
Report of the National Human Rights Commission of Korea

for the Committee on the Rights of the Child

For the consideration of the combined fifth and sixth
periodic report of the Republic of Korea submitted to the
Committee on the Rights of the Child

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**National Human Rights Commission of
the Republic of Korea**

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I. Introduction

1. The National Human Rights Commission of Korea (NHRCK) hereby submits this report to the Committee on the Rights of the Child (hereinafter “the Committee”) for the Committee’s review of the combined 5th and 6th periodic report of the Government of the Republic of Korea (hereinafter “the Government”) on the implementation of the Convention on the Rights of the Child (CRC). The NHRCK, as an independent national human rights institution that monitors implementation of the CRC of the Republic of Korea, prepared this report to provide information and opinions which may be taken into account for the consideration of the periodic report. This report, referring to the guidelines regarding the form and content of periodic report to be submitted by State parties (CRC/C/58/Rev.3), presents the issues concerning the rights of the child of the Republic of Korea under the clusters of the CRC.

II . Implementation of the Convention on the Rights of the Child

A. General Measures of Implementation

(Articles 4, 42 and 44(6))

Issue 1. Reservations and non-accession

2. It is a positive development that the Government withdrew its reservation to Article 21(a) of the CRC on August 11, 2017. However, Article 40(2)(b)(v), which concerns the right to appeal, still remains reserved. In addition, the Government has not acceded to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC) yet, although the OPIC was adopted in 2011. Moreover, the Government acceded to the Convention on civil aspects of international child abduction (the Hague Convention) in May 2013 and submitted a bill to the National Assembly of the Republic of Korea for the consent to the ratification of the Hague Convention on October 18th, 2017, but the bill is still pending in the National Assembly.

3. **The Government should positively consider withdrawing its reservation of Article 40(2)(b)(v) of the CRC and acceding to the OPIC, while giving full support for the ratification of the Hague Convention.**

Issue 2. Guarantee of adolescents' right to abortion and their access to safe abortion – in relation to para. 1 (b) of the List of Issues

4. The NHRCK submitted its opinion that punishing a woman for her abortion under the Criminal Act infringes upon her right to self-determination, right to health and right to reproduction, to the Constitutional Court of Korea in March 2019. At that time, the Criminal Act completely banned abortions, without giving any exception to this ban, and the Mother and Child Health Act provides for only very limited reasons for which an abortion is allowed, which forces the women who chose an abortion to take the risk of an illegal abortion operation and places adolescents at even higher risk. Later, in April 2019, the Constitutional Court ruled as unconstitutional the provision of the Criminal Act which is to punish, in criminal terms, women who abort their pregnancy and medical doctors, etc. who abort a woman's pregnancy upon her request or with her permission, reasoning that the provision completely and uniformly bans all cases of abortions and forces pregnant women to maintain their pregnancy and give birth, which infringes on pregnant women's right to self-determination, and ruled that the provision should be revised by December 31, 2020.

5. A medical system for safe abortion should be in place, the abortion inducing drugs should be introduced in a lawful manner and an educational program on abortion surgery for medical personnel should be established. However, even though the bill to abolish the crime of abortion has been proposed, there is little progress towards the establishment of a medical system for safe abortion and the women who choose to abort are still forced to go through an illegal operation or buy, by way of social network service (SNS), abortion inducing drugs whose source or effect is not clear. According to the Government, the uncovered cases of illegal sale of abortion inducing drugs numbered 1,434 in the period of January ~ June 2019.

6. **It should be ensured that adolescents have a full understanding about what changes their maintenance of pregnancy will bring to their life and what effect their abortion may have on their health. The Government should increase adolescents' access to information on pregnancy, childbirth and childcare so that they can make an informed decision to discontinue or maintain their pregnancy. The Government should try to ensure that adolescents are able to choose to abort or maintain their pregnancy, based on such understanding. Furthermore, the Government should formulate and implement policy actions to ensure access to safe abortion, including the establishment of a medical system for safe abortion, for the adolescents who choose to abort.**

Issue 3. National Action Plan

7. The Government has established the First Master Plan on Child Policy (2015~2019), the Sixth Master Plan on Youth Policy (2018~2022), the Third National Action Plan for the Promotion and Protection of Human Rights (2018~2022) and the Policies for Children toward Building an Inclusive Society (2019. 5. 23.), as the national action plans for children. However, the Government did not take into account the views of the children while drafting these plans, as there was no mechanism to hear children's opinions about the proposed plans.

8. The Government should review in all aspects to find out a solution which ensures that children's opinions are heard and reflected in the course of the establishment of any child-related national action plan, including through a mechanism in which children's opinions are collected or the plan is monitored by the children concerned.

Issue 4. Allocation of resources: child allowance – in relation to para. 3 (a) of the List of Issues

9. With the introduction of child allowance in 2018, monthly KRW 100,000 (about USD 83.3, assuming that USD 1 is KRW 1,200) was paid to a child under 7 years of age who belonged to 90% or lower in family income distribution. Starting from 2019, child allowance of KRW 100,000 has been granted to every child under 7 years of age, regardless of their family income. In 2019, a new allowance was adopted, on a pilot basis, to support some of the children who were discharged from a child-rearing facility upon reaching the age of 18 years and, under this allowance program, monthly KRW 300,000 (about USD 250) has been paid to each of the eligible children since April this year. This increase in the resources allocated in relation to children is encouraging. However, according to the OECD data which are used as relevant international standards, the public expenditure on family in the Republic of Korea accounted for 1.2% of the country's GDP in 2015, which is lower than the OECD average of 2.0% in the same year. The public expenditure on family in this country still remains the same at 1.2% of GDP in 2017.

10. The Government should formulate and implement a plan to raise the child-related budget to the OECD average, including by extending the coverage of the child allowance to include all children.

Issue 5. Independence of the national human rights institution – in relation to para. 2 of the List of Issues

11. The NHRCK formed a team dedicated to the rights of the child in 2014, and this team was promoted to a separate division – Child Rights Division – in February 2017. Although the law specifies that full consideration should be given to the independence of the NHRCK in terms of its organizational structure, the Child Rights Division was set up as a temporary division which would last for a limited period of 2 years, under the directive of the Ministry of the Interior and Safety (MOIS), and the work of the Child Rights Division over the 2 years would be evaluated by the MOIS. Based on the results of the MOIS's evaluation, the existence of the Division was extended for another 2 years, at the end of 2018. Consequently, the work of the Child Rights Division of the NHRCK is subject to the MOIS's evaluation for another following 2 years which ends on February 28, 2021, and the Division's further existence will, again, depend on the outcomes of the MOIS' evaluation. Therefore, the NHRCK's organizational foundation is not strong enough for the NHRCK to perform independent and stable work to promote the rights of the child (the same thing can be said about some other divisions of the NHRCK, including the International Human Rights Division, the Armed Forces Human Rights Investigation Division and the Economic, Social and Cultural Rights Division).

12. **The Government should guarantee the independence and organizational security of the NHRCK so that the NHRCK may fully perform its role of promoting and protecting the rights of the child.**

Issue 6. Production and management of comprehensive and disaggregated statistical data concerning children's rights situations – in relation to para. 2 of the List of Issues

13. The National Youth Policy Institute, a state-run research institute, conducts 'the Survey on the Human Rights Situations of Children and Youths' which covers about 9,000 children of between the 4th year in elementary school and the senior year in high school (10~18 years of age) across the country, on an annual basis. This Survey is a state-authorized one and is equipped with the children's rights index based on the CRC.

