

## **Association for the Support of Children out of Wedlock**

Information Provision to UN Human Rights Council – Universal Periodic Review (UPR): Discrimination against children born out of wedlock

1 . In 2006, Japan announced “Japan’s Contribution to Global Human Rights’ Protection and Promotion” as a voluntary pledge during human rights council election and promised the sincere implementation of the convention in 2-(1).

2 . 2. Japan’s International Commitments

(1) Japan has ratified the following international instruments for the protection and promotion of human rights and has made the utmost efforts to implement its obligations faithfully;

- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child (CRC) and its two Optional Protocols
- Convention against Torture (CAT) and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Geneva Conventions of 1949 and their Additional Protocols of 1977
- Convention relating to the Status of Refugees and its Optional Protocol

3 . However, if we see the government’s actual actions in Japan, they seem they have no intention to implement the obligations faithfully.

4 . Regarding the reason that there is no need to amend the Civil Code ordaining the discrimination in the right to inheritance of children born out of wedlock even though the Japanese government ratifies the CRC, the government answered in the Diet as follows:

.- Tamio Mitsuoka, counselor for Civil Affairs Bureau of the Ministry of Justice

“The right to inheritance is a matter between parent and child, and it is not relevant to the age of the child. The inheritance problem can occur if a 60-year-old parent dies and

a 30-year-old child receives an inheritance from him/her. Therefore, I think it is not an inherent problem for infants”. (126<sup>th</sup> - the House of Representatives - Foreign Affairs Committee 11/05/93)

5 . This is an insult to the CRC by the Japanese government.

6 . Moreover, concerning an admonishment by CEDAW “371: it is concerned about discrimination in law and administrative practice against children born out of wedlock with regard to registration and inheritance rights and the resulting considerable impact on women” in the Japanese report and review of the CEDAW twenty-ninth session (2003), the Japanese government showed a surprising view as follows:

“The No.4 proviso of Civil Code article 900 stipulates that inheritance of children born out of wedlock is a half of that of children born in wedlock, but this stipulation, we think, is not against the principle of gender equality and CEDAW because it does not make inheritance differences between sexes.” (defense document to the brief by Ms. Kazue Fujita, House of Representative member 04/03/05)

7 . Minister of Justice, Ms. Minamino answered to House of Representative member, Chiyomi Kobayashi correcting that government’s view, as follows:

“I cannot say “not to abolish the discrimination in the right to inheritance of children born out of wedlock” is against the concluding observations of the convention committee. If the observations are reasonable, we have to follow them even though they are legally binding. However, I think because the observations on an inheritance of children born out of wedlock misinterpret the treaty, there is no need to amend the Civil Code in response to them.”(30/03/05)

8 . The remark “CEDAW misinterprets the treaty” means the Japanese government distorts the admonishment and diminishes CEDAW.

9 . The statement of a prosecutor Mr. Fukumoto (Civil Affairs Bureau of the Ministry of Justice) in the Japanese government review of International Covenants on Human Rights (28-29/10/98) has been positively evaluated in the concluding observations of Human Rights Committee:

“In Legislative Council of the Ministry of Justice, an advisory body to Minister of Justice, the report on an outline of the Civil Code amendment about the equalization of the right to inheritance between children born in and out of wedlock is a government’s action based on national and international opinion. In fact, the bill has not yet been

submitted because the public opinion has been split. Regarding the issue of family relationship, it is difficult to amend the law without national consensus. Therefore, we the government implement both PR activities, such as creation and distribution of brochures, and public opinion research, and make public a result of the research and provide the subject matter for a discussion in all levels of Japanese civil society on the Civil Code amendment.”

1 1 . Concluding observations of the Human Rights Committee, Japan. 19/11/98.

#### B. Positive Aspects

1 2 . The Committee also notes the measures being taken by the human rights organs of the Ministry of Justice to deal with the elimination of discrimination and prejudice against students at Korean schools in Japan, children born out of wedlock and children of the Ainu minority.

1 3 . However, no NGO workers have ever seen the Japanese government creating nor distributing brochures promoting elimination of discrimination against children born out of wedlock. The statement of the government in the Japanese government review of International Covenants on Human Rights (28-29/10/98) is suspected to be a false statement.

1 4 . On the contrary, according to “the list of issues and questions about deliberation on the periodical report: Japan” by the prior working group in the CEDAW 29<sup>th</sup> session, the Japanese government has professed they have no intention to make such brochures.

1 5 . Question 29: On March 14, in the discussion between us (NGOs) and the Ministry of Justice....We, at the discussion, proposed that the Ministry makes a booklet which suggests "why must we discriminate children born out of wedlock in the right to inheritance? we must abolish such discrimination urgently." and persuades the members of the Diet. However, the Ministry said that they have no idea to make such booklets, and they do not have an intention to change the situation to abolish discrimination positively.

1 6 . In this manner, the Japanese government does not adjust domestic laws to the treaty but tries to avoid the law amendment by distorting the treaty. It was shown to them that discrimination against children born out of wedlock is a violation of the treaty

by the following four conventions - Covenant on Social Rights, Covenant on Human Rights, CEDAW and CRC. Nevertheless, they have given up adjusting the legal system stipulating discrimination against children born out of wedlock to the treaty.

1 7 . Furthermore, the Ministry of Justice, dealing with human rights in Japan, did not mention discrimination against children born out of wedlock in the actions in “the United Nations Decade for Human Rights Education” at all. In the human rights week since 1948 conducted during December each year to commemorate the constitution of the Universal Declaration of Human Rights, Ministry of Justice has never taken up the discrimination against children born out of wedlock as a human rights subject. The Japanese government has consistently never even seen the discrimination in marriage and employment against children born out of wedlock as the object of human rights enlightenment. In fact, as is clear from the Government’s response to NGOs, it is clear that they will not work on it.

1 8 . We must say that the Japanese government will not implement the ratified conventions faithfully and they are not entitled to be a member of the council of human rights because they disrespect the convention.

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