

**Report of the Denial of the "Right of Children to Express Their Views" in the
Japan Education and Judicial System:
"Convention on the Rights of the Child" Court Case of 59 High School Students**

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Introduction

My name is Hitomi Takuwa. I am currently a junior at Kwansei Gakuin University.

I am very happy to have been afforded this opportunity to represent my peers in addressing the "Committee on the Rights of the Child" as I share the experiences of myself and 58 fellow students in regard to the current state and challenges here in Japan surrounding the rights set forth in the "Convention on the Rights of the Child."

I would like to report regarding the events surrounding the closing of the high school I attended, Osaka Prefecture Takatsuki Minami High School, the relation of the "right of children to express their views" and to touch on the problems of Osaka Prefecture, the Osaka Prefectural Board of Education, the judicial system and the courts.

Our Movement to Bear the Ensign of the Ideals of the Convention on the Rights of the Child

The report beginning gets it, and please permit me that I cannot but leave out one part of my speech plan by relation of given remark time. About the part, please look at our report in detail.

We are former students of Takatsuki Minami High School, a school that was closed for unreasonable reasons at the end of March 2005 in Osaka Prefecture.

Our alma mater was a leading school in its school district, did not discriminate using

entrance exam preparation education, was strong in both academic and extracurricular activities and was loved by both the students and local residents. In regard to sports activities, our alma mater was often referred to as one of the top class schools among all the Osaka public high schools. In addition, our alma mater had one of the lowest drop-out rates among all the Osaka public high schools. Our alma mater was also actively involved in international exchange activities with a high school in Australia.

In fact, one of the members of the Osaka Prefectural Board of Education involved in the decision to close our alma mater stated, "Takatsuki Minami High School was an exemplary school that stood out as a beacon of light among the many problem schools in the Osaka public high schools system." In addition, in court, one of the witnesses for the Osaka Prefectural Board of Education stated for the record that "Takatsuki Minami High School is a most excellent school." How is it then that such an excellent school, which is loved by its students and the surrounding community, can be so one-sidedly designated for closure? That was our question as well and the start of our lawsuit and movement to fight the decision to close our alma mater.

Using the "right of children to express their views" clause from the Convention on the Rights of the Child as our last resort in our battle against the Osaka Prefecture's decision to close our school, we (59 students and 121 parents) took our signed petition to Osaka District Court on March 28, 2003 to take on Osaka Prefecture and the governor in a lawsuit aimed at having the order to close our school canceled and to seek reparations. We fought until the court's decision was finally delivered on September 10, 2004. Our lawsuit was based on the fact that there was no reasonable reason for closing our school, that the signed petition and opinions of nearly 170,000 names from the local community in opposition of the decision to close our school had been ignored, and that the authorities involved had not acknowledged our (us students) right to express our views. This kind of court case involving high school students was unprecedented here in Japan in the history of modern education. Through our movement to oppose the closure of our

school, the Convention on the Rights of the Child ---our ultimate last resort--- became a true presence in supporting our feelings. In fact, I do not think that we would have gone forth with our lawsuit if it were not for the Convention on the Rights of the Child.

The Problems Pertaining to the "Right of Children to Express Their Views"

1. When it was announced on August 30, 2001 that our alma mater was going to be closed, neither the students, the student council, the parents, the PTA, the teachers, the teachers association, Takatsuki City authorities or the Takatsuki City Council had been involved in any preliminary discussions, meetings or had been approached in any way by Osaka Prefecture and the Osaka Prefectural Board of Education regarding the decision to close the school.

Instead, we all learned that our alma mater was going to be closed through television and radio news. In court, the Osaka Prefectural Board of Education stated nonchalantly that "we made our decision using the materials at our reference without inspecting the plaintiffs' school. It is standard protocol in these cases not to have members of the board of education visit the school being examined for closure." Naturally, it is very hard to believe that the Osaka Prefectural Board of Education would take such a brazen approach of not even attempting to hear the opinions of the affected parties, local government officials and residents.

