

# Are Facilities that Cultivate Children's Autonomy Sustainable? The Future of Japan's Facilities for Re-fostering Juvenile Delinquents

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## I. Introduction

What do the majority of juvenile delinquents lack?

Most have indicated that, among other things, their parents lacked the necessary parenting skills.

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This research was financially supported by the Kansai University Secondary Fund for Research and the Kansai University Fund for Domestic and Overseas Research Fund, 2020.

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In Japan, there are facilities that cultivate children's autonomy (hereinafter referred to as FCCA) (*Jido Jiritsu Shien Shisetsu*) by providing juvenile delinquents with a familial environment (Article 44 of the Child Welfare Act<sup>1)</sup>). These facilities are a type of child welfare facility (Articles 7 (1), 36 et seq. of the Child Welfare Act) that particularly cater to juvenile delinquents.

The model of this facility<sup>2)</sup> was developed by Kosuke Tomeoka, who established the *Tokyo Katei Gakko* in the suburbs of Tokyo in 1899. He claimed that the successful reform and rehabilitation of juvenile delinquents was 30% human intervention and 70% nature ("*Ningen Sanbu, Tennen Shichibu*"). He believed that a rich natural environment was essential for the rehabilitation of juvenile delinquents, and that agriculture was a particularly effective tool to this end. Furthermore, he stated that children could improve their physical and mental well-being and kick-start their own daily routines by eating well, working well, and sleeping well (*Sanno Shugi*). Therefore, he and the delinquents worked together in the facility<sup>3)</sup>.

As Tokyo's population expanded, the vicinity of the *Tokyo Katei Gakko* became increasingly residential. Consequently, in order to secure more farmland, *Tomeoka* relocated the facility to Hokkaido, the northernmost of Japan's four main islands, and established the *Hokkaido Katei Gakko* in 1914.

He introduced a marital staff system and a small number of child systems, based on a cottage-type dormitory system. As a whole, these systems formed a "family system" wherein two staff members who were married to each other lived with approximately ten juvenile delinquents in a dormitory constructed within the facility. These staff members acted as their parents. This system provided pseudo-family relationships to children who did not have parents with adequate parenting skills.

The facility also prohibited the children from going out without permission. However, there were no gatekeepers, no high fences, and in principle, no rooms were locked from the outside. Unlike juvenile training schools and prisons, the facility operated with an open set-up.

Many facilities have been established and operated based on the facility model established by *Tomeoka*. As of April 2021, there are 58 FCCAs in Japan.

These facilities have been confirmed to effectively rehabilitate juvenile delinquents because the marital staff system provides them with a pseudo-family relationship.

However, the circumstances surrounding FCCAs have changed significantly in terms of children, staff, and schools. This begs the question: Are FCCAs sustainable?

This paper seeks to explain the current status and characteristics of FCCAs, analyze

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1) Act No.164 of 1947.

2) For a more detailed discussion of his thought process, see Chiharu Take, *Jido Jiritsu Shien Shisetsu no Rekishi to Jissen: Kosodatechi/Kosodate wo Shikosuru Kyosei Rinen (History and Practice of FCCAs: Children's Growing Up and Fostering Oriented Philosophy of Living Together)*, Keiso Shobo (2018), pp.441-530.

3) It is said that he dreamed that children in the facility would be able to start their own businesses as farmers after leaving the facility.

the problems that these facilities face, and present solutions.

## II. History

The original FCCA model dates back approximately 140 years. In 1883, *Yukie Ikegami*, a charitable and religious figure who lived in Osaka City, established a juvenile reform school, the *Ikegami Kankain*, at her home. She welcomed juvenile delinquents and minors abandoned by their parents into the facility, and provided them with vocational guidance and other treatments. *Ikegami Kankain* was the first facility for juvenile delinquents in modern Japan. By 1899, there were at least 11 operational private juvenile reform schools (*Kankains*), including the *Tokyo Katei Gakko*.

When the Juvenile Reform School Act (*Kanka Ho*)<sup>4)</sup> was legislated in 1900, every prefecture was required to establish at least one juvenile reform school (Article 1 of the Act). However, implementation was slow due to financial restrictions. The enactment of the Penal Code<sup>5)</sup> in 1907 set the minimum age of criminal responsibility at 14, which consequently increased the need for facilities to confine juvenile delinquents under 14 years of age. As the Juvenile Reform School Act was amended in 1908<sup>6)</sup>, and the cost of constructing such reform schools was passed on to the national government, there was a facility in every prefecture by 1915.

In 1919, *Musashino Gakuin*, the first national juvenile reformatory, was established.

In 1922, both the former Juvenile Act (*Shonen Ho*)<sup>7)</sup> and the House of Correction Act (*Kyoseiin Ho*)<sup>8)</sup> were legislated, while the Juvenile Reform School Act was amended.<sup>9)</sup> As a result, juvenile delinquents aged 14 years or older were confined to houses of correction (*Kyoseiinn*),<sup>10)</sup> whereas those aged under 14 were confined to juvenile reform schools.

