



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

Fifty-eighth session

19 September – 7 October 2011

### Consideration of reports submitted by States parties under article 44 of the Convention

#### Concluding observations: Republic of Korea

1. The Committee considered the consolidated third and fourth periodic reports of the Republic of Korea (CRC/C/KOR/3-4) at its 1644th and 1645th meetings (see CRC/C/SR.1644 and CRC/C/SR.1645) held on 21 September 2011, and adopted, at its 1668th meeting, held on 7 October 2011 (see CRC/C/SR.1668), the following concluding observations.

#### I. Introduction

2. The Committee welcomes the submission of the State party's consolidated third and fourth periodic reports (CRC/C/KOR/3-4), submitted in accordance with the reporting guidelines of the Committee, as well as the written replies to its list of issues (CRC/C/KOR/Q/3-4/Add.1). The Committee appreciates the analytical and self-critical nature of the report. The Committee further appreciates the constructive dialogue held with the cross-sectoral and high level delegation of the State party.

#### II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the adoption of the following legislative measures:

- (a) The revision of the Act on Special Cases Concerning Adoption, in August 2011;
- (b) The revision of its Civil Code, in September 2011;
- (c) The amendment of the Enforcement Decree of the Elementary and Secondary Education Act, in March 2011;
- (d) The enactment of the Act on Prevention of Suicide and Creation of Culture that Respects Life, in 2011;
- (e) The revision of the Family Litigation Act, in March 2010;

- (f) The enacting of the Act on Supporting the Welfare of Disabled Children, in 2011;
  - (g) The revision of the Child Welfare Act, in 2011;
  - (h) The amendment of the Support for Multicultural Families Act, in 2011.
4. The Committee also welcomes the ratification of or accession to:
- (a) The Convention on the Rights of Persons with Disabilities (CRPD) on 11 December 2008.
  - (b) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 18 October 2006.
5. The Committee also welcomes the following institutional and policy measures:
- (a) The establishment of the Second Five-Year Plan on the Prevention of and Countermeasures against Violence in Schools, in 2010.

### **III. Main areas of concern and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)**

##### **The Committee's previous recommendations**

6. The Committee welcomes the efforts made by the State party to address some of the concerns and recommendations (CRC/C/15/Add.197, 18 March 2003) made upon consideration of the State party's second report (CRC/C/70/Add.14, 26 June 2002) and on the initial reports under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC/C/OPSC/KOR/CO/1, 2008) and the Optional Protocol on the Involvement of Children in Armed Conflict (CRC/C/OPAC/KOR/CO/1, 2008). Nevertheless, the Committee regrets that some of its concerns and recommendations have been insufficiently or not been addressed at all.

7. **The Committee urges the State party to take all necessary measures to address the recommendations from the concluding observations on its second periodic report which have not yet been implemented, particularly those related to establishing a subcommittee on children's rights inside the National Human Rights Commission of Korea; the comprehensive prohibition of corporal punishment; and, reviewing its education policy with a view to reducing the high levels of stress it subjects children to.**

##### **Reservations**

8. The Committee welcomes the government's withdrawal of its reservation to article 9 paragraph 3 of the Convention in October 2008. However, it regrets that the State party has maintained its reservations to article 21 paragraph (a), on ensuring that adoption is subject to competent authorities with due regard to the best interests of the child as the paramount consideration, and article 40 paragraph 2 (b)(v), on ensuring that every child alleged as or accused of having infringed the State party's penal law having a right to having such a decision reviewed by a higher competent, independent and impartial authority or judicial body according to law, of the Convention.

9. **The Committee recommends that the State party consider withdrawing its reservations to articles 21 paragraph (a) and article 40 paragraph 2(b)(v), which constitute an obstacle to the full application of the Convention.**

### Legislation

10. The Committee welcomes the fact that the State party's Constitution allows for the direct applicability of the Convention in its national law. However, the Committee is concerned that there are insufficient domestic regulations to implement the generic provisions of the Convention and that its courts very rarely apply the Convention directly. The Committee is further concerned that the legislative prohibition of abortions, except in narrowly defined situations of exception, does not adequately take into account the best interests of the pregnant adolescent and can give rise to situations which exacerbate the difficulties faced by pregnant adolescents, including exposing them to the risks of unsafe illegal abortions and/or their forced discontinuation of studies and/or forced release of their children for adoption.

11. The Committee recommends that the State party undertake measures, including by considering further relevant legislation, to ensure that all the provisions of the Convention are adequately applied in its judicial decisions. The Committee further recommends that the State party review its legislation on abortion with a view to ensuring that it is in full compliance with the principle of the best interests of the child, including by ensuring that single adolescent mothers are allowed access to safe abortions and adequately protected from the risks of illegal abortions and the forced adoption of their children.

### Coordination

12. The Committee is concerned at reduced coordination in the State party's implementation of the Convention due, inter alia, to the State party's Child Policy Coordinating Committee (CPCC) not being operational since 2008 and that the State party's policies for children and youth are implemented by separate Ministries, in particular, the Ministry of Health and Welfare and the Ministry of Gender Equality respectively, leading to policy fragmentation. While noting the establishment of the State party's Youth Policy Intergovernmental Council, the Committee remains concerned at the need for improved coordination of youth policies.

