioned above, the CRC in its Concluding Observations recommended the Japanese government to take appropriate steps to drastically and comprehensively change and improve the existing system and structure in compliance with general principles and individual Articles of the Convention on the Rights of the Child. As was mentioned earlier, the Second Report states boastfully, "Japan has been expanding its welfare and educational programs and attained high-level achievement" of those programs. However it is nothing but the very welfare and educational programs that were requested to drastically reviewed. First of all the Japanese government should have started the preparation of the Second Report from paying due regards to suggestions and recommendation by the CRC Concluding Observations. The government should have recognized that the more unilaterally it promotes its policy on the child, the more children suffer from distortion of growth and development. Actually, the government defiantly rejected the CRC suggestions and recommendations and attributed the current situations of children solely to superficial new social problems.

So-called "hopeless children" as cited in the Introduction of the Second Report as well as "hopeful children" in mainstreams are equally groping for their own ways to become considerate grown-ups, while being strictly



controlled by economy-first social values at home, in school and institutions. It is hard to find out such unpainted faces of children in any part of the Second Report. That is the very cause of the failure of the government Report.

## V Situations of Children's Rights Deteriorated in Past Five Years

As I have already quoted several times before, the final conclusion issued by CRC five years ago expressed strong concern that children in Japan are being exposed to excessive competition, control, violence and invasion of privacy. They are also being deprived of expression of opinions, which eventually distorts their growth and development. How will the situation of the present children be like in another five years? Unfortunately, the answer is, "It will be far worse!"

Ten years have passed since the so-called bubble economy burst. The Japanese society is now in a state of deep economic slump. Its social cultural structure that has supported the post-war growth of Japan no longer functions. Japan is trying to turn radically towards a new social cultural structure in order to recover Japan's economic strength. I will enlarge on this point later in the 7th chapter. Amid the fierce global competition, Japan is on a way to form a society based on principles of neo-liberalism and neo-nationalism with a view to regaining the national power.

Under such circumstances, the situations of children's rights have deteriorated: (1) "the best interest of the child" principle is not taken into account, (2) children's right to express their own views are almost completely

Framework to consider the children's issues in a "developed country," Japan demised (3) environments for those who are supposed to back up children's rights have degraded (4) equality and social rights have stepped back (5) support system or ombudsman system to encourage the use of children's rights are out of guarantee and (6) efforts made by citizens, NGOs and sensible teachers to put the Convention on the Rights of the Child into practice are now meeting a great backlash. Thus, a Japanese child cannot grow and develop into a sensible adult who "can live in his/her ways and think of others."

First, let us overview the situation of children's rights in Japan at present.

**A. Increase of the children who are incapable of having a relationship with community, harming others and taking self-destructive behavior**

The notable characteristic of them is that a child who looks very average or "innocent and clever" suddenly takes incomprehensible behaviors such as becoming "out of control" or staying in his/her shell. What a lot of ordinary children have become inadaptable to the reality without specific reasons from the perspective of adults!

The following types of children are increasing:

- (1) children who cannot build a relationship with society by having little appreciation to be in a group, being feckless, going to school nurse's office instead of attending classes, refusing to go to school, and withdrawing from the society for long time even after their school-age,
- (2) children who harm themselves by smoking, hanging around amuse-

ment quarter, engaging in prostitution to earn money, taking unrestrained sexual activities, being addicted to drugs, having the eating disorders, and committing suicide

- (3) children who harm others by triggering classroom chaos, shoplifting, bullying, committing a robbery, waging school violence, joining a motorcycle gang, and killing others.

What makes children hurt themselves, others, or society although such behaviors sacrifice their own future and break their parents' hearts?

#### **B. Increase of the Children whose life and health are being threatened**

It is true that Japan is now under the economic recession. But in comparison with other countries, Japan is much richer. Despite it, many children in Japan ruin their lives, fall into ill health, and fail to grow and develop properly. Increasing number of parents becomes incompetent to cope with their child rearing with love and responsibility. Basic conditions for child rearing and livelihoods have deteriorated in this commercialistic society.

- (1) The number of children, who have to be taken into emergent shelters or care facilities due to physical abuse by their parents, grows by leap and bounds. These facilities are now overflowing with children who need a special care. Standards for child welfare facilities remain as same as that of 50 years ago.
- (2) Some children show a “mock autism” symptom because they watch video or TV too much. Some are diagnosed as pervasive developmental disorder or attention-deficient hyperactive disorder (ADHD).

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Many of these children need to visit special care facilities.

- (3) The number of underdeveloped children shows a sudden increase due to poor nutrition, sick-building syndrome or allergy symptoms, and physical or mental disorder allegedly caused by electromagnetic waves giving off from mobile phones.

**C. Amid control and competitive principles, children are being sorted out and graded into elite and non-elite**

The aforementioned final conclusion issued by CRC points out that children at Japanese schools inevitably compete with each other, and that corporal punishment and violation of children's privacy frequently take place under the control-oriented education, resulting in the deprivation of their rights to expression of opinions. Basically, such situations remain unchanged. It is true that cases controlling children's behaviors externally with school regulations or corporal punishment is getting fewer, but "controlling children's mind" under the name of ethical education is getting systematically reinforced as one of the governmental goals. This is nothing but neo-nationalism. In terms of competitive principles in the field of education, the government expects to "effectively train future leaders of Japan". To this end, it sorts out children into elite and non-elite from early stage. This move is rapidly building up in Japan.

