2022年10月10日国連自由権規約委員会・公式ブリーフィングで婚外子差別の現状を訴える

なくそう戸籍と婚外子差別・交流会

4分発言用日本文

私たちのもとには、婚外子本人から次のような悲痛な叫びが寄せられています。
「自分は婚外子で、ずっといじめられてきて辛かった。差別され落ち込んだ。自分のことを半人前と思い
委縮してきた。」「私たちは、子どもの頃から婚外子ということで差別され続けてきた。自分は場面緘黙
症になり、妹は自殺してしまった。」「婚外子だということを知った居住者から、他の住人に言いふらされ、
嫌がらせを受け続け、マンションから退去せざるをえなくなった」
このような差別を助長・再生産しているのが、婚外子に対する差別法制度です。

２０１３年９月に婚外子相続差別規定は、最高裁で憲法違反とされその後法改正されましたが、今も嫡出概念を初めとした差別法制度は維持されています。
また、出生届に「嫡出子・嫡出でない子」の別を記載させる戸籍法の規定は憲法違反と争った裁判で、同年 9 月下旬最高裁は合憲と判断したため、「嫡出子・嫡出でない子」の別の記載を窓口職員が強制する事件が、今も後を絶ちません。
2019 年の子どもの権利条約に基づく日本審査において、「嫡出でない子の概念を廃止してはどうか」との委員の質問に、政府は「法律婚主義、法律婚を正当であるとすることによって、嫡出である子と嫡出でない子というのが、論理必然的に生まれてくる。」と述べています。
私たちは、法務省民事局と毎年意見交換会を行っており、そこで「世界中の国が、法律婚主義をとっているが、多くの国で、親の婚姻の有無によって子どもを 2 種類に分類することをやめている。日本が法律婚主義をとっていることは、嫡出子・嫡出でない子の区別を廃止できない理由にはならない。」と訴えてきましたが、法務省の考えに変化はありません。

2015年12月最高裁大法廷は夫婦同氏強制を合憲とした判決で、「嫡出子であることを示すために、

子
が両親双方と同氏である仕組みを確保することにも一定の意義がある」と述べ、婚外子差別を容認してしまいました。

２００４年１１月以前に作成された戸籍の続柄欄では、婚外子と一目でわかる「女」「男」の記載が未だに維持されています。婚外子からの申出があれば、「長女」「長男」の記載に変更されますが、婚外子に対する差別が根強い中で、自ら名乗り出る者は非常に少ないのが現状です。また、申出制度は、国が婚外子本人にカミングアウトを求めるもので、人権侵害以外の何物でもありません。
国の責任で、職権で変更すべきです。

英語での4分発言

We demand abolition of discrimination against children born out of wedlock!

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We have received the following heartbreaking cries from children born out of wedlock:
"I was an out-of-wedlock child, and it was painful to be bullied all the time. I was not able to receive myself and felt depressed."
"I was ashamed of myself because I had been discriminated against so much." "We have always been discriminated against from our childhood because we were born out of wedlock. I suffered from selective mutism, in which I was not able to speak in social settings, and my sister killed herself."
"My neighbor who found out that I was an out-of-wedlock child spread it out. Then I was harassed and forced to move out of the apartment."
It is the discriminatory legal system that promotes and reproduces discrimination and unfair treatment to such people.

In September 2013, the Supreme Court ruled that discriminatory provision regarding inheritance of children born out of wedlock were unconstitutional and the law concerning inheritance was subsequently amended.

But at the same time in another lawsuit in September 2013, the Supreme Court ruled that the provision of the Family Register Act, which requires a birth registration to indicate whether a child is born in wedlock or not, was not unconstitutional. This ruling has been until now maintained, and there are still many incidents where the counter staff force the parents to check their children status in a separate entry for " legitimate" (born in wedlock) or "not legitimate" (born out of wedlock).

In the Japanese examination of the Children's Rights Committee in January 2019, the committee members suggested that the term 'illegitimate child' be totally abolished. In response, the Japanese delegation answered as follows: "The Japanese law regards the legal marriage system reasonable. So, the distinction between "legitimate" child and "illegitimate" child inevitably follows.

We have had negotiation meetings annually with the Ministry of Justice's Civil Affairs Bureau, and we have insisted that "In many countries that adopt the principle of legal marriage system, children are no longer divided into two types depending on whether the parents are married or not." We think that because Japan adopts the principle of legal marriage, it does not mean the distinction between children born in wedlock and out of wedlock is necessary. However, the Ministry of Justice has not changed its position until now.

By the way, In December 2015, the Grand Bench of the Supreme Court ruled that the mandatory same surname of a married couple was constitutional,
In the ruling, the Supreme Court accepted discrimination against children born out of wedlock, saying that there is also a certain significance in ensuring a system in which
a child has the same name as both parents.

Furthermore, in the relationship column of family registrations created before November 2004, the description of "female" and "male," which can be identified at
a glance as children born out of wedlock, are still maintained.

If there is a request from a child born out of wedlock to the office,
The description will be changed to "eldest daughter" and "eldest son", but in reality, there are very few people who come forward by themselves because discrimination against children born out of wedlock is deep-rooted and die-hard.

This application system indeed requires such children to come out in person,
which is nothing less than a human rights violation.

It is the responsibility of the government to rectify discriminatory descriptions
and should be changed ex officio, that is, by the government authority.