13. The Committee recommends that the State party:

- a) Restore and strengthen its CPCC or, preferably, establish an appropriate body with the necessary authority and adequate human, technical and financial resources;
- b) Ensure clarity in the child-rights-related functions and relations between the different Ministries, including the Ministry of Health and Welfare and the Ministry of Gender Equality; and relevant national, regional and municipal bodies; and in doing so, effectively coordinate all activities undertaken by the State party for implementation of the Convention.

### National Plan of Action

14. The Committee notes with appreciation the adoption of the National Action Plan for the Promotion and Protection of Human Rights 2007-2011, in May 2007. Nevertheless, the Committee remains concerned at the lack of a comprehensive rights-based national plan of action for children covering all areas of the Convention. Furthermore, the Committee is concerned at the absence of a follow-up National Plan of Action for the period after the lapse of the current plan.

15. The Committee recommends that the State party, in consultation and cooperation with relevant partners, adopt and implement a national plan of action for children which covers all areas of the Convention and allows for the provision of adequate human, technical and financial resources as well as a monitoring mechanism.

**In addition to this, the Committee urges the State party to expeditiously commence with the preparation of a follow-up National Action Plan for the post-2011 period with transparent and thorough consultations with civil society and children. In doing so, the Committee recommends that the State party take into account the outcome document of the special session of the General Assembly on Children, “A world fit for children” and its mid-term review.**

#### **Independent monitoring**

16. The Committee welcomes the establishment of the Korea Monitoring Center for Children’s Rights (KMCCR) and its accompanying Children’s Rights Ombudspersons, acting in the field. However, the Committee is concerned that this institution lacks an independent and functioning mechanism to monitor the implementation of the Convention at the national level, including with regard to:

- a) The KMCCR not having legal status and being subject to a budget line that is controlled by the Ministry of Health and Welfare;
- b) The absence of a mandate for the KMCCR for Children’s Rights and Ombudsperson system to actively monitoring or investigating child rights violations and receive complaints;
- c) The mandate of the KMCCR being subject to an annual evaluation of its performance undertaken by the State party, with potential implications for its independence and continuity.

The Committee is further concerned at the National Human Rights Commission having been downsized by 21 % in March 2009, and despite previous recommendations by the Committee remaining without a specialization in child rights.

**17. The Committee recommends that the State party clearly define the legal status of the KMCCR, with the objective of providing it with a clear mandate and provide sufficient independent human, technical and financial resources to ensure the effective operation of both the Centre as well as the Ombudspersons system to effectively monitor and investigate violations of the Convention. Furthermore, the Committee urges the State party to provide appropriate conditions for the independence and continuity and children’s rights specialisation of the KNHRK, taking into account the Committee’s General Comment No.2 (2002) on the role of independent human rights institutions.**

#### **Allocation of Resources**

18. The Committee welcomes the increase of financial resources allocated for the implementation of the social sectors (16, 5 % higher than in 2008). However, the Committee notes with deep concern that, in the context of the State party’s advanced state of economic development, current financial resource allocations as a proportion of available resources remain low. According to the 2009 OECD Family database, the Republic of Korea ranked the lowest among the 26 Members. The Committee is further concerned that there are significant disparities in the level of resources available to different municipal authorities for the implementation of the Convention.

**19. The Committee recommends that the State party:**

- a) Review and increase the level of financial resources allocated for the implementation of the Convention with the view to aligning it more closely with its advanced state of economic development and in relation to OECD levels;
- b) Evaluate the financial resource allocations at the central and municipal levels from a child rights perspective to ensure adequate realization of child rights and prevent disparities among children of different municipalities and/or geographic locations. To this effect, conduct a comprehensive assessment of budget needs by sectors and municipalities and establish the allocations for those areas that progressively address the disparities in indicators related to children's rights;
- c) Utilize a child right's approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system is used for impact assessments on how investments in any sector may serve "the best interests of the child", ensuring that the differential impact of such investment on girls and boys is measured;
- d) When possible, follow UN recommendations to start budgeting-by-results to monitor and assess the effectiveness of resource allocation;
- e) Ensure transparent and participatory budgeting through public dialogue, especially with children;
- f) Define strategic budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures (for example, children of refugees or migrant workers) and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;
- g) Take into account the Committee's recommendations during its Day of General Discussion in 2007 on "Resources for the Rights of the Child - Responsibility of States".

#### **Data collection**

20. The Committee is concerned at the lack of methodological coherency in the undertaking of data collection and the absence of disaggregated data on areas covered by the Convention in the State party. The Committee is also concerned that, despite various policies and programmes to reduce relative and extreme poverty among children, there is no data on children living in poverty in the State party and there are no measures to reduce disparities in the budgets and capacities of local governments to support poverty reduction.

**21. The Committee strongly encourages the State party to establish a coherent system to comprehensively collect disaggregated data covering all areas of the Convention that, inter alia, takes into account ethnicity, gender, age, geographic location and socio-economic background. It further recommends that the State party undertake multidisciplinary studies on the trends that may be discernible in the data.**

#### **Dissemination, awareness-raising and training**

22. While noting as positive the partial inclusion of human rights content in the school syllabus of the State party, the Committee remains concerned at the low level of awareness of the Convention among children, the general public and professionals working with or for children.

**23. The Committee recommends that the State party undertake additional measures to raise awareness by, inter alia:**

- a) Further including education on child and human rights in the school curriculum;
- b) Ensuring adequate training on the Convention for all professional groups working with or for children;
- c) Strengthening measures to raise awareness of the Convention among the general public.

