

Notes and References

2 Definitions of the child (Article 1)

[Note 2-1]

Article 10, paragraph 3 of International Covenant on Economic, Social and Cultural Rights guarantees that “special measures of protection and assistance should be taken on behalf of all children and young persons” and Article 24, paragraph 1 of International Covenant on Civil and Political Rights guarantees that “every child shall have the right to such measures of protection as are required by his status as a minor.” From the perspective of the Convention, domestic laws provide many special treatments for young person over 18, including juvenile justice, consumption of alcohol and smoking, prevention of consumer victimization and extension of responses for child welfare. These treatments contribute to the expansion of the principles of Convention to children under 18 years of age. Federation expresses concerns about expansion of consumer victims of young people at 18 and 19 years of age by lowering the age of adulthood in “Statement of Opinions on Consumer Victimization in connection with Lowering the Age of Adulthood under the Civil Code” of the Federation (February 16, 2017) .

[Note 2-2]

Penal Code, Article 179

A person who has committed obscene acts against a child under 18 years of age, who is taking advantage of the current situation of having influence on the care of a child shall be punished in the same manner as prescribed for in Article 176 (Note: Forcible Indecency).

2 A person who has had a sexual intercourse with a child under 18 years of age, who is taking advantage of the current circumstances of having influence on the care of a child shall be punished in the same manner as prescribed for in Article 177.

3. General Principles

[Note 3-1]

2nd Concluding Observations of the Committee, Paragraph 25

[Note 3-2]

Civil Code, Article 787

A child, his/her lineal descendant, or the legal representative of either, may bring an

action for affiliation; provided that this shall not apply if three years have passed since the day of the death of the parent.

[Note 3-3]

Refer to the “Statement Concerning the Revision of the Civil Code on the Statutory Shares in Inheritance of Children Born Out of Wedlock” of Federation as of December 6, 2013.

[Note 3-4]

Provisions of the Acts for Promotion of Resolution of Discrimination due to Disabilities

Article 7 Administrative organizations, etc., shall not, in conducting clerical affairs or projects, infringe on the rights and interests of persons with disabilities by unjust discriminatory treatment as compared with persons without disabilities due to disabilities.

2 Administrative organizations, etc., shall, in conducting clerical affairs or projects, provide necessary and reasonable accommodations for carrying out elimination of social barriers according to gender, age and conditions of disabilities of the persons with disabilities so that the rights and interests of the persons with disabilities shall not be infringed unless the burden of implementation is excessive, when the persons with disabilities expressed their intention that they need elimination of such social barriers.

(Prohibition of Discrimination by Business Operators due to Disabilities)

Article 8 Business operators shall not, in conducting their business, infringe on the rights and interests of persons with disabilities by unjust discriminatory treatment due to disabilities as compared with persons without disabilities.

2 Business operators, shall, in conducting their business, provide necessary and reasonable accommodations for carrying out elimination of social barriers according to gender, age and conditions of disabilities of the persons with disabilities so that the rights and interests of the persons with disabilities shall not be infringed unless the burden of implementation is excessive, when the persons with disabilities expressed their intention that they need elimination of such social barriers.

[Note 3-5]

- [1] There is no comprehensive act prohibiting discrimination against children.
- [2] Regarding gender-equality, the Japanese Government ratified the International Convention on the Elimination of All Forms of Discrimination against Women and submitted its reports seven times with respect to implementation and received reviews. Regarding discriminatory prohibitive acts, the Government only enacted the Basic Act for Gender Equal Society in 1999 and no other acts were enacted and gender-equality has not achieved expected results.
- [3] There is no act prohibiting discrimination against foreign national children (including stateless) and children of ethnic minorities, immigrants and refugees. Refer to “9. Special protection measures (1)” for enrollment of foreign nationals, ethnic schools, deportation and separation of children from parents.
- [4] For Ainu people, on May 8, 1997, the Act on the Promotion of Ainu Culture, and Dissemination and Enlightenment of Knowledge about Ainu Tradition, etc., (enacted on May 14, 1997) was enforced, by repealing the Hokkaido Former Aborigines Protection Act, but such structural discrimination as economic gaps and education gaps remain. Refer to “9. Special protection measures (2).”

[Note 3-6]

- [1] Regarding gender-equality, the UN Committee on the Elimination of Discrimination against Women recommended reviewing, descriptions that facilitate discriminatory practices against women, however, that remain in authorized textbooks even today such as fixed gender role sharing and encouraged stereotypical notions of “manly” and “womanly” which are inculcated in children.
- [2] Regarding the legal system to support mother-child households, policies regarding negative attitudes toward support for mother-child households have continued, such as restrictions on income for child support allowances have been expanded, support for mother-child households have regressed and deductions for widows have not been applied for single mothers. Refer to “7. Disabilities, Basic Health and Welfare (6)”.
- [3] Paragraph 31 denounces that the indication of the removal of Article 5 from the Basic Act on Education in the Paragraph 33 of the Concluding Observations, deviates from historical backgrounds and the facts, but this denunciation maintains and preserves discriminatory practices as it disregards the fact that the Basic Act on Education, Article 5 contributed to a reduction in discriminatory practices while major discriminatory practices against women remain.

[4] Regarding of foreign nationals, ethnic minorities, immigrants and children of refugees, the Committee on the Elimination of Racial Discrimination is concerned about reports of the spread of hate speech (Concluding observations on the combined seventh to ninth periodic reports of Japan, Concluding Observations 11), but the Japanese Government's Report does not mention efforts corresponding to such hate speech. Moreover, it is a form of social discrimination when the path to participation in public office for permanent residents in Japan without Japanese nationality is completely closed, but there has been almost no effort to resolve this. On October 18, 2016, members of the Riot Police of Osaka Prefectural Police Department instigated social discriminatory actions by uttering "dojin (aborigines)" and "shina-jin (Chinese)" to people protesting around the Helipad construction site at the North Training Area of the US Military in Takae, Higashison, Okinawa. Campaigns to correct such incorrect social recognition have been inadequate. Refer to "9. Special protection measures (1) (2)."

[Note 3-7]

The provisions of the Child Welfare Act amended in June 2016, responding to the Paragraph 37 of Concluding Observation, were as follows. Refer to "6. Family Environment and Alternative Care."

Article 1 "All children shall, pursuant to the spirit of the Convention on the Rights of the Child, have the right to be properly nurtured, be afforded a guaranteed level of life, be loved, be protected and be ensured of sound growth and development of mind and body and independence and equal guarantees of any other welfare."

Article 2 [1] "All citizens shall endeavor to ensure that children are born in a good environment so that their views are respected according to age and degree of development of children in any area of society, the best interests of children shall be given priority and children shall be brought up in good mental and physical health.

[2] "Guardians of children shall be responsible for bringing up children in good mental and physical health.

[3] "The national and local governments shall be responsible for bringing up children in good mental and physical health, along with their guardians."

Article 3 "The provisions of the preceding two Articles constitute the basic philosophy to guarantee children's welfare and this philosophy shall be consistently respected in enforcing all laws and regulations on children."