The Osaka Prefectural Board of Education ignored all the strong objections from the student council, the parents, the PTA and the teachers association, and ignored nearly 170,000 signatures from local residents, which were raised in a mere two and a half months. They even ignored a proposal made by the Takatsuki City mayor and Takatsuki City Council to have the issue reexamined.

2. The decision to close Takatsuki Minami High School was forced upon us with virtually no explanation presented to us students at that time. The only explanation regarding the consolidation and closure was that made by our principal to the student

body during the assembly as the start of the fall semester. Our principal did not make the announcement in response to demand from the student body but of her own volition, but she only said that anyone that would like to know more should come to her office later. During this assembly, which was held on September 1, 2001, our principal reported that "the Osaka Prefectural Board of Education has decided to close our school. The only reason they gave for the closure was a 'declining birthrates.'" The handout that was distributed for us students to take home to our parents was only one A4 page in length. There was no answer to our questions concerning why our school had been selected for consolidation and closure. The explanation from our principal and the Osaka Prefectural Board of Education was nothing more than the final ultimatum provided after the decision was made to close our school.

3. The position of the Osaka Prefectural Board of Education in regard to the decision to close our school was that "the Osaka Prefectural Board of Education will take responsibility for anything that your principal cannot explain." However, when the student body requested a forum for further explanation in regard to the matter, the Osaka Prefectural Board of Education simply replied, "We will look into it." However, they never did set a date for such a forum nor did they ever take responsibility to explain the matter to us students.

During this time, our principal and headteacher, under pressure from the Osaka Prefectural Board of Education, disallowed us students from expressing our views in the meetings held by the Osaka Prefectural Board of Education for the alumni, parents and PTA. They even went so far as to forbid us students from even observing such meetings. Our student council task force continued to press for our voices to be heard when these meetings were held and when presenting the protest signatures. However, in the end, we were only able to make our voices unofficially heard through the assistance of alumni and our parents.

It later became clear in court that the Osaka Prefectural Board of Education had

provided a list of answers of likely questions to our principal and pressured her from doing anything more than providing bureaucratic answers and dealing with us in a bureaucratic fashion. This same list of answers was even entered into evidence. In this way, our "right as children to express our views," our "right to know" and our "right to participate in school management" was obstructed and denied.

4. Osaka Prefectural Board of Education's High School Education Reform Committee circulated a flyer to the officials of all the high schools within the 2nd School District of Osaka and the education committees of all the cities and towns within the same district and instructed them to restrict and turn down the efforts from the Takatsuki Minami High School PTA and students to seek the support of students and PTA members from other schools in that district. In this same negative spirit, our principal and headteacher prohibited our cheerleading squads from making our "*Rah Rah Takanan*" yell in support of our school during Takatsuki Minami High School's annual school athletic festival.

The denial of our right to express our views did not stop there. On the day before our school athletic festival, a newspaper reporter came to do a story on the matter in response to the pleas from our student council task force and other students. The reporter from Newspaper A that came formally requested permission to interview the students, but our principal and the headteacher made the reporter leave without getting a chance to speak even one word with us students.

5. Though the student body demanded an opportunity offer of an opinion expression for the Osaka Prefectural Board of Education, they never did set a date for a forum to explain the matter to us students. Moreover none of the members of the Board of Education ever tried to come to our school. So we sent a video visit to them by mail. It introduced our daily school life, a beautiful school building, our appeals and opinions to them. Amazingly there was a member of the Board of Education who sent back to us by cash on delivery. This fact became a result to let many students and their parents lose trust for the Osaka Prefectural Board of Education.

