

Child Abuse and Parental Power in Japan

Shinichiro Kado¹ and Kotaro Nakayama²

Summary. We reviewed four nationwide studies on child abuse in Japan done in 1973, 1983, 1984, and 1988. It is difficult to draw any conclusion about the trend of child abuse from these studies because the definitions of abuse were not the same. However, we can find no evidence to show an increase of child abuse in Japan, although it is not difficult to imagine that hidden cases overwhelmingly outnumber the reported cases. We estimate the provisional incidence at 45.8 per 1000 children in Japan. Regarding child abuse cases, in general, legal intervention is believed to be ineffective in Japan, although its effectiveness is indicated in the findings of the research done by the Directors of the Child Guidance Centers in 1988. We believe that the Child Guidance Centers should not be reluctant to use judicial power to protect the human rights of a child.

Key words. Child abuse—Incidence—Parental power—Forfeiture

It has been said that the incidence of child abuse is low in Japan. However, many of those concerned have recently pointed out that a large number of child abuse cases, especially sexual ones, are kept secret by family members and are not reported by neighbors, doctors, or teachers [1]. Although we have no firm data of the incidence of child abuse in Japan, UNICEF [2] has been concerned about infant abuse in the world, citing recent statistics (Table 1). At the moment, internationally comparable statistics are available only for infants under 1 year of age, although most abused children are not infants but children of the age range 2–4 years. From the data in Table 1, we cannot but infer that the incidence of other varieties of child abuse in Japan must be underestimated. Here we review the results of the nationwide studies on child abuse, examining the annual number of cases and some problems arising in the management of child abuse cases.

¹Kyoto City Child Welfare Center, Takeyamachi-Sembon-Higashi, Kamigyo-ku, Kyoto 602, Japan

²Department of Neuropsychiatry, Faculty of Medicine, Kyoto University, Shogoin-Kawaharacho, Sakyo-ku, Kyoto 606, Japan

Table 1. Death of infants from presumed abuse, 1985–1990.

Country	Deaths/100 000 live births
Former Czechoslovakia	10.1
United States	9.8
Former Soviet Union	8.7
Denmark	8.1
Japan	7.4
New Zealand	6.9
Finland	6.2
Hungary	5.7
Australia	5.5
Switzerland	4.9
Bulgaria	4.3
Austria	4.3
Belgium	4.3
United Kingdom	3.9
Germany	3.5
France	3.1
Canada	2.7
Poland	2.4
The Netherlands	2.1
Norway	1.7
Sweden	0.9
Italy	0.4
Spain	0.2

Reported and Unreported Cases

So far, four nationwide studies on child abuse have been conducted in Japan. It was around the time of the second baby-boom, from 1971 to 1973, that child abuse became a national concern in Japan for the first time. During those years “coin-locker babies” were often reported in the media (infants who were killed or simply abandoned in coin-operated lockers in big railway stations). This was just after the end of the income-doubling policy from 1960 to 1970, which was accompanied by rapid urbanization of the whole country. This miserable phenomenon was considered serious pathology emerging in a rapidly developing society. It was argued that the main cause of this pathology was the loss or decline of the capacity of child rearing in urban families.

1973 Study

The Ministry of Health [3] carried out the first nationwide study on child abuse during the period from 1 April 1973 to 31 March 1974 using a questionnaire to be filled out by the directors of all the child guidance centers ($n = 153$). They were asked to report the numbers of killed, almost lethally abused, and deserted children under age 3 years. The numbers of these categories were 236, 36, and 139, respectively, giving a total of only 411.

1983 Study

Ten years later another study was carried out. It was a 1-year investigation by a nongovernmental group of experts called the Research Group on Child Abuse [4]

Table 2. One-year investigation by the Research Group on Child Abuse: April 1983 to March 1984.

Type of abuse	No.
Physical abuse	223
Sexual abuse	46
<i>Subtotal</i>	269
Emotional abuse	34
Neglect or refusal of custody	111
Others	2
<i>Total</i>	416

Table 3. One-month investigation by the Association of Directors of Child Guidance Centers: February 1984.