#### **International cooperation**

24. While recognising that the State party has gradually increased its contributions to international assistance, the Committee notes that the State party's allocation of its gross national product (GNP) to international assistance remains at approximately 0.13 per cent, which is significantly below the internationally agreed target of 0.7 per cent of GNP which it committed to reaching by 2015.

**25. The Committee encourages the State Party to meet and, if possible, surpass the internationally agreed target of 0.7 per cent of GNP by 2015. It also encourages the State party to ensure that the realization of child rights becomes a top priority of the international cooperation agreements established with developing countries. In doing so, the Committee suggests that the State party take into account the Concluding Observations of the Committee on the Rights of the Child for the recipient country in question.**

#### **Child rights and the business sector**

26. The Committee welcomes increasing interest by the business sector in the State party, one of the most dynamic economies in the world, on corporate social responsibility which for now seems to focus exclusively on environmental issues. While noting aspects of the State party's legislation which, inter alia, address labour standards and minimum wage, the Committee notes that there is no comprehensive legislative framework regulating the prevention and mitigation of adverse human rights impacts of companies' activities, neither in the State party territory nor abroad. In particular, the Committee further notes with concern that:

- a) The State party is importing products from countries, which are under investigation by the ILO (and the European Parliament) for reportedly using forced child labour, thus becoming complicit with a serious breach to child rights ;
- b) Businesses from the State party are reported to be signing or planning to sign land leases in various countries with negative implications for, inter alia, the right to water and housing, ; and
- c) No human rights impact assessment seems to have preceded negotiations for Free Trade Agreements that the State party has entered into or are pending entry into .

**27. In light of the Human Rights Council Resolution 8/7 of 2008 adopting the report "Protect, Respect and Remedy" Framework and of Resolution 14/7 of 16 June 2011 requesting the new Working Group to follow-up on this matter, both of which note that the rights of the child be included when exploring the relationship between business and human rights, the Committee recommends that the State party:**

- a) Further promote the adoption of effective corporate responsibility models by providing a legislative framework that require companies domiciled in Korea to adopt measures to prevent and mitigate adverse human rights impacts in their operations in the country and abroad, whether by its supply chain or associates. The inclusion of child rights indicators and parameters for reporting should be

promoted and specific assessments on business' impacts on child rights should be required;

b) Monitor the entry of products to prevent the importation of those which are produced with forced child labour and to use its trade agreements and national legislation to require that the products entering in its market are child labour free;

c) Take measures to ensure that its companies respect child rights when engaging in projects abroad and to cooperate with foreign Governments that are carrying out processes of prior and informed consent when projects affect indigenous peoples or impact assessments on human/child rights; and

d) Ensure that prior to the negotiation and conclusion of free trade agreements, human rights assessments, including child rights are conducted and measures adopted to prevent violations.

## **B. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

28. The Committee regrets that the draft Anti-discrimination Act of the State party was discarded without consideration at the National Assembly in December 2007 and that the legislative definition of discrimination does not contain an express prohibition of discrimination based on sexual orientation and nationality. Furthermore, the Committee is concerned at the multiple forms of discrimination that continue to persist in the State party, including those against Children from multi-cultural or migrant backgrounds or who have come from the Democratic People's Republic of Korea; refugee children; children with disabilities; and, single mothers, particularly those who are adolescent, including with regard to their preclusion from State support measures.

29. The Committee urges the State party to:

a) Expediently enact anti-discrimination legislation with the objective of adopting legislation that is in full compliance with article 2 of the Convention;

b) Take all necessary measures, including awareness-raising and public education campaigns, to eradicate and prevent discriminatory attitudes towards children in vulnerable or minority situations;

c) Provide adequate support to single mothers, including those who are adolescent.

### **Right to life, survival and development**

30. The Committee notes with appreciation the State party's efforts to address suicide among its youth and children, including through the Basic Plan on the Prevention of Suicide (2004). However, it remains deeply concerned at the severely high rates of suicide in the Republic of Korea.

31. The Committee urges the State party to undertake research on suicide risk factors among children, both in the families of children affected and the education system, with the aim of using the results of such research to guide the implementation of concrete policies, institutional and administrative measures. It further recommends that such policies and measures include the provision of adequate preventive measures and follow-up procedures which should be supported by the adequate provision of social workers and psychological consultation services for all children affected.

**Best interests of the child**

32. The Committee is concerned about the lack of explicit reference to the principle of the best interests of the child in the legislation of the State party concerning children and the infrequent application of this principle in judicial and administrative decisions, as well as policies and programmes relevant to children.

**33. The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.**

**Respect for the views of the child**

34. While welcoming the establishment of a State-party organized conference for children and youth to express their views, the Committee remains concerned that neither the legal processes of the State party nor its socio-attitudinal context take into account the views of the child, particularly those below the age of 15, on decisions affecting them.

**35. The Committee recommends that the State party consider amending its legislation to ensure that children have the right to express their views and have these taken into consideration in all decisions affecting them, and reiterates its previous recommendation that the State party in accordance with article 12 of the Convention:**

(a) **Ensure that the Child Welfare Act, be revised to include the right of children to express their views freely in all matters affecting them, and take effective measures, including through legislation, to promote respect for the views of children and facilitate their right to be heard in all matters affecting them, by courts and administrative bodies, including schools and disciplinary proceedings in the education system;**

(b) **Provide educational information to, inter alia, parents, educators, government administrative officials, the judiciary and society at large on children's right to have their views taken into account and to be heard in all matters affecting them;**

(c) **Undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policies, programmes and children themselves;**

(d) **Take into account the Committee's general comment No. 12 (2009) on the right of the child to be heard.**

**C. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37 (a) of the Convention)****Birth registration**

36. The Committee is concerned that the current legislation and practice in the State party are inadequate in providing for universal birth registration by the biological parents of children in all situations. In particular, the Committee is concerned that birth registrations can be undertaken by adoptive parents or persons holding public authority, resulting in the occurrence of de facto adoptions in absence of proper judicial oversight, including in situations concerning single adolescent mothers. The Committee is further concerned that

birth registration is not practicably or consistently available for persons in refugee, asylum-seeking or irregular migration situations.

