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**Report to the Special Rapporteur on the right to education**

**Access to Freedom of Expression in Education ＜Questions 9 and 10>**

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**We wish for the Special Rapporteur:**

1. To visit Japan to hear from us, the Organization for the Rights of Children with Disabilities, Japan (RCDJ).

2. To issue the following concerns and recommendations to the Japanese Government.

- The Japanese Government should promote "comprehensive sexuality education" based on the "International Sexuality Education Guidance" to be positioned in school education and to be studied continuously and carefully.

- The Japanese Government should not force students to stand up for the hoisted national flag and sing the national anthem at graduation and entrance ceremonies; not force students to receive their diplomas on the stage, but allow them to use the floor; and leave it to each school to conduct ceremonies in accordance with the actual conditions of the students’ disabilities.

**Restrictions on sex-related guidance**

**A. Political pressure from the Tokyo Metropolitan Government's educational administration and other forces opposed to the educational contents including "Mind-Body Study" at Tokyo Metropolitan Nanao School for the Disabled**

3. Due to the unique circumstances of the Tokyo Metropolitan Nanao School for the Disabled (i.e., since many students were neglected and abused at home, they lacked a sense of self-esteem, and there were many problems related to sexuality, etc.), in order to solve such problems, the teachers began working on sex education (education to help students develop a sense of self-affirmation and the ability to lead a positive life), which was discussed among themselves, around 1997. At the elementary school level, students were taught about physical cleanliness including genitalia and excretion. At the junior high school level, students were taught about secondary sexual characteristics, and at the senior high school level, students were taught about sexual intercourse and contraception, among other topics. Nanayo School's practices received high acclaim, including one from the Tokyo Metropolitan Board of Education (TMBE), and became nationally known.

4. In July 2003, however, some members of the Tokyo Metropolitan Assembly raised the issue of the practice, and an investigation of the site was suddenly conducted. On the day, three members of the Assembly and a reporter from a national newspaper came to school to investigate the sex education and other materials stored in the school infirmary. The next day, The Sankei Shimbun newspaper carried a large report with photos and the headline, "It's like an adult store.” Later, the Tokyo Metropolitan Board of Education confiscated materials such as dolls, picture books, and other teaching aids, as well as class records.

5. The Subsequent Battle in Court

In May 2005, 29 teachers and 2 parents filed a lawsuit against the Tokyo Metropolitan Board of Education and other related parties. After an appeal trial, the plaintiffs (faculty members and guardians) eventually won the lawsuit.

6. Developments after the Plaintiffs' Victory

Despite the fact that the actions of the Tokyo Metropolitan Assembly and the Tokyo Metropolitan Board of Education were denied at the trial, and the content of Nanao School's sex education instruction was approved, the study materials and documents have not been returned. In addition, the TMBE has forbidden the practices to be repeated at the school, and has refused to accept any content other than that which is in accordance with the "guidelines for sex education” established by the TMBE.

7. Since the Tokyo Metropolitan Board of Education's stance has not changed at all even after the court decision was finalized, the plaintiffs in the trial and their supporters took action to appeal to international public opinion by submitting a report to the UN human rights organization and asking for recommendations to the education administration in Japan.

(Concluding Observations from the UN Committee on the Rights of Persons with Disabilities on the initial report of Japan (excerpts of relevant Paragraphs attached))

8. In response to the "Recommendations" from the UN human rights organization

We had discussions with the Ministry of Education, Culture, Sports, Science and Technology (MEXT).

The contents of our requests are as follows:

- To promote learning that incorporates comprehensive sexuality education based on the International Guidance on Sexuality Education.

- Not to deprive children with disabilities of important opportunities to learn about “relationships with others.”

- To eliminate the provisions from the Courses of Study ("The process leading to human fertilization shall not be covered" and "The process of pregnancy shall not be covered").

9. Answer by MEXT

“Each country has different values. Sexuality education is properly implemented in Japan. We do not consider accepting the International Sexuality Education Guidance.”

10. Viewed from these answers, the Japanese Government has given non-sensical responses to the recommendations of the UN human rights organizations, such as differences in "values," and no improvement can be seen at all. In reality, there are many cases of sexual abuse in Japan, and in order to eradicate these cases, it is necessary to implement "comprehensive sexuality education" as soon as possible.

**B. Schools for Children with Disabilities Suffering from the Enforced National Flag and National Anthem**

11. On October 23, 2003, the Tokyo Metropolitan Board of Education (TMBE) issued a directive to principals of metropolitan schools, forcing teachers and staff to stand up during the singing of the national anthem and to change the ceremonial style of graduation and entrance ceremonies to that prescribed by the TMBE.

　This has resulted in various human rights violations at schools for children with disabilities.

12. Situation of Schools for Children with Disabilities

13. Some students with severe intellectual and developmental disabilities do not understand why they had to or would not stand up, but they were sometimes forced to stand by physical force, such as by forcing them by pulling on their arms.

14.There were also cases in which the students’ personality was harmed—they were forced to wear diapers—in order that the teachers did not have to leave the ceremony hall to help the students’ restroom use.

15. During the standing for the national anthem, an alarm buzzer sounded for a student who was using a ventilator at all times because the student was unable to breathe spontaneously. When the school nurse ran up and tried to care for the student, the vice principal ordered the nurse to stop the act and stand up. Life-threatening situations like this have occurred.

16. Prior to the 10.23 Directive, many schools held presentations of diplomas on the gymnasium floor, and students in wheelchairs could maneuver their wheelchairs and receive their diplomas on their own. However, with the new Directive, all students were forced to receive their diplomas on the stage, and many students who could not climb the high stage on their own felt as if they were being denied the opportunity to go and receive the diplomas.

17. Forcing students to stand up for the flag and sing the national anthem is a violation of the right to freedom of thought and conscience. Not allowing schools to hold their own graduation and entrance ceremonies tailored to each child's needs is an infringement of educational freedom, and the "10.23 Directive" should be repealed immediately.

(Attached are our self-introduction of RCDJ and excerpts of the relevant Paragraphs of the Concluding Observations on the seventh periodic report of Japan, International Covenant on Civil and Political Rights)