Thus, the Japanese children are put into a tougher race to get into prestigious universities under the control-oriented education system. The expectation from parents or teachers and the education system in which the government pursues its goal to produce handful of future leaders appropri-

ate to the recovery of Japan's national strength are driving children into compulsively wavering between "winner" and "loser" in the examination war and the national loyalty race. During the past few years, the evaluation system, which grades children into excellence and non-excellence and eliminates the non-excellence from the elite course, has moved ahead at a fast pace. Children have to make a desperate endeavor to give a good performance not to be discarded from the expectations from the society, parents and teachers.

- (1) Children are mentally and physically exhausted: A number of children are still controlled by physical punishments; some are controlled by too much school regulations; some are neglected or abused by their parents and eventually taken into care facilities but receive ill treatment there again; some are forced to have their hair butch cut; and some are refused to attend graduation ceremony because of their dyed-hair.
- (2) Children are forced to internalize the moral value set by the government. The Ministry of Education edited a government-designated moral book called "Notebook of Mind", and distributed them to every elementary and junior high school across Japan. The Ministry strongly encourages (actually forces) to use this book at school lessons, by evaluating which school use it or not, in order to implant the nationalistic morality into children: School children are now forced to engage themselves in social service as one of the school subjects; Children's motivation, interest and attitude towards every school subject are evaluated in report card; Schools in some municipalities evaluate the level of one's "patriotic consciousness" in his/her

Framework to consider the children's issues in a "developed country," Japan report card; Furthermore, junior high school teachers evaluate students' character on the report card submitted to a high school for an entrance examination.

- (3) High-handed school administration based on the particular political purpose tramples on children's rights to express their own views. As seen in incidents in Kunitachi Daini Primary School (Basic Report 4, 144) and Tokorozawa High School (Basic Report 145, 146), local governments, boards of education and school principals impose the Hinomaru Flag (national flag) and Kimigayo (national anthem) on children and teachers as an inevitable duty to be good Japanese. These authorities destroy children's willingness, sentiments, and good human relations with teachers. (See "Kyoiku (Education)" for detail)
- (4) The fierce competition to get into better schools and the control-oriented educational system make children exhausted. Recently, large-school-district-system for senior high school's entrance exam and a rating system of high schools have emerged instead of small-school-district-system for high schools' entrance exam. High school administrators have to make efforts to achieve their numerical goal "how many students enroll in what universities". For example, entire Tokyo is a single-school-district with about 12 million population but only four schools in this district can be designated as schools for prestigious universities. For only a handful of famous universities, children have to go through the rabid competition: First, they must enter a brand-name primary school, then junior high school and high school and can eventually get into a prestigious university. Rich families can afford to let their kids go to well-known private class or hire experienced private teachers in preparation for entering in a

university as higher level as possible. Household expenditure for it reportedly increased by 15 percent from that of five years ago. If one's parents fall short of money or if one drops out from an escalator for better schools, this child is socially labeled as a loser. As if the society said, "Ok, this is the job suitable to your ability and status. You must put up with it." The loser inevitably accepts his/her position and devotes to "public or national" developments without complaining. Just for this purpose, public morality and patriotism set by the government have appeared in school education.

#### D. Economic principle and administrative control cause destruction of children's growth and school environment

Children's social and living environments with relatively stable human relations necessary for children's growth and development have been so far maintained with public responsibilities. But the new social principles called neo-liberalism (a performance-based, self-responsible, and competition-based society according to one's financial power and ability) and neo-nationalism (a nationally mobilization regime in which everyone takes a pledge of loyalty to the country to regain the state power) are destroying the various backgrounds and changing them into different forms. Social and living environments that have supported to bring up children are aggravated and becoming more impoverished.

- (1) In the wake of economic recession, working condition of parents gets worse than ever: Growing number of companies go bankrupt; unemployment rate remains high; overtime work without allowance

Framework to consider the children's issues in a "developed country," Japan mercilessly takes place; and a number of people die or commit suicide from overwork.

- (2) Public institutions such as nursery schools, kindergartens, after-school care program, and evening high schools are on the verge of destruction. According to the neo-liberalism (market- and competition-oriented principle), these public facilities are being privatized or closed down with private finance initiative.
- (3) Principles of the neo-liberalism and neo-nationalism emerged in school education, too. Teachers now have to work hard like robots to fulfill their educational goal set by the authorities. Today, teachers in Japan are thoroughly controlled by the authorities, nationalistic politicians, chairs of board of education, or principals. The authorities provide absolute rights for principals, frequently punish teachers for their disobedience to authorities' order, disqualify certain teachers and eliminate them from schools, provide a system to severely evaluate teachers, and has the rights to reshuffle teachers. In addition, teachers have to look after 40-student classes. Each teacher neither has time nor power to face each student to form a personal relationship to encourage his/her progress. This is the reality.
- (4) Parents and PTAs can no longer speak out about the educational goal or policies set by the authorities.