**37. In accordance with article 7 of the Convention, the Committee urges the State party to undertake measures to ensure that birth registration is available to all children regardless of their parents' legal status and/or origin. In doing so, the Committee further urges the State party to ensure and verify that the registration accurately indicates the biological parents of the child.**

#### **Freedom of thought, conscience and religion**

38. While noting as positive, the State party's prohibition of compulsory religious education in schools, the Committee is concerned that, in practice, private schools managed by religious institutions continue to restrict the freedom of religion of its students, including those who may not have enrolled in such schools voluntarily. The Committee is also concerned that current initiatives do not adequately facilitate an atmosphere conducive to religious diversity or sufficiently take into account the specific needs or constraints of children of particular religions, including with regard to their dietary requirements.

**39. The Committee recommends that the State party undertake further measures to ensure, that in practice and in all settings, the right of the child to freedom of thought, conscience and religion is fully respected in accordance with Article 14, paragraph 3 of the Convention. The Committee further recommends that such measures be taken with a view to facilitating an atmosphere conducive to the appreciation of religious diversity that accords due regard and sensitivity for the specific requirements or constraints of particular religions, including with regard to dietary requirements.**

#### **Freedom of expression, of association and peaceful assembly**

40. The Committee expresses concern, that despite its previous recommendations, (CRC/C/15/Add.197, para.37) schools continue to prohibit the political activities of students. Furthermore, the Committee is concerned that the management committees of schools preclude the participation of students, and that there are limited opportunities for children out of school in urban and rural areas to exercise their right to freedom of expression and association.

**41. The Committee reiterates its previous recommendations and in the light of articles 12 to 17 of the Convention calls upon the State party to amend legislation, guidelines issued by the Ministry of Education and school regulations to facilitate children's active participation in decision-making processes and in political activities both within and outside schools and ensure that all children fully enjoy their right to freedom of association and expression, including with regard to allowing for students to (i) take part or conduct political activities, including in the school context; and, (ii) meaningfully participate in the management committees of schools.**

#### **Corporal Punishment**

42. The Committee reiterates its previous concerns (CRC/C/15/Add.197, para. 38) on the continued prevalence of corporal punishment in the domestic, school, and alternative care context.

**43. The Committee reiterates its previous recommendation to:**

- a) **Implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;**
- b) **Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home, including the pilot green mileage system as an alternative to corporal punishment in school;**
- c) **Establish mechanisms which allow for children who are victims of corporal punishment to report such incidents.**

**Violence against children, including abuse and neglect**

44. The Committee notes with concern, the increased occurrence of child physical and psychological abuse and neglect in the State party and the narrowly defined legal obligation to report such abuse. The Committee is also concerned that the rate of bullying at schools has increased in occurrence and severity. Furthermore, while welcoming the establishment of local child protection agencies, the Committee is concerned that they remain limited in number and have insufficient financial and human resources. The Committee also notes with concern that the provision of post-trauma and rehabilitative support for victims of such abuse and/or neglect is inadequate.

**45. The Committee recommends that the State party:**

- a) **Strengthen and widen the legal obligation to report child abuse and neglect, including with regard to bullying at schools, by providing adequate mechanisms for such reporting to take place with due regard for the safety and privacy of persons reporting such abuse;**
- b) **Establish more protection agencies, including at the local level and with the allocation of adequate human, technical and financial resources, which are necessary to guarantee their effective functioning, including for the provision of adequate post-trauma and rehabilitative support for victims of abuse and/or neglect;**
- c) **Take into consideration the General Comment 13 (2011) of the Committee on the right of the child to freedom from all forms of violence.**

46. With reference to the United Nations Secretary-General's Study on violence against children (A/61/299), the Committee encourages the State party to:

- a) **Prioritize elimination of all forms of violence against children, including by ensuring implementation of the recommendations of the United Nations Study on violence against children, paying particular attention to gender;**
- b) **Provide information concerning the implementation by the State party of the recommendations of the Study in the next periodic report, particularly those highlighted by the Special Representative of the Secretary General on Violence against children, namely:**
  - (i) **The development in each State of a national comprehensive strategy to prevent and address all forms of violence against children;**
  - (ii) **The introduction of an explicit national legal ban on all forms of violence against children in all settings; and**
  - (iii) **The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.**

c) Cooperate with and seek technical assistance from the Special Representative of the Secretary General on violence against children, UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and the World Health Organization (WHO), and other relevant agencies, inter alia, ILO, UNESCO, UNHCR, UNODC, as well as NGO partners.

**D. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

**Children deprived of a family environment**

47. The Committee welcomes the State party's efforts to provide family-type care for children in need and the establishment of additional facilities for the provision of such care. However, it notes with concern that the assessment of such alternative care institutions only evaluates the administrative management of such institutions, and does not assess the quality of care, skills and training of the professionals and treatment provided. Furthermore, the Committee is concerned at the lack of information on complaints mechanism for addressing instances of abuse or neglect in such institutions. The Committee is also concerned at the absence of a tracking system for children who have lost contact with their parents.