14. As of 2019, the children's rights index of the Survey consists of 120 individual indicators: 43 indicators are generated by the direct questionnaire-based survey while 77 indicators are based on the administrative statistical data or the findings of other surveys. This Survey is the only statistical data that helps identify the time-series trends in the situations of children's rights, and may be used by researchers who are interested in this issue as its raw data

is disclosed under a mechanism of strict data control. The indicators of the Survey are consistently updated and complemented, based on the reviews of the UN's human rights indicators and Sustainable Development Goal (SDG) indicators.

15. However, due to the budget condition of this Survey (only about KRW 70 million out of the total project budget of KRW 130 million is allocated for the survey expense), the direct questionnaire-based survey is conducted only among students. Accordingly, the Survey has some limitations in providing disaggregated data on vulnerable children, including migrant children, children with disabilities, out-of-school children and children in poverty. In addition, although it is necessary to take actions to ensure social dissemination of the survey findings, such as increasing awareness by online and/or offline means, producing publications which are tailored to a variety of customers and holding academic forums, the current size of staff (3 researchers) is too small for those activities. Moreover, in order to generate, in a stable manner, the indicators which are based on the administrative statistical data or the outcomes in other surveys, as well as the indicators which come from the direct questionnaire-based survey, and to secure public reliability for the Survey data, it is important to institutionalize cooperation for statistical purpose among the relevant organizations, but, at present, the Survey is solely dependent on the capabilities of the research personnel.

16. The Government should produce and manage statistical data on children in a stable manner. The Government should establish a legal foundation for the statistics under its control so that statistical cooperation may be institutionalized, including based on the law provision requiring relevant agencies to submit their statistical information, and, accordingly, the stability and reliability of statistical indicators may be enhanced. In addition, it should secure a significant amount of budget and workforce to conduct the surveys on children's rights situations in order to provide disaggregated data on a range of vulnerable children, while taking active measures to disseminate the statistical data.

Issue 7. Climate change and the rights of the child: fine dust – in relation to para. 9 (d) of the List of Issues

17. The NHRCK made a recommendation, in July 2018, which asked the Minister of Environment to include the indoor air quality at all types of day care centers for children in the coverage of the manual to handle a high level of fine dust. In addition, in the same recommendation, the NHRCK also asked the Minister of Health and Welfare to draw up measures to finance the expenses required for the installation, maintenance and management of air purification devices at children's day care centers, including the enactment of law provisions for the installation, maintenance and management of such devices and the extension of the scope of the recipients of the subsidy for upgraded performance of those devices to include all day care centers for children, so that the indoor air quality at all day care centers may be kept at a safe level.

18. Before the NHRCK's recommendation mentioned above, the types of day care centers for children which were subject to the Government's control of indoor air quality were national or public centers, corporate centers, company-based centers and private centers, and other types of centers, such as home-based centers and cooperative centers, were not within the coverage. Even among the types of day care centers whose indoor air quality is subject to the Government's control, they are excluded from the coverage if their total floor area is smaller than 430 m². The consequence is that, as of 2018, 34,104 children's day care centers (86%), out of the total of 39,640 in this country, were outside the coverage of the indoor air quality control.

19. It is encouraging that the indoor air quality control has been reinforced with the amendments to the relevant legislation and manuals and further efforts to manage indoor air quality, including the support for the installation of air purifiers, have been made in 2019 (para. 15 of the Replies to the List of Issues in Relation to the Combined 5th and 6th Periodic Report of the Republic of Korea (hereinafter "the Replies to the List of Issues")).

20. **The Government should take consistent actions and reactions to ensure that children are protected from fine dust.**

B. General Principles

(Articles 2, 3, 6 and 12)

Issue 8. Child Policy Impact Assessment – in relation to para. 3 (e) of the List of Issues

21. In accordance with the Child Welfare Act, starting from 2019, in case the national government or any local government intends to formulate a child-related policy, it should conduct a child policy impact assessment to analyze and assess the impact that such policy may have on children's welfare and reflect the assessment result in the process of the formulation and implementation of the policy. In March 2019, the Government revised the relevant legislation to provide for the procedures and methods of child policy impact assessment. However, no child policy impact assessment was made with regard to the "the Policies for Children toward Building an Inclusive Society" which the Government established on May 23, 2019, as an effort to strengthen the state's responsibility for children.

22. **The Government should ensure that the child policy impact assessment is effectively conducted in accordance with the legislation.**

Issue 9. National Center for the Rights of the Child

23. The National Center for the Rights of the Child (NCRC) was launched in July 2019, for the purpose of implementing child policies in a comprehensive and coordinated manner, in accordance with the Child Welfare Act. With the establishment of the NCRC, the delivery structures of a variety of child-related services which were previously performed by private-sector providers have been integrated into the public service organization. This integration serves to increase connections with the local communities that, based on the protection from the state, have taken child-related policy measures, which, in turn, may lay the foundation for the best interests of the child being a primary consideration in the child-related policy-making process and in regard of children who are in a situation of child protection, child abuse and alternative care.

24. The NCRC integrates: the Korea Adoption Services which provides adoption-related services; the National Center for Missing Children which works to prevent children's missing, supports the families of missing children and provides counseling upon their return; the Headquarters of Dream Start which supports Dream Start Project providing comprehensive supports to vulnerable children in alliance with the local communities; and the Independence Support which educates and supports the children discharged from child-rearing facilities, for the sake of their self-reliance. Furthermore, in January 2020, the NCRC will additionally integrate the National Child Protection Agency which provides services in relation to child abuse; the National Foster Care Center which provides services in relation to foster care; the Headquarters for Community Child Center which supports the community child centers for their services of child welfare, care and education; and the Child Development Account (*Didim Ssiat*) Project Support which supports the project intended to help children in low-income families build seed money by adding the Government's matching fund (of up to KRW 40,000 per month) to the amount of money which is saved by their guardian or patron in their bank account.

25. **The Government should give full support to ensure that the NCRC fulfills its roles and responsibilities which are prescribed in the law.**

Issue 10. Child suicide – in relation to para. 4 (a) of the List of Issues

26. According to the Causes of Death Statistics by the Statistics Korea, the number of people under 19 years of age who killed themselves was 255 in 2017; 273 in 2016; 245 in 2015; 276 in 2014; and 308 in 2013. As of the year 2017, among every 100,000 persons who killed themselves, those aged 5~9 numbered 0.0; those aged 10~14 numbered 1.5; and those aged 15~19 numbered 7.2.

27. According to the 2019 Suicide Prevention White Paper published by the Ministry of Health and Welfare (MOHW) and the Korea Suicide Prevention Center, the 2017 Online Survey on Juveniles' Health Status conducted by the Ministry of Education (MOE), the MOHW and the Korea Centers for Disease Control and Prevention (KCDC) found that 25.1% of the respondents (20.3% of the male respondents and 30.3% of the female respondents) had experienced depression in the previous 12 months and 12.1% of the respondents (9.4% of the male respondents and 15.0% of the female respondents) had seriously considered killing themselves in the previous 12 months. This survey also looked into the relationship between the juveniles' consideration of suicide (serious consideration of suicide in the previous 12 months) and their individual experiences, which revealed that the juveniles who had taken medical treatment due to the damage from violence on multiple occasions, recorded low scores at school, belonged to a family with bad economic conditions or were dwelling at a relative's home or a child-rearing facility were more likely to consider killing themselves.