#### E. Increasing discrimination

The final conclusion issued by CRC in its 13<sup>th</sup>, 14<sup>th</sup>, 20<sup>th</sup>, 34<sup>th</sup>, and 41<sup>st</sup> clauses expresses a special concern over discrimination in the Japanese society, and recommends that actual situation of discrimination against minority chil-



dren be strictly investigated and abolished. However, the new social value (neo-liberalism and neo-nationalism) further aggravates the existing discrimination. Under the name of equality, the government tries to integrate children, who need a special care, into an ordinary class and abandon generous cares for these children. Certain type of disabled students, irrespective of their will, must study in ordinary class. After-school care program for working parents is getting assimilated into more general measures. What's more, the government helps discriminate "different people" like kids out of marriage or foreigners because it seeks to maintain the mono-nationalism to recover the country's strength. The situations of discrimination in Japan have become severer. The government also intends to maintain gender discrimination under the name of "joint participation by men and women".

- (1) American-Asians, foreigners, Ainu, Koreans residing in Japan, other nationalities and minorities, disabled children, children out of marriage, children in welfare facilities are tend to be discriminated.
- (2) The government seeks to keep and strengthen the present gender-bias as seen in different minimum age of marriage between men (18) and women (16).

F. The government or society in general has a tendency to discard "children in social problems" by punishing them or putting them into welfare facilities. Support systems for children in problem are not sufficient in view of individual growth and development.

- (1) By revising the Juvenile Law, the age applicable to the criminal

Framework to consider the children's issues in a "developed country," Japan punishment will be changed to 14 from the present 16. This proves that the government intends to give tougher punishments to delinquent children.

- (2) Punishments against so-called patronage dating or child prostitution will be tougher.
- (3) The newly revised Child Abuse Prevention Law fell short of improving the standards of facility set in 50 years ago, and remains its policy to lock up problem children in welfare facilities.
- (4) The National Council for Educational Reform proposed "not to obscure the education for problem children," and introduced a system to discard children incompetent to compulsory education process.

## VI Social Background Depriving of "Childhood"

### A. "Childhood" trampled by the social cultural structure in the post-war period

In the post-war period, the Japanese society provided a certain social-cultural structure in which "anyone who has high ability but can stifle his/her own desires to innocently cozy up to the power and authority can benefit from the country." The post-war Japan gave top priority to the economic prosperity centering on large corporations in cozy ties among politicians, bureaucrats and business. All of the Japanese were called out in this framework, drafted as corporate warriors, that is, foot soldiers for the economic growth, suffered overtime work, never complained about being transferred to far regions and leaving his family behind, clenched their teeth and endured it. Some of the commandoes even died of Karoshi.

After the War, Japan has formed a very efficient society and has built up the wealth. The people of Japan were forced to believe in economic growth and to achieve this, hold down their desires, obey economic power and authority, and according to their degree of obedience, given interests such as promotion. If one expresses his/her opinions or objections, he/she will be judged as being not frank enough, “dangerous elements” or “odd men out”, and will be demoted. As a consequence, he/she will be transformed into a person who never think for him/herself, throw him/herself away, and will do everything he/she could to cooperate with the “public” to maintain and develop the society, how unreasonable it may be.

Children, in preparation for the business-prone society, are compellingly thrown into the race to get into prestigious universities. According to their intelligence and tractability, children are sorted out and graded into an elite course and a non-elite. As a result, children get lost and stop showing their feelings. No matter how unreasonable the uniformed value is, children are brought up to believe that to discipline oneself is the best and the foremost value of the society and this is the quickest route for self-maintenance. The state policy tramples on people’s individuality and morality guaranteed by the Japanese Constitution.

Thus, added incentives such as higher social status, more money and other utilitarian benefits made the people dumb in order to push ahead the post-war economic development in Japan. Here, moral education was a piece of glue.

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## B. Social cultural structure to gain the new state power grabs "childhood" away

Since the bubble economy burst, Japan has been in a state of economic slump. It is no longer able to reward its people. Its conventional social-cultural structure is facing to turn into a different shape.

Firstly, for a further development of the Japanese economy, Japan should change the current mass-production industry to a knowledge-intensive industry led by high-tech sectors. Secondly, to survive in the global competition, Japan should establish its firm position militarily and diplomatically in the world stage in cooperation with the United States. Thirdly, to gain such an economic and international state power, individual person in Japan should consider the change of Japan as essential even without a reward, devote to the country according to individual degree, feel proud of the country, and recognize a love itself as the common moral and value of the society. It is vital for individual Japanese.

Here, there is a logical reason for the government to implement the moral education. The government steadily prepares for a new system to regulate the society and cultivate human resources to mobilize all people into a state-power-gaining business. To revise the Fundamental Law of Education, hollow out the Constitution, and improve wartime legislation are the core to set up the new system plotted by the government. The wartime legislation enables Japan to virtually "exercise collective self-defense" in cooperation with U. S. forces. It is clear that all these moves are the sign to revise the

## Constitution.

Amid the worldwide competition, for regaining Japan's state power, it is necessary to introduce a principle of self-determination (ability-based) and self-responsibility (performance-based), instead of the collusion-based existing policies among politicians, bureaucrats and industries. Based on this principle, people should compete with each other in the good sense and return their achievements to the state. That is the way what the neo-liberalism should be, the government thinks. Based on the market mechanism, "distribution of rewards" and the "sorting-out" merge into a social structure.

