



# **Parallel Report**

## **to the UN Committee on the**

## **Rights of Persons with Disabilities**

in the context of the examination of the  
Initial Report of Japan under Article 24 of  
the UN Convention on the Rights of  
Persons with Disabilities

**Japan, 2019**

**The Society for Public Education Planning**

**Japan Alliance for Inclusive Education**



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# 1. Profile

This parallel report was prepared by two groups, The Society for Public Education Planning and Japan Alliance for Inclusive Education.

The Society for Public Education Planning is an academic organization in Japan which studies the status and direction of public education from theory and policy perspectives. Its members include researchers, staffs of school education and people who are interested in education. The society promotes research on inclusive education to realize it in Japan. The society works with persons with disabilities, including its members with disabilities belonging to universities, organizations of people with disabilities or IL movement.

Japan Alliance for Inclusive Education, one of the civil groups in Japan, was founded in 1981 by persons with disabilities, parents of children with disabilities and teachers, who were united with a common hope “Let children with disabilities learn in regular schools.”. Its activities are to issue newsletters, to provide consultation for the parents who wish to let their children with disabilities learn in regular schools, and to advocate for inclusive education against the policies of segregated education in Japan.

Persons with disabilities have played a central role in preparation of this report, engaging in discussion, making inputs and comments to drafts, translating the report to English, and in improving the accessibility of the formats.

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## 2. Executive summary

After the ratification of UNCRPD, Japanese government modified its placement system of children with disabilities, recognizing the possibility of enrolling in regular classes with reasonable accommodations. However, the modification was not a substantial reform of education system toward inclusive education based on UNCRPD with the direction to realize an environment where children with and without disabilities learn together. As a result, regardless of the legislative change, the education system maintained its foundational principle, that is, additional support or individualized arrangement should be provided in a separate environment: special needs education schools, or in resource rooms in regular schools.

Although Act to Advance the Elimination of Discrimination Based on Disabilities was enforced in 2016, it are often happened that the cases that children/students with disabilities are denied their hope to enroll in regular class, had to give up their wishes due to the long process of negotiation, or their parents are forced to attend their school lives in the regular classes and to pay the cost for reasonable accommodations.

This report points the issues of implementation of Art. 24 of UNCRPD in Japan (Section 3), suggests 9 list of issues (Section 4), and proposes 9 concrete actions (section 5).

The proposal in Section 5 consists in three parts: general comments, prohibition of discrimination, and concrete actions.

In the first part of the proposal, we propose the committee to urge Japanese government to interpret and define inclusive education based on Art. 24 of UNCRPD and the General Comment No.4 of the committee. Specifically, Japanese government should interpret special needs education schools and resource rooms should utilized to promote inclusive education in regular classes with necessary support.

In the second part on the prohibition of discrimination, we propose the committee to urge Japanese government to prohibit rejecting and limiting the enrollment of children with disabilities in regular classes and to guarantee the provision of reasonable accommodations.

In the third part, we propose nine concrete actions to be taken by the Japanese government. They include: making regular class as the principle place for registration for children with disabilities; setting a target value on the number of children with disabilities in regular classes with necessary support to increase the registration; realizing the smaller class size and allocating additional teachers for classes where children with disabilities learn; making educational institutions eligible for the Barrier-Free act; and establishing an independent third-party dispute settlement body.

