

NGO Shadow Report for the Universal Periodic Review of Japan by the Association for the Support of Children out of Wedlock

Obligation to eliminate all forms of discrimination against children born out of wedlock resides in the Government of Japan. We'd like to request the Government of Japan to do the followings in order to nationally implement the treaties which it has ratified.

1. To abolish a clause in Civil Code that discriminates against children born out of wedlock in inheritance.
2. To eliminate the concept of 'legitimacy' from all laws and administration.
3. To fundamentally change the family registry forms so that no one will be able to distinguish whether or not the child is born out of wedlock.
4. To establish a law that explicitly bans discrimination against children born out of wedlock.
5. To launch large-scale awareness-raising campaign targeting government officials and general public to eliminate discrimination against children born out of wedlock.

Osaka High Court judged a clause in Civil Code that discriminated against children born out of wedlock clearly as unconstitutional saying "It was established to respect legal marriages but has lacked reasonable legal relevance. It is against Articles 13, 14(1) and 24(2) of the Constitution and thus should be null and void" on 24 August, 2011. In the same year, High Courts of Tokyo and Nagoya, Nara District Court and Yokohama Family Court have also found the inheritance clause discriminatory against children born out of wedlock as unconstitutional.

Legislative Council of the Justice Ministry in 1996 submitted a report which suggested the Civil Codes be amended, including the abolishment of the inheritance clause discriminatory against children born out of wedlock. The bill based on the report had been submitted to the Diet by the opposition parliamentarians till 2009. In 2010 after the ruling parties changed, the bill was planned to be submitted to the Diet but failed because the discussion was not finalised within the Cabinet. No progress was observed in 2011. There isn't even any plan of the bill being submitted to the regular sessions of the Diet in 2012 despite a series of unconstitutional judgments. All the laws other than this piece have reflected the report by the Legislative Council.

Japanese courts have said "Children born out of wedlock have been treated with disadvantages in education, employment, marriage and other aspects of social life. Copies of the family registry are required in many aspects of our social lives. We've observed that the family registry reveals that the person is a child born out of wedlock and discrimination and others are promoted."

The Ministry of Justice, however, stated "It should be clear to be able to distinguish" in the family registry whether or not the child is born out of wedlock. They said in a parliamentary discussion that "Status (in family relationship and parental rights as well as in inheritance) in Civil Code defers depending whether or not you are born out of

wedlock” and thus it is valid. The Ministry has been indifferent towards the human rights violation that children born out of wedlock face in reality.

Illegal obtainments of the family registry possibly with the purpose to discriminate against employment candidates and other purposes have been continuously reported.

In 2011, illegal obtainments of over 10000 family registries by judicial scriveners were revealed. It was uncovered that there were established channels for their clients including many private investigation companies to obtain these documents through the judicial scriveners who used the request forms for which they were only allowed to use in the course of their duties.

The above-mentioned unconstitutional rulings regarding the discriminatory clause in inheritance has said that discrimination in Civil Code could result in promoting discrimination against children born out of wedlock. Human Rights Bureau of the Justice Ministry has, however, never promoted human rights of or anti-discrimination against children born out of wedlock in employment, marriages and others. The Ministry of Justice and the Consultative Assembly of Network for Human Rights Enlightenment Activities have never taken up the issue among the list of different human rights challenges during Human Rights Week that they organise every December to celebrate the anniversary of the adoption of the Universal Declaration of Human Rights. The issue of social discrimination against children born out of wedlock has never been part of country’s national human rights education or policies regarding human rights promotion, including the National Action Plan and its succeeding plans for the United Nations World Programme for Human Rights Education.

Association for the Support of Children out of Wedlock