In the past Japanese society, anyone loyal to the power was able to reap some fruits. This used to be a factor to maintain the stable society. However, in a new social-cultural structure based on the neo-liberalism, people must gain rewards by themselves at the end of the competition. So, rewards will concentrate on only a small number of talented people. Many other people will be losers. Such a bipolarization may appear in a new social cultural structure. The government recognizes that without getting rid of winners' arrogance and losers' apathy and grudge, it will be impossible to realize a successive stable development of the country. Therefore, the government believes that it will be inevitable for both winners and losers to have a moral sense loyal to the public such as "a willingness to proactively participate in a community" and "a willingness to love for tradition, home province and the country". This is what the government urgently wants for the moral education to realize the neo-nationalism. Winners are required to have leadership to effectively regain the state power and losers are required

Framework to consider the children's issues in a "developed country," Japan to follow those leaders without complaining. This type of public morality will label a person, who disobeys the leaders, as an incompetent loser and will even punish him/her in the end. Both children and adults have to work hard obsessively with the principle of market mechanism as a prerequisite under the "ability-and-performance system". If not, they will be losers.

Thus, on the pretext of the recovery of state power, the neo-liberalism has brilliantly combined with the neo-nationalism to thoroughly take "individuality" and "morality" away. The competition and moral set by the government will never create energies essential to individual happiness and national development. The reason is that the forced competition and moral will exploit "human relationships that guarantee peace, self-confidence and freedom with each other" to create those energies.

## VII Messages from "struggling children"

We have seen situations of Japanese children who have lost their "calls" (cannot express their opinions) in various scenes in their daily life, and as a result cannot live and grow as human beings (Chapter 5). This report also pointed out the problems of Japan's government which, instead of attempting to change such situations, is cornering children even further by bringing only efficiency to their environment (Chapter 6 and 7). In this chapter, from citizens' and NGO's basic report, we will look at calls of children who have grown up in "normal" families and schools to think about how they feel in Japan's society considered as a "affluent society".

#### A. Case of a college student, a victim of child abuse

“In my house, what my father said was absolute. Just because I couldn’t solve math problems, he grabbed and pulled my hair, and hit me. Even though I was helping in preparing dinner, he still hit me for some reasons I could not understand.... But we children were trying to be what our parents wanted us to be. Blaming ourselves, we thought that there would be some reasons for us to be punished.

However, what hurt me more than such violent acts was his words. Whenever my father got angry, he always asked me who provided me with food to eat and house to live, using the most violent words. Of course he knew that I did not have any ways to earn money or anywhere else to go. It was really sad to hear him saying such things because I felt like my existence was denied. To me, he was saying as if he let me eat his food and stay his house even though he did not want to. I started to wonder if I was born to be loved and if there were any reasons for me to be here.”

#### B. Statement made by high school student at his graduation ceremony

“In the first grade, a physical education class was exactly like military training. At that time, teachers’ violence was rampant at school.— Using his finger, our teacher orders us what to do. If we do not follow his order, we are hit, kicked, and ordered to sit on our heels. Our dignity

Framework to consider the children's issues in a "developed country," Japan is trampled down. Our teachers' command could turn us into human beings who can face right for many hours if we are ordered to do so. He tells us, "You don't have any human rights. Just follow my order." Some students are hit and kicked on the ground in front of many students. For a person who has a normal pride as a human being, it is painful to see such scenes. So they shut their eyes, ear, and heart. The situation gets even worse when it comes to an extra class. The teacher treats us like slaves. Then we finally get units of the subject. What if we have the slightest pride as human beings? The situation could be more miserable.

... Just because we are not smart, our teachers treat us like trash. A motto of this school is "patience". But what is patience? "Accept the fact that you are trash. Spend your life as trash. So you need to have patience!" In order for teachers to look at their trashy treated students without feeling something, they also need to have patience! We never wonder why we have to do whatever teachers tell us to do.... They never tell the truth to our parents. "Your child did such bad things. Your child has all the responsibilities." "So your child cannot leave the house for a while." "Your child has to drop out school." Without looking at the nature of problems, a lot of schoolmates left the school, or were forced to leave the school. Being treated like trash, they lost their hope for the society. Teachers' violence is considered as a part of education. But if students commit violence, whatever the reason is, they are forced to drop out. In three years, about 150 students, or one-third of all students, left the school. High school was a place for us to prepare ourselves to be adults. Experiencing many things, we growing up. We are not trash. We can become trash if we are treated like it. But we are never trash!



### C. Case of a child who attempted to commit suicide

When I was in the third grade of elementary school, I jumped from the 3rd floor of my house. I wanted to kill myself because I had been abused by my father. There are too many examples. In order to “discipline” his daughter, he beat me until I became unconscious. When I was taking shower, he came into the bathroom and took me outside naked. At a dinner table, reasoning that I sit in a bad position, he beat me every three minutes. His extreme “discipline” cornered me physically and mentally. Saying, “It is harder for your dad to hit you than you being hit,” my mother failed to protect me. The only person who tried to protect me was my little brother. Even though his body was shaking, he tried to stop my father from beating me. But my father told me, “Why are you teasing your loving brother?” and beat me even harder. That made me hate my brother who was adored by my parents.

