

Annex 1

A Victim of the Child Guidance Centre: Reiryu Mizuoka

■ 1. Introduction

This is a serious human rights infringement case involving a **Child Guidance Centre** (CGC hereafter), a local administrative body, and **an alternative care facility** (ACF hereafter), a private profit-making body.

This issue has been extensively noted and addressed in the 4th and 5th Concluding Observation of the UN Committee on the Rights of the Child (UNCRC hereafter) issued on 5 March 2019 (CRC/C/JPN/CO/4-5). The entire 28th and 29th paragraphs are devoted to the issues on the CGC. Paragraph 7 demands that Japan amend the domestic laws that are the cause of these infringements.

The child guidance system in Japan has facilely been abused by schools, hospitals, and neighbours for eliminating undesirable children and families sometimes in reprisal to the hostile actions having aimed at them. Paragraph 62 of the 2010 Concluding Observation of the UNCRC (CRC/C/JPN/CO/3), therefore pointed, out, *‘The Committee observes with concern that children who do not meet the behavioural expectations of school are transferred to Child Guidance Centres’*.

■ 2. The Details of the Case

a. Leading up to Reiryu’s Detainment

The principal of Reiryu Mizuoka’s school (**Koka Gakuen**), Sumie Ishigami, is a Marianist catholic sister who took a despotic approach towards pupils and parents. The views and opinions of parents and children were hardly taken into account, except for a limited number of insistent parents.

Reiryu suffers from Asperger’s syndrome, and thus has some behavioural difficulties. However, knowing that many artists and scientists in history have also suffered from this syndrome, his father took great pains to realise his talent by training him in various ways: acquire an absolute pitch in music, and excel in English language skills as well as mathematics. In music, he could deliver an absolute pitch with approximately 60% accuracy

through training at a music academy.

Reiryu was promoted to Primary 2 in 2011, when Takashina, his class teacher, began to inflict **repeated corporal punishment** on him. Attempting to stop his hyperactivity disorder, the class teacher hit him on the head almost every day in front of his classmates. The principal; however, ignored the parents' demands to remove this teacher from the class, positively regarded this violence as 'a legitimate form of instruction', and turned a blind eye to the teacher's violence -- despite this being strictly prohibited by Japanese law. Later in the lawsuit of the father vs. Koka Gakuen, the father won JPY 50,000 (ca. USD 400) in reparations from the school for this illegal form of discipline.

Reiryu began to show truancy because of this corporal punishment, yet the school did nothing to resolve the issue. Initially, his father was hesitant in making a complaint to the despotic principal; yet, seven months of continued violence were enough for his father to demand an investigation, an apology, and a proper sanction of the class teacher.

To much surprise, while refusing to admit her faults in ignoring the violence committed by the teacher, **the principal began to report in secrecy 'abuse by the father' to Tokorozawa CGC, in order to cover up the abuse by the teacher** in the classroom. Every time the father contested the school's use of corporal punishment, the principal secretly devised a story of 'child abuse' by the father and reported it to the CGC. The time-series correlation of inferential statistics between the occurrence of protests from the father for the corporal punishment at the school and those of 'abuse' reports to the CGC rejects the null hypothesis that there was no causal relationship between the incidents at far less than a 0.001% confidence level. Since there is no way that 'abuse by the father' could take place in such a quaint time-series correlation, it can safely be concluded that the 'abuse report' by Koka Gakuen was false.

On 20 April 2013, the principal secretly contacted Tokorozawa CGC to for detainment of Reiryu. He was kept in the school until late in the evening that day, but this action did not meet the principal's expectation of the CGC. The principal, Ishigami, then invited the CGC personnel to her school on 25 April 2013 and imbued them with tales that Reiryu's father 'abused' him.

On 1 May 2013, the school found scars on Reiryu's body that he had gotten while trekking on a rocky trail with his father two days before. Tajima, who had just been promoted to the position of vice-principal, detained Reiryu on the school premises on the pretext of completing Reiryu's mathematics problem sheets while the school filed another 'abuse' report to the CGC. This time, social workers Tatsuo Nishikawa and **Kiyoshi Okano** of Tokorozawa CGC showed up and deceived Reiryu by telling him that he was going 'camping' and enticed him to board a car bound for the CGC. Contrary to Paragraph 29(a) of the 2019

Concluding Observation of the UNCRC based on the Article 9(1) of the Convention on the Rights of the Child (Convention hereafter), the parents were never contacted nor did they hear from the CGC regarding the detainment of their child. The CGC did not seek any judicial review for this detention either. Tokorozawa CGC thus detained Reiryu, abetting the attempt of the principal to expel this victim of illegal corporal punishment and the father protesting against it.