### 3. Implementation of the CRPD article 24 in Japan

1. Upon the ratification of UNCRPD, the ministry of Education, Culture, Sports, Science and Technology introduced a new policy to establish “inclusive education system”<sup>1</sup> to realize the co-living society. While the policy refers “inclusive education”, the system does not set regular class as a principle for enrollment. In the system, the enrollment of children with disabilities is determined by local education board from the options of special needs education, special needs education cases in regular school, and resource rooms, comprehensively considering the needs and hope of the child and parents, school environment, and opinions of so-called experts. On the ground, there are numbers of cases reported where the children with disabilities are denied to enroll in regular class. In addition, within the “inclusive education system”, the separated environment are not given the roles to promote inclusive education such as supporting the transfer to regular class. As a result, the number of children with disabilities in separated environment is increasing on the contrary to the policy of “inclusive education system for co-living society”.
2. Despite of the declining number of children/students registering to primary schools, lower secondary schools or upper secondary schools due to the low birth rate in Japan, the number of children/students registering to special needs education schools and special needs education classes is increasing. Comparing to the difference of decade during from 2007 to 2017, the number of children/students in special needs education schools increased from 108,173 to 141,944 and the range of increasing was 377.71, 1.3time. Also the number of children/students special needs education classes more than doubled from 113,377 to 235,487.
3. It is notable that the previous system which had stipulated the principle of placing children with disabilities in special needs education schools was amended though; it is still difficult to enroll in regular schools based on the wish of the child or the parents due to the rejection or to the conditions attached for enrollment by local education boards or the schools.

For example, one family in Kanagawa prefecture took legal action against local education board to admit their child in a regular class, and to withdraw its decision of placing their child in a special school against the request of the family<sup>2</sup>. In another case in 2018, a family who requested to enroll their child in a regular school met repeating negotiation by the local education board, recommending a special school. The enrollment in the regular school was approved just before the entrance though; the family received a written notification that confirmed that the family should be aware of

the process of negotiation (implying the local education board regarded the regular schools was inappropriate for the child).

4. For upper secondary and higher education entrance examination, there are cases where those who hope to be admitted are rejected; there are cases of denying the reasonable accommodations, and refusal based on disabilities after the examination<sup>3</sup>. The nature of entrance examination in Japan which is oriented in writing examination, heavily dependent on the ability of memorization, make it impossible for students with intellectual disabilities to enter upper secondary education and higher education.

5. It is notable that the Act for Eliminating Discrimination against persons with Disabilities (Act No.65 of June 26, 2013) came into power in 2016 in Japan, obliging public bodies, including schools and local education boards, to provide reasonable accommodations.

However, the reasonable accommodations are not substantially provided, and the budget allocation for the provision of reasonable accommodations is not sufficient.

In 2018, one family in Aichi-prefecture took legal action to request compensation for their burden on forced attendance on their child and financial burden for the installation of assistive devices at school. <sup>4</sup> In 2015, a mother of a child with disability was forced to attend her child's school trip on her own budget.

In 2015, the Ministry of Education, Culture, Sports, Science and Technology conducted research on parents who attend their child with disability in regular schools at primary and secondary level, and found 1897 mother or father of the child daily attend their child at school.<sup>5</sup>

6. The Act on Promotion of Smooth Transportation, etc. of Elderly Persons, Disabled Persons, etc. requires public buildings to be accessible but educational facilities of kindergarten, primary to upper secondary schools, and higher education institutions are not included in those buildings. As such, the legislations regarding to persons with disabilities, should be amended to be inclusive.

For example, a child using stretcher in regular school has been requesting the installation of an elevator in the school. However, the request has not been met. As a result, the parents of the child attend on the child and carry him or her.<sup>6</sup>

7. Moreover, the Act on Standards for Class Formation and Fixed Number of School Personnel of Public Compulsory Education Schools (so-called the Act on Standards for Public Compulsory Education Schools) allocates one teacher per 40 students. To ensure quality education for children with disabilities in regular classrooms, it is necessary to realize smaller size class, and to allocate additional teachers for classes where children with disabilities learn.
8. While early detection is provided in infantile and pre-school health check, and early intervention services are provided in rehabilitation institutions for children with disabilities but the majority of those services are not directed to inclusion; they tend to recommend special needs education schools for the parents of children with disabilities.<sup>7</sup> Pre-school enrollment consultation which provides opportunities to consult about the school to enroll, local education boards tend not to provide parents of information that children with disabilities can learn together in regular schools.<sup>8</sup>
9. Inclusive education is not taught in the curriculum for pre-service teacher education in universities, and in-service teacher education provided by the ministry of Education, Culture, Sports, Science and Technology or local authorities. Even if it is taught, the contents are based on the medical model of disability.  
This is common for education of teachers in nursery school, public administrator, and other workers in welfare services who are concerned with the education of children with disabilities; the understanding of inclusive education based on UNCRPD and the human rights model of disability are not taught in to their education.