I was never teased at school. Since my parents were rich and had incredibly good reputation, people around me thought that I was raised in a privileged family and envied me. Actually, such a good image of my family allowed me to escape from the reality. However, because I wanted to impress friends and could not tell anybody what my father was actually doing to me, I had to struggle even more.

... TV news frequently tells stories about children who were abused to death by their parents. Adult people are giants to children, and horror of children beaten to death by the giants is unimaginable. I cannot stand the fact that such abuse is still taking place somewhere in the world. Not only the

Framework to consider the children's issues in a "developed country," Japan physical abuse, parents' expectation for their children to go beyond their ability pressures them too much. Children who are not allowed to have their own personality are also physically abused.

Children's feelings of despair and loneliness are immeasurable when their family, which is supposed to protect them, starts to attack them. Children do not have an ability to be independent in the society so that cannot live without their parents. They are not their parents' mascots or marionettes, and deserve to be respected as human beings. It seems that the whole society forgets about it. Family must be the place where children feel secured and develop without restraining their own personality."

#### D. Statement of 14-year-old boy who killed or wounded children in Kobe City in 1997

"If I had been myself since my birth, I would not have put a victimized child's head in front of the school gate.... If I wanted, I could enjoy murdering alone without being noticed by other people. I tried to attract public attention because I wanted them to recognize me, who has been and will be transparent, as a real human being at least in their imagination. At the same time, I don't forget to take revenge on compulsory education which has made me "transparent" and the society which established the compulsory education."

"I thought my life was worthless. But this world is where the weak are the victims of the strong. If you are strong, you can kill and control the weak."

Carved here for all to see is the suffering of a human whose desires were not accepted at their face value, who continued to kill his personality until finally he lost his identity completely and was no longer taken any notice of. Those statements as written above are just some examples, but what a lot of children in Japan are driven into the abyss of loneliness and despair in spite of their affluent lives due to the lack of the human relationship where they are accepted as they are !

Those statements as written above tell us how adults kill children's personality and force children to be what they and their society want them to be. Although children know that adults unreasonably treat them and hurt their dignity, they cannot do anything but obey the "giants." Their statements express their frustration and sadness. The strong control the weak in the society. Only the ones who have the ability to win in competitions can survive in the society. Those who do not have power and cannot make money have to stifle their desires and obey the strong. We can see how children, who are the weakest and have to depend on adults to live in such society, feel hopeless and powerless. A tragedy happens when such feelings turn into hatred.

When we pay attention to the children's messages, such government's statement as "Children are respected as human beings," sounds no longer persuasive. How could we accept the "reform" the government is promoting, that is, the way to force children to do everything under the formula, "self-determination = self-responsibility"? Could those messages be considered as "Selfishness of children who are spoiled in the rich society" ?

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Children are insisting adults and the society. "I don't want to live such  
a life. Even if I am not smart or useful, I want to be told, 'You are the  
one and only. You can be just the way you are.' I want to be respected  
as a human being."

If adults and society do not notice children's "words" and ignore their  
messages, their "words" will be violent and destructive. Their anger  
against adults who do not understand them and their feeling of "nobody  
cares about me" urge them to conduct some destructive actions.  
Children's messages are warning the society, "Society should become  
the place where children can develop themselves!"

## VIII New idea of children and their rights

### A. Children who have been denied their "childhood" in society which prioritizes economic development

After the end of WW II, Japan has created one of the most efficient society  
in the human history and has established the present wealth. In order to  
achieve economic development, the citizens have killed their demands and  
obeyed economic power so that they could be provided various rewards like  
promotion, money and so on. If they raised their opinions or objections, they  
would be isolated and fired by their companies. As a result, they have tried  
to contribute to the preservation and development of the "public" they have  
belonged to, instead of expressing their views.

Under the centralized education system which has promoted rigid teaching  
guidelines, strict school rules, corporal punishment, severe competition for

entrance into higher education, as well as control of teachers, children have been selected into elite and non-elite according to their grades and obedience level. Then they have lost themselves and failed to express their opinions. They have realized that the best way to protect themselves is to adapt themselves to the society's uniform values.

In short, both adults and children are prohibited from expressing themselves in the society which puts economic development before everything. Their failure to find their goal of their life in the "overly peaceful" society is not because they have been allowed to have enormous freedom. It is because of the society which requires people to be intelligent and obedient to the power in order to seek the most efficient way to develop its economy. Many incidents in the society have been committed by the people, including children, whose personality has been destroyed by the "public." But the power in Japan ignores their responsibilities and attempt to develop their profit by introducing stricter and more inhumane education system.

Nowadays the Japanese children are put into a tougher race, in the guise that "this is for your benefit", to get into prestigious universities under the control-oriented education system. The expectation from parents or teachers and the education system in which the government pursues its goal to produce handful of future leaders appropriate to the recovery of Japan's national strength are driving children into compulsively wavering between "winner" and "loser" in the examination war and the national loyalty race. During the past few years, the evaluation system, which grades children into excellence and non-excellence and eliminates the non-excellence from the elite course, has moved ahead at a fast pace. Children have to make a

Framework to consider the children's issues in a "developed country," Japan desperate endeavor to give a good performance not to be discarded from the expectations from the society, parents and teachers.

## B. The Ontological Basis for Children's Growth and Development

As a result of the education system under the "public" which forces people to obey its values, children have failed to develop their personality, to work for other people, and to respond to the results of their activities. How can people establish their own personality?