**48. The Committee recommends that the State party:**

a) Ensure the systematic periodic review of quality of care; regular training, including on child rights, of its relevant professionals; and type of treatment provided to children in public and private institutions providing alternative care in conformity with article 25 of the Convention;

b) Ensure mechanisms for receiving complaints, investigations and prosecutions for child abuse in alternative care settings and ensure that victims of abuse have access to complaints procedures, counselling, medical care and other recovery assistance as appropriate;

c) Provide children in alternative care settings with adequate support for establishing and/or maintaining contact with their parents;

d) Take into full account the Guidelines for the Alternative Care of Children contained in United Nations General Assembly Resolution A/RES/64/142 adopted on 20 November 2009.

**Adoption**

49. While noting as positive the State party's revision of its Act on Special Cases Concerning Adoption and its Civil Code which would, upon its coming into force, require approval decision of its Family Court for adoptions, the Committee is concerned about the adoption of children during the interim period prior to the said Act coming into force. The Committee also remains concerned at:

a) The absence of a clearly mandated central authority to provide regulatory oversight on adoptions and legislation codifying the obligation of the State party's competent authorities to intervene in inter-country adoption procedures;

b) The absence of listening to the child if the child to be adopted is under the age of 13;

c) The fact that the overwhelming majority of children born to single adolescent mothers are given up for adoption and that the parent(s) or legal guardian(s) of single

adolescent mothers are allowed to authorise the release of their children for adoption in absence of their consent;

d) The paucity of post-adoption services available, particularly for children who had been adopted inter-country and including with regard to addressing the linguistic difficulties faced by such persons seeking information on their biological origin;

e) The State party remaining a non-State party to the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.

**50. The Committee recommends that the State party expeditiously undertake the necessary measures to ensure that adoptions prior to the above Act coming into force are provided with adequate equivalent protection. The Committee also urges the State party to undertake a further review of its system for inter-country adoptions with a view to reforming legislation in order to bring it into full conformity with the principles and provisions of the Convention on the Rights of the Child, in particular article 21 and to specifically:**

a) Define a clear mandate, with adequate human, technical and financial resources, for the Korea Central Adoption Resources agency to effectively perform its role and function in accordance with article 6 of the Hague Convention, and including with regard to the provision of post-adoption services with due regard to ensuring the practicable access to such facilities by persons who have been adopted inter-country and may not be proficient in Korean;

b) Ensure that the child's views are given due weight, having regard to age and maturity, in the adoption process and that the best interests of the child are the paramount consideration;

c) Ensure that the consent of single adolescent mothers is mandatory for the release of their children for adoption and that they are provided with conditions that ensure that such consent is not obtained under de facto or actual duress;

d) Implement measures to ensure that all adoptions, including those in an inter-country context, are subject to authorisation by a clearly mandated central authority with adequate capacity to provide judicial oversight and regulation;

e) Consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.

**E. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

**Children with disabilities**

51. The Committee welcomes the Act on Supporting the Welfare of Disabled Children, its Rehabilitation Program for Children with Disabilities and the Childrearing Assistance Program for Families with Disabled Children. However, the Committee is concerned that government assistance for children with disabilities is only provided to low income households and does not cover physical therapy and vocational training. The Committee is further concerned about the difficulties children with disabilities, particularly females, face in receiving education, at the limited availability of special education teachers and supervisors, and that the majority of children with disabilities receive their education in special schools or classes that are segregated from children without disabilities.

52. The Committee urges the State party to take into account the Committee's General Comment No. 9 adopted in 2006 on the rights of children with disabilities (CRC/C/GC/9) and:

- a) Provide appropriate assistance to all children with disabilities;
- b) Facilitate access to education for children with disabilities and undertake measures to increase the number of special education teachers and further strengthen its measures to provide adequate training to teachers and school supervisors with a view to ensuring that children with disabilities have their educational needs fully catered to;
- c) Implement the Bill for the Special Education of Persons with Disabilities more effectively, by inter alia supporting it with adequate budget and personnel;
- d) Ensure that, whenever possible, inclusive education is provided for children with disabilities.

#### Health and health services

53. The Committee welcomes the increase in the healthcare budget of the State party and the allocation of a specific budget for the provision of health insurance. It also welcomes the Medical Aid program for low income households and public campaigns against smoking as well as its efforts to strengthen the health screening and vaccination of young children. However, the Committee remains concerned that despite these increases, the healthcare budget of the State party remains at a low proportion of its total budget. Furthermore, the Committee is concerned at the disparity of the availability and quality of paediatric health and emergency care between large medical centres and smaller local hospitals.

54. The Committee reiterates its previous recommendation (CRC/C/15/Add.197, para. 49 (a)) for the State party to increase to a significant level the funding allocated to health and establish a system of public care facilities so that low-income families may have access to health systems at no cost; The Committee further recommends that the State party undertake measures to provide small and mid-sized local hospitals with increased financial, technical and human resources for the provision of paediatric medical and emergency care throughout its territory.

#### Mental health

55. The Committee welcomes the State party's efforts to improve children's mental health by, inter alia, establishing 32 centres for mental health services nationwide.. However, the Committee remains concerned that the overall state of child mental health in the State party has deteriorated and that the rate of depression and suicide among children has increased, especially among girls. The Committee also notes the implementation of a diagnostic tool for facilitating the early detection and prevention of suicide, however, is nevertheless concerned that the diagnostic tool could negatively impact the child's right to privacy.