[Note 3-8]

Child Welfare Act (amended in 2016), Article 1

All children shall, pursuant to the spirit of the Convention on the Rights of the Child, have the right to be properly nurtured, be afforded a guaranteed level of life, be loved, be protected and be ensured of sound growth and development of mind and body and independence and equal guarantees of any other welfare.

[Note 3-9]

(Legal System)

- [1] In the amendment to the Child Welfare Act in June 2016, prohibition of corporal punishment at school and home was considered, but it was not realized because it conflicts with other legal systems permitting discipline. Prohibition of corporal punishment should be legislated in terms of the best interests of the child. Refer to “5. Violence against children.”
- [2] The Paragraph 54 of Federation’s Report , on the 3rd Japanese Government’s Report on the Rights of the Child indicated that the amendment to the Basic Act on Education in 2006 and the reform of other laws related to need to be reviewed again, from the standpoint of the best interests of the child. However, thereafter, contrary to reconsideration, the reform threatening the best interests of the child has continued.

In June 2014, the Act on the Organization and Operation of Local Educational Administration was amended, which accompanies the changes that weakened the independence of the board of education and the intention of the head of local governments would be strongly reflected. Under such systems, scrap and build of schools continued, national uniform academic performance tests were established, the educational system was changed to be more competitive and the legal system guaranteeing the best interests of the child has further regressed. Refer to “8. Education, leisure and cultural activities (1).”

Further, changes in the family environment have weakened the education ability of the family, some local governments have enacted ordinances to support family education, beginning with an ordinance in Kumamoto Prefecture in December 2012 and at the national level, in October 2016, the LDP drafted the Family Education Support Act Bill, which intends to promote legislation supporting family education in accordance with the basic policy determined by the Minister of Education, Culture,

Sports, Science and Technology in order to train children for acquisition of necessary tools to support living.

Regarding difficulties of families raising children, Paragraph 50 and Paragraph 51 of the Concluding Observations, recommend that State party introduce measures to support and strengthen families based on the best interests of the child. The idea that the national and local governments instruct families and children so that guardians have children acquire good habits is not based on the best interests of the child and only increases the difficulties of children and families.

- [3] In the juvenile legal system, reform that rolls back the “best interests of the child” has continued following the amendment in 2000 and in the amendment to the Juvenile Act in April 2016. Although juveniles were previously considered to be elastic and rich in possibility for improvement and rehabilitation, involvement of public prosecutors in the protection procedures has been expanded and severe punishment regarding juveniles has strengthened. Now, attempts continue to dismantle family courts, which achieved results in rehabilitation of juveniles after the War, while older juveniles were referred to criminal trials. Refer to “9. Special protection measures (4).”
- [4] Regarding childcare, the Child Welfare Act was amended in connection with the enactment of the Act for Support Children and Childcare as of August 22, 2015 and in order to secure the quantity of childcare, reforms disregarding quality have advanced, childcare service operations have become more complicated and the circumstances threatening the safety of children have continued. For details, refer to “7. Disabilities, basic health and welfare (6).”

[Note 3-10]

(Status of Operation)

- [1] At homes, abuse has never been reduced, and, instead, has seen an increasing trend and in 2017, the number of cases which child guidance centers in 208 places in Japan handled was 103,206 cases, the largest in history.
- [2] Regarding child care, the number of children on waiting lists for nursery schools has been increasing. Under circumstances such as an increase in the number of children on waiting lists for nursery schools, unauthorized childcare facilities which are not required to satisfy certain standards have been increasing. Accidents within the premise of such schools have occurred often. Refer to “7. Disabilities, basic health and welfare (6).”

- [3] Relative poverty of children has slightly improved, but children in poverty numbers one (1) out of seven (7), which is serious in comparison to the international standards. Refer to “7. Disabilities, basic health and welfare (6).”
- [4] While the Juvenile Act, Article 61 provides, “No newspaper or other publication may carry any article, etc., from which a person could be identified,” reporting using real names is common occurrence and cases posting real names via the Internet have been increasing. Effective measures have not been implemented for the above circumstances, and no contrivance has been recognized to make the best interests thoroughly known and provide assurance. Refer to “9. Special Protection Measures (4).”
- [5] Regarding radiation damage as a result of the Great East Japan Earthquake and destruction of the Fukushima Nuclear Power Plants, many children suffered from damage related to survival, growth and development and after seven (7) years since the accidents, there are many children who still cannot return to their hometowns or who are suspected of having fallen ill from cancer.

[Note 3-11]

(Paragraph 36)

For youth reporters, Refer to “8. Education, Leisure and cultural activities (1).” Subjects consists of a review meeting of experts in Paragraph 37, schools in Paragraph 38, child guidance centers in Paragraph 39, family courts in Paragraphs 40, 41, and 157, human rights institutions in Paragraph 42 and training schools, juvenile classification offices and criminal detention facilities in Paragraph 43, that is, none of these are for children.

There is no guarantee that the opinions of children are being respected. Paragraph 8 of General Comment No.12 requires proper method to duly focus on the opinions of children, Paragraph 11 states that the environment in which children can exercise the right to be heard should be provided and Paragraph 16 states that it must be ensured that children are able to receive information and advice to state their opinions. It is not enough that the opinions of children are only heard and justified as duly focusing on opinions. In this regard, in relation to Paragraph 40, children are not permitted to act for themselves in civil actions. Article 31 of the Code of Civil Procedure, provides, “a minor or an adult ward may not perform any procedural act except through a statutory agent; provided, however, that this does not apply if the minor may perform juridical acts independently.” Refer to “2. Definitions of Child (5).”

[Note 3-12]

(Paragraph 38)

The Report denies a system of guaranteeing the principle of placing priority on the best interests of the child in school management based on the opinions of children since formulation of school rules, determination of curricula and other related matters at schools do not come under the scope of rights for expressing opinions. There are almost no schools that have the mechanism for children to participate in school management. At school, there are many cases where obeying the unilaterally determined school rules is brought about by discipline accompanied by corporal punishment. In school subjects, the Government sets out the purpose of study, implemented education by textbooks unilaterally authorized by the Government, and moral education became a subject. Bullying, absence from school, internal violence, suicide and staying at home are on the rise. In this regard, for operation, refer to 7. (Status of Operation) [2]. Regarding this point, for details, refer to “8. Education, leisure and cultural activities (1).”