28. The Government announced the National Action Plan for Suicide Prevention on January 23, 2018 which enumerates a range of specific plans to prevent child suicide, such as increasing effectiveness in the system to prevent elementary and middle school students' suicides, increasing the capacity to identify students with suicidal risk, expanding specialists' visits for counseling at school, increasing specialization in counseling and managing the cases of out-of-school juveniles. However, considering that the juveniles who have suffered violence, record low scores at school, belong to a family with bad economic conditions or is in an alternative care setting are more likely to consider killing themselves, it is necessary to work out suicide prevention measures which are tailored to a diversity of situations in which vulnerable children are placed.

29. **The Government should give more support to the children in vulnerable situations, and formulate and implement policy measures to address the fundamental causes of child suicide.**

Issue 11. Baby boxes – in relation to para. 4 (c) of the List of Issues

30. The baby box which was installed in Gwanak-gu, Seoul in December 2009 and the one which was installed in Gunpo-si, Gyeonggi-do in May 2014 have been operated by the private sector. Out of the children abandoned in the baby boxes in 2018, 171 were taken over by the local governments (para. 14 of the Replies to the List of Issues). There are various reasons why children have been persistently abandoned in the private-run baby boxes: their parents were unable to get an abortion operation although it was an unwanted pregnancy; or they find it difficult to bring up the child or register the child's birth, due to their social or economic situations, such as economic difficulty, the burden of parenting and the status of single mother, or because the child was born out of wedlock or has a disability.

31. However, the children who are abandoned in the private-run baby boxes might not be fully protected by the state. In a related case, in 2019, the person in charge of the operation of the baby box in Gwanak-gu, Seoul was reported by the local government to the prosecution for having fraudulently received about KRW 200 million in basic living benefits.

32. The Government's plan to introduce the birth report system and the protective (anonymous) childbirth system, which is included in the Policies for Children toward Building an Inclusive Society, is intended to reduce the cases of child abandonment and increase public protection for children. However, the Government needs to, at the same time, consider taking actions for social protection, in order to reduce and remove social prejudices against the parents in vulnerable situations, such as single parents or juvenile parents, and provide parenting support to those parents.

33. The Government should confirm the fundamental reasons why children are abandoned in the baby boxes and make efforts to resolve this situation.

Issue 12. Asbestos – in relation to para. 4 (d) of the List of Issues

34. As of 2018, 11,291 (53.8%) of the total 20,986 schools in the country have a building that contains asbestos which is classified by the WHO as carcinogenic to humans (Group 1), and the Government plans to remove asbestos from all the facilities in kindergartens and elementary, middle and high schools across the country by 2027 (para. 17 of the Replies to the List of Issues). The Government is now controlling asbestos in schools, based on the asbestos maps of individual schools, but the schools with old buildings are not safe from possible harms from asbestos. Although sufficient care should be taken when an asbestos-containing facility is repaired or a construction to remove asbestos is done, asbestos residue was later found in 43 of the 1,227 schools which completed a construction to remove asbestos during the winter vacation of 2017, and the students in those schools refused to attend school for fear of asbestos residue in 2018. Moreover, asbestos was found in 397 schools which were included in the MOE's list of asbestos-free zones in March 2019, and the 2019 guideline which was released by the MOE in relation to the deconstruction of an asbestos-containing structure or the removal of asbestos omitted the requirement for a dust study which had been specified in the 2018 guideline. These incidents have invited criticism that the Government's control over asbestos has been weakened as the Government places more emphasis on convenience at work than on safety.

35. The Government should find out and promptly carry out socially reliable solutions to remove asbestos from schools, in order to ensure that children live in an environment safe from asbestos.

Issue 13. Humidifier disinfectants – in relation to para. 4 (e) of the List of Issues

36. Humidifier disinfectants had been sold since November 1994, but their distribution and sale was discontinued when the Government, after conducting an epidemiological investigation into the patients, including pregnant women, with lung disorders such as a serious breathing problem of no identified cause who had been reported by the doctors in the Seoul Asan Hospital to the KCDC, assumed the humidifier disinfectants to be a possible cause and then confirmed their harmfulness after conducting animal tests to check inhalation toxicity.

37. According to the Comprehensive Portal to Support Victims of Humidifier Disinfectants, the number of persons who claimed to have suffered health damages due to humidifier disinfectants totals 6,509 (including 1,431 dead persons) as of August 23, 2019. Regarding lung disorders, broken down into age, only 153 persons (including 120 dead persons) in the age of 0~6 years out of 435 persons (including 272 dead persons) who claimed for health damages due to humidifier disinfectant were confirmed as having health damages due to humidifier disinfectants; 91 persons (including 5 dead persons) out of 778 (including 18 dead persons) in the ages of 7~12; and 36 persons (including 3 dead persons) out of 529 (including 12 dead persons) in the ages of 13~18. In addition, out of 54 persons (including 19 dead persons) claimed having suffered damages, such as miscarriage, stillbirth and their child's health problem due to their exposure to humidifier disinfectants during their pregnancy, 27 persons (including 14 dead persons) were recognized as having suffered damages.

38. Polyhexamethyleneguanidine (PHMG), chloromethylisothiazolinone (CMIT) and methylisothiazolinone (MIT), the chemical substances which are among the components of a humidifier disinfectant, were not verified as being safe to humans when the products of humidifier disinfectants were released to the market.

39. **The Government should prevent any case similar to the case of humidifier disinfectants from taking place again, by keeping tighter control over the chemical substances which children have easy access to in their living environment or which may influence their living environment. Additionally, the Government should draw up and take policy actions specifically to provide consistent support to the child victims of humidifier disinfectants.**

Issue 14. Full Amendment Bill of the Family Litigation Act - in relation to para. 5 of the List of Issues

40. The full amendment bill of the Family Litigation Act which was proposed by the Government to the National Assembly in March 2018 clarifies ‘the protection of welfare and interests of minor children’ as the purpose of the Act. In addition, the bill provides for a litigation procedure assistance system which helps parents have an accurate understanding of a minor child’s intention and give him/her appropriate assistance in a litigation procedure, and requires that, in principle, a minor should be heard in case he/she is a party or stakeholder of the case concerned. Moreover, the bill also requires that a minor should be heard when his/her guardian is appointed or changed or a supervisor for his/her guardianship is appointed or changed. However, this bill is still pending at the National Assembly.

41. The Government should give support to ensure that the full amendment bill of the Family Litigation Act gets the parliamentary approval and children’s right to be heard is guaranteed. In addition, once the bill is passed by the National Assembly, the Government should set the standards which are required to ensure that children’s right to be heard is properly fulfilled in line with their phase of development, in the process of law enforcement.

Issue 15. Respect for the views of the child in school

42. According to the 2016 Current Status Survey on the Guarantee of Students’ Rights in School conducted by the NHRCK, 29.4% of 2,616 middle school students and 39.1% of 3,484 high school students answered that their schools had not asked for students’ opinions in the process of formulating or amending school regulations. This means that the children’s right to be heard is not guaranteed even in the process of school regulation formulation or amendment although this process is aimed at making decisions related to the children. Under the current Elementary and Secondary Education Act which defines the members of the School Governance Committee, which is the highest decision-making body of the school, as the representatives of teachers, parents and the local community, students’ participation in the School Governance Committee is not formally recognized.