56. The Committee recommends that the State party undertake measures for the development of a child mental health-care policy that is based on a thorough study of the root causes of depression and suicide among children, and invest in the development of a comprehensive system of services, including mental health promotion and prevention activities, out-patient and in-patient mental health services, with a view to ensuring the effective prevention of suicidal behaviour, especially among girls. In doing so, the Committee encourages the State party to, the greatest extent possible, avoid the institutionalisation of children in such situations.

Furthermore, in applying its diagnostic tool for the detection and prevention of suicide, the Committee recommends that the State party establish adequate safeguards for ensuring that the diagnostic tool is applied in a manner that fully respects the right of the child to privacy and to be adequately consulted. While implementing the above, the Committee also emphasises the importance of examining the social and family factors related to suicide in addition to or, where appropriate, in alternative to a mental health approach.

#### **Adolescent health**

57. The Committee notes with appreciation that the Commissioner of the Korea Food and Drug Administration may further ban businesses that manufacture, process, import, distribute, or sell refreshments for children from placing commercials for high-calorie, low-nutrition food during children's television programs. Nonetheless, it is concerned about the high number of children suffering from childhood obesity and other health problems resulting from unhealthy nutrition. The Committee is further concerned that the rate of smoking and drinking among children and adolescent in Korea continues to rise and that internet addiction has become a serious problem.

58. Furthermore, the Committee notes with concern that, despite initiatives undertaken to provide mandatory sex education programmes, in practice there continues to be a lack of systematic and accurate education on sexual and reproductive health in schools. In this context, the Committee is also deeply concerned about the high rates of unplanned pregnancies among adolescents and the correspondingly high rates of abortion among adolescents in such situations.

**59. The Committee urges the State party to increase its information and education campaigns, including by engaging the mass media, to raise the awareness of the health risks of tobacco, alcohol and internet addiction. In doing so, the State party is encouraged to ensure that such campaigns take into account and address the specific context of adolescents and contribute to building their capacity to lead healthy lifestyles and practice balanced consumption patterns and take additional measures to regulate the marketing of unhealthy food having negative effect on children's health. The Committee also recommends that the State party undertake measures to ensure that sex education programmes in the school curriculum are conducted in a systematic and reliable manner.**

#### **Social security and standard of living**

60. The Committee welcomes the State party's initiatives to improve the welfare of women, the elderly and youth, pursuant to article 34, paragraphs 3, 4, and 5 of its Constitution. However, the Committee is concerned that the Constitution does not stipulate an obligation to improve a child's welfare.

**61. The Committee urges the State party to consider amending its legislation to include specific and obligatory financial allocations for child welfare at adequate levels. The State party should ensure equality and equity in programmes to reduce poverty and improve the standard of living of all children.**

## **F. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

### **Education, including vocational training and guidance**

62. Despite the efforts made by the State party to lower the stress of the students and the adoption of programs to ensure the possibility for the children to play and exercise recreational and cultural activities, the Committee is concerned at the severely competitive conditions that are still prevalent in the education system of the State party. The Committee is also concerned at the widespread enrolment of children in additional private tutoring taking place outside curriculum resulting in, inter alia: children being subject to serious and disproportionate stress and the negative impact on their physical and mental health. Furthermore, the Committee notes with concern the exacerbation of pre-existing socio-economic asymmetries arising from the financial cost of such private tutoring and its hindrance to the adequate fulfilment of the rights of the child to leisure and cultural activities. The Committee is also concerned at the increasing severity and frequency of bullying, particularly against children of foreign origin, and the use of mobile telephones and the internet in carrying out such bullying.

### **63. The Committee recommends that the State party:**

a) **Evaluate its current system of education and related examinations, with due regard to article 29 and the Committee's general comment No. 1 (2001) on the aims of education;**

b) **Increase its efforts to strengthen public education with a view to addressing the root causes of the widespread dependence on extra-curricular private education and the resulting inequality in access to higher education;**

c) **Ensure the right of children to enjoy adequate leisure, cultural and recreational activities, in compliance with article 31 of the Convention;**

d) **Systematically collect information on specific outcomes related to achieving equality in access to school for inclusion in the State party's next periodic report;**

e) **Strengthen the measures taken to combat bullying, pay special attention to children of foreign origins, and to ensure the participation of children in the initiatives aimed at reducing bullying. Such measures should also address new forms of bullying and harassment outside classrooms or school yards, including by mobile telephone and in virtual meeting places.**

## **G. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

### **Asylum-seeking and refugee children**

64. The Committee is concerned that legislation in the State party does not provide for civil status documentation for refugee and asylum-seeking children born in its territory and that this vulnerable situation of children of asylum seekers and humanitarian status holders is exacerbated by their parents having restricted access to the labour market and the lack of livelihood assistance. The Committee is also concerned about the absence of programmes for assisting the social integration of refugees, including the limited access to education for children of refugees and asylum seekers due to their admission to schools being subject to the immigration status of their parent(s). The Committee is further concerned at the lack of

educational programmes or training on the right of refugees provided for officials who are in direct contact with refugees or asylum seekers .