[Note 3-13]

Concluding Observations Paragraph 85 states that “the Committee urges the State party to review the functioning of the juvenile justice system, taking account of the Committee’s general comment No. 10 (2007)” and paragraph 77 of which states that “a life imprisonment of a child will make it very difficult, if not impossible, to achieve the aims of juvenile justice despite the possibility of release, the Committee strongly recommends the Signatories to abolish all forms of life imprisonment for offences committed by persons under the age of 18.” For life sentence, before the amendment of 2000, it was provided, “in case a person who is under 18 years of age at the time of commission of an offense is to be punished with life imprisonment, imprisonment with or without work for more than 10 years and not more than 15 years may be imposed,” all the sentences were reduced to definite term sentences (Juvenile Act before amendment, Article 51) and the person was not subject to parole after three (3) years had passed (Article 58, paragraph 1, item 2). By the amendment of 2000 it is provided, “in case a person who is under 18 years of age at the time of commission of an offense is to be punished with life imprisonment, imprisonment with work with a definite term or imprisonment without work may be imposed” (Article 51), which means a definite term sentence may be chosen but not required. Under a life sentence without a reduced sentence, parole may be allowed after seven (7) years have

passed (Article 58, paragraph 1, item 1). Operation of indefinite term sentences imposed on juveniles by determining either short-term or long-term, those who were paroled before termination of the shorter sentences were 41.4% in 1986, but this was reduced to 2.2% in 2011, and on the other hand, persons who were not allowed parole after 80% of the long-term sentence had passed increased to 80.4% from 16.7%, indicates a trend toward severer punishment has become the norm (Legal System Council, Juvenile Act Section, Meeting on October 15, 2012, Materials distributed by the Ministry of Justice 4). Further, amendment of April 2014 imposed severer punishments by increasing the term of imprisonment with or without work which are reduced sentences of life imprisonment. For reference, under the Juvenile Act of the Taisho Period, which was enforced in 1923, life sentences were reduced together with death sentences to fixed term sentences as they were not appropriate for juveniles.

[Note 3-14]

In this regard, in the report on review meetings on “How the Manual of Comprehensive Measures for Suicide Should Be” prepared in April 4, 2017 states, “suicides of elementary and junior high school students were mainly due to family life and school life, and suicides of high school students were mainly due to concerns about bad academic performance and the future course of life and depression.” There were suicide cases, in October 2011 a junior high school student in Otsu City committing suicide due to bullying, and in December 2015,a junior high school student committed suicide in Fuchu City, Hiroshima Prefecture due to refusal of receiving a recommendation for high school entrance exam because of incorrect records written by his teacher.

[Note 3-15]

In January 2017, in Masuda City, in November 2016, in Chiba City, in October 2016 in Yokohama City and Joetsu City, accidents subsequently occurred, in which cars crashed into a line of children commuting to schools in a group and children and attendants died or were injured. In April 2017, in Chiba Prefecture, a girl in the 3rd grade in elementary school was killed and the President of the Guardian’s Association was arrested.

[Note 3-16]

JAPAN SPORT COUNCIL summarized the details of “school” accidents by death and injury and distributed leaflets as study materials so that schools could utilize these leaflets

to prevent accidents and disasters from happening under control of schools, but at “school” sites, there are almost no efforts to avoid accidents by studying such material. On March 11, 2011, a massive catastrophic event occurred, when a great tsunami was triggered by the Great East Japan Earthquake, pupils of Okawa Elementary School in Miyagi Prefecture evacuated toward the direction of a river by the instructions of teachers, although the municipal government had warned to evacuate to higher places away from rivers, and 74 persons died (Total number of pupils was 105. Decision of Sendai District Court as of October 26, 2016).

[Note 3-17]

Victims of the Great East Japan Earthquake and Fukushima Nuclear Power Plant accidents reached death tolls of 15,829 and the disappearance of 3,725 as of October 26, 2011, which included many children. 241 children became orphans and most of them are living in a family environment with relatives or are in the foster parents system. Further, as there are some families who have spent an excessive amount of time living the life of evacuees due to the occurrence of the nuclear power plant accidents in connection with the earthquake and due to great amounts of stress on families as a result of major changes in living environments in connection with disasters, the number of consultations on child abuse increased after the disasters. The present response to mental and physical health problems of children which require long-term care cannot be regarded as adequate. It is essential to take more hospitable and continued measures.

[Note 3-18]

According to “Concerning the Status of Support to Children who lost Parents in the Earthquake Disasters” by the Reconstruction Agency as of October 7, 2015, out of 241 orphans as a result of the earthquake disasters as of March 2015, six (6) children entered children’s institutions, including two (2) children who were living in institutions before the earthquake disasters, and 67 children were accepted by relatives and a total of 168 children were consigned to relative foster parents and caring foster parents.

[Note 3-19]

According to the “Declining Birthrate Bluebook 2013” of the Cabinet Office, the number of responses to child abuse consultations at the child guidance centers in 2012 totaled 311 cases in Fukushima Prefecture (an increase of 20% from the previous year) and

1322 cases in Miyagi Prefecture (an increase of 14% from the previous year) and 382 cases in Iwate Prefecture (an increase of 0.3% from the previous year).

4. Civil and political rights and freedom (Article 7, Article 8, Article 13 through Article 17)

[Note 4-1]

Civil Code

(Presumption of Child in Wedlock)

Article 772 A child conceived by a wife during marriage shall be presumed to be a child of her husband.

2 A child born 200 days from the formation of marriage or within 300 days of the day of dissolution or rescission of marriage shall be presumed to have been conceived during marriage.

[Note 4-2]

Notice of Elementary and Middle Education Bureau Director, “Education for Political Literacy at High Schools and Political Activities of High School Students”

[Note 4-3]

Basic Act on Education

Article 14 The political literacy necessary for sensible citizenship must be valued in education.

2 The schools prescribed by law shall refrain from political education in favor of or against any specific political party, and from any other political activities.

[Note 4-4]

March 4, 2015: Proper Treatment of Auxiliary Education Materials at School

[Note 4-5]

Ordered Circular Notice of Deputy Director of the National Police Agency, “Matters of Note for Promoting Juvenile Police Activities”

V Investigation of Criminal Juvenile Cases 4 Interrogation (2) Witness, etc.
“In the interrogation of juvenile suspects, it is considered that the guardians

accompanying children and any other appropriate persons shall be permitted as witnesses, except for unavoidable reasons. This is for the purpose of preventing any unnecessary tension placed on juveniles and expecting cooperation to examine the truth and the effective results of ex post facto instruction and training. Therefore, this is to be determined from the viewpoint of protection and care of juveniles and does not include a person who is not generally protecting or caring for juveniles. The examples deemed to be appropriate are teachers of the schools of juveniles and the employers of the juveniles, etc. Witnessing of guardians and any other appropriate persons shall be treated in line with the above purpose on a case by case basis.”

5. Violence against children (Article 19, Article 24, paragraph 3, Article 28, paragraph 2, Article 34, Article 37(a), Article 39)

[Note 5-1]

Ministry of Health, Labour and Welfare, “Guide for Response to Child Abuse” Revised Edition (August 2013)

It added, “corporal punishment is an inappropriate action which is not only ineffective to children but also gives adverse effect.”

[Note 5-2]

Additional Resolution to the Bill amending Part of the Child Welfare Act (May 2016)

“In order to prevent child abuse and ensure sound development of children, raise awareness of childcare that does not rely on corporal punishment by thoroughly publishing that exercise of physical power against children is generally inappropriate as it would adversely affect the mind and development of children. It is required to make efforts to understand the current circumstances surrounding families and review how disciplinary rights of persons exercising parental authority should be, based on discussion trends in international communities.”