In 1933, the Juvenile Reformatory Act<sup>11)</sup> was enacted with the aim of providing better treatment to juvenile delinquents, and the Juvenile Reform School Act was abolished. Simultaneously, juvenile reform schools were renamed as juvenile reformatories (*Shonen Kyogoin*).

After World War II, the Child Welfare Act (i.e., formerly Article 44 of the Act) was legislated, and juvenile reformatories were renamed as reformatories (*Kyogoin*) in 1947. The Act defined a reformatory as a type of child welfare facility.

4) Act No.37 of 1900.

5) Act No.45 of 1907.

6) Act No.43 of 1908.

7) Act No.42 of 1922.

8) Act No.43 of 1922.

9) Act No.44 of 1922.

10) Thereafter, the Juvenile Training School Act (Act No.169 of 1948) abolished the House of Correction Act and house of corrections were renamed as juvenile training schools (*Shonenin*).

11) Act No.55 of 1933.

The Act was amended in 1997<sup>12)</sup>, and juvenile reformatories were renamed as FCCAs (Article 44 of the Act).

### III. Facilities

#### 1. Establishers

As of April 2021, there are 58 FCCAs in Japan. The names and establishers of the facilities are listed in Table 1.

The numbers of facilities created by different establishers are as follows:

The national government has two facilities: *Kinugawa Gakuin* for female delinquents and *Musashino Gakuin* for male delinquents.

Prefectures have 50 facilities. Article 35 (2) of the Child Welfare Act and Article 36 of the Enforcement Ordinance of the Child Welfare Act<sup>13)</sup> stipulate that each prefecture should establish at least one facility. Accordingly, all prefectures have at least one facility.

The major cities designated by government ordinances<sup>14)</sup> have only four facilities. Articles 35 (2) and 59 (1) of the Child Welfare Act and Article 36 of the Enforcement Ordinance of the Child Welfare Act stipulate that the aforementioned major cities should also establish at least one facility. However, 16 of them do not have FCCAs, and only four cities (Yokohama, Nagoya, Osaka, and Kobe) have one each.

The private sector has two facilities. One is the *Hokkaido Katei Gakko*, established by the *Hokkaido Katei Gakko Social Welfare Corporation*<sup>15)</sup> and the other is the *Yokohama Katei Gakuen*, established by the *Yonen Hogokai Social Welfare Corporation*.

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12) Act No.74 of 1997.

13) Cabinet Order No.74 of 1947.

14) An “ordinance-designated major city” is a large city with a population of over 500,000 people that is designated by the Cabinet Order (Article 252–19 of the Local Autonomy Act [Act No.67 of 1947]). Such cities have the same administrative authority as a prefecture.

15) Social Welfare Corporations are regulated in Articles 22 et seq. of the Social Welfare Act (Act No.45 of 1951).

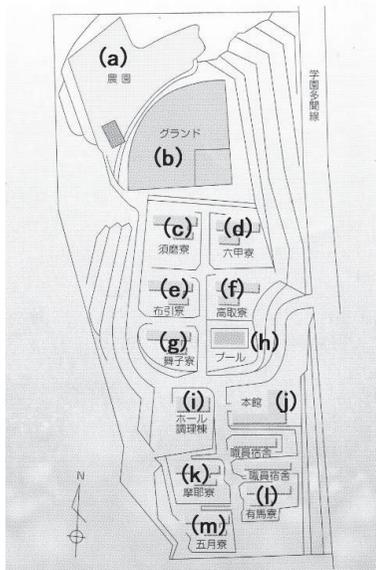


## 2. Layouts<sup>16)</sup>

Many FCCAs are located in the suburbs and have large lots. In particular, the *Hokkaido Katei Gakko* covers an area of 1,084.79 acres (4.39 square kilometers).

Unlike juvenile training schools and prisons, FCCAs did not have high fences and gatekeepers. With the exception of the dormitories (*Kyoseiteki Sochi*) in the two national facilities, which allow “the restriction of the children’s activities,” dormitories can only be locked from inside, just like in ordinary houses.

Each child is assigned to a dormitory. Influenced by *Kosuke Tomeoka’s* views, the dormitories in many facilities were built like cottages (see Figure 1), with separate



**Figure1:**

**Map of the *Wakaba Gakuen* established by Kobe City**

Source: The pamphlet of the *Wakaba Gakuen* “*Tomoni Ikiru* (Living Together)”