## 4. Proposed list of issues

We request the committee to include following questions in its list of issues to Japanese government.

1. Do the School Education Act (Act No. 26 of 1947), Regulations for Enforcement of the School Education Act (Order of Ministry of Education No.11 of 1947), or any other national law confirm that the school registration of children with disabilities should be in regular class as principle?
2. In order to increase the registered number of children with disabilities in regular class, does Japanese government have target values of the children with disabilities in regular class?
3. Does any national law in Japan ensure the allocation of additional teachers to regular classes where a child with disability is registered?
4. Does the Ministry of Education, Culture, Science and Sports oblige local education board to inform the parents of children with disabilities that the children with disabilities are entitled to learn in regular class, and reasonable accommodations are legally ensured?
5. Is the concept of inclusive education based on Art.24 of UNCRPD and the General Comment No.4 included in the curriculum of education of teachers, rehabilitation workers, nursery school personnel's, or any other professional who are involved in the education of children with disabilities?
6. Are Japanese children guaranteed the opportunities to learn that not to be segregated based on disability against their will in education is a basic human right?
7. Does Japanese government have any plan to reform upper secondary and higher education system to promote inclusion of children with intellectual or developmental disabilities in upper secondary schools and higher education institutions?



8. Does any national law stipulate the obligation to guarantee the accessibility of educational institutions including kindergarten, nursery, primary to upper secondary schools and higher education institutions?
  
9. Does any independent and third-party dispute settlement body exist in Japan for children with disabilities and the parents of children with disabilities?

## 5. Proposed recommendations

We request the committee to include following recommendations to Japanese government.

### 1. General Comments

- (1) Japanese government should interpret the definition of inclusive education based on Art.24 of UNCRPD and the General Comment No.4 and reform all laws and systems related to the education of children with disabilities to promote inclusive education.
- (2) Japanese government should reform entire legislations and systems to promote inclusive education at every level of education (nursery school, pre-primary to higher education and lifelong learning) in line with the direction of inclusion where children with and without disabilities learn together, no one is excluded, distinguished, or limited his or her participation based on disability.
- (3) Japanese government should reform upper secondary and higher education to be open for all, abolishing the entrance examination system in the future.

### 2. Prohibition of Discrimination

- (1) Japanese government should prohibit the denial or limitation of the enrolment and registration of children with disabilities in regular classes based on the school resources and structure, budget, or the safety of the children.
- (2) Japanese government should guarantee the reasonable accommodations with budget allocation for children with disabilities to learn in regular schools.
- (3) Japanese government should take necessary measures to unburden the parents of children with disabilities by eliminating the requested attendance and the cost for the reasonable accommodations.

### 3. Requested Actions

- (1) The Japanese government should amend the Regulations for Enforcement of the School Education Act (Order of Ministry of Education No.11 of 1947) to stipulate that the principle of the registration of children with disabilities is at regular classes. Until the amendment, the school for registration should be determined by the wish of the child or the parents.
- (2) The Japanese government should set the target value of the number of registered children with disabilities in regular class to increase the attendance in regular class.
- (3) The Japanese government should amend the Act on Standards for Class Formation and Fixed Number of School Personnel of Public Compulsory Education Schools (so-called the Act on Standards for Public Compulsory Education Schools) to form smaller class and to allocate additional teachers to the classes where children with disabilities learn.
- (4) The Ministry of Education, Culture, Sports, Science and Technology should oblige local education board to inform the parents of children with disabilities that the children with disabilities are entitled to learn in regular class, and reasonable accommodations are legally ensured.
- (5) The Japanese government should include the concept of inclusive education based on Art. 24 of UNCRPD or the General Comment No.4 in the curriculum of professional education of teachers, rehabilitation workers, nursery school personnel's, or any other professional who are involved in the education of children with disabilities so that they can practice inclusive education based on the understanding of human rights model of disability.
- (6) The Japanese government should take necessary measures to guarantee Japanese children the opportunities to learn that not to be segregated based on disability in education is a basic human right.
- (7) The Japanese government should reform upper secondary and higher education

system to promote inclusion of children with intellectual or developmental disabilities in upper secondary schools or higher education institutions by ensuring the reasonable accommodations in examinations and assessments.