[Note 5-3]

In the Leaflet prepared by the Scientific Research Expense Subsidies 2016 of the Ministry of Health, Labour and Welfare, “In Order to Soundly Develop Children ~ No Loving Smack Operation ~” (Issued in May 2017), there are the following descriptions:

- “Corporal punishment and verbal abuse would seriously affect the development of the brains of children” (Tomoda A et al., Neuro-image, 2009) (Tomoda A et al., Neuro-image, 2011)
- “Corporal punishment does nothing but harm. No desirable effect would be given to children.” (Gershoff ET, Grogan-Kaylor A, J Fam Psychol. 2016)
- “There are over 50 countries around the world that completely ban corporal punishment and other harmful behavior! The UN “Convention on the Rights of the Child” requires Signatories to abolish acts hurting children, including corporal punishment and verbal abuse.
- “Stop loving smack and soundly develop children.”

[Note 5-4]

The 16th Sound Parents and Children 21 Promotion Council General Meeting (Minutes) (Ministry of Health, Labour and Welfare, Employment Environment and Equal Employment Bureau/Child and Family Policy Bureau, Maternal and Child Health Division: March 2017), Ministry of Health, Labour and Welfare, Child and Family Policy Bureau, Maternal and Child Health Division Manager

“Sweden, which had a history of harsh treatment, promoted efforts to eliminate corporal punishment. It was in 1958 that corporal punishment was banned at schools. In 1966, the provision of the Parent and Child Law, authorizing the right to spank in the same manner as the Civil Code of Japan, was abolished and in 1979, it was expressly prohibited. Provisions are as follows, “children shall not be subject to corporal punishment and any other degrading treatment.” This occurred not only in Sweden, but more than 50 countries have adopted a zero-tolerance policy to corporal punishment. That is, they do not permit corporal punishment. What have been the results? In Sweden, over the last 40 years, exercise of corporal punishment actually accounted for over 90%, but it was reduced to slightly more than 10%, about 1/9 compared to the previous results. When we cope with this problem by population approach and could achieve results, I think we can significantly change the abuse problem in Japan. Allow me to express my expectations at this moment, but I strongly wish that we will achieve results under the 2nd Plan and we can see that the graph on the number of consultations on child abuse will lower after ten or twenty years.

In addition, the Child Welfare Act, etc., was amended last year. This is an additional resolution of the Diet, urging “to raise awareness of childcare that does not rely on corporal punishment,” which is a request of the Diet to all of us. Also, there was another additional

resolution, “to review how disciplinary rights of persons exercising parental authority should be.” I think this was an additional resolution of the Health and Labor Committee of the Upper House. As this is our assignment, I think we must steadily address these assignments and look to achieve results as a task of maternal and child health.”

[Note 5-5]

3,729 parents who answered to questionnaires of The Asahi Shimbun (August 21, 2010)

58% of these parents answered corporal punishment for children is necessary and 65% of them actually applied corporal punishment.

[Note 5-6]

UPR 2nd Japanese Government’s Report (July 2012), p.10

“Article 822 of the Civil Code stipulates that a person with parental authority may discipline a child to an extent deemed necessary. This provision allows a person who exercises parental authority to discipline the child to an extent deemed necessary and appropriate from the perspective of taking care of the child in order to correct the child’s misconduct and guide the child onto the right path. This provision does not allow for corporal punishment.”

[Note 5-7]

Answer of the Vice Minister of Justice at the Diet (May 26, 2017)

“At the Special Committee on Youth Problems of the Lower House in 2000, then Director of Civil Affairs Bureau answered that discipline may include corporal punishment and it should be determined by sound common sense of that society and times whether it is necessary and reasonable for childcare.” “If we understand that any exercise of physical power is corporal punishment, it is difficult to determine that corporal punishment is not included in the scope of rights of discipline.”

[Note 5-8]

Article 11 of School Education Act,

“Principals and teachers may impose discipline on pupils and students in accordance with the provisions determined by the Minister of Education, Culture, Sports, Science and Technology when it is deemed to be necessary for education. However, corporal

punishment may not be imposed.”

[Note 5-9]

3rd Japanese Government’s Report (April 2008)

(Corporal punishment at child welfare facilities)

258. With regard to heads of child welfare facilities, the Minimum Standards for Child Welfare Facilities (1948, Ministry of Health, Labour and Ordinance No. 63) (Article 9-3) prohibits them from abusing their authority in relation to disciplinary actions such as corporal punishment. (snip) Moreover, concerned parties are requested to strictly abide by such standard where acts corresponding to the abuse of the rights to take disciplinary actions such as corporal punishment are prohibited.

[Note 5-10]

Concluding Observations of the UN Convention Organizations, etc., after the 3rd Concluding Observations (2010)

- UPR 2nd Concluding Observations (March 2013, 147. 126)
“To prohibit corporal punishment expressly in all situations (Hungary)”
- Committee against Torture, 2nd Concluding Observations (May 2013, p.23)
“State party should explicitly prohibit corporal punishment and all forms of degrading treatment of children in all settings by law.”

[Note 5-11]

In the report (proposal) (p.4) to the Ministry of Health, Labour and Welfare, Social Security Council, Child Section, “Expert Committee on How New Welfare for Child/Family should be,” it was proposed that “punishment that would damage the minds and bodies of children, including corporal punishment shall be prohibited.”

[Note 5-12]

“Understanding of the Reality of Corporal Punishment by the Ministry of Education, Culture, Sports, Science and Technology”

- In 2011, reports of only the number of dispositions of teachers at public schools totaled 404 cases (disciplinary dispositions: 126 cases, admonition, etc.: 278 cases)
- In 2012, national, public and private schools totaled 6,721 cases and out of which, for public schools, reports (secondary reports) conducting investigations of pupils, students

and guardians totaled 5,415 cases.

- In 2013, national, public and private schools totaled 4,175 cases and out of which, for public schools, reports of only the number of dispositions of teachers totaled 3,953 cases (disciplinary dispositions: 410 cases, admonition, etc.: 3,543 cases).
- In 2014, national, public and private schools totaled 1,126 cases and out of which, for public schools, reports of only the number of dispositions of teachers totaled 952 cases (disciplinary dispositions: 234 cases, admonition, etc.: 718 cases).
- In 2015, national, public and private schools totaled 890 cases and out of which, for public schools, reports of only the number of dispositions of teachers totaled 721 cases (disciplinary dispositions: 174 cases, admonition, etc.: 547 cases).