The expulsion of students from a school by taking advantage of the CGC's 'temporary custody' is quite common in Japan. Concerned citizens in Japan and many CGC victim families call this practice '**abduction (*rachi*)**' – a serious term that the Japanese government uses for the infamous kidnapping of Japanese citizens by North Korea.

On the following day, Reiryu's father went to the CGC and demanded an investigation of the claimed 'abuse' cases by the school teacher and demanded to meet regularly with the CGC staff to discuss the affairs of Reiryu. Tokorozawa CGC refused both requests.

b. What Happened to Reiryu after detainment

Right after the detention, Reiryu resisted in the detention quarter with violence, however, months later, he became quiet and calm—a possible effect of the sedative drugs administered by the CGC.

Two months after his detention, Tokorozawa CGC told the father and his attorney-at-law that the CGC would request the family court to put Reiryu in an ACF, based almost exclusively on the information provided by the school.

While Reiryu was confined in the detention quarter, Tokorozawa CGC did not allow him to attend school and left him without any formal elementary education for eight months. This is a serious breach of Article 26(1) of the Universal Declaration of Human Rights and of Article 13 of the International Covenant on Economic, Social and Cultural Rights. When Reiryu broke his glasses (for myopia) in the detention quarter, Director Masayuki Hirose never replaced them, leading to a risk of amblyopia. The detention quarter had little space to play, thus Reiryu, who loved outdoor activities and was an avid boy scout, was denied any of his favourite sports.

The outdoor sports that Reiryu enjoyed when he lived with his father not only made him physically fit, but had a positive psychological effect, such as a sense of accomplishment in conquering summit climbs. However, once detained, the ACF director did not provide Reiryu with an opportunity to experience such physical activity, stripping him from the opportunity for sound mental and physical development.

Reiryu's father made a serious effort to persuade Tokorozawa CGC into releasing Reiryu to him. For example, he submitted a plan to improve his practice of child rearing to the High

Court and offered to Tokorozawa CGC to take a parenting course. Neither of these appeasements were satisfactory to Tokorozawa CGC, who was instead seeking a confession of the false charge of abuse from the father in order to justify their administrative act of arbitrary detention.

When Reiryu was first brought to the ACF, run by Dojin Gakuin, he was perplexed to find that Reiryu's video games were always at his disposal. When left unattended, he indulged in video games endlessly, with little guidance regarding his academic obligations. Consequently, Reiryu began to say, 'I don't like studying'. Thus, he often failed to submit his homework. Instead of participating in his favourite outdoor sporting opportunity, he spent most of his leisure time in his room. The ACF's medical neglect was also serious, as he received no professional care for his Asperger's syndrome. These practices at ACF are in breach of Article 24 of the Convention and Article 25 of the Universal Declaration of Human Rights.

On 24 September 2014, the Director of Tokorozawa CGC made **a comprehensive administrative disposition to prohibit visitation between the father and his beloved Reiryu**, in pursuance to Article 12 of the Child Abuse Prevention Act (CAPA), which is in itself in breach of Article 9(3) of the Convention.

Reiryu's intellectual competence drastically waned after detention. This manifested in his subsequent performance at the junior secondary school in Hidaka, Saitama, to which the CGC arranged for him to go. His grade marks had degenerated into 'a little lower than average' in 2017. This was in stark contrast to his previous tendency to excel at science and mathematics. For instance, at the beginning of Primary 4, Reiryu was able to solve simple linear equations. In junior high school he belonged to the computer society and was interested in computer programming. Yet, the ACF solely allowed Reiryu to indulge in video games. The worried father gave Reiryu a personal computer as a Christmas gift. However, the director of the ACF confiscated it and did not give it to him, claiming that the computer had a transmitter -- which was, of course, a ridiculous claim.