**65. The Committee urges the State party to provide registration for all children, including children of refugees and asylum seekers, born within its territory. It also encourages the State party to provide sufficient financial and social assistance to families of asylum seekers and humanitarian status holders and ensure that children in such situations are provided with the same access to education as State party nationals.**

**Furthermore, the Committee urges the State party to provide public officials, particularly those being in contact with refugees or asylum seekers, with special training on the right of refugees.**

**66. Furthermore, the Committee is deeply concerned that refugee, asylum-seeking and unaccompanied children can be subject to detention under the immigration legislation of the State party. The Committee further notes with concern that when such detention occurs, it is in facilities that are inappropriate for children and that there are no provisions to ensure the periodic and timely review of such detention for which there are no statutory time limits when the execution of a repatriation order is pending.**

**67. The Committee urges the State party to refrain from the detention of children in a refugee, asylum-seeking or unaccompanied situation. In cases of repatriation, it urges the State party to ensure that children in such situations are accommodated in facilities which, to the greatest extent possible, are sensitive of and respectful of their rights and subject to timely periodic review and clearly defined time limits.**

#### **Children in situations of migration**

**68. The Committee welcomes the adoption of the Law concerning Foreigners in Korea in 2007, which facilitates integration of foreigners to life in Korea, as well as amendments to the Decree on Enforcement of the Primary and Secondary Education Act in 2008 which allows children of illegal immigrants to enter and transfer between schools. However, the Committee remains concerned that the school attendance rate of migrant children is still low. The Committee is further concerned that the State party's legislation requiring parents to ensure that their children attend elementary and middle school does not apply to parents who are not its nationals.**

**69. The Committee recommends that the State party develop and adopt policies and strategies to ensure access to and actual receipt of education for children of migrants, including children of illegal migrants. The Committee also encourages the State party to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and bring its domestic legislation in compliance with its provisions.**

#### **Economic exploitation including child labour**

**70. The Committee welcomes the establishment of the Comprehensive Measures for Protection of Underage Workers in 2005 for the protection of children from exploitation. Nevertheless, the Committee is concerned about:**

- a) The increasing number of working children;
- b) Employers hiring children often not meeting the standards established for underage workers in the Labour Standard Act, including with regard to children above the age of 15 years being subject to work at night and below minimum wage ;

- c) Insufficient legal provisions regulating irregular labour practices, such as non-remunerated idle hours;
- d) Labour inspections being inadequate;
- e) The problem of working children being further exacerbated due to the widespread occurrence of verbal and sexual abuse and violence;
- f) The increasing numbers of children being employed as entertainers and sex objects.

**71. The Committee recommends that the State party:**

- a) **Undertake measures to address the underlying socio-economic factors resulting in children working;**
- b) **Ensure that standards established for working conditions of persons under the age of 18 are strictly enforced, including with regard to the effective enforcement of the prohibition of working at night, and on the payment of minimum wages;**
- c) **Enact additional legal provisions regulating irregular labour practices;**
- d) **Improve labour inspections to ensure that these comprehensively monitor all aspects of the work environment;**
- e) **Ensure the provision of effective measures to address and prevent violence and sexual harassment in the work environment, and the availability of effective mechanisms for accountability and rehabilitation in instances of such issues arising.**

**Sexual exploitation**

72. The Committee welcomes the amendments introduced in 2008 to the Act on the Protection of Juveniles from Sexual Exploitation, which provides for the regular collection of data on sexual exploitation of children and provides temporary and emergency livelihood support, legal and medical assistance and vocational training for victims. The Committee also welcomes the establishment of the Sunflower Children's Centre and One Stop Support Centre for victims of abuse and providing counselling, protection and treatment for child victims of sexual exploitation. However, the Committee remains concerned about:

- a) Sexual violence against children drastically increasing and the high rates of consumption of pornography in the State party;
- b) The low rates of prosecution for child abuse;
- c) The lack of victim rehabilitation services for men, boys or in foreign languages;
- d) Budget allocations for prevention and victim support being reduced in spite of the increasing rates of such abuse occurring.

**73. The Committee recommends that the State party undertake all measures necessary for bringing its domestic legislation into compliance with article 35 of the Convention and articles 2 and 3 of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. In particular, the Committee recommends that the State party:**

- a) **Take appropriate measures to prevent sexual violence against children;**

- b) **Take more efforts to effectively prosecute child abuse, including by Criminalizing all acts that constitute offering, delivering or accepting by whatever means a child for purpose of his/her sexual exploitation;**
- c) **Ensure that sanctions against the perpetrators of child sex crimes commensurate with the severity of the offence and take place within the criminal justice system;**
- d) **Continue its efforts to rehabilitate offenders of sexual crimes without any exemptions from criminal responsibility;**
- e) **Provide rehabilitation services to boys as well as to girls, including in a multilingual format, taking into account the most common countries of origin of the victims of trafficking and sexual exploitation.**

#### **Trafficking**

74. The Committee welcomes the adoption of the Comprehensive Plan for Preventing Sex Trafficking. However, the Committee is concerned that, notwithstanding the fact that State party legislation penalizes all forms of trafficking, a high number of women and children continue to be trafficked from, through and within the country for the purposes of sexual exploitation and forced labour. The Committee is particularly concerned about the low rate of prosecution and conviction of traffickers.