43. In December 2017, the NHRCK recommended that the MOE should draw up a manual for the operation of school regulations, based on the Fundamental Principles for the Composition of the School Regulations to Guarantee Students’ Rights proposed by the NHRCK, and distribute such manual among schools and should revise the legislation on elementary and secondary education to ensure that students’ views are effectively accommodated in the process of school regulations formulation or amendment. In response, the MOE revised the Enforcement Decree of the Elementary and Secondary Education Act to

expand the scope of matters on which the student representative may give his/her opinion at the School Governance Committee to include the formulation and amendment of school regulations. In addition, the Education Offices in the regional areas with a students' rights ordinance guarantee students' participation in the process of school regulations formulation or amendment, by requiring that schools should hold a school regulations review committee which includes a student member before formulating or revising school regulations. However, the Elementary and Secondary Education Act still does not provide for students' formal participation in the School Governance Committee.

44. Children should be able to express their opinions in regard of the matters which are closely related to them in schools, and their opinions should be respected. The Government should take actions, including monitoring, supervision and support, to ensure that children's right to be heard is effectively protected.

C. Civil Rights and Freedoms

(Articles 7, 8 and 13-17)

Issue 16. Birth registration – in relation to para. 6 of the List of Issues

45. According to the Demographic Trends Survey by the Statistics Korea, 99.5% of the children who were born in 2019 were born at a hospital. A child's birth registration should be made within 1 month from the date of birth, by the child's father or mother if the child was born to a married couple and by the child's mother if the child was born out of wedlock. In case the child's parent cannot register birth, a relative living together with the parent(s) or a doctor, a midwife or another person involved in the childbirth should register birth. The only sanction to be taken for the failure to make a birth registration within the given time limit is an administrative fine of up to KRW 50,000. In case the person with the obligation of birth registration has failed to make such registration within the given time limit and this is likely to endanger the child's welfare and interests, a prosecutor or the head of the local government concerned may register the child's birth.

46. The Government has continuously revised the relevant legislation to promote the welfare and interests of the child. In the past, when a single father wanted to register his child's birth, he had to know the name, resident registration number and residential address of the biological mother, and if he was unaware of any of them, the child him/herself had to file a lawsuit against the state to create a surname or a place of family origin or to create a family relationship. However, since the media's attention was focused on a certain single father and his child who were in a difficult situation due to this legal complexity, the procedure of a single

father's birth registration has been simplified. Additionally, the legislation was revised in 2016 in order to allow a prosecutor or the head of the local government concerned to register childbirth in case the welfare of a child is at risk due to non-registration of his/her birth.

47. However, birth registration is not guaranteed yet for all children. When a child's biological mother is identified, the single father is not allowed to register the child's birth, and when the single father is not fully aware of personal information of the biological mother, he may register birth to the family court only by submitting an application for 'confirmation of the birth of his biological child' along with the necessary documents including DNA test results. As such application is not accepted in some cases, birth registration accessibility is still low among single fathers. In addition, in case there is no birth certificate issued for a child as the child was born at a place other than hospital, birth registration will take a long time because a DNA test should be completed and the family court's approval should be obtained in advance, and the child's rights will be restricted in the meantime. This difficulty in birth registration may also result in fraudulent birth registration. As a consequence of the investigation which was conducted about the children who reached the school age in 2019 but whose location was not identified, 13 cases of fraudulent birth registration were detected. In the case of children under 18 years of age with immigrant background who stay in Korea without Korean nationality, Government has no official statistical data on those children, which may deny them public recognition of their existence itself.

48. The NHRCK recommended, in November 2017, that the Minister of Justice, etc. should revise the relevant legislation to obligate a doctor or a midwife involved in the childbirth to report the birth to the national or public institution. The Government promised, in the Policies for Children toward Building an Inclusive Society released in May 2019, that it would introduce a system in which medical institutions report childbirths to the national institution (birth report system).

49. **The Government should set a specific plan to adopt a birth report system and establish a universal birth registration system, including a birth report system, in order to guarantee birth registration for all children.**

Issue 17. Civil rights and freedoms in school - in relation to para. 6 of the List of Issues

50. According to the 2016 Current Status Survey on the Guarantee of Students' Rights in School conducted by the NHRCK among 6,100 students from 306 middle or high schools across the nation, children's civil rights and freedoms in schools are restricted. In relation to children's freedom of association and assembly, 65.3% of 842 respondent teachers and 51.2% of 1,838 respondent parents answered that the school may control a students' assembly within

the school when such assembly is likely to violate the right to give lessons or undermine students' safety. In addition, 15.6% of the respondent teachers and 14.3% of the respondent parents replied that students need to obtain prior permission from the school to hold an assembly within the school.

51. It is also shown that children's freedom of privacy has been restricted: 12.9% of 2,616 middle school students and 21.2% of 3,484 high school students said that they had ever had their possessions inspected with no individual consent being given in advance. In addition, in relation to the installation of CCTVs on campus, 14.5% of 842 teachers and 13.4% of 1,838 parents responded that the school may make an independent decision to install CCTVs on campus. Moreover, it is revealed that the school regulations in about 92.6% of the schools include the provisions which infringe on children's right to develop and express their personality and their freedom of communication, such as excessive restrictions on their hairdo and dress and the ban on the use of the cell phone even during non-class time.

52. The NHRCK made it clear, already in 2005, that students' right to appearance is a fundamental right as it is equivalent to 'the right to the freedom of developing and expressing personality' and 'the right to self-determination' and, in April 2019, recommended that the school regulations which totally ban students from perming or dyeing their hair should be amended after opinions are collected from all school members. Additionally, in relation to the practice in which students' cell phones are all collected at the time of their arrival at school and are returned at the time of their departure from school, the NHRCK has recommended that the practice should be improved after the students' opinions are collected, calling the practice an excessive restriction on the students' freedom of communication and their freedom of common action.

53. The students' rights ordinance in the local governments of Seoul City, Gyeonggi-do, Gwangju City and Jeollabuk-do, explicitly provides for the freedom of privacy, the freedom of conscience and religion, the freedom of expression, the right to realize personality, the right to self-governing activities and the right to participation but, in practice, these freedoms and rights are not fully guaranteed for students in schools.

54. **The Government should ensure that, when the school rules or regulations restrict students' rights, including the right to self-determination, such restriction is done to the minimum necessary for education purpose.**

Issue 18. Students' Rights Ordinance

55. The superintendent of the Gyeongsangnam-do Office of Education announced a plan to formulate a students' rights ordinance in November 2017 and proposed a draft of the

students' rights ordinance of Gyeongsangnam-do after going through discussions with the civil society on September 11, 2018, but faced resistance from the Christianity and an alliance of opposing parties. After completing an opinion-collection process, the superintendent of education published a revised draft in March 14, 2019, and submitted the draft to the provincial assembly of Gyeongsangnam-do. Then, the superintendents of education in Seoul, Gyeonggi-do, Gwangju and Jeollabuk-do where a students' rights ordinance was already in force released a statement in support of the formulation of the students' rights ordinance of Gyeongsangnam-do and many civic organizations across the nation also expressed their support for the ordinance. In addition, the NHRCK announced the Chairperson's statement to call for the legislation of the ordinance in May 2019.