[Note 5-13]

“Consideration for Reality Survey for Corporal Punishment -What we learn from the case of corporal punishment at Sakuronomiya High School-” (House of Councilors, Education and Science Committee, Research Office) (“Legislation and Research” No. 347, December 2013)

“In this survey on the reality of corporal punishment, questionnaires to pupils, students and guardians were conducted and minor cases which had been previously overlooked were reported and the number of corporal punishment cases largely increased. On the other hand, as survey methods differ according to each local government, it is pointed out that questionnaires do not always correspond to reality.” (p.102)

“While about 60% of corporal punishments occurred during classes at elementary schools, at junior and high schools, about 40% occurred during club activities and a slightly more than 20% occurred during classes. As regards the manner of injury, “hitting by bare hands” accounted for about 60%, “kicking” about 10%, followed by “hitting and kicking” and “hitting by a stick.” In over 80% of the cases, victimized pupils and students were not injured, but there were 37 teachers who caused broken bones and sprains and 47 teachers who injured eardrums.” (p.106)

“As the reasons for corporal punishment not being eliminated, Minister of Education, Culture, Sports, Science and Technology, Shimomura indicated the following background: [1] that teachers become emotional and administer corporal punishment in an effort to raise awareness by corporal punishment, [2] perceived notion that this extent will be tolerated, [3] incorrect recognition that corporal punishment is justified as strict instruction, and Ministerial Aid of Education, Culture, Sports, Science and Technology, Yoshiie indicated

that negative admission of corporal punishment that corporal punishment is necessary to some extent is widely disseminated.” (p.109)

“Personnel and Administration Status Survey of Teachers and Staff of Public Schools” of the Ministry of Education, Culture, Sports, Science and Technology, the previous statistics of corporal punishment, counted the number of teachers who were subject to discipline and admonition by corporal punishment and the number of dispositions has progressed to around 400 cases over the past 10 years. However, by the method of grasping the reality by the number of teachers subject to dispositions, we could not determine the cases which were not recognized as corporal punishment by the board of education like the case of corporal punishment at Sakuranomiya High School. As the number of corporal punishment cases increased by seven times in this survey, we can assume that there are a considerable number of corporal punishments recognized by only pupils, students and guardians. Minister of Education, Culture, Sports, Science and Technology, Shimomura indicated the possibility that the previous surveys lost substance and detailed surveys as in the same manner of the current survey should be continued in order to precisely grasp the reality of schools and to contribute to awareness reform of the education field.” (p.109)

“While Oita Prefecture, in which the number of teachers involved in corporal punishment was only two (2) in 2011, the number soared to 382 persons in 2012, conducted questionnaires to all pupils and students, guardians and teachers and staff and were made to report minor cases by establishing corporal punishment investigation committees at each school, Fukui Prefecture, in which the number of teachers involved in corporal punishment was 14, the least of which, did not conduct questionnaires and responded by thorough hearings from teachers and staff. Ministry of Education, Culture, Sports, Science and Technology should indicate more specific standards for survey methods so that there will not be a significant difference in grasping the reality by region.”(p.110)

“Although corporal punishment for problematic behavior of pupils and students was clearly prohibited by the School Education Act, Article 11, the fact that there remains “negative tolerance of corporal punishment” in public opinion, etc., confused discussions about corporal punishment. Since it is provided in laws, discussions should not be “to what extent” it is permitted but should be “absolutely prohibited,” which must not be let out of our sight in discussions about corporal punishment. Based thereon, it is required to take such measures as thorough awareness-raising of prohibition against corporal punishment and anger management, etc., through which teachers acquire a method of controlling their emotions shall be incorporated into teachers’ training.

On the other hand, with regard to corporal punishment during athletic activities, mere violence in sport instruction is mixed and to this problem, advisory teachers are required to learn correct instruction methods and acquire necessary instruction skills as sports instructors. At present, adviser training, etc., is offered by the Nippon Junior High School Physical Culture Association, etc., for training of advisory teachers. It is desired to further enhance such measures and require acquisition of qualification for sports instructors.” (p.111)

6. Family environment and alternative care (Article 5, Article 9 through Article 11, Article 18, paragraph 1, paragraph 2, Article 20, Article 21, Article 25, Article 27, paragraph 4)

[Note 6-1]

Child Welfare Act, Article 2, paragraph 3 “The national and local governments shall be responsible for bringing up children in good mental and physical health, along with their guardians.”

The Act, Article 3-2 “National and local governments shall support guardians of children so that children can be raised with good mental and physical health at home; provided, however, that considering the status of the minds and bodies of children and their guardians, the environment surrounding them and any other situations, national and local governments shall endeavor to implement necessary measures so that children can continue to be raised in an environment similar to a home environment when it is difficult or inappropriate to raise children at home, and children can be raised in a good family environment as much as possible where it is not appropriate to raise children at home and in the home environment.

[Note 6-2]

Decision of Tokyo High Court, January 25, 2016 (the Plaintiff sought from the Defendant (City) payment for damages for part of nursery care expenses to be paid by public funds if the child were admitted to an authorized nursery school, by reason that non-admission disposition for authorized nursery school by the Defendant to the child of Plaintiff is illegal) and many other cases.

The national government has addressed improvement of receptacles for childcare in order to resolve children on the waiting list of nursery schools and receptacles for childcare

were 2,184,396 persons in April 2011 and increased to 2,559,465 persons in April 2016, but applicants for childcare increased to 2,722,942 persons in April 2016 from 2,324,468 persons in April 2011 and children on the waiting list for nursery schools have increased. (April 25, 2017, Ministry of Health, Labour and Welfare, the 20th Finance Uniform Reform Promotion Committee, Social Security Working Group “Efforts for Resolution of Children on the Waiting List of Nursery Schools” Reference Material). Many tasks remain in order to reach resolution regarding children on the waiting lists for nursery schools such as increasing the currently inadequate children’s nursery teacher wages, while authorization for new nursery schools by local governments is strict, etc.

[Note 6-3]

Amendment to the Child Welfare Act, Article 33, paragraph 5 “Where it is against the will of the person exercising parental authority over the child or minor guardian that temporary custody continues under the previous paragraph (if it is deemed necessary to exceed two (2) months), if the director of a child guidance center or Governor of a Prefecture intends to continue temporary custody and each time the director of a child guidance center or Governor of a Prefecture intends to continue temporary custody, the director of a child guidance center or Governor of a Prefecture shall obtain the approval of a family court; except as the claim for approval under Article 28, paragraph 1, item 1 or item 2, proviso concerning the child or the claim for forfeiture of parental authority or suspension of parental authority was made for the person with parental authority over the child under Article 33-7.

[Note 6-4]

The number of cases of child abuse handled by one child welfare caseworker is reported to be about 40 cases according to the survey of the Ministry of Health, Labour and Welfare in 2015.

[Note 6-5]

The final amendment to the Minimum Standards for Child Welfare Facilities as of August 18, 2016 determined, for example, the standards for children’s institutions as follows: Regarding assignment of staff, under the Japanese labor standards legal system, the number multiplying the number of children by three shall be the number of staff caring for children per hour.

Article 41, paragraph 1 The standards for the facilities of children's institutions shall be as follows:

The capacity of children per room shall be no more than four (4) and the space shall be 4.95m² or more per child; provided, however, that the capacity of one room only for babies and infants shall be no more than (six) 6 and the space shall be 3.3m² or more.

Article 42, paragraph 6 the total number of children's instructors and children's nurses shall generally be one or more per 1.6 children under the age of two and generally one or more for two infants above the age of two and under the age of three, generally one or more for four infants above the age of three and generally one or more for 5.5 children. Facilities admitting not more than 45 children shall add one or more staff.