75. **The Committee urges the State party to ensure that adequate measures are taken to hold perpetrators of child sale, trafficking and abduction accountable for their offences. Furthermore, the Committee recommends that the State party consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.**

#### **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**

76. The Committee reiterates its concerns that not all offences under articles 2 and 3 of the Protocol are adequately covered under the State party's legislation (CRC/C/OPSC/KOR/CO/1, para. 30). Furthermore, the Committee is concerned that the above mentioned (para. 35) lack of measures to prevent birth registration of children by third persons could result in these children being subject to sale. The Committee is also reiterates its concern that no information has been provided by the State party with regard to measures taken to establish extraterritorial jurisdiction over the offences related to article 3 (1) of the Optional Protocol, when the crime is committed abroad by a national or a person who has habitual residence in its territory, or when the victim is a national of the Republic of Korea (CRC/C/OPSC/KOR/CO/1, para. 38).

77. **The Committee reiterates its recommendations to:**

- a) **Take necessary measures to ensure that its domestic legislation is in full compliance with articles 2 and 3 of the Optional Protocol;**
- b) **in light of article 4(2) of the Optional Protocol, take the necessary legislative measures to establish its extraterritorial jurisdiction over the offences referred to in the Optional Protocol when such offences are committed by a national of the Republic of Korea or a person who has habitual residence in its territory, or when the victim is a national of the Republic of Korea (CRC/C/OPSC/KOR/CO/1, para. 39).**

### **Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict**

78. The Committee reiterates its concern that there are no specific provisions criminalizing the compulsory recruitment or involving in hostilities of a person under the age of 18 (CRC/C/OPAC/KOR/CO/1, para.12).

**79. The Committee reiterates its recommendations for the State party to:**

- a) **Explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;**
- b) **Ensure that all legislation is fully harmonized with the provisions of the Optional Protocol; CRC/C/OPAC/KOR/CO/1;**
- c) **Ensure that all military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol (CRC/C/OPAC/KOR/CO/1, para.13).**

### **Administration of juvenile justice**

80. The Committee is concerned at the continued increase in the rate of delinquency and high rate of juvenile crime, including the high rates of recurrence among such offenders, in the State party. The Committee also notes with concern that rather than addressing the root causes for children in such situations, government measures to counter this development have only been undertaken in a manner primarily focusing on increasing punitive measures, including the placement of such children in detention facilities where adults are held, instead of effective measures aiming at the reintegration of child offenders into society. Furthermore, while noting as positive the appointment of juvenile-specific prosecutors, the Committee is concerned at them not being able to adequately serve this function as they are not provided with a situation which allows for their effective specialisation in juvenile justice.

**81. The Committee calls upon the State party to provide adequate measures to effectively counter juvenile crime as well as the high recurrence rate. In doing so, the Committee recommends that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's General Comment No. 10 (2007) on the rights of the child in juvenile justice. In particular, the Committee urges the State party to:**

- a) Establish specialized juvenile courts with adequate human, technical and financial resources throughout the territory of the State party;
- b) Provide children accused of having infringed the criminal law, with adequate legal and other assistance at an early stage of the procedure and throughout the legal proceedings;
- c) Ensure that children deprived of liberty or in rehabilitation centres or in detention facilities are never kept with adults, that they have a safe, child-sensitive environment, and that they maintain regular contact with their families and are provided with food, education and vocational training;

d) Ensure the right of children deprived of liberty to a periodic review of the decision on their placement;

e) Ensure that detention is used as a measure of last resort and promote alternative measures to deprivation of liberty such as diversion, probation, counselling, community service or suspended sentences, wherever possible;

f) Make use of the technical assistance tools developed by the United Nations Interagency Panel on Juvenile Justice and its members, including UNODC, UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

#### **Protection of witnesses and victims of crimes**

82. Notwithstanding *The Act on the Prevention of Prostitution and Protection of Victims* allowing child victims or witnesses under the age of sixteen to make a statement via video recording, the questioning and legal process for child victims of sex offences remain inadequate as:

a) Victims and witnesses frequently have to repeat their testimony because officials are not skilled in recording;

b) Courts frequently do not recognize the validity of video;

c) Victims and witnesses are often subject to cross-examination in conditions that are not adequately sensitive;

d) Reconciliation with offenders being requested without the consent of the victim;

e) There being no adequate safeguards for the privacy of the victim;

f) Victims frequently not being taken seriously by officials such as police officers and medical personnel;

g) Reported instances of verbal abuse of victims by medical or law enforcement professionals dealing with them.

**83. The Committee recommend to further develop child-friendly procedural rules and insure the child victim is treated with greater respect for his or her privacy and dignity and urges the the State party to ensure, through adequate legal provisions and regulations, that all children victims and/or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that the State party take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).**

## **H. Ratification of international human rights instruments**

**84. The Committee encourages the State party, in order to further strengthen the fulfillment of children's rights, to accede to all core human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the International Convention for the Protection of All Persons from Enforced Disappearances.**

**I. Cooperation with regional and international bodies**

85. The Committee recommends that the State party cooperate with the association of Southeast Asian Nations Commission on Women and Children towards the implementation of the Convention and other human rights instruments both in the State party and in other Association of Southeast Asian Nations (ASEAN) member states.

**J. Follow-up and dissemination**

86. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, *inter alia* by transmitting them to the members of the Government, the Parliament, Regional Bodies and to other local Governments, when applicable, for appropriate consideration and further action.

87. The Committee further recommends that the combined third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and its implementation.

**K. Next report**

88. The Committee invites the State party to submit its next *combined fifth and sixth periodic* report by *19 June 2017*. The Committee draws attention to its Harmonized Treaty Specific Reporting Guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit their report in accordance with the reporting guidelines. Should a report exceeding the page limitations be submitted, the State party will be asked to review and eventually resubmit their report in accordance with the above mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination of the treaty body cannot be guaranteed.