56. However, the standing committee of the provincial assembly in Gyeongsangnam-do voted against the draft, and the draft was automatically discarded with the closing of the plenary session of the provincial assembly on July 19, 2019. In spite of the education superintendent's positive drive for the formulation of a students' rights ordinance and the strong support from 'the candle-light civil alliance for the formulation of the students' rights ordinance of Gyeongsangnam-do' which consists of about 100 civic organizations, the draft was not even discussed in the provincial assembly. The opposing parties led by the Christianity argued that the ordinance would spread homosexuality among the students and cause sexual immorality and lower educational performance to the students. They tried to instigate opposition to the students' rights ordinance and expressed their extreme opposition, by making a forced entry to the location of public hearing, putting up a tent for protest in front of the provincial assembly building, handing out flyers of fake news and pressuring provincial legislators.

57. The Gyeongsangnam-do Office of Education attempted to formulate a students' rights ordinance on 3 occasions over the 10 years' period starting from 2009 (proposed by, respectively, the legislators in 2009, a group of residents in 2012 and the superintendent of education in 2018), but these attempts came to naught. In this course, a succession of fake news was generated, based on the distorted information from some opposing groups and the hatred towards and discrimination against sexual minorities.

58. Furthermore, in Ulsan City, the drafts of "the ordinance on juvenile assembly establishment and support", "the ordinance to promote democracy and citizenship education in school" and "the ordinance to promote labor rights education for juveniles", all of which are related to juveniles' participation and human rights education and have been approved without a hitch in other cities and provinces, were called off after they had been submitted to the city assembly, due to the pressure upon the legislators, the physical obstruction of public discussions and the opposing opinions built on fake news. In particular, some specific groups, including the one from the Christianity, incited hatred and discrimination in the course of such opposition, trying to organize and empower themselves.

59. The NHRCK launched a "task force team to address hatred and discrimination" in February 2019 which has made efforts to shape an active counterculture, including by holding

public campaigns to create a common ground of understanding about the problem of hatred and discrimination among the general public and increase public awareness towards the problem. The NHRCK is also going to support and cooperate consistently, for the purpose of the successful “human rights management in education” which will be sought after by the Gyeongsangnam-do Office of Education.

60. The Government should take active reactions to any false information or any action of hatred and discrimination which is relevant to the rights of the child. Additionally, the Government should support the formulation of human rights instruments in local communities in order to create a human-rights-friendly school culture, while setting a long-term plan and establishing the relevant systems to this end.

D. Violence against Children

(Articles 19, 24(3), 28(2), 34, 37(a) and 39)

Issue 19. Child abuse report

61. According to the 2017 National Child Abuse Status Report by the MOHW and the National Child Protection Agency, the number of reports of suspected child abuse was 25,878 in 2016, and 18,700 of them were confirmed as child abuse and 8,288 (30% of the total reports) were made by mandatory reporters. The Report showed that the child abuse discovery rate (the ratio of the number of children in confirmed child abuse cases to every 1,000 children) in this country was 2.15‰, which is lower than in some advanced nations, including the United States (9.1‰ in 2016) and Australia (9.0‰ on average in 2016~2017). Experts say that the low rate of Korea is not because of a smaller number of actual child abuse cases but because of less disclosure of child abuse which is also related to low reporting rates.

62. In May 2016, the NHRCK recommended the MOHW to devise a guideline to unify the reporting system within the mandatory reporting agency and clarify who has the responsibility to report; to set up more shelters exclusively for child abuse victims; and to introduce a specialized foster care system and secure the necessary budget.

63. The Government should work out the measures to raise the child abuse reporting rate, including the one to provide stronger protection to reporters, so that every incident of child abuse may be discovered at an earlier time.

Issue 20. Discovery of child abuse

64. In 2016, a child was killed in a case of child abuse which is commonly called ‘Wonyoung’s case’. The parents of the child victim abused her for about 3 months starting from November 2015, locking her up in the bathroom and spraying a disinfectant over her body, which resulted in her death in February 2016. Then, the parents buried her body in a hill. This child abuse case was discovered due to the preparatory meeting at elementary school. On the date of preparatory meeting at elementary school which is held before the date of entrance ceremony, the parents of a child who has received a school enrollment notice and is going to attend an elementary school visit the elementary school and submit the documents required for school enrollment. As the child and her parents did not show up at the elementary school concerned on the date of preparatory meeting, the school reported this to the police, which finally led to the disclosure of the child abuse case.

65. In response to this incident, the Government amended the Enforcement Decree of the Elementary and Secondary Education Act in October 2016 to introduce some institutional improvements: for instance, in case a child is supposed to enroll in an elementary or middle school but fails to do so, the headmaster of the elementary or middle school should press the child’s guardian for the child’s enrollment and, when necessary, should call for cooperation from the chief of the police station concerned. The Government has adopted these institutional arrangements, in an effort to ensure that the schools, local education offices, police agencies and local communities confirm the safety of the children who fail to enroll in the school or show up at the preparatory meeting without giving any explanation or are absent from school for a long time and protect those children from abuse. The ‘e-Child Happiness Support’ that the Government has recently introduced to refer at-risk children in need of protection swiftly to welfare services by using big data is also intended to find child abuse victims at an earlier time: under this system, the information on health checkups, vaccinations and prolonged absence from school may be used to detect the children who are likely to need protection and the civil servants from the neighborhoods (*eup*, *myeon* and *dong*) may visit those children. The birth report system, which the Government plans to adopt, is also intended to prevent child abuse which may be caused by the failure to register birth.

66. However, it was revealed, in January 2019, that a child who did not show up at the preparatory meeting of elementary school was not classified as a child at risk in the ‘e-Child Happiness Support’, in spite of no official records about the child since the vaccination of May 2013. For earlier discovery and protection of children at risk of abuse, the relevant systems need to be not only well-established but also be fully utilized.

67. **The Government should upgrade the existing relevant systems and increase their use, in order to ensure that actual cases of child abuse are discovered at an earlier time and the child victims are properly protected.**

Issue 21. Child Protection Agency

68. According to the 2017 National Child Abuse Status Report by the MOHW and the National Child Protection Agency, the counselors in the child protection agencies worked about 2,886,071 hours in the year of 2017, which means about 3,853 hours per person. The clinical psychological therapists in those agencies worked a total of 437,490 hours in the same year, which means about 6,730 hours per person. Considering that, in practice, the adequate hours and days of work per year are 1,960 hours and 245 days for a counselor and 1,852 hours and 231 days for a clinical psychological therapist, the adequate numbers of counselors and clinical psychological therapists required to perform the work in the child protection agencies as of 2017 are, respectively, 1,472 and 236 persons. However, the actual numbers as of December 1, 2017 were 749 and 65, which are much short of the adequate numbers.

69. Moreover, although the workers in the child protection agencies whose job is to visit a site of child abuse upon receiving a report of child abuse are supposed to perform such tasks as require the use of compelling force, like restraining an action of child abuse, separating the abuser from the child victim and taking an emergency measure about the child victim, including the transfer of the child to a protection facility or a medical institution, those workers are ordinary employees, not civil servants.