[Note 6-6]

The number of cases accepting filed and reported abuse of children under custody in 2014 by the Ministry of Health, Labour and Welfare, "On the Status of Responses by each Prefecture and City to Abuse of Children under Custody in 2014."

[Note 6-7]

Under the definitions of the Child Welfare Act, lack of taking an appropriate response to assaults and sexual acts among children at children's institutions is defined as neglect of children under custody, and neglect is one of the problems regarding protection of rights of the child in the facilities. According to the Ministry of Health, Labour and Welfare, "On the Status of Responses by each Prefecture and City to Abuse of Children under Custody in 2014," the number of neglect cases, including other forms of neglect, was extremely small as 4, 3, 2, 3, 2 and 5 cases from 2009 through 2014. Regarding this matter, it was pointed out that [1] regarding "neglect of abuse of other children" as the standards for what is regarded as neglect are not clear and delegated to subjective judgment of the related persons. Therefore, there is a possibility that "psychology that tends not to be regarded as neglect would work", [2] where abuse by other children continued over a long period of time and was serious or a child was victimized repeatedly, if the victimization was finally detected at some point and certain actions were taken, it might not be counted as neglect. (Seiichi Tajima, "Amendment to the Child Welfare Act and the Future of Abuse in Facilities - On Concerns that the Problems might be concealed" (Social Custody and Family Home, Vol. 5, p. 12).

In this regard, according to the survey conducted by the Tokyo Council of Social

Welfare in October 2007, the number of cases of physical violence among children that occurred in children's institutions (59 facilities) in Tokyo over the course of one week, the survey subject period, totaled 99 cases.

[Note 6-8]

For the status of information about reporting means of abuse by children under custody, according to the publication of the Ministry of Health, Labour and Welfare set forth in Note 6-7 above, local governments notifying the contact telephone number totaled 81.2%, local governments delivering postcards to be sent without postage stamps totaled 55.1%, local governments notifying the contact of a third party committee member totaled 37.7% and local governments regularly conducting questionnaires totaled 4.3%.

[Note 6-9]

According to the Ministry of Health, Labour and Welfare, "Welfare Administration Reported Cases" (as of the end of March 2016), the percentage of consignment to foster parents was 17.46%. According to the survey of present status of social custody by the Ministry of Health, Labour and Welfare (2014), the ratio of consignment to foster parents of new born babies under the age of one month in 2014 was 14.9%, and the remainder were placed in the custody of infant homes.

[Note 6-10]

According to the Ministry of Health, Labour and Welfare, "On the Status of Responses by each Prefecture and City to Abuse of Children under Custody in 2013," facilities in which the facts of abuse were recognized, 49 cases (56.3%) at "children's institutions" and 13 cases (14.9%) at "foster parents and family homes." Comparing the percentage of children under custody, the percentage of abuse by foster parents is higher than abuse in the facilities, as the number of children consigned to foster parents and family homes at the end of 2013 was 5629 persons (Welfare Administration Reported Cases) and the number of children consigned to children's institutions in October 2013 was 28,831 (Survey of Social Welfare Facilities). In the same survey, as the background analysis of abuse, from the perspective of support system and care attitude of foster parents/family homes, it has been pointed out that efforts to encourage foster parents to participate in training is inadequate. Sharing of childcare methods that incorporate independent life support plans developed by child guidance centers is also inadequate.

Regarding training and continued support for foster parents, child guidance centers assigning exclusive counselors for foster parents totaled only 98 out of 207 child guidance centers as of October 2014 (some facilities assign one staff concurrently working as a counselor) (Survey of the Ministry of Health, Labour and Welfare, 2016, “Present Status of Social Care”)

[Note 6-11]

“Handbook for Utilizing the Programs to Support Guardians at Child Guidance Center (Study on Development and Operation of the Programs supporting Parents in Reintegration of the Family in Case of Child Abuse)” p.35

7. Disabilities, basic health and welfare (Article 6, Article 18, paragraph 3, Article 23, Article 24, Article 26, Article 27, paragraph 1 through paragraph 3, Article 33)

[Note 7-1]

Child Welfare Act, Enforcement Regulations

Article 35 To the equipment and operation of the facilities temporarily protecting children under the Act, Article 12-4, the provision of the Minimum Standards for Child Welfare Facilities (except for those related to family support professional counselors and the Regulations, Article 42, paragraph 6, proviso and Article 45-3) shall apply *mutatis mutandis*. In such an event, in the Regulations, Article 42, paragraph 1, proviso, “provided, however” shall be read “provided, however, that individual response staff at the facilities temporarily protecting not more than ten (10) children” and “ten (10) children or more deemed to be necessary to conduct psychological treatment” shall be read as “children temporarily protected.”

[Note 7-2]

Kyoko Tanebe, “Pregnancy at a Younger Age and its Background”: The Japanese Association for Sex Education (JASE), Modern Sex Education Journal No. 60, p.3. According to the Demographic Statistics of the Ministry of Health, Labour and Welfare, the number of births by children under the age of 14 is around 40 to 50 children over the past twenty years.

[Note 7-3]

According to National Police Agency, Community Safety Bureau, Juvenile Division, “Status of Juvenile Delinquency, Child Abuse and Sexual Exploitation of Children, etc.” (March 2017). 80 cases in 2014, 144 cases in 2015 and 210 cases in 2016.

[Note 7-4]

Childcare Allowance Act, Article 13-3

For the purpose of promoting the independent life of a single parent, etc., the provision of part of suspension of payment after five years from the commencement of payment was established in 2002, but this suspension can be avoided by filing an application for exemption, which means the system is in fact frozen. However, as it is necessary to submit various materials for *prima facie* proof to file an application for exemption, these procedures excessively burden recipients both physically and mentally. Therefore, this provision should be repealed.

[Note 7-5]

Additional Resolution to the Bill amending Part of the Childcare Allowance Act

Government should take appropriate measures for the following matters in enforcing the Act.

- 1 For a single parent family, comprehensive efforts should be strengthened for placement support aiming at an independent life by employment, childcare/life support and learning support, etc., and appropriate measures should be implemented to ensure provision of administrative support for single parent families requiring support.
- 2 The amount of payment, including addition to the child allowance, shall continue to be reviewed as to how it should be based on the status of income and actual circumstances of living of a single parent family, and changes in the future social and economic conditions, etc., in accordance with the purpose of the system that contributes to stability of life and the independent life of a single parent family.
- 3 For payment methods of child allowance, considering burdens, etc., incurred by local governments at the time of payment of allowances and from the viewpoint of contributing to improvements in convenience and stable household budgets of a single parent family, necessary improvement measures shall be reviewed including the times of payment. In order to facilitate the independent life of a single parent family, promote support for household budget management of a single parent family.
- 4 Based on the actual circumstances that university entrance rates of a child of single

parent family is significantly low, efforts shall be made for comprehensive initiatives to ensure opportunities for children of a single parent families to enter universities, etc., including support to study of children, reducing burden, etc., of education expenses by enhancing scholarships, while maintaining stable life by child allowance, etc.