Parameter	No. of cases, February 1984	Estimated annual number ^a	
		A	B
Abuse	67 (4.2%)	1222	804
Desertion	30 (1.9%)	553	360
<i>Total</i>	97 (6.1%)	1775	1164

^aA, Based on February 1984 figures; B, based on monthly figures.

(Table 2). From 1 April 1983 to 31 March 1984, Ikeda and her colleagues received 416 reports of child abuse from the directors of all the child guidance centers ($n = 164$). They defined child abuse in a stricter way than in the previous study, that is, as "intrafamilial child abuse by parents or other custodians."

1984 Study

Another 1-month study was conducted by the Association of Directors of Child Guidance Centers [5] in which they investigated only two categories: abuse and desertion (Table 3). The total number of all clients in February 1984 was 1581, and during the fiscal year 1983 the number was 29 103. Based on the rates of the two categories, the estimated annual numbers for child abuse and desertion were 1222 and 553, respectively. They also estimated the annual numbers of 804 and 360, respectively, based on the monthly numbers multiplied by 12.

1988 Study

The Association of Directors of Child Guidance Centers, mentioned above, conducted a second investigation from 1 April 1988 to 30 September of 1988 (6 months). With the purpose of conducting study relative to the 1983 research reported by the Research Group, they studied four categories using the same definitions as those of the former research group [5] and added parents' prohibiting their child from going to school, bullying and other types of abuse, and neglect. The rate of response was 100%. The results and the estimated annual numbers are shown in Table 4. Based on the results of this study, it was estimated that the rate of child abuse by parents or

Table 4. Six-month investigation by the Association of Directors of Child Guidance Centers: April to September 1988.

Parameter	Cases	×2 (Annual)
Physical abuse	275	550
Sexual abuse	48	96
<i>Subtotal</i>	323	646
Emotional abuse	68	136
Neglect or refusal of custody	391	782
Desertion	229	458
Prohibited from going to school	28	56
<i>Total</i>	1039	2078

other custodians is 0.066 per 1000 children. In urban areas (Tokyo and 10 other designated large cities) the rate is higher than in rural areas (0.098 versus 0.059 per 1000).

Trend of Child Abuse in Japan

It is difficult to draw any conclusions about the trend of child abuse from the studies in 1973, 1983, 1984, and 1988 because the definitions of abuse varied. For example, in the 1973 study the researchers dealt only with lethal abuse of children under age 3. It might be possible to compare the results of the 1983, 1984, and 1988 studies because these three studies included common categories. When we estimate the annual amount of abuse in a narrow sense (physical and sexual abuse together) during the fiscal year 1983, we may get the following three different numbers depending on the means of estimation: 269 cases, 1222 cases, or 804 cases (Tables 2, 3). It is unreasonable to compare these different estimations with that of 1988 (646 cases) (Table 4).

Kamiide [6] also reasonably described the difficulty of the time series study of their two investigations (the 1984 and 1988 studies). He argued that the former dealt only with desertion and physical and sexual abuse. He estimated the total annual number of these three categories in the 1984 study as 1164. This figure exceeded the number in the 1988 study of 1104 (458 + 550 + 96) (Table 4). He stated that it was difficult to conclude directly from these investigations that child abuse is markedly increasing in Japan. On the other hand, Ikeda, some other authors, and the Federation of Japanese Bar Associations suggested that there is an increase in child abuse in Japan. We agree with Kamiide's conclusion that there is no evidence to indicate an increase in child abuse in Japan.