At junior high school, Reiryu's performance became so poor that he could only gain entrance to Tokorozawa Commerce High School, a vocational school, from which he had recently been dismissed due to thefts that he committed. This was a manifestation of the neglect of the ACF to ensure that Reiryu abide by the penal code. Through his lawyer, the father requested to meet with the school teacher for a detailed explanation and cooperation to rectify Reiryu's delinquent conducts; yet, the Director of Tokorozawa CGC refused the request, claiming that the CGC 'cannot disclose information that would lead to identifying the whereabouts of Reiryu' (the letter from the Director, dated 3 March 2021).

The administration of Tokorozawa CGC isolated Reiryu from interaction with his other

family members, relatives, and friends, with the exception of several CGC-surveillance visitations by his mother, who was separated from the father. The degree of restriction was excessively grave, amounting to a total ban on almost anything.

One of the rationales from the Tokorozawa CGC for these acts was to force a ‘confession of abuse’ from the father using Reiryu as a hostage. This practice has been called ‘**hostage CGC** (*hitojichi jiso*)’ by a news programme produced by Kansai TV in August 2020, but it is in breach of Article 19 of the Universal Declaration of Human Rights and the Articles 18 and 19 of the Covenant Article 38 (1) of the Constitution of Japan which stipulates that ‘[n]o person shall be compelled to testify against himself’. This stipulation applies not only in genuine criminal cases, but also in other proceedings. The hostage CGC practice is therefore unconstitutional and is in breach of Article 14(3)(g) of the Covenant.

■ 3. The Injustice of the ‘CGC Legislation’ in Japan

After the detainment by Tokorozawa CGC, the father would not admit to the charge of ‘abuse’ that was devised by the Koka Gakuen School. In response to the father’s denial and his struggle against the human-right infringements by the CGC, the organization **retaliated by means of nonfeasance of initiating the family reunification (returning Reiryu to the father)**. This was by the initiative of Okano, a staff member in charge with little professional qualification. Okano has thus made an illegal consideration of unrelated affairs (*taji koryo*) in performing his duty as a civil servant.

The father filed an administrative litigation lawsuit against the State and Prefecture of Saitama on 10 December 2014, to lift the detention of Reiryu. However, adjudications in the first and second instances largely admitted the administrative acts of Tokorozawa CGC. The adjudication made by the Tokyo High Court wrongfully endorsed the administrative position of Tokorozawa CGC, which demanded a ‘confession of abuse’ as a condition of returning Reiryu to his father. The court also ruled, ‘**considering that further introduction of judicial review on top of the existing procedures** [as stipulated in the Child Welfare Act] **raises concern that heavier procedural burden may hinder the ready implementation of temporary custody** and the interests of children would thereby be harmed, it is considered to be a matter of legislative policy’. The court of Japan prioritises the ‘heavier procedural burden’ in removing children than respecting the international human-right laws. For the right of visitation, the High Court ruling dwells on the word ‘respect’ in Article 9, paragraph (3) of the Convention, claiming, it ‘does not mean to assure that the rights provided for in the said paragraph would be fully implemented’. In the genuine legal

interpretation, however, ‘respect’ in a provision of the Convention sufficiently contains ‘strong obligation’, which the High Court has ignored. It also rejected the plaintiff’s claim of the nonfeasance of the State to amend the domestic laws to make them comply with the international human rights treaties, which have rarely been deployed as the basis of adjudications in the courts of Japan.

The father thus appealed to the Supreme Court, demanding *inter alia* to duly respect the UN Convention. **Annex 2** is the full text of the appeal, which was unsuccessful.

The set of quaint CGC-related domestic laws and government orders that led to this situation is sometimes called ‘**CGC legislation**’, embodying ‘*Sonderrechtsverhältnis*’ (the special power relations) that Japan adopted from pre-Weimar Germany, under the presumption of state paternalism. The entire court procedure experienced by the father was a manifestation of an unfair and partial ‘CGC Legislation’ presupposing outdated consciousness of state paternalism, which has, in reality, been replaced with contemporary neo-liberalism while shedding the robust international norms of human rights away altogether.