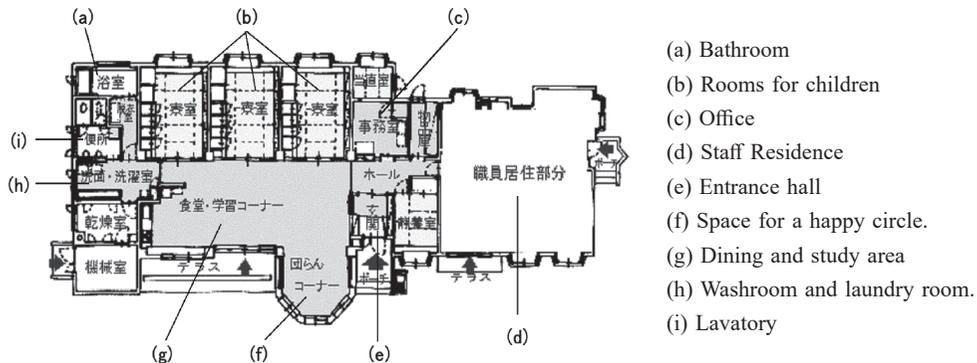
<[https://www.city.kobe.lg.jp/documents/5436/scn\\_0004.pdf](https://www.city.kobe.lg.jp/documents/5436/scn_0004.pdf)>.

\* Letters (a) to (m) were added by the author.

- (a) Farm
- (b) Playground
- (c), (d), (e), (f), and (g) Dormitories for boys
- (h) Swimming pool
- (i) Hall and Central Kitchen
- (j) Office
- (k), (l), and (m) Dormitories for girls

16) For details, see Kenji Nagata, *Shisetsu Kengaku Kiroku (9) Abuyama Gakuen* (The Report on Correctional Institutions (9) *Abuyama Gakuen*), 58 (4) *Kansai Daigaku Hogaku Ronshu* 300 (2008); Kenji Nagata, *Shisetsu Kengaku Kiroku (19) Wakaba Gakuen* (The Report on Correctional Institutions (19) *Wakaba Gakuen*), 62 (2) *Kansai Daigaku Hogaku Ronshu* 78 (2012); Kenji Nagata, *Shisetsu Kengaku Kiroku (21) Kokuji Gakuen* (The Report on Correctional Institutions (21) *Kokuji Gakuen*), 63 (2) *Kansai Daigaku Hogaku Ronshu* 31 (2013); Kenji Nagata, *Shisetsu Kengaku Kiroku (Heisei 24 Nen Bun)* (The Report on Correctional Institutions in 2012), 64 (5) *Kansai Daigaku Hogaku Ronshu* 90 (2015); Kenji Nagata, *Shisetsu Kengaku Kiroku (Heisei 27 Nen Bun)* (The Report on Correctional Institutions in 2015), 69 (1) *Kansai Daigaku Hogaku Ronshu* 123 (2019); Kenji Nagata, *Shisetsu Kengaku Kiroku (Heisei 28 Nen oyobi Do 29 Nen Bun)* (The Report on Correctional Institutions between 2016 and 2017), 69 (3) *Kansai Daigaku Hogaku Ronshu* 309 (2019); Kenji Nagata, *Shisetsu Kengaku Kiroku (Heisei 30 Nen Bun)* (The Report on Correctional Institutions in 2018), 70 (1) *Kansai Daigaku Hogaku Ronshu* 200 (2020).

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**Figure 2: The floor plan of the *Onuma Gakuen* established by the Hokkaido Prefecture**

Source: The website of the *Onuma Gakuen*

<<http://www.pref.hokkaido.lg.jp/hf/ong/contents/gaiyou/top.htm>>.

\* Letters (a) to (i) were added by the author.

dormitories for girls and boys.

Each dormitory has rooms for children, a dining area, space for a happy circle, a kitchen, lavatories, and a laundry space, among other spaces (see Figure 2). Some facilities have bathrooms in each dormitory. In most facilities, two to six children share a single room; therefore, this inevitably causes privacy issues. The building where the staff members who are married to each other (and their respective child or children) live is usually connected to the dormitory in the marital staff system.

When the children are in elementary school or junior high school, they attend schools located inside their facilities.<sup>17)</sup> There are gymnasiums, office buildings, and playgrounds near the classrooms.

Generally, each meal is made in the central kitchen and delivered to the dormitories during mealtimes.

Influenced by *Kosuke Tomeoka's* views, many facilities have a large area of farmland. To this day, most staff members believe that farm work and other forms of outdoor activity can effectively correct and rehabilitate children.

## IV. Confined Children

### 1. Two Routes of Confinement to FCCAs

There are two ways by which children can be confined to FCCAs.

17) The children of the marital staff go to a separate school near the facility. The schools in the facility are only for the confined children.

The first is when a family court decides to confine a delinquent juvenile to an FCCA (Article 24 (1) (ii) of the Juvenile Act<sup>18)</sup>).<sup>19)</sup>

Because Hina's father had affairs with numerous women and her mother also had affairs with some men, her family quarreled a lot. She entered into prostitution at the age of 12 and was arrested for using stimulant drugs at the recommendation of a yakuza gang member Kentaro when she was only 13. The police handed her case to a public prosecutor, who then brought it to a family court. The family court ultimately decided to confine her to an FCCA.<sup>20)</sup>

The second is when prefectures decide to confine children to FCCAs (Article 27 (1) (iii) of the Child Welfare Act). In principle, prefectures can only confine children upon the consent of their parents (Article 27 (3) of the Act). However, prefectures may confine children without their parents' consent if they obtain approval by a family court (Article 28 (1) (i) of the Act).