6. We first looked into each and every school that had been designated for closure and learned that in each case the school in question was the highest in its district in terms of drop-out rates. We also learned that the Osaka Prefectural Board of Education pretty much disregarded any sort of principled criteria in determining which schools to close and in most every case selected schools that had lots of problems and lots of drop-outs. In the "Educational Reform Program" put together by the Osaka Prefectural Board of Education it was even stated that the problem of drop-outs was the biggest problem among Osaka public high schools. Article 28-1(e) of the Convention on the Rights of the Child states the importance to take measures to reduce drop-out rates. Of course, in light of all this, why would Takatsuki Minami High School, a school with the lowest rate of drop-outs in Osaka Prefecture, be targeted for closure? One of the testimonies given in court about this point stated that another school in the 2nd School District of Osaka was originally targeted for closure, but just before that school was announced, a member of the Osaka Prefectural Assembly butted in to change the school to Takatsuki Minami High School. Moreover it was discovered that Osaka Prefecture sold off 20 school lots for 80 billion yen (about 800 million US dollars) in a poor education policy trying to make up for the deficits incurred by misgovernment during the bubble economy. We, of course, insisted that any high school should not be arbitrarily selected for closure due such speculative actions on the behalf of the government and politicians.

7. Despite the fact that even though Osaka Prefecture acknowledged that Takatsuki Minami High School was an excellent school they would not consider the matter. As a result, our school had to stop new student recruitment activities and, over time, the number of students and teachers began to drop. During this time, academic and extracurricular activities deteriorated, with clubs in particular being pushed to the brink of destruction. We asserted that such arbitrary decisions made in private discussions by politicians needed to be investigated as being in gross violation of the education rights set forth by the Constitution of Japan, Japan's Fundamental Law of Education and the

United Nation's Convention on the Rights of the Child.

Unusual Court Operations Resulting in Our Petition and Wished Being Trampled

This court's ruling of our trial was delivered on September 10, 2004 in the Osaka District Court. The presiding judge, Tomoichiro Nishikawa, ruled completely and unjustifiably against us. Just before the conclusion of a hearing the unusual act of changing judges occurred, which involved a change in the presiding judge. The new presiding judge only held one hearing (May 28) and then the ruling was delivered on September 10. The ruling stated in regard to the "right of children to express their views" that the Convention on the Rights of the Child "could not be interpreted as guaranteeing the procedural and specific rights of students to express their views in settings of decision making regarding individual measures." Such a restrictive interpretation of this international standard that has been ratified here in Japan indicates a substantial denial of the right of children to express their views and demonstrates the governments attempt to restrict the rights of the youth. I have included an excerpt of the relevant portion of the ruling in Exhibit 1 for your reference. In a word, it states basically the same thing that the then Japan's Administrative Vice-Minister of Education of Japan's Ministry of Education stated in an official notice entitled "On the Convention on the Rights of the Child" dated May 20, 1994 regarding the articles and ideals set forth by the Convention on the Rights of the Child.

Also, it is evident from the fact that the ruling judge did not attempt to include the opinion of the former chairman of the Japan Educational Administration Society Constitution of Japan that indicated that the Osaka Prefectural Board of Education was in violation of the Constitution of Japan, Japan's Fundamental Law of Education and various Supreme Court decisions, that this ruling was made just like that of the Osaka Prefectural Board of Education without viewing the high school students as being sovereign. In this end this ruling was unjust and heavily lacking in awareness of human

rights and the proper acknowledgement of the children and their education.

A Request for the Support of the United Nations Committee on the Rights of the Child

What we feel is, even as high school students are capable of comprehending, a great disappointment in the fact that Japan's justice and government administration authorities did not try to understand us. The movement in Japan toward the closure of high schools continues one school after the other, resulting in a deep sadness among many high school students as they lose their alma maters.

We made this report because we feel that it is a matter of urgency that the United Nations Committee on the Rights of the Child know about the serious current state and problems here in Japan surrounding the right of children to express their views and the disgraceful governmental and judicial developments that led to ruling against us that misconstrues, limits and virtually rejects the ideals of the Convention on the Rights of the Child. Here in Japan, the "right of children to express their views" is merely a nice sounding ethical provision without any real substance.

In closing, we would like to ask the United Nations Committee on the Rights of the Child to provide us with any assistance or help that will help us correctly and effectively implement the ideals and rights. In addition, I borrow an opportunity of this speech and I state a feeling of gratitude and thanks to DCI Japan Branch(Osaka Section), permanent legal counsel of eight Lawyer and people of support including our parents, local residents and teachers.