In the ‘CGC legislation’ system, the state power exercises comprehensive control over people and social groups, including families, presupposing that the CGC always acts benevolently, and thus should be exempted from intervention by the international human rights norms having won through the struggle of citizens. This paternalism in Japanese family court is well-evidenced, for example, by CGCs’ bi-monthly pleas to the family court to extend the ‘temporary custody’ (this procedure became compulsory in 2018), which was upheld 84.1% and rejected at a rate of 3.3% in 2018.

Another serious problem is the asymmetrical distribution of information on detained children. In Japan, child records held by CGCs are seldom disclosed; and, on the occasions that they are disclosed, most parts are redacted. The CGCs’ administrative discretion thus remains largely in camera, always allowing arbitrariness in the detention. This is a grave infringement of the ‘right to know’ as provided in Article 19 of the Universal Declaration of Human Rights.

The intervention of the family court is of no salvation. On top of the ‘CGC legislation’, the CGC frequently devices evidence for submission to the family court. Information flow is unjustly distorted through family court investigators’ reports, upon which the court judges rely for issuing the adjudications. The manual prepared by the Ministry of Health, Labour and Welfare of the Japanese Government (MHLW hereafter) asks CGCs for ‘smooth cooperation with the family court investigators and the network of relevant organisations around the child with the CGC staff at the centre’. That is, the MHLW effectively orders the CGC to co-opt family court investigators in order to avoid adverse investigation outcomes.

To family court proceedings, parents are involved merely as ‘interested parties’; thus positioning relatives on even more unequal footing with CGCs. As a result, many families are ultimately forced to accept family court adjudications for 2-year ACF consignments of children.

Thus, the legal procedure pertaining to Articles 28 and 33 pleas with respect to the detainment of a child to ACF contains arbitrary and partial practices, which makes it illegal with respect to Article 14 of the International Covenant on Civil and Political Rights.

In Reiryu’s case, despite the deterioration of Reiryu’s longer-term best interest through the acts of Tokorozawa CGC and the ACF, the Saitama Family Court judge upheld the plea to extend, in January 2020, on the claim that ‘*he is living stably*’.

The current judicial system in Japan under the ‘CGC Legislation’ system is in a serious defunct.

■ 4. Severe Infringement in the Rights of Development and Longer-term Best Interest of Reiryu due to the ‘Hostage CGC’

Reiryu’s nine years of detainment have caused a deterioration of his scholastic performance. Tokorozawa CGC banned his father’s visitation for the years he was detained. This practice of CGC is not unusual in Japan. It is enabled by Article 12(1) of the Child Abuse Prevention Act (a domestic law) or through an administrative guidance of the CGC.

Due to this ‘hostage CGC’ practice, Reiryu’s right for development and his concomitant long-term best interest, as respectively stipulated in Articles 28 and 29 as well as in Article 3 of the Convention, have been severely ruined during the detention. As a teenager, Reiryu is supposed to be at a crucial stage of designing his adult life. He might, for instance, have been at a competitive opportunity for higher education and career options under proper guidance of his father. Neither Okano of CGC nor the staff of ACF were incapable of inducing Reiryu to think of this sort of longer-term planning and development of his life.

Almost totally isolated, Reiryu seems to be quite mentally depressed, as demonstrated in developing the weird idea of, for example, changing his name, when other boys of the same age begin to prepare for their promotion to a tertiary institution of education. This is a clear manifestation of the CGC and ACF acting against Article 10 of the Covenant and Paragraph 52 of the United Nations Basic Principles and Guidelines on the Right of Anyone Deprived of Their Liberty to Bring Proceedings before a Court (WGAD/CRP.1/2015): ‘*children may only be deprived of their liberty as a measure of last resort and for the shortest possible period of time*’.

Based on an interview report prepared by Tokorozawa CGC in February 2021, Dr. Ken Kodama, a psychiatrist specialising in juvenile psychiatry, diagnosed: 'as it has been a long time since [Reiryu] has been detained in the CGC, he is used to giving responses that appease the CGC staff and his attitude towards surmising the CGC staff has already been established in his mind'. The personal integrity of Reiryu has thus been severely tramped upon by the CGC. 'The CGC, which supposedly cares about children's mental well-being, degenerating into this sort of self-justification is absolutely intolerable', Dr. Kodama added.

Upon coming of age at 18, Reiryu was finally released from the ACF on 31 March 2022. On the 11th of the same month, Reiryu spontaneously called his father's cell phone and stated that he wanted to see his father. In the evening of 13 April, his father rushed by bullet train to Nagaoka, where Reiryu was taking an intensive driving course at a motor school.