It is not difficult to imagine, however, that hidden cases overwhelmingly outnumber the reported cases in the 1988 study. In 1986 in England and Wales, 2137 cases were registered as child abuse and neglect, with a rate of 2.29 per 1000 children. However, the actual number of abuse cases in England and Wales was thought to be 10 times as many as the number of registered cases [7]. Again, according to the data cited by UNICEF (Table 1), the rate of infant deaths due to presumed abuse in Japan is twice as high as in the United Kingdom. Therefore the actual prevalence of child abuse in Japan may well be at least 20 times that of the reported rate of registered cases in England and Wales. Thus we could provisionally estimate the prevalence of child abuse and neglect in Japan at 45.8 per 1000 children.

Few cases of child abuse (especially sexual abuse) are reported to the Child Guidance Centers in Japan. It is partly because the system of reporting does not function well. According to the Child Welfare Act, whoever finds or suspects child abuse or neglect is obliged to report it to a child guidance center. Unlike European countries and the United States, we have no statute defining who may report the case without likelihood of legal reprisal, and who must report under threat of civil or criminal penalty. This uncertainty is one of the main reasons we have such a small number of reported cases in Japan.

Parental Power in Japan

Historically, the motto "rich country and strong military," which has applied since the Meiji Restoration (1868) was associated with the feudal patriarchal family system called "Ie" (which literally means "house"), where a patriarch was required to be responsible for all family affairs. With some assistance of the *parens patrie* power, the patriarch was permitted to do whatever he wanted to all members of his Ie. After surrender to the United Nations' military force, the penal and civil codes were only partly amended according to the standards of the Western countries at that time. Nevertheless, parental power has remained strong. It tends to be interpreted as power and authority rather than responsibility and duty.

In the Japanese Civil Code (Act 89, 1896; partly amended in 1949) and the Mental Health Act (Act 123, 1950), parental power comprises the following elements:

1. The right and the duty of having custody of the child, educating the child (CC s. 820), and consenting to compulsory psychiatric hospitalization (Mental Health Act s. 33)
2. The duty of paying for any damage the child or the mentally ill person under a parent's supervision has caused to a third person (CC ss. 709 and 714)
3. The right of designating the place of residence of the child (CC s. 821)
4. The right of personally chastizing the child or of placing it in a disciplinary institution with the permission of the Family Court (CC s. 822)
5. The right of giving permission to carry on an occupation (CC s. 823)
6. The right to give permission for marriage of a minor child (CC s. 737)
7. The duty of managing the property of a child and of representing the child on judicial acts concerning his or her property (CC s. 824)

In the above 1988 study, the Association of the Directors of the Child Guidance Centers mentioned that the strong parental power in Japan was the most serious difficulty when dealing with child abuse, and that 113 cases of parental refusal to have their abused children removed to a children's home were reported over a 6-month period. It occurred because usual placement in a children's home is a kind of commission contract between a guardian or a person with parental power and a children's home, which is under the Child Welfare Act (Act 164, 1947), Section 27. Therefore when the guardian or person with parental power opposes the placement, the child guidance center cannot carry it out. It is understood that this opposition is based on the right and duty of having custody of and educating the child (CC s. 820) and the right of designation the place of residence of the child (CC s. 821).

Table 5. Number of applications and approvals regarding Section 28.

Parameter	'82	'83	'84	'85	'86	'87	'88	'89	'90	'91
Applications	6	4	14	3	0	5	6	3	19	10
Approvals	3	4	13	3	1	5	3	0	15	9

Data from the Ministry of Health and Welfare, 1982–1992 [8].

Partial Forfeiture of Parental Power

The Child Welfare Act, Section 28, sets forth the measures that the governor of the prefecture is to take in case of abuse or serious neglect of a child. In this section, it is stated that when a parent or other custodian abuses a child or seriously neglects its custody, thereby leading to serious infringement of the child's welfare, the child can be removed from the custodian's custody; and if the guardian or person with parental power opposes placement of the child in a children's home, the governor of the prefecture may order such placement without the custodian's agreement under a ruling of the Family Court. It is said there is no regulation regarding partial forfeiture of parental power in the Japanese laws, but this Section 28 could be regarded as partial, temporary forfeiture of parental power.