At present, many children are confined through the second route.

Masaya had repeatedly shoplifted since he was seven years old. The child consultation center<sup>21)</sup> of the prefecture provided temporary protection on two occasions before he turned nine and tried to put him into a children's home (*Jido Yogo Shisetu*) (Article 41 of the Child Welfare Act), which is a kind of child welfare facility. However, his mother, who was a junior high school teacher, opposed his placement, and the center was consequently unable to proceed. When he was ten years old, he was arrested for setting a shopping mall toilet on fire. It was then discovered that his mother was abusing him. The child consultation center tried to confine him to an FCCA, but she objected to it, so the center requested the family court to approve said confinement into an FCCA.

## 2. Age of Confined Children

As of March 31, 2020, there were 889 children confined to FCCAs,<sup>22)</sup> excluding two private sector facilities.

The majority of children confined to these facilities are junior high school students

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18) Act No.168 of 1948.

19) In these cases, the family court may make such decisions without the consent of the parents (Article 27–2 of the Child Welfare Act).

20) The following cases were prepared by the author based on general examples.

21) A child consultation center is an organization established by a prefectural government in principle that offers various services concerning the welfare of children (Articles 11 (1) and 12 (2) of The Child Welfare Act).

22) *The Reiwa 2 Nendo Fukushi Gyosei Hokoku Rei, Jido Fukushi* (the Welfare Administration Reports in 2020, Child Welfare), Table e10 <<https://www.mhlw.go.jp/toukei/list/38-1.html>> (retrieved December 20, 2021).

(i.e., 12 to 15 years old), with fewer elementary school students (i.e., 6 to 12 years old) and high school students (i.e., 15 to 18 years old).

Children are often confined at the age of 13 because, in principle, juvenile training schools can only confine delinquent juveniles aged 14 years or older (Article 24 (1) of the Juvenile Act).

Yusuke (14 years old), Yoshikuni (14 years old), and Ryu (13 years old), who were members of a junior high school soccer team, attacked and seriously injured a passerby Nahoko with iron pipes and rob her wallet, which contained her credit cards and 50,000 yen in cash. Two days later, the police arrested the three children and handed the case to a public prosecutor, who then brought it to a family court. The family court decided to confine Yusuke and Yoshikuni to a training school, and Ryu to an FCCA.

### 3. Abused Children

Most confined children have been abused by their parents in some way<sup>23)</sup>. As a result, they often have attachment disorders, and tend to dominate others through violence and sex. Until the 1990s, most of the children confined to FCCAs were “typical delinquent juveniles in Japan,” who deviated from the norm by being violent, riding around on motorcycles without licenses, or shoplifting.

Nowadays, however, there has been a significant increase in the number of children confined for a variety of sexual misconduct. In addition, approximately 30% of the children confined to FCCAs have been transferred from children's homes because of their problematic behavior, including sexual misconduct.

Schunta had been forced to study by his mother, who is a doctor, since childhood. When he did not study, his mother and father would curse at him and not give him food. He resorted to bullying his classmates to relieve his stress. When he was ten years old, it was discovered that his parents were abusing him, so he was placed into a children's home. He was sexually abused by an older child in the home, and he eventually began to sexually abuse the younger children in the home. When he was 13 years old, he was transferred to an FCCA because the staff found out about his misconduct. He attended junior high school and high school inside the facility, and left when he was 18 years old upon graduating from high school.

### 4. Developmental Disorder

Recently, the number of children in FCCAs with developmental disorders has been increasing.

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<sup>23)</sup> Article 2 of the Act on the Prevention and Other Related Matters of Child Abuse (Act No.82 of 2000) defines the four types of child abuse as: physical abuse, sexual abuse, psychological abuse, and neglect.

On the other hand, the number of “typical delinquent juveniles in Japan” who commit delinquencies in groups has decreased, compared to previous years. Instead, the percentage of confined juveniles who are unable to establish healthy relationships with others and adapt to societal norms of civility and respect due to developmental or intellectual disorders is increasing. Along with these changes in the number of confined children, there have also been a few cases of children going out in groups without permission, which used to be very common in FCCAs until the 1990s.

Yujiro, who has a developmental disorder, has a strong inclination toward collecting sharp objects and pressing the intercom buttons in other people’s houses or apartments. When he was 13 years old, he repeatedly rang a house’s intercom in the middle of the night, and the resident reported him to the police. When the police officer, Takeshi rushed to him and stopped him from pressing the button on the intercom. Yujiro then furiously said, “I want to press the button! My father is a police officer! Dad will be angry if he knows that I was apprehended by the police!” and suddenly stabbed Takeshi with an ice pick, seriously injuring him. A family court decided to confine Yujiro to an FCCA.