70. In step with the inauguration of the NCRC which is to take over the work of the National Child Protection Agency in January 2020, the Government pledged, in the Policies for Children toward Building an Inclusive Society released in May 2019, to reorganize the child protection agencies into the agencies specialized in the management of child abuse cases and transfer the work of child abuse investigation to the civil servants in charge of social work at municipalities (*si, gun and gu*).

71. In this regard, the expertise on investigation should be simultaneously transferred from the child protection agencies to those civil servants at municipalities, and the Government should develop and disseminate the models of child abuse case management and set the right roles of the child protection agencies and support their work, including by linking them with the relevant service providers in local communities, in order to ensure that stronger protection is given to the victims of child abuse.

Issue 22. System to protect victims of child abuse

72. In April 2019, a child (age 12) who reported her stepfather to the police for having sexually abused her was murdered by the stepfather about 18 days later from her report. According to the NHRCK's investigation of this case, the child victim, after being abused by her biological father in 2016, lived together with her biological mother and the stepfather, but

began to live together with the biological father again in January 2018, due to the abuse by the biological mother and the stepfather in November 2017. Later, on April 9~14, 2019, the child told the police that the stepfather had sexually abused her from 2018 until early 2019, asking for personal protection. The police should have secured her safety after acquiring accurate information on her mental condition, the possible recurrence of abuse and the risk from the abuser, but failed to do so.

73. Additionally, as the information on the child victim obtained by the child protection agency which is to protect children from child abuse was not shared with the police, the police underestimated the likelihood and risk of additional abuse to the child victim. Moreover, another problem is that, as an urgent temporary measure which may be taken against a perpetrator of child abuse is applicable only in case the perpetrator is the child's guardian or *de facto* guardian, the urgent measure could not be taken against the child victim's stepfather in the aforementioned case.

74. In this context, in July 2019, the NHRCK recommended the Commissioner General of the Korean National Police Agency to ensure that every child abuse case is reported by the police officer who is in charge of the case to the police officer for child abuse prevention so that all the cases may be thoroughly managed; recommended the Minister of Health and Welfare to improve the practice of sharing information between the police and the child protection agencies by enabling the police officers for child abuse prevention to access information in the national information system on child abuse; and recommended the Minister of Justice to revise the relevant legislation to allow an urgent temporary measure to be taken even against a child's stepfather or another relative in case child abuse is highly likely to be committed again by them in the same way it would be done by the child's guardian.

75. **The Government should establish an effective system to protect the victims of child abuse crimes, by reinforcing cooperation between the child protection agencies and the police and addressing other legal and institutional insufficiencies.**

Issue 23. Child abuser and repeated child abuse

76. According to the 2017 National Child Abuse Status Report by the MOHW and the National Child Protection Agency, out of the 22,367 confirmed cases of child abuse in 2017, as many as 17,177 (76.8%) were committed by the child victims' parents (biological or adoptive parents or stepparents). In addition, in 16,669 cases (74.5%), the child abuser and the child victim were living together. In terms of the characteristics found among the child abusers at the time of child abuse investigation, among the 37,791 cases investigated, lack of parenthood and parenting skills took up the largest share with 8,388 cases (22.2%), followed by social or economic stress and isolation in 4,933 cases (13.1%), marital or family conflict in 2,721 cases

(7.2%), personality or temperament problem in 1,676 cases (4.4%) and addiction in 1,103 cases (2.9%). The measures to be taken about the affected children include protection in their home, separated protection and return to home and, in 2017, the measure of protection in their home was initially taken in 18,104 cases (80.9%) and the same measure was finally taken in 17,589 cases (78.6%).

77. In 2017, the cases of repeated child abuse (a case of child abuse which is reported and confirmed again within 5 years from the initial confirmation of the same abuse) numbered 2,160, which is 9.7% of the total cases of child abuse in the year. The affected child's parent was the abuser in 2,053 cases (95.0%); and the affected child's home was the location of repeated abuse in 2,055 cases (95.1%). The abusers in the cases of repeated child abuse featured lack of parenthood and parenting skills in 1,582 cases (28.1%); social or economic stress and isolation in 1,069 cases (19.0%); marital or family conflict in 521 cases (9.2%); personality or temperament problem in 327 cases (5.8%); addiction (5.4%); and violence (3.6%). The cases of repeated child abuse which took place within 2 years accounted for 75.9%. The measures taken about the child victims of repeated abuse are: initial protection in their home was taken in 1,434 cases (66.4%); initial separated protection, in 719 cases (33.3%); final protection in their home, in 1,364 cases (63.1%); final separated protection, in 590 cases (27.3%); and final return to home, in 194 cases (9.0%).

78. Considering that, in a large number of child abuse cases, the affected child's parent is the child abuser; in case the severity of abuse or the risk of repeated abuse is low, the most common measure is to protect the affected children in their home; and many cases of repeated child abuse are committed at home by the parents, it is necessary to provide adequate treatment and education to child abusers. In addition, given that repeated child abuse is mostly committed by the parents and at home and the frequency of repeated child abuse depends on the time interval between the initial abuse and the repeated abuse, it is important to manage the cases of child abuse over a period of many years.

79. **The Government, for the purpose of preventing repeated child abuse and promoting welfare of child abuse victims, should provide child abusers with intervention and education programs tailored to their characteristics while obliging them to complete a training program designed to prevent repeated child abuse.**

Issue 24. School violence

80. The law defines school violence as any action committed against a student inside or outside the school premises which results in a physical or mental injury or property damage through a battery, assault, confinement, threat, kidnapping, abduction, defamation, insult, extortion, coercion, forced errand, sexual violence, bullying or cyber-bullying, or due to obscene or violent information via an information and communications network.

81. As the definition of school violence has a wide coverage, even the arguments or conflicts which are common between friends are brought before the official process to resolve school violence; students and parents have low confidence in the investigation conducted by the school body or the teacher responsible for school violence issues; and any decision to guide or discipline the aggressor student will be documented in the student's register of school records, which may have a negative effect on the student's admission to higher-grade school or college. These factors and the interactions among them work to increase the conflicts at school over school violence. According to the MOE, a total of 30,993 school violence cases (6,159 in elementary school; 15,576 in middle school; and 9,258 in high school) were reviewed in the school year of 2017. In addition, 1,868 petitions for re-examination were made in disobedience to the first decisions on school violence, in the same school year.

82. Until recently, the Government required the establishment of the Autonomous Committee for Countermeasures against School Violence, a body for deliberation on school violence, in each school, but revised the law in August 2019 to improve this deliberation system by setting up the Committee for Deliberation of Countermeasures against School Violence at the level of Education Office. Moreover, under the revised law, in case a victim student and his/her guardian don't want a session of the Deliberation Committee to be held, the school headmaster concerned may bring the case to a conclusion after fulfilling certain requirements. This new system will take effect in March 2020.

83. The law revision described above is expected to help resolve the cases of school violence from educational perspectives and ease the burden on schools. However, the revised law will not change anything about the fact that any action taken about an aggressor student in a case of school violence is documented in his/her register of school records and may have an adverse effect on his/her admission to a higher-grade school. Accordingly, in this country where a very high emphasis is placed on the admission to a good school or college, the tendency will persist that aggressor students resort to legal actions in order to avoid any unfavorable entry in their register of school records.