- (8) The Japanese government should amend the Act on Promotion of Smooth Transportation, etc. of Elderly Persons, Disabled Persons, etc. to include kindergarten, nursery schools, primary to upper secondary schools, and higher educational institutions as the public facilities required to be accessible by the law.
- (9) The Japanese government should establish an independent and third-party dispute settlement body for children with disabilities and the parents of children with disabilities.

*End*

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<sup>1</sup> The definition of inclusive education system by Ministry of Education, Culture, Sports, Science and Technology "In inclusive education system, with a view to assisting infants, children and students with disabilities to become independent or participant in social activities based on the system of laws concerning school education, schools implement special needs education by providing appropriate guidance and necessary support to them in order to assess the educational needs of individuals, help enhance their capabilities and help improve or overcome their difficulties in life and learning, while diverse places of learning such as normal classes, special support service in resource rooms, special needs education classes and special needs schools are established. The national government will continue to take measures to enrich these diverse places of learning." (Resource of data: The Report of Central Council for Education of Ministry of education, culture, sports and science, "promoting the special needs education for building the education system "2012)

<sup>2</sup> "A Law Suit for the registration of a child in regular class "Calling for normal life with friends in regular class" at Yokohama Local Court", Sankei News reported a case of legal action on 20 September, 2018.

<sup>3</sup> The issue of exclusion from upper secondary and higher education is reported several times. "Rejection again from under-subscribed Kusunoki high school: a student with Cerebral Palsy rejected in his second entrance exam" (The Mainichi, 20 September 2018), "Mr. Nakamura with intellectual disability, rejected again in entrance exam for a high school: "Academic performance-based selection is discrimination, the family commented" (Ryukyu Shimpo reported on 11 April, 2019) In another case in Chiba, a student with disability continued to get rejected in entrance exam for 7 years since 2013.

<sup>4</sup> "The required attendance at school is discrimination", parents of a child with medical care needs took legal action in Aichi" (The Mainichi, 20 September 1, 2018)

<sup>5</sup> Ministry of Education, Culture, Sports, Science and Technology: The Result of the Research on the situation of parents attending on their child with disabilities in regular schools at primary and secondary level in Japan.(2015)

<sup>6</sup> "Call for an elevator at Hosho elementary school: parents of a child with an intractable disease submitted a petition in Okayama" (Sanyo News, December 26, 2018)

<sup>7</sup> A case where parents had to give up regular schools by the intervention of personnel in a rehabilitation institution (Osaka, 2017). "When my child was in a rehabilitation institution for children with disabilities, I wished to let my child attend a nursery school. However, the personnel at the institution was against the idea. I put my child in the nursery regardless of the opposition of the institution. When deciding the school to enroll, the institution pushed special needs education school in the consultation. The decision of the local education board was that my child is placed in a special needs education school. In the first year of the school, I requested local education board with my supporters to transfer my child to regular school, and from 2nd year, my child started to learn in the regular school."

<sup>8</sup> A case where rehabilitation institution for children with disabilities and local education board recommended special needs education school (Tokyo, 2018) "Mother of a boy with muscular dystrophy said: My child has regularly received medical care at a hospital and has had rehabilitation in a rehabilitation institution for children with disabilities. Before deciding the school to enroll, the local authority had a session to explain the schooling and enrollment system for the parents, using the rehabilitation institutions in the district. In the session, they only talked about the good aspects of the special needs education school and special needs education class. I did not even know that my child can enroll in regular class. I felt like mind controlled"