## **5. Leaving FCCAs**

Many children who have been confined to FCCAs stay for approximately a year or a year and a half, leave the facility upon graduating from junior high school, and often return to their parents’ homes. However, many of them return to their old ways, due to a lack of guidance from their parents. As a result, instead, an increasing number of facilities encourage children to enter boarding high schools. At present, most confined children end up finishing high school, while many of them were able to find work after graduating from junior high school in the past.

Kurena was confined to an FCCA when she was 13 years old, after she persistently bullied some classmates and forced them to shoplift and prostitute themselves on numerous occasions. When she was 15 years old, she left the facility after graduating from a junior high school and returned to the house where her mother and her mistress, Keita, lived. Keita forced her to have sexual intercourse, so she ran away and lived with a yakuza gang member, Kohei. As she used stimulant drugs upon his recommendation, the family court decided to confine her to a training school.

## **V. Staff**

### **1. Specialization**

Staff members in charge of the dormitories serve as a “specialists in cultivating children toward autonomy” and “support staff in the daily lives of the children” (Article

80 (1) of the Standard on Accommodations and Operations of Child Welfare Facilities<sup>24)</sup>).

A “specialist in cultivating children toward autonomy” must be:

- (a) a person who is a qualified licensed social welfare worker or has an equivalent qualification;
- (b) a person who graduated from a training facility;
- (c) a person who majored in psychology, education, or any related graduate school course; or
- (d) a person who meets certain requirements, such as having at least three years of work experience at an FCCA (Article 82 (1) of the Standard).

“Specialists in cultivating children toward autonomy” are traditionally called “superintendents of the dormitory” and are often male staff. Nowadays, many of these staff members are either licensed social welfare workers or have graduated from *Musashino Gakuin*, the training facility established in the national FCCA.

A “support staff in the daily lives of the children” must be:

- (a) a qualified childcare worker;
- (b) a qualified licensed social welfare worker; or
- (c) a person who meets certain requirements, such as having at least three years of work experience at an FCCA (Article 83 of the Standard).

“Support staff in the daily lives of the children” are traditionally called “mothers of the dormitory” and are often female staff. In the past, women who were married to male staff and had worked at an FCCA for three years automatically became “support staff in the daily lives of the children,” and worked at the dormitory with their husbands. Nowadays, many female staff members are qualified as childcare workers or social welfare workers.

As indicated above, the law requires a certain level of specialization from the staff. At first glance, the dormitory arrangement may seem similar to that of a regular family, but given that the majority of the confined children have either been abused or have developmental disorders, a high level of specialization among the staff is necessary.

## 2. Marital Staff System

A defining characteristic of FCCAs is how they are run by marital staff.

However, raising around ten children is clearly challenging. In addition, their working hours continue from early in the morning to late at night, every day. In the same way that mothers and fathers have no days off from parenthood, marital staff members in FCCAs have to work every day, even during holidays. Consequently, they cannot even go on holidays. Such working conditions are in serious violation of the regulations on working hours, breaks, and days off stipulated in Articles 32–41 of the Labor Standards Act<sup>25)</sup>.

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24) Ordinance of the Ministry of Health and Welfare, No.63 of 1948.

25) Act No.49 of 1947.

These poor working conditions have deterred people from applying to become marital staff. As a result, only 18 of the 58 facilities (31%) were maintaining the marital staff system as of April 2021 (Table 1).

Facilities that have chosen to maintain the marital staff system have introduced a setup that allows marital staff to take days off. For example, children may be temporarily moved from the marital staff's dormitory to another vacant dormitory (called the *Kotai ryo*) once a month for four consecutive days, so that the staff can rest during these days.

Some facilities even assign an additional staff member to the dormitory to lighten the workload.

Nevertheless, critics still assert that the poor working conditions under the marital system, despite the modifications made, are still in violation of the Labor Standards Act.

In lieu of the marital staff system, 39 facilities have now adopted a shift system, wherein at least six staff members work three eight-hour shifts. This system enables FCCAs to better adhere to the provisions of the Labor Standards Act.

The question still stands: which is better, the marital staff system, or the shift system?

In a child psychological treatment and education facility (Article 43–2 of the Child Welfare Act)<sup>26</sup>, which is a type of social welfare facility, I saw children constantly asking the staff, “Who is in charge of the night shift today?” and “Who will be in charge tomorrow?” In fact, the atmosphere of the dormitory changed completely whenever new staff took over.

The head of the facility, who had been in charge of the dormitory of an FCCA for many years, told me, “At a normal home, no child would ask, ‘Who is my mother today?’ or ‘Who will be my father tomorrow?’ The same thing goes for facilities. Situations that raise such questions would make children uncomfortable, and cause them a great deal of stress.”

Indeed, as the head of this facility mentioned, it would be difficult for children to have “a sense of security that tomorrow will come just like today” in facilities that adopt the shift system.