Nevertheless, directors of children's homes complain that even in case of placement by the governor, they could not stop the child's discharge against the objections of parents or custodians. Therefore they consider Section 28 to be ineffective. Such an unhappy situation might well occur because there is no provision setting forth that the Family Court shall hear a child in question and investigate circumstances before the discharge of the child.

The 1988 investigation carried out by the Association of the Directors of the Child Guidance Centers over a 6-month period showed that 20 (3.2%) of the 624 children who had been placed in children's homes under Section 27 had been discharged by parents who used coercion. However, it also reported that none of the six children who had been placed in children's homes under a ruling of the Family Court (under Section 28) had been taken away. Therefore the authors consider that Section 28 must be effective. Unfortunately, child guidance centers seldom use it (Table 5), as they believe that it is not effective. The directors of child guidance centers should reconsider Section 28; moreover, if the condition of discharge is defined clearly in the Act, the measures under this section should become more effective and more reliable for the directors of children's homes.

Total Forfeiture of Parental Power

The Civil Code, Section 834, sets forth the forfeiture of parental power. This section states that if a father or mother abuses parental power or is guilty of gross misconduct the Family Court may, on application of any of the child's relatives or of a public prosecutor, adjudge the forfeiture of parental power. Section 835 sets forth forfeiture of the power of managing property. However, there is no provision for forfeiture of any other part of parental power, although Section 28 of the Child Welfare Act can provide partial forfeiture, as mentioned above.

Abuse or neglect is committed mostly in families isolated from their relatives; the spouse of an abuser is often an accomplice in the maltreatment, and the siblings are

Table 6. Number of applications and approvals regarding Section 834.

Parameter	'82	'83	'84	'85	'86	'87	'88	'89	'90	'91
Applications	3	0	2	1	0	0	1	0	2	2
Approvals	2	1	0	0	1	0	0	0	0	3

Data from the Ministry of Health and Welfare, 1982-1992 [8].

also victims and have no access to a public prosecutor. Thus Section 33-5 of the Child Welfare Act prescribes that a director of a child guidance center can be an applicant for the forfeiture.

Nevertheless, child guidance centers are reluctant to request the forfeiture of parental power to the Family Court. This reluctance is partly because the Japanese prefer an extrajudicial solution to a judicial one and partly because parental power is emphasized more than parental responsibility and duty. In addition, strange to say, a number of directors of child guidance centers believe that the forfeiture of parental power is difficult and has been adjudged only once so far, although it is not true (Table 6). If such a myth made the directors refrain from applying to the Court for the forfeiture, it would be unfortunate for abused children.

Conclusion

In Japan economic development and urbanization appear to have undermined the capabilities of families regarding custody and education. It is reasonable to infer that there must be many more unreported child abuse and neglect cases than are reported. If the report system is improved, the national concern about child abuse and neglect could increase. Moreover, it is desirable that the concept of parental authority should be amended in the penal and civil codes and in other related laws in the direction of the UN Convention of the Rights of the Child, which Japan ratified in 1994.

References

1. Osaka Study Group for Child Abuse (1989) The report of the investigation of the care for abused children (in Japanese). OSGCA, Osaka
2. UNICEF (1994) The progress of nations. UNICEF, New York
3. Ministry of Health and Welfare (1975) Report on cases of child abuse, desertion and killing (in Japanese). MHW, Tokyo
4. Ikeda Y, Tamura K, Shimohira Y, Yoshizawa H (1985) Child abuse (in Japanese). Research Group on Child Abuse, Tokyo
5. Ikeda Y (1987) Child abuse (in Japanese). Chuokoronsha, Tokyo
6. Kamiide H (1989) The summary report by the Chairman of the Association of Child Guidance Center Managers (in Japanese). In: Documentations for the annual meeting of the association, Tokyo
7. Creighton SJ (1987) Annual update of statistics 1986. National Society for the Prevention of Cruelty to Children, London
8. Ministry of Health and Welfare (1982-1992) Annual Report on Social Welfare in Japan (in Japanese). MHW, Tokyo