- 5 Make efforts to understand the actual circumstances of applications of deemed widow deduction for unmarried single parents at local governments.
- 6 Further enhance measures for providing support to ensure childcare support of single parent families and it shall be thoroughly informed to local governments that arrangement of childcare support expenses is not a requirement for payment of childcare allowances.

8. Education, leisure and cultural activities (Articles 28-31)

[Note 8-1]

Guide for Subscription for Youth Reporters
2016 “Results of Holding Youth Roundtable”

[Note 8-2]

[Reference] General Opinions No. 12, “Right of the Child to be Heard Regarding Their Opinions,” p.9

[Note 8-3]

Notice of the Ministry of Education, Culture, Sports, Science and Technology, May 16, 2013, “Regarding Bullying Cases which should be consulted with and reported to the Police at an early stage” and Exhibit 1, “Regarding Criminal Acts, etc., that might occur at schools”

[Note 8-4]

NHK report on scholarship bankruptcy (June 2, 2016)

[Note 8-5]

Results of “Survey of Study Expenses of Children” in 2014 (Ministry of Education, Culture, Sports, Science and Technology)

[Note 8-6]

According to the OECD, “Education at a Glance 2016,” “class size of elementary and upper middle school education level in Japan is one of the largest among OECD member states. As of 2014, the average class size was 27 pupils per class at the elementary school level, which is the second largest among OECD member states (OECD average is 21 persons per class). The average class size was 32 students per class at the upper middle school education level, which is the largest among OECD member states (OECD average is 23 students per class).”

[Note 8-7]

According to the survey of the Ministry of Education, Culture, Sports, Science and Technology in 2016, average working hours of a teacher per week at public junior high schools was 63 hours and 18 minutes, and the average working hours per day was 11 hours and 32 minutes on weekdays. In comparison to the standards of 40 hours a per week under the Labor Standards Act, junior high school teachers worked 23 hours or more per week (and elementary school teachers worked 17 hours or more), which proved to have largely increased as compared with the survey conducted ten years ago. Regarding the standards indicated by the Ministry of Health, Labour and Welfare for recognition of karoshi (death due to overwork), “when about 100 hours of overtime work for a month before onset of illness or about 80 hours of overtime work for two (2) to six (6) months before onset of illness, it can be assessed that there was a strong relationship between work and the onset of illness” (Notice of 2001) and with reference to overtime work exceeding 80 hours per month (so-called karoshi line), average working hours of 63 hours per week of public junior high schools (overtime work is 23 hours per week) exceeds the above standard and it was proved that over 60% of teachers work beyond the karoshi line at junior high schools (counting results of Survey of Teachers’ Actual Working Condition (Preliminary Figures) (2016) (Overview))

[Note 8-8]

Teachers and staff who take a leave of absence due to mental illness continue to rise to more than 5,000 persons a year.

In this regard, in an article of the Mainichi Newspapers on the survey of the MEXT in 2015 (“Survey of the MEXT, 5009 teachers took leave of absence due to mental illness in 2015” December 22, 2016), it was reported, “it was proved by the survey of the Ministry of

Education, Culture, Sports, Science and Technology that teachers of public schools who took a leave of absence due to mental illness, including depression, etc., reached 5,009 persons in 2015. It accounts for 0.54% of all teachers, which was a decrease of 36 persons as compared with 2014, but the number has remained at a high level of around 5,000 persons since 2007. According to the survey results, persons who took a leave of absence as a result of illness were 7,954 persons and mental illness accounts for slightly more than 60%. Looking at the ratio of incumbent teachers with mental illness by school, the largest was special support schools where disabled pupils and students are enrolled, at 0.66% (560 persons) and followed by junior high schools at 0.64% (1,524 persons), elementary schools at 0.55% (2,237 persons), high schools at 0.37% (683 persons) and middle education schools at 0.30% (5 persons). By gender, males account for 0.51% and females account for 0.57%. The MEXT points out that “busy working environments” make the above rates stay at high level. According to the survey conducted by the Organisation for Economic Co-operation and Development (OECD), working hours of junior high school teachers in Japan were 53.9 hours, which far exceeded the average of 38.3 hours of the targeted 34 countries and regions. In addition to preparation for classes and education study materials, teachers assume responsibility for any response to bullying and non-attendance and such extracurricular instructions as club activities and more teachers fall to mental and physical fatigue.”

[Note 8-9]

Statement of President of Tokyo Bar Association as of February 1, 2016

[Note 8-10]

Installation organizations of integrated junior and senior high schools explain that the aptitude test at the time of entrance is “not academic ability test,” but the Ministry of Education, Culture, Sports, Science and Technology admits that the abilities tested by the aptitude test are comprehensive ability, including “thinking ability” “judgment ability” and “expression ability,” etc., and as these abilities are the same as the concept of academic ability understood by the Ministry, there is no doubt that aptitude tests conducted at public integrated junior and senior high schools are unlawful.

[Note 8-11]

Entrance exam competition rate of middle education schools of Tokyo

[Note 8-12]

Statement of President of the Federation as of August 21, 2014

[Note 8-13]

Ministry of Education, Culture, Sports, Science and Technology report that the number of pupils and students who did “not attend school” (pupils and students enrolled at elementary and junior high schools who do not attend school for more than a certain number of days (30 days) and by reason of illness and economic conditions of the family) was 27,581 persons at elementary schools and 98,428 persons at junior high schools and the total of elementary and junior high schools reached 126,009 persons (School Basic Survey). It was reported that the number of pupils and students who “did not attend school” in 2003, about 10 years ago was 23,077 persons at elementary schools and 102,149 persons at junior high schools and the total of elementary and junior high schools was 126,226 persons (School Basic Survey) and considering the decrease in the absolute number of children in the above period, the percentage of non-attending children actually increased.

[Note 8-14]

Ministry of Education, Culture, Sports, Science and Technology, the “Survey of Various Problems in Instructions to Students who committed Problematic Behavior” (final figures) (February 2017)

[Note 8-15]

Comparing the number of recognized bullying cases and its percentage until 2013 with that in 2014 and 2015 in the investigation results of bullying of “Survey of Various Problems in Instructions to Students who committed Problematic Behavior” (October 2015), a decrease in bullying cannot be recognized.

[Note 8-16]

During the period from 2013 to 2015, after the enforcement of the Bullying Prevention Measures Promotion Act, the number of suicides due to bullying in the survey of the Ministry of Education, Culture, Sports, Science and Technology, was nine (9) cases in 2013, five (5) cases in 2014 and nine (9) cases in 2015, which means suicides due to bullying occurred one after another (Ministry of Education, Culture, Sports, Science and

Technology, the “Survey of Various Problems in Instructions to Students who committed Problematic Behavior” 2013 ~ 2015).

[Note 8-17]

Statement of Opinions of the Federation as of December 19, 2014

9 Special Protection Measures

(2) Children belonging to minority or indigenous groups

[Note 9-1]

According to the survey results of “Actual Living Condition of Ainu People” conducted by Hokkaido in 2013, while the population of Ainu was 16,786 persons in 2013 and the number of households were 6,880, the high school enrollment ratio was 92.6% for Ainu as compared with that of the average of the resident region of 98.6% and the university enrollment percentage was 25.8% for Ainu as compared with the same average of 43.0%.