On the other hand, under the marital staff system, a confined child who is incompatible with one or both of their assigned staff members would be under constant stress. Furthermore, it would be difficult for other FCCA staff to detect any mistreatment on the part of the marital staff.

If the “pseudo-family relationship” in the marital staff system is deemed effective in re-fostering confined children, then the next logical step would be to adopt a method wherein multiple staff members are involved, instead of having just two. Of course,

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26) A “child psychological treatment and education facility” caters to children who are having difficulty in adapting to society. Here, they can seek the help of therapists and undergo various forms of therapy.

compliance with the Labor Standards Act would be crucial, along with other acts and regulations on the working conditions of the staff.

## VI. Introduction to Public Education

Compulsory education in Japan consists of six years of elementary school and three years of junior high school (Articles 16 and 17 of the School Education Act<sup>27)</sup>). However, until 1997, the Child Welfare Act stipulated that children confined in FCCAs did not have to attend elementary school and junior high school (former Article 48 of the Child Welfare Act).

Some facilities had their own elementary and junior high schools within the premises, which the confined children attend. However, most FCCAs did not have such schools. In the case of these latter FCCAs, the children did not attend elementary or junior high school, but studied in classrooms within their facilities. The quality of education in most of these classrooms was often subpar, because the dormitory superintendents were not licensed teachers. Additionally, children in these facilities tended to spend far less time studying in the classroom than those taking compulsory education.

For over 20 years after World War II, FCCAs prioritized farm work over studying, as a means of improving the confined children's physical and mental well-being, and reducing their antisocial tendencies.

Moreover, at the time, many Japanese children opted not to attend high school after graduating from junior high school by the age of 15, and started working instead. Similarly, the confined children in FCCAs also left these facilities and started working as soon as they turned 15. Therefore, although children might have received inadequate education from these facilities, it was not considered to be a serious problem at the time.

However, the situation drastically changed in 1974, when 90% of Japanese children went on to high school following high economic growth<sup>28)</sup>.

Most high school entrance examinations in Japan consider both the examination results and the junior high school records of the applicant. In the past, therefore, even if children in FCCAs wanted to go on to high school, it was difficult for them to be accepted, because they did not have proper junior high school records.

This lack of access to quality public education only became a serious issue when FCCAs began to speak up against the unfair treatment of confined children in high school entrance examinations.

The FCCA's failure to fulfill its obligation to provide the confined children with the

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27) Act No.26 of 1947.

28) Ministry of Education, Culture, Sports, Science and Technology, *Gakko Kihon Chosa Nenji Tokei Sokatsuhyo* 4 (School Basic Survey, Annual Statistics, Summary Table 4). <[https://www.mext.go.jp/b\\_menu/toukei/chousa01/kihon/1267995.htm](https://www.mext.go.jp/b_menu/toukei/chousa01/kihon/1267995.htm)>. This figure excludes correspondence courses of high schools.

compulsory education required under Article 26 (2) of the Constitution was considered to be a violation of their right to receive such education, as stipulated in Article 26 (1) of the Constitution.

With the amendment<sup>29)</sup> of the Child Welfare Act in 1997, heads of FCCAs were required to send the confined children to elementary and junior high schools to study (Article 48 of the Child Welfare Act). Local governments therefore established elementary and junior high schools for those FCCAs that did not have their own schools. Instead of the dormitory superintendents, licensed teachers held classes for the children, for the duration required by the national government. As the children received a proper junior high school education, they were no longer disadvantaged in the high school entrance exams. Staff could also take breaks while the children were attending classes at the schools. However, there was a significant decrease in the amount of time that the staff could dedicate to treating the children, and the time the children could spend working in the facilities.

## **VII. Treatment**

### **1. Daily Schedule**

A typical daily schedule of junior high school students in FCCAs is as follows (created based on a standard facility schedule):

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29) Act No.74 of 1997.

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Weekdays	Time	Weekends and Holidays
Wake up	6:30	
Eat breakfast in the dormitory	7:00	Wake up
	7:30	Eat breakfast in the dormitory
Go to the junior high school in the facility	8:00	
Attend class	8:30	Club activities (e.g., baseball, volleyball, etc.)
	9:00	
	9:30	
	10:00	
	10:30	
	11:00	
	11:30	
	12:00	Eat lunch in the dormitory
Eat lunch in the dormitory	12:30	
	13:00	Do farm work in the facility
Attend class	13:30	
	14:00	
	14:30	
	15:00	
Mow grass in the facility	15:30	
	16:00	Go back to the dormitory
	16:30	Free Time*
17:00		
Go back to the dormitory	17:30	
Eat dinner in the dormitory	18:00	Eat dinner in the dormitory
	18:30	
Take a bath	19:00	Take a bath
Do school homework	19:30	Free Time*
	20:00	
Dormitory activities (e.g., discussing dormitory life and preparing for events)	20:30	
	21:00	
Free time*	21:30	
Go to bed	22:00	Go to bed

\* Reading books, watching TV, playing card games, etc.

