

Minutes of the eighth meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)

On October 19, 2021, the eighth meeting of the Family Law Subcommittee of the Legislative Council was held at the Ministry of Justice (in person and online). Nearly all the members and non-voting members attended the meeting. The Chairman, Prof. OMURA Atsushi, presided over the meeting.

During the meeting, an official of the Supreme Court explained the actual situations in which the Family Court had been aware of the child's intentions. Then, following the seventh meeting, the Subcommittee examined the points concerning respect for children's opinions on child rearing. There were various opinions, including the following: If any rules were introduced to directly reflect a child's will on the decisions related to child rearing, the child might be forced to make harsh choices; although Japan has a process, under the Family Law, to hear the views of children 15 years old and over, more consideration should be made to establishing such rules for younger children, as is the case in some other countries; and while it is important to consider rules for the case of disagreement between parents and their child on matters decided by the parents, it is also important to consider rules on the decision-making process that involves the child in decisions that are being made by the parents.

Subsequently, based on the meeting materials, discussions were held on other issues related to the divorce of parents, including taking care of a child whose parents are living separately or who was born out of wedlock. The following opinions were presented: In many cases, conflicts between husbands and wives are more acute during the period of separation before divorce than after divorce, so it is necessary to have rules for child rearing during separation; As the term "separation" is unclear, the term should be defined and the commencement and termination of separation should clearly be prescribed; As there are cases in which victims of domestic violence etc. have no other choice but to leave the marital residence for their own safety, careful consideration should be made in establishing rules to require communication between husbands and wives prior to the separation. In addition to comments on civil legislation, some commented on legislation for public aid, such as the opinion that child rearing allowances paid by the government and local authorities after divorce should be considered.

Brief discussions based on the meeting materials and the results of a fact-finding survey were also held on the adoption system. However, these topics were carried over to the next meeting for more detailed discussions. For its next meeting, it was decided that the Subcommittee would examine points focused on the system for the adoption of minors and issues regarding the property distribution system.

※ These minutes are the responsibility of the Secretariat of the Committee, which has provided this summary of the outcome of the meeting as a preliminary report in English.