84. In July 2012, the NHRCK recommended that the Government should reinforce the programs to prevent school violence, including by adopting a student-participatory preventive program and allocating relevant counselors at school; introduce the programs for responses to school violence at the initial and middle stages; step up the program to support victims, aggressors and their guardians for their earlier cure and recovery; improve the way in which a record of school violence is documented in a student's register of school records; and improve the way in which the findings of the current status survey on school violence are made public.

85. The Government should find out proper measures to minimize the negative impact of the Act on the Prevention and Countermeasures against Violence in Schools which prompts the parties in a conflict at school to resort to a legal solution, making it difficult for them to restore their relationship.

Issue 25. Sexual exploitation and sexual abuse – in relation to para. 9 of the List of Issues

86. The Act on the Protection of Children and Youth against Sexual Abuse provides for punishment of an act of buying sex of a child or youth under 19 years of age and uses the term “the child or youth involved” which is defined as a child or youth who is the counterpart of such criminal act. Accordingly, the children or youths involved are subject to juvenile protective dispositions, which refer to the dispositions to be taken as a special procedure in the criminal procedures in accordance with the Juvenile Act. The juvenile protective dispositions include protection in a juvenile reformatory which is a custodial treatment, and a child or youth involved in a sex crime may be detained in a juvenile reformatory for 6 months ~ 2 years.

87. In June 2017, the NHRCK expressed its view that it is desirable to revise the law to make it clear that the children who are the counterparts of an act of buying sex are “victims”, but the relevant draft for revision is still pending at the National Assembly and has not been passed due to the Government’s objection.

88. In the meantime, a new provision – “a person aged 19 years or older who has sex with or commits an indecent act against a child or youth who is 13 years or older but younger than 16 years by taking advantage of the child’s or youth’s economic distress shall be punished” – has been recently inserted to the Act on the Protection of Children and Youth against Sex Offences. When a person aged 13 years or older but younger than 16 years proves that his/her economic distress was used for such criminal act, the person shall be treated as a child victim, but it is not easy to prove. In case the child is at such age but fails to prove his/her economic distress or the child is 16 years or above, the child will be still “the child involved” in the act of buying sex and be subject to a juvenile protective disposition which constitutes a custodial treatment. In the event of a criminal act of buying sex of a child, only the adult buyer should be punished and the child who is the counterpart of the act should be protected as a victim, regardless of his/her age.

89. **The NHRCK recommends that the Government should immediately discontinue the system which practically punishes the children who are the counterparts of sex-buying acts, by detaining them in a juvenile reformatory, improve the relevant legislation and institutions promptly and provide stronger protection and support to child victims.**

E. Family Environment and Alternative Care

(Articles 5, 9-11, 18(1) and (2), 20, 21, 25 and 27(4))

Issue 26. Child Welfare Deliberation Committee

90. The Child Welfare Act requires that the heads of larger local governments and basic local governments should set up the Child Welfare Deliberation Committee which reviews the matters pertaining to the protective dispositions for children subject to protection (including counseling, guidance and other measures necessary for foster care, admission to a child welfare facility, admission to a specialized treatment institution or adoption), the matters pertaining to the discharge of those children from the relevant facilities, the matters pertaining to the claim for restricting the exercise of parental authority or sentencing the loss of parental authority, the matters pertaining to the request for selection or replacement of a child's guardian, and the matters pertaining to the selection of children subject to protection and the provision of support to the selected children.

91. However, there are still some local governments which do not have the Child Welfare Deliberation Committee. In accordance with the Child Welfare Act, local governments should formulate an ordinance which governs the structure, composition and operation of the Child Welfare Deliberation Committee, but, as of July 2019, such ordinance exists in only 176 out of the total 243 local governments (in 17 cities/provinces and 226 *si/gun/gu* entities) which are legally obliged to adopt such ordinance.

92. In the Policies for Children toward Building an Inclusive Society which was published in May 2019, the Government planned to establish a committee for case determination under the Child Welfare Deliberation Committee in order to ensure that the best way of protection is chosen for each of the children subject to protection. However, even the Child Welfare Deliberation Committee is not in place in many local governments.

93. **The Government should support the Child Welfare Deliberation Committees so that they can be fully specialized for effective operation, deliberations and case management, in order to ensure that local governments take the best measures for the children subject to protection.**

Issue 27. Children of imprisoned parents – in relation to para. 8 (f) of the List of Issues

94. The estimated number of children (in ages of minority) of imprisoned parents in the Republic of Korea, which is based on the 2017 Survey on Human Rights Situations of Children of Imprisoned Parents conducted by the NHRCK, is about 22,000 on daily average and about 54,000 in a year. The Survey showed that the children witnessed their parents being arrested in 6.3% of the cases and that, in terms of care-givers, the imprisoned parent's spouse took up the largest share with 72.4%, but the children lived only with their siblings in 2.4%; they were in institutional care in 2.1%; they were being taken care of by relatives or acquaintances, respectively, in 1.8% and 1.5%; and their situation was not known in 1.5%, which confirms that proper care is not being given to some of those children. Moreover, 70% of the imprisoned parents said that they had never seen their child since their arrest. Meanwhile, many of the children complained about the difficulty and complexity of the procedural requirements for their meeting with their imprisoned parents.

95. In response, the NHRCK recommended, in March 2019, the Commissioner General of the Korean National Police Agency to amend the relevant regulations to avoid violating the rights of the child who is present at the time of his/her parent's arrest or detention and create a process to identify, at an earlier time, the children who will have no care-giver with the parent's imprisonment, in order to ensure that the rights of children of imprisoned parents are considered at all stages, including at the time of arrest, in legal proceedings and in the course of law enforcement. At the same time, the NHRCK recommended the Chief Justice of the Supreme Court to check if a defendant has a child who is absolutely in need of the defendant's care-giving before sentencing the defendant to a sanction of confinement, and recommended the Ministry of Justice (MOJ) to install a child-friendly family meeting room within every correctional facility and activate various types of meetings, in order to guarantee children's right to meet their imprisoned parents.

96. In April 2019, the Government revised the relevant legislation and, consequently, new inmates shall be informed that they can ask for a protective disposition for their minor child and male inmates are also allowed to meet their minor child at a meeting room with no blocking structure between the meeting people, which was previously possible only for female inmates.

97. **In order to ensure that the rights of inmates' children are protected in the course of criminal law enforcement, the Government should put the NHRCK's relevant recommendations fully into practice and work out the measures to support inmates' children.**

F. Disability, Basic Health and Welfare

(Articles 6, 18(3), 23, 24, 26, 27(1), (2) and (3), and 33)

Issue 28. Children's mental health

98. According to the Government's 2016 study about the mental health of school-aged children, 35.7% of the observed children had a depression; 11.7% were in a state of mid- or higher-level anxiety; 8.7% had a behavioral disorder; 3.7% had a high Internet-related risk; 17.6% ever considered committing suicide; 1.7% attempted to commit suicide; and 5.8% had an experience of self-mutilation. Additionally, 17.3% of the respondent children ever sought a help for their mental health, but only 3.09% had medical advice from psychiatric doctors.

99. Due to the lack of the mental health institutions specifically for children, children with mental disorders have low access to medical treatment by specialists. There are only 21 medical institutions specialized in children's mental health in 8 of the 17 cities or provinces and, although the number of the specialized centers for children's mental health has grown to 130, these centers mostly provide services for prevention, early detection, counseling and medical expense support and only 3 of them have specialized doctors who are capable of medical treatment.