The welfare benefit percentage for Ainu was 44.8% as compared with the average of the same resident region of 33.1%.

Regarding discrimination, to the question “have you ever experienced any discrimination since you began to understand things?” the percentage was 2.4%, the total of “experienced” “in the recent 6 and 7 years” and “I have not been discriminated against but know others who have been discriminated against”, a decrease of 0.8 point from 3.2% of the survey in 2006 (at a rate of 25%).

[Note 9-2]

Regarding exclusion from application of tuition support to high school students of North Korean Schools, court battles are now continuing throughout Japan and at present, decisions of lower courts have been divided.

(3) Children in the Exploited Situations

[Note 9-3]

Estimate by the “Selected Future” Committee, established by the Cabinet Office, Economic and Finance Advisory Council (calculated based on the Labor Force Survey, etc., of the Ministry of Internal Affairs and Communications. March 2013). Labor force, which

was 65,770,000 in 2013 will be 56,830,000 in 2030 and 37,950,000 in 2060 (about 58% of 2013) when the present conditions continue.

[Note 9-4]

According to the “Efforts for Human Trafficking Measures” of the Japanese Government (Annual Report, May 2017)

[Note 9-5]

The same as above.

[Note 9-6]

According to the National Police Agency, “Current Circumstances of Crimes arising from Community Sites, etc., and Countermeasures in 2016,” the number of victimized children on community sites has been trending upward and reached 1,736 in 2016, about 2.2 times that of 2008.

[Note 9-7]

According to the Internet Environment Use Reality Survey by Young Persons by Cabinet Office, the use rate of smartphones was 51.7% for junior high school students and 94.8% for high school students and the Internet use rate was 47.3% for junior high school students and 92.9% for high school students, any of which has been increasing over the past three years.

(4) Juvenile Justice

[Note 9-8]

Supplementary Provision of Amendment to the Public Offices Election Act as of June 19, 2015

Article 5 When a family court determines that the nature of a crime would constitute material obstacles to ensuring fairness of an election, courts shall, for the time being, notwithstanding the Juvenile Act (Act No. 168 of 1948), Article 20, paragraph 1, makes decisions under the Juvenile Act, Article 20, paragraph 1 with respect to crimes under the Public Offices Election Act, Article 247, which have been committed by a person at least 18 years of age but under 20 years of age, or a crime provided for in the same paragraph (including cases applying *mutatis mutandis* under the Fisheries Act, Article 94 by

replacement) committed by a person at least 18 years of age but under 20 years of age who is recognized as the person set forth in each item of paragraph 1 of Article 251-2 of the Public Offices Election Act, (including the cases applying *mutatis mutandis* under the Fisheries Act, Article 94), the crime provided for in the Public Offices Election Act, Article 251-3, paragraph 1, committed by a person at least 18 years of age but under 20 years of age who is recognized as the systematic election campaign administrator, etc., under the same paragraph of the Public Offices Election Act, or a crime committed by a person at least 18 years of age but under 20 years of age who is deemed to be those who are set forth in each item of paragraph 1 of the Article 251-4 of the Act, or cases of crimes provided for in the Public Offices Election Act, Article 251 (referred to as “Cases related to Guilt by Association” in the following paragraph and paragraph 3), which are applied *mutatis mutandis* by replacement under the Fisheries Act, Article 94, committed by a person at least 18 years of age but under 20 years of age who was elected to be a member of the Sea-area Fisheries Adjustment Commission. In such an event, the same Article, paragraph 2, proviso shall apply *mutatis mutandis*.

(Snip)

4 To the Public Offices Election Act, the Fisheries Act and Political Funds Control Act related to the crimes committed by the person over 18 years of age and under 20 years of age, the Juvenile Act, Article 60 shall not apply for the time being.

[Note 9-9]

Juvenile Act, Article 52

In the case where a Juvenile is to be punished with imprisonment with or without work for a definite term, the length of the long term shall be determined within the scope of punishment to be imposed and by determining the length of the short-term to be not less than one half of the long-term (when the long-term is shorter than ten (10) years, the period subtracting five (5) years from the long-term. The same shall apply in the following paragraph) and shall be sentenced. In such an event, the long-term many not exceed fifteen (15) years and the short-term ten (10) years.

[Note 9-10]

Juvenile Act, Article 51

2 To a person who was under 18 years of age when the person committed a crime, fixed-term imprisonment with or without work may be imposed where life imprisonment should be

imposed on the person. In such an event, the sentenced term shall be between ten (10) and twenty (20) years.

[Note 9-11]

Article of Sankei Shimbun, as of May 28, 2017

The article reported that after the amendment in 2000, there were 17 juvenile cases in which children of the age of 14 and 15 were sent to public prosecutors.

[Note 9-12]

Decision of the Yokohama District Court, as of June 23, 2016

[Note 9-13]

Family Law and Trial, No. 10, p. 201, Table 42

[Note 9-14]

Article of the Kahoku Shimpo, as of November 18, 2010

[Note 9-15]

Decision of the Osaka District Court as of January 24, 2017

[Note 9-16]

Family Law and Judicial Decision, No. 1 0, p. 180, Table 20-1

[Note 9-17]

Decision of the Supreme Court as of June 16, 2016

[Note 9-18]

Decision of the Supreme Court as of March 10, 2011, Decision of the Supreme Court as of February 18, 2012

[Note 9-19]

Decision of the Supreme Court as of June 20, 2006

[Note 9-20]

As of August 1, 2017, published by National Independent Support Home Council.

[Note 9-21]

Published by National Network Conference for Children's Shelter

[Note 9-22]

Excerpts from Judicial Statistics

Transitions by calendar year of non-delinquency out of the completed number of general custody cases, except for traffic accident cases			
Year	No disposition by non-delinquency	Trial not commenced by non-delinquency	Total
1980	258	255	513
1985	289	226	515
1986	233	180	413
1987	244	177	421
1988	263	150	413
1989	305	125	430
1990	233	85	318
1991	183	119	302
1992	154	80	234
1993	154	108	262
1994	118	98	216
1995	106	62	168
1996	83	63	146
1997	93	36	129
1998	94	34	128
1999	73	25	98
2000	86	17	103
2001	68	14	82
2002	87	16	103
2003	76	22	98
2004	89	43	132
2005	72	36	108

2006	59	43	102
2007	50	36	86
2008	43	18	61
2009	59	25	84
2010	47	18	65
2011	36	10	46
2012	64	13	77
2013	44	23	67
2014	50	16	66
2015	38	16	54

[Note 9-23]

Concluding Observations of the International Human Rights (Civil and Political Rights) Committee (October 2008), Paragraph 19 states, “the State party should ... guarantee the right of all suspects to have counsel present during interrogations.”.

10. Follow-up to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)

11. Follow-up to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)

[Note 11-1]

CRC Committee, Guidelines regarding initial reports of Signatories to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (UN Doc. CRC/OP/AC/1, 2001)