## 2. Details

The confined children are expected to follow a fixed schedule every day.

Generally, these children have not been provided with sufficient food, clothing, and shelter by their parents. All of these provisions are vital in nurturing children's emotional well-being and sense of purpose.

In the past, the children sometimes worked all day, or all afternoon on weekdays. However, after the introduction of public education, they now spend weekday afternoons taking classes instead.

Nevertheless, the children still work on certain weekday afternoons, weekends, and holidays. This includes growing vegetables and fruits on farms, weeding, and cleaning the facilities. Kosuke Tomeoka, his son, Kiyoo Tomeoka, and Masatsune Tani, who were the heads of the *Hokkaido Katei Gakko*, believed that working hard could help the children to become more sympathetic towards other people's problems and concerns ("*Ryukan Godo*").<sup>30)</sup>

Engaging in these activities allows one to realize the value of unnoticeable, but sincere, consistent, unselfish, and dedicated efforts ("*Ankyo no Seishin* (Spirit of culvert)").<sup>31)</sup> Staff members present themselves as responsible adults, and gain the children's trust by working with them. Rather than placing the staff in a position wherein they can control, coerce, or provide the children, the FCCAs focus on having them work *with* the children on a variety of issues, in various settings ("*'with' no Seisin* (spirit of 'with')").<sup>32)</sup>

Club activities are relatively important in FCCAs, with girls and boys often belonging to volleyball and baseball clubs, respectively. Many children practice hard because they compete with teams from other FCCAs nationwide. It goes without saying that through these club activities, children are able to realize the importance of cooperating with their fellow members.

As mentioned, the staff members live together with the children in the dormitories, and act as their parents. They listen to the children's worries, sadness, disappointments, anger, or other grievances until late at night, and build a relationship of trust with the children through empathizing with them.

The children are subject to several restrictions to maintain a fixed schedule in the facilities, and to prevent them from falling back into bad habits. For example, they are not allowed to go out without permission, to use mobile phones, or to meet up with other confined children outside of the facility.

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30) Take, *supra* note 2, pp.516–525.

31) Take, *supra* note 2, pp.518–524.

32) Take, *supra* note 2, pp.716–738.

### 3. Restricting Children's Activities (*Kyoseiteki Sochi*)<sup>33)</sup>

Family courts may make additions to “the restriction of the children’s activities (*Kyoseiteki Sochi*)” when deciding to confine juvenile delinquents to FCCAs (Article 27–3 of the Child Welfare Act). Restrictions pertain to measures taken to restrict the freedom of movement of children in these facilities. In principle, juvenile delinquents who are subject to said restrictions must live in locked rooms or buildings, in order to prevent them from going out without permission or causing problems with other children. Family courts should decide in advance the total number of days (e.g. 90 or 180 days) during which the FCCA may impose restrictions during a certain period (e.g. 360 days) from confinement. The courts may also choose to reestablish restrictions after the initially-specified period elapses.

Juvenile delinquents who are subject to these restrictions are confined to national FCCAs. Girls and boys are placed in the *Kinugawa Gakuen* and the *Musashino Gakuen*, respectively.

In practice, FCCAs do not impose restrictions for the entire duration of the confinement of juvenile delinquents in the facilities. Restrictions are only imposed when

- (a) the children are admitted to the *Kinugawa Gakuen* or the *Musashino Gakuen*;
- (b) the children cause trouble in the facilities (e.g., they violate the regulations); and
- (c) the children are deemed mentally unstable, etc.

The restrictions are usually imposed for approximately two to three weeks at a time.

Ryota’s father beat him on a daily basis, and even used beer bottles to hit him. When he was 12 years old, he reported the abuse in a survey conducted in his elementary school; however, his homeroom teacher Ayumi and the school principal Yumiko turned a blind eye to this because, they did not want to start any trouble with his father. One day, he became enraged after Ayumi reprimanded him for being noisy in class and stabbed her to death with a knife that he brought from his house. He also stabbed another teacher, Tsutomu, to death, for trying to stop him.

The family court ruled to confine Ryota to an FCCA, and authorized the facility to impose a restriction of 180 days throughout a 360 day period. The *Musashino Gakuin* immediately imposed a 20 day restriction after his commitment. Subsequently, the facility imposed a total of 100 days, twice for a total of 40 days for beating other confined children and three times for a total of 60 days, for beating staff members.

After 360 days, the family court allowed the facility to impose a 100 day restriction for the next 360 days. He served five times for a total restriction of 90 days for a total restriction of 90 days throughout a 360 day period.

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33) For details, Hitoshi Aizawa, *Jido Jritsu Shien Shisetsu ni okeru Kyoseiteki Sochi no Jitsujō to Kadai: Jido Jritsu Shien Shisetsu ni okeru Kadai to Hokosei wo Fukumete* (Actual Conditions and Issues in the FCCAs: Including Issues and directions in the FCCAs), 65 (5) *Katei Saiban Geppo* 31 (2013).