Current psychology has shown that in order to build their personality, it is inevitable for people to have human relations with other people who accept their desires. Traditional education system, which has emphasized moral, lecture, and restriction, never allows people to develop themselves.

When children cannot satisfy their own desires, they get angry as a natural human response. If their parents can fulfill their desires whenever they are frustrated, they can feel secure toward their parents. The sense of security leads them to have the feeling of atonement and the ability to empathize with parents and other people. Instead of being suppressed, children's desires or anger need to be liberated and accepted so that they could develop the feeling of atonement and establish their personality.

When children are understood and accepted by adults without being accused or labeled, they can grow the feeling of atonement and appreciation. Acceptance allows them to have self-love and curiosity which is inevitable to live based on their own personality. Then they can notice that they also

need to accept other people and produce energy to use for people around them.

In order for children to build their identity and to allow themselves to use their energy for other people without having the feeling of loss, they must be loved until they can grow the feeling of atonement. Going through these periods, “Desire → anger → expressing opinions → being accepted → feeling of atonement,” must be secured for children to establish themselves and avoid self-destruction.

Controlled by the current uniform values, parents impose their desires on and dominate their children, saying, “We are doing this for you.” Parents’ failure to accept the existence of their children prevents children from growing the feeling of atonement. As a result, children hold desires, pretend to be somebody else, and mentally struggle to prevent self-destruction. Delinquency, prostitution, bullying, and school-refusing result from the struggles. In other words, parents who have immersed themselves under the “public”, prioritizing economic development, cannot build humane relationship with children, and control children with the social and economic values. The situation gets even worse when parents believe that they are doing good things for their children. As a result, children, far from establishing their own personality, have hatred, and in some cases they destroy themselves.

### C. From the “view on objective growth and development” to the “view on subjective growth and development”

The present-day psychology clarifies: children should not be treated as an

Framework to consider the children's issues in a "developed country," Japan object to be brought up in line with needs of state, society and parents if they grow and develop as an autonomous existing substance, but they should be treated as a substance to participate in their own growth and development by expressing their opinions and being accepted. When the subjective view is compared to the objective view which is deeply incorporated into socio-cultural structure of our country, the following three points are found in characteristics of children's tragedy (loss of childhood).

Each child in this land of plenty, Japan, is, by his/her parents and teachers, according to the socio-cultural structure which put the highest priority on the economic development,

- ① denied an identity as an individual person: deprivation of dignity as a person
- ② stripped of personal relationships (havens) which embrace his/her existence as a whole, reassure him/her that "you are valuable just as you are" and guarantee him/her peace of mind, confidence and freedom: deprivation of human relations
- ③ deprived of the opportunity to grow and develop into a person who can be him/herself and at the same time still contribute to society and the needs of others: deprivation of the opportunity to participate in his own growth and development as a self-realization.

Then, how should we save children from such loss of childhood? Dependence on adults' goodwill is impossible. For, adults themselves are incorporated into socio-cultural structure, and driven into a corner where they control, throw children into a cast, and drive children into solitude and despair and



self-destruction as adults had been made so formerly. Therefore they are asked to guarantee children human rights, socially accepted powers, and help children build human relations, grow, develop, and live independently. Here lies the core of the rights of the child. The keyword should be “expression of desires.” Prior to studying it, we look at critically the “view of autonomous children.”

#### D. Criticism of the “view of autonomous children = the theory of self-decision and of socially participatory rights”

There is a view of regarding children as the substance of self-decision in contrast of the view of children’s “objective growth and development.” The view is typically argued by Freeman in England, and in Japan, is supported by a lot of scholars and lawyers. Recently, the “Municipal Ordinance on the Rights of the Child” of Kawasaki City (a city near Tokyo) has taken the same stand. But the theory of civic rights approved so as to set adults free in the modern citizens’ society is mechanically applied to children, and this means that children be treated as “little adults.” This ordinance merely imitates the essence of adults’ (citizens’) rights established through enlightening movement period and human rights revolution.

In the modern civic rights theory, approval of human substance (respect of individuals) comes from perfection of the link ① rational entity → ② self-determination → ③ self-responsibility. An entity with abilities of self-decision and self-responsibility is respected as grownup substance and given a dignity as individuals.

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But, we cannot approve for children the same capability of "self-determination and self-responsibility (autonomy = dignity of individuals = independent freedom) as adults. If children actually have such capability, a concept to distinguish from children and adults should not be necessary. To lead independence as humans for children by bringing self-determination = self responsibility is theoretically impossible, and a very dangerous idea which preys upon children, the socially weak. When adults impose upon children the idea of "Once you make a decision, you should take a responsibility for that," it will create a new tool of control and rule.

The education reform now under way in Japan is intended to induce a new control and ranking on the basis of self-determination and self-responsibility or under the name of "diversity and freedom of choice." The adverse revision of the Juvenile Law in 2001 was based on the concept. Can we accept as children's right the self-decision of such misconduct as runaway, cohabitation, and juvenile prostitution? Freeman says that self-decision which might impair one's virtues can be restricted from the viewpoint of paternalism (the state intervenes in the self-determination in order to protect child's own interests). This reveals that the theory of "little children" doesn't have a substance enough to approve as "individual dignity."