The fact that Reiryu called his father in less than two weeks after the Tokorozawa CGC 'lifted' the confinement to the ACF demonstrates that the CGC's repeated claim that Reiryu 'refuses his father' was **completely false**.

Reiryu seemed to have grown lesser than his father had expected, suggesting that nutrition in the ACF was not necessarily perfect. The father invited Reiryu to a rather luxurious course meal at a local restaurant in Nagaoka to celebrate the reunion, yet Reiryu complained that the amount of food served was too much to eat. It should be normal for an 18 year-old young man to have a big appetite. The father thought this was a consequence of having been forced to eat poorly in the ACF.

During the prolonged detention by the CGC, Reiryu had few opportunities to travel, both domestically and internationally. The father thus proposed to travel abroad together. Reiryu showed interest in the World Heritage photo collection that his father gifted him for Christmas in 2021; and among them, Reiryu expressed his wish to visit the historic sanctuary of Machu Picchu in Peru. His father is now working hard to book air tickets, hotels, and tours to fulfil his wish.

His father found that Reiryu harbours a desire to be an engineer and create videos like those we see on YouTube. Video production is currently a thriving business, yet in order to become a creative and socially respected producer, proper education and training are necessary. Furthermore, a profound knowledge of liberal arts is essential to consider video production including content. The father proposed to discuss this further with Reiryu in the future, thinking about how Reiryu could shape his future to allow his talent to blossom.

As a whole, due to the extremely restrictive living environment and ban on visitation imposed by the CGC that lasted almost nine years, and the ignorance on the part of the ACF regarding Reiryu's rights and the possibility of self-development, Reiryu's sense of self-confidence and of challenging ambition were prevalently lacking throughout the

conversation and thinking.

On the way home with his father, after receiving the passport Reiryu applied for at the prefectural office on 15 May, Reiryu suddenly said to himself, 'I don't want to live that long ...'. Furthermore, several days later Reiryu confessed, 'I want to commit suicide before I reach the age of 40...' Reiryu also sent a message through the LINE app to his father that his personal history is in tatters. Undoubtedly, Reiryu has been forced into a psychological situation in which he lost confidence in his irreplaceable long-term life prospects due to the infringement of his developmental rights by the Child Guidance Centre and the ACF.

The father realised that it would take a considerable amount of time and effort for Reiryu to break away from his forced retrogressive consciousness and regain the self-confidence he held before the CGC removed him from his father.

The CGC and ACF have thus irresponsibly forced the job of cleaning up the mess that they created with Reiryu onto his biological father. The CGC and ACF exploited Reiryu just to fulfil their neo-liberalist motive for financial gain and for protecting their vested interest. Now the task of nurturing Reiryu to bring him to the similar level of development as the children who were raised by their biological parents is placed on the shoulder of his father, before it is too late.



◀ 1 -- Reiryu at 4 years old at home. He has an elder brother (to the left); yet Reiryu was unable to meet him for nine years after his detainment. Tokorozawa CGC destroyed the ties of brotherhood.



◀ **2** -- Reiryu at 5 years old, at the graduation ceremony of the First Steps International School. The school offers preschool (kindergarten) education in English. The English proficiency that Reiryu acquired has been totally ruined due to the detention by the Tokorozawa CGC.



◀ **3** -- Reiryu loved music. He played the piano seriously at a recital of his music school teaching with absolute pitch. Reiryu's skill in piano as well as his liking for music has also been ruined during the nine years of arbitrary detention by the Tokorozawa CGC.



◀ **4** -- This picture was taken TWO DAYS before Reiryu's detention (9 years old) by the Tokorozawa CGC. As shown, Reiryu and his father are in an intimate and amicable parent-child relationship with NO signs of abuse. They went trekking on rocky terrain in Chichibu. After the arbitrary detainment, the Tokorozawa CGC claimed that the scars he got in the mountain were 'evidence of abuse'.



◀5 – On 13 April 2022, Reiryu (18 years old) and his father at a happy reunion dinner in a Japanese restaurant in Nagaoka after the expiration of the forced separation and ban on visitation imposed by the Tokorozawa CGC.