The family court later reauthorized the facility to impose a restriction of 90 days for the next 360 days. The facility imposed a restriction twice, for a total of 30 days out of 360 days.

He graduated from junior high school in the facility, and then attended a high school outside of the facility. He left the facility when he was 18.

## **VIII. Discussion**

Do the thoughts of Kosuke Tomeoka bring nostalgia for the “good old days?”

FCCAs are currently at a crossroads between preserving traditional treatment methods and adapting to the changing times. In light of this, one may ask: Are FCCAs still sustainable?

Three issues with respect to the ongoing changes occurring in FCCAs are discussed below.

### **1. Introduction of Public Education**

The introduction of public education not only improved the academic competence of confined children in FCCAs, but also lowered one of the children’s barriers to attending high school.

On the other hand, some facility staff complained about how the decrease in the number of working hours spent on activities such as farming compromised the treatment of the children, and shifted the core of facility management from work to education, compared to before the introduction of public education. Other staff pointed out that it is difficult for children who have irregular lifestyles to keep up with schoolwork.

The competency of teachers working in elementary and junior high schools inside facilities is another serious concern. It is said that there are only a few teachers who both adequately understand the unique features of the FCCAs and the confined children, and also have sufficient teaching abilities.

However, because academic competence is essential for children to properly function in society, the introduction of public education is critical.

In some facilities, staff members regularly meet with schoolteachers to exchange information on the children, which can improve the quality of both the treatments and the education provided. Having elementary and junior high schools inside the facilities is highly beneficial to FCCAs. If facilities and schools work together to provide better treatment and education, which caters to the specific needs of each child, then FCCAs could be considered to be sustainable with respect to the first issue.

### **2. Changes in Confined Children**

The need to provide individualized treatment and education to each confined child in FCCAs has increased, due to the changes in confined children.

For example, staff must provide specific treatment to abused children to address the problematic behavior caused by the damage or abuse that they have suffered.

The staff must handle children with developmental disorders in accordance with their personal characteristics. The facilities should promote the social adaptation of children through treatment techniques such as social skills training (SST).

If necessary, facilities should work with specialized institutions to analyze the causes of sexual misconduct and provide cognitive behavioral therapy or other suitable treatments for children who have committed sexual misconducts.

Even if therapists use specialized treatment techniques to care for these children, the dormitory staff still need to understand the unique traits of these children and treat them accordingly. Nowadays, dormitory staff members are required to have a higher level of specialization than ever before.

Due to the changes in confined children, the number of children living in a single dormitory must be reduced, in order for the staff to be able to effectively treat them. Traditionally, marital staff members usually foster ten to fifteen children. However, it is very difficult for two or three staff members to take care of more than ten children with their own specific issues in one dormitory. If facilities were to assign a maximum of three or four children to each dormitory, then FCCAs could be considered to be sustainable with respect to the second issue.

### 3. Marital Staff System

When Kosuke Tomeoka ran the *Tokyo Katei Gakko* and *Hokkaido Katei Gakko*, there were only a few specialists who treated juvenile delinquents in Japan.

Under these circumstances, in order to rehabilitate juvenile delinquents in the facilities, he proposed and implemented the formation of a “pseudo-family,” in which marital staff lived together with the children. This might have been the best alternative at the time.

A hundred years later, however, more emphasis is now placed on the concept that marital staff members deserve to be protected as workers under the labor law. FCCAs are now also required to comply with the regulations regarding proper working hours and other conditions for workers prescribed by the Labor Standard Act, among other acts. It is illegal and abnormal that marital staff members work from early in the morning to late at night every day, and are often unable to take breaks or vacations. The marital staff system lacks respect for marital staff as workers and professionals.

Today, when staff treat children, they must be professional rather than marital. Of course, this does not mean that they should not be marital staff. This is especially true in light of the fact that many children who live in these facilities have serious problems and are facing difficulties.

The marital staff system idealizes the traditional Japanese family. It highlights “femininity” and “masculinity” (i.e., “motherliness” and “fatherliness”), and the fact that female staff members are in charge of all housework (e.g., meals, laundry, and cleaning),

while male staff members are in charge of labor (e.g., farm work) is taken for granted.

This arrangement reinforces gender biases, and does not reflect the diversity of families in modern Japan. Moreover, the division of roles between wife and husband perpetuates an outdated perspective on gender in the present Japanese society. Needless to say, these concerns could have a negative impact on the development of children today, and could impede the recruitment of staff.

The marital staff system is therefore no longer sustainable in terms of the labor law and gender equality. To reflect this, FCCAs must transfer from a marital staff system to a shift system.

If FCCAs were to stop using the marital staff system, they would lose their most distinctive feature. As a result, the distinction between FCCAs and children's homes that operate on a shift system would become blurred, and could potentially become pointless in the future.

Although the FCCAs have helped in the rehabilitation of juvenile delinquents for over a hundred years, they are beginning to become obsolete. In conclusion, I believe that FCCAs are no longer sustainable.