No matter how many little children we produce, it is only self-satisfied to adults. Even if we give children over 14 a position of self-decision on the restricted conditions, children less than 14 years old won't be respected as one human substance, and will remain as objects of adults' "love = custody = control." This sort of theory of children's rights will exclude from the contexts "true children" who won't become little adults.

The essential problems of children's rights originally lies in the point that "why and how can the children who have insufficient ability of self-decision (by J. S. Mill) and cannot produce any "wealth" (by J. Locke) be treated as grown-ups (a human substance with a dignity)?" If children cannot find the grounds of becoming a human substance in the same adults' autonomy (self-decision or individual dignity), what's the reason?

#### E. Expression of desires for making children a power of individual human substance

The core of power by which adults can make children a power to be one individual human substance lies in expression of desires. In fact, this doesn't mean that children, like adults, substances of self-decision and self-responsibility (substance with "individual dignity" level), but means that they will be treated as one human substance with dignity (substance with "human dignity" level). This has been demonstrated by slogans or philosophy that "persons have inborn human rights" or "any person has value merely as being a human" or "babies, those mentally disabled, those suffering the softening of the brain, and healthy persons are all humans."

Japanese children have been deprived of these human dignities in the socio-cultural structure, and they have been treated as a human objects instead of as a human substance.

#### ① Restoration of human dignity

"Human dignity" is different from "individual dignity." The former is a value that all humans must be respected merely because humans are

Framework to consider the children's issues in a "developed country," Japan humans without ability of self-decision = self-responsibility. What grounds identity to practice human dignity by themselves is the ability "humans have their own demands, and can display them." Denial of human dignities and "transparent entity" of humans mean that the "ability of expression of their own desires" are destroyed by outside forces. Consequently, the entity itself is disregarded. Human dignity exists in the very relationships where others properly react to children's action (expression of such desires as "I want you to so and so" — it is termed as expression of desires by the Convention). These desires (opinions), if not rational or not self-decided nor responsible, can be expressed. Suppose, no matter how much children shout for desires, they get no reactions from others. In such a case, the entity of the children itself is disregarded and their human dignities are denied. If their opponent is too strong, children cannot express its desires (opinions) for fear and self-defense, and they even don't make demands, being driven into a corner of a "transparent entity."

Thus, to accept as children's rights children's subjective and objective power of "expression of desires" guarantees children's dignities. Therefore, the Convention newly guarantees expression of opinions and duty of its respect (Article 12).

## ② Human relations and formation of a "breathing space"

When children express their desires and adults properly react to them, a human relation is formed. What children really demand is that continual human relationship (catch-ball of dialogues) in which "parents and teachers properly accept and seriously respond to children's

desires and views no matter how ridiculous they are.” When adults don’t properly respond, ignore or dismiss them by force, children suspend their expression of demands and start a “performance.” Children result in suppressing their desires, and human relations in a true sense aren’t produced. Accordingly, to express desires (views), whether they are disadvantageous or uncomfortable to themselves or their opponents, needs as its vital premise to guarantee continual human relations in which their desires are easily responded with such words: “Take it easy,” or “You’ve had much trouble.”

③ To guarantee opportunity of growth and development

This is mentioned in detail (the aforementioned (2) Base for theory of existence of growth and development). Unless children are accepted with a feeling of compensation and are guaranteed free human relations that enable them to express their desires (views), they are unable to grow and develop into autonomous persons. As they express their desires (views), they can independently engage in their growth and development and live their present life.

**IX Article 12 Is the Core of the Children’s Rights—the Right to Restore Human Dignity, Build Human Relationships and Grow and Develop**

So what needs to be done to enable such growth and development? Children cannot grow and develop in a vacuum in light of the ontological basis for growth and development as mentioned above. It will always be the case that only after establishing concrete relationships with his/her parents, the active guarantors of the child’s rights, will the child have its needs met.

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The characteristic of the Convention is stipulation of all children's rights. But most of them, rather than being peculiar to children, are general, traditional human rights which must be guaranteed to all people including adults.

The Convention ensures the survival of the child and places, at the core of child rights, the right to grow and develop (Article 6). However, in principle, the guarantor of the child's rights dominates the child by "raw power," and there remains the danger that the child will end up as an object of protection.

Dependence on adults' goodwill is impossible. For, adults themselves are incorporated into socio-cultural structure, and driven into a corner where they control, throw children into a cast, and drive children into solitude and despair and self-destruction as adults had been made so formerly.

Therefore children must be guaranteed their own socially accepted powers with which children can restore his own respect for a human being and build human relations to grow and develop. Here lies the core of the rights of the child. The keyword should be "expression of desires."

Historical and revolutionary meaning of the Convention is, after all, recognition of the rights to grow and develop (See Article 6), and shifting values from the traditional "view of objective growth and development" to the "view of subjective growth and development." That means to set free children from the education and children policies supported by the authority to achieve utilitarian aims of the state, society and adults. In other words,

the Convention guarantees that, by assuring the rights to express views (= desires) and adults' obligation to respond to them, children can restore dignity as a human substance, form relationships with parent and teachers, and through which, participate into the process of their growth and development (See Article 12 and 5). To recognize children's substance to use the rights to express views (= desires) is not to let children participate in citizens' and political activities like adults. Without affluent human relationships, it is impossible for children properly to grow and develop. The essence of the right to express views (= desires) is the "right to build human relationships" itself. Moreover the view of growth and development mentioned in the Convention, as stated before, is underpinned by the knowledge of the latest psychology and psychiatry. Therefore, the Convention provides that duties of the state are not to directly intervene in the process of child's growth and development, but to help such human relationships (See Article 18 and 3).

Thus, the right to express opinions is to enable children to live their present life, grow and develop through human relationships in which children are respected as a human substance, build the relationships and acknowledge themselves each other. Children are to be respected through not autonomy but the words that humans are humans. They live not in solitude but through "human relationships which enable children to share relief, confidence and freedom each other." This is a self-realization of children's rights.

The state, society and adults are to take following responsibilities, instead of policies of the past education and children's policies which have suppres-

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sed children's views (= desires).

- (1) to create some environment in which children can express views (= desires), by reflecting on their past control-oriented policies
- (2) to sincerely listen to and accept any of children's demands (different from realization of contents of the desires)
- (3) to be considerate to children's pains, not in a coercive attitude
- (4) to empathize children's desires, and help children to realize them
- (5) to take such accountability as convincing explanation and having dialogues in the case of refusing their desires

Speaking in the abstract, as a substance to guarantee children's growth and development, these matters are needed: relief to experience a feeling of atonement, confidence to experience self-affection, and freedom to try anything. The beginning of education (= to educate) is to develop and let bloom children's inmost "power", or a desire which is kept within children's minds,. The education and children policies which only suppress their demands is control-oriented, and spoil children's development.

## X What Japan's children's problems have brought about

As Japanese children said at the time of initial consideration before CRC, the Japanese government and those in power consider that "the Convention was established for the sake of children in developing countries." Therefore, they have taken the stance of "since the Convention exists for children whose lives are threatened by war, starvation and poverty, or for saving those undernourished children, wealthy countries like Japan don't need it." When the government ratified it, it insisted," Japanese children have fully



been protected by the Constitution of Japan, the Child Welfare Law, the Juvenile Law and so on, therefore the government doesn't have to enact other laws in line with the Convention." The 2nd Government Report was made with the notion that children ought to be happy if a country is economically affluent."

But, only war, starvation or poverty doesn't hamper children's growth and development. Only children in developing countries have been deprived of childhood, and the Convention doesn't exist only for the benefit of children in developing countries.

This is exemplified by the messages, submitted by Japanese NGOs, of children and of many adults who interact with them. As the "force" for economic development, children, since infant, have been selected, given goals, forced to become a person that society expects while giving up "living in their own way." In order to become persons who can contribute to economic development, children have been tied to invisible, violent systems. Children have been deprived of "his own way of living," their "words (desires)," and human relationships. An NGO report was full of the words of children in which they have been deprived of irretrievable childhood.

Japanese children, consequently, are unable to live "in their own ways," to be of service to others, and to live a creative life. Children in Japan, a "big economic power," have lost opportunities to grow and develop into persons with harmonious, perfect character as mentioned in the Convention, like children in developing nations.

Framework to consider the children's issues in a "developed country," Japan  
Under these facts, We NGOs published a new view of children. What children in Japan and other advanced countries need is to grow up and develop through interaction with adults. In short, it means to build human relationships through the rights to express views (= desires), and to get back to the spirits of the Convention.

**XI For solution of children's problems — Implement the "Convention" together with children in other countries**

The message given below is among the ones issued by 400 children of the world who participated in the "U. N. Special General Assembly for Children." held in May 2002.

**A WORLD FIT FOR US**

We are the world's children.

We are the victims of exploitation and abuse.

We are street children.

We are the children of war.

We are the victims and orphans of HIV/AIDS.

We are denied good-quality education and health care.

We are victims of political, economic, cultural, religious and environmental discrimination.

We are children whose voices are not being heard: it is time we are taken into account.

We want a world fit for children, because a world fit for us is a world

fit for everyone.

In this world, We are not the sources of problems; we are the resources that are needed to solve them.

We are not expenses; we are investments.

We are not just young people; we are people and citizens of this world.

Until others accept their responsibility to us, we will fight for our rights.

We have the will, the knowledge, the sensitivity and the dedication.

We promise that as adults we will defend children's rights with the same passion that we have now as children.

We promise to treat each other with dignity and respect. We promise to be open and sensitive to our differences.

We are the children of the world, and despite our different backgrounds, we share a common reality.

We are united by our struggle to make the world a better place for all.

You call us the future, but we are also the present.

In the present Japanese society, there are no street children nor terrible poverty which leads to starvation. Japan has no battlefields. But Japanese children and those in other countries are the same in that they have been deprived of their opinions by political and economic powers, not recognized as human substances living today, and exploited their childhood. They are connected into one through the same trouble (struggle). Children often cause various problems. But the cause doesn't lie in only children. Those children

Framework to consider the children's issues in a "developed country," Japan provide courage and power to adults who try to create an easy-to-live-in society. Let us try to listen to calls of children worldwide, create an environment where adults and children can share relief, confidence and freedom, and realize an easy-to-live-in world. We citizens and NGOs, in firm belief of such a world to come, are determined to implement the contents of the Convention in our daily life.