100. Social prejudices against and stigmatization of psychiatric and mental disorders are one of the reasons for children's low access to medical treatment. Mental disorders which require specialized medical treatment are concentrated among the people whose age ranges from mid or late teens to 24 years, and these mental disorders are highly likely to advance to severe or chronic diseases unless checked at the initial stage and treated in a timely manner. This is why the state and the general public are asked to pay more attention to children's mental health and take proper actions.

101. In this regard, the NHRCK recommended, in December 2018, the Minister of Health and Welfare to insert new provisions concerning medical treatment, care and education of children and juveniles and formulate the Guideline on Human Rights Protection for Children and Juvenile Patients; conduct current status surveys on a regular basis to identify the prevalence of mental disorders in childhood and youth and the rate of treated disorders; expand medical institutions and rehabilitation facilities for mental health in each local area; and include the rights of children and juveniles in the education curricula for those who work in mental health promotion facilities.

102. The Government should find out the ways to increase the possibility of children's mental disorders being detected at the initial stage and the medical treatment accessibility for children with mental disorders. In particular, the Government should expand the medical institutions for children's and juveniles' mental health in local areas which are easily accessible to children and juveniles with mental health problems.

Issue 29. Protection of unborn babies from health damage due to pregnant workers' occupational accident

103. According to the Survey on Human Rights Situations of Workers Handling Reproductive Toxicants conducted by the NHRCK in 2016, the workers had a poor awareness that reproductive toxicants (which have a harmful effect on humans' reproductive functions and capabilities and the development and growth of unborn babies and include both harmful material factors, like chemical substances, and harmful physical factors, like shift work, nighttime work and standing work) from their work may cause miscarriage, preterm birth, stillbirth or the birth of a baby with innate malformation, and the parents with a child who has an innate disability or disease due to the parent's occupational reason had difficulty in getting a compensation under the Industrial Accident Compensation Insurance Act for the child's medical cost.

104. The Labor Standards Act prohibits a pregnant worker's nighttime work, in principle, but allows a pregnant worker to do nighttime or holiday work with the Minister of Employment and Labor's approval so long as the pregnant worker agrees to do such work. In this context, considerations are hardly made about a pregnant worker's length of pregnancy and presumed date of childbirth and the reproductive toxicants that nighttime work may cause to the pregnant worker. According to the Current Status Survey on Human Rights, including Maternity Protection, of Female Workers in Health and Medical Care Sector conducted by the NHRCK in 2015, 38.4% of the nurses and nursing assistants who responded to the survey and 76.4% of the female doctors who responded to the survey said that they had ever done nighttime work during their pregnancy; and 59.8% of the nurses and nursing assistants and 76.7% of the female doctors were not willing to do nighttime work. In case there are not enough workers or the considerations about pregnant workers are not fully made, pregnant workers may have no choice but to give their consent to nighttime work although they don't want to work at night and, in this case, the possibility of health damage to unborn babies can hardly be ruled out.

105. In response, the NHRCK recommended, in July 2018, the Minister of Employment and Labor to revise the relevant legislation to prohibit pregnant workers' involuntary nighttime work and additionally recognize, as occupational accidents, health damages done to unborn babies due to their exposure to the factors harmful to reproductive health, in order to protect pregnant workers and their unborn children from the factors harmful to reproductive health.

106. In the meantime, some nurses in the Jeju Medical Center gave birth to a child with an innate heart disorder after handling, directly or indirectly, the harmful medical substances which have an adverse effect on unborn babies' health during their pregnancy in 2009~2010. The nurses claimed medical treatment benefits from the Korea Workers' Compensation & Welfare Center but their claims were turned down. Then, in 2014, they filed a lawsuit to seek the cancellation of the Center's refusal to pay medical treatment benefits.

107. In regard of the aforementioned lawsuit, in 2019, the NHRCK submitted, to the Supreme Court, its opinions that: it is desirable to recognize, as occupational diseases, the

damages done to unborn babies due to occupational causes, in the context of protection of unborn babies and their rights; and if a health damage done to an unborn baby of a pregnant worker is excluded from the coverage of the Industrial Accident Compensation Insurance benefits although a pregnant worker's miscarriage is recognized as an occupational accident, this practically passes all liabilities to the female workers who are not responsible for their children's health problems and may constitute discrimination against those female workers.

108. The Government should map out the measures to protect the health of pregnant workers and their unborn children. In case a pregnant worker's unborn child suffers a health damage due to the worker's work during pregnancy, the Government should provide medical support to both the worker and the child.

Issue 30. Wage gap between the workers in child-rearing facilities and those in group homes

109. 'Child-rearing facility' and 'group home' are two types of child welfare facilities. A child-rearing facility is to provide children subject to protection with institutional protection and care, vocational training and other services for their self-reliance, while a group home is to provide children subject to protection with protection, care and services for their self-reliance in a home-like residential environment. Child-rearing facilities and group homes simply differ from each other in the numbers of children they protect but are practically the same in their purposes. They are also the same, in terms of the qualification requirements for their staff, the procedural requirements for their establishment, temporary discontinuance and closing, the procedures of admission and discharge of eligible children and the standards on administrative dispositions and administrative fines. In addition, group homes (with fewer than 8 children subject to protection) and child-rearing facilities with fewer than 10 children subject to protection have the same standards concerning the staff allocation. The tendency is that the number of children in child-rearing facilities has been decreasing while the number of children in group homes keeps growing.

110. Nevertheless, the MOHW has applied different labor cost standards for the staff in child-rearing facilities and the staff in group homes. Specifically, the workers in child-rearing facilities are paid under the Guideline on the Labor Cost for the Staff in Social and Welfare Facilities which recognizes pay steps, whereas this guideline is not applied to the workers in group homes and their wage is determined on an annual basis. In 2018, the subsidized labor cost per group home worker was KRW 24,948,000 per year, which is merely 80.9% of the annual wage under the 2018 Guideline on the Labor Cost for the Staff in Social and Welfare Facilities which covers the workers in child-rearing facilities.

111. In order to help the workers in group homes, who are working to protect and take care of children with the same job qualifications as the workers in child-rearing facilities, develop

their job skills and capacities for child support in a stable way, it is necessary to improve their employment terms and conditions. In February 2019, the NHRCK recommended the Minister of Health and Welfare to take an action to ensure that no wage gap exists between the staff in child-rearing facilities and the staff in group homes.

112. The Government should ensure that no wage gap exists among the workers in child welfare facilities who work for the same purpose with the same job qualifications lest such gap in employment terms and conditions should lead to any gap in child protection.

Issue 31. Children obliged to pay contributions to the National Health Insurance

113. In order to guarantee people's rights to health and health care, the Republic of Korea runs the National Health Insurance which is a social insurance, and the medical benefit system which is a public assistance program. The subscribers to the National Health Insurance are divided into the company-based subscribers who pay their insurance contributions through their company and the region-based subscribers. The amount of insurance contribution for a company-based subscriber is based on his/her earned income, while that for a region-based subscriber is based on the incomes and properties of all household members and the living condition of the household.

114. A minor dependent of a company-based subscriber is not liable to pay a contribution to the National Health Insurance, while a minor dependent of a region-based subscriber is jointly liable for such contribution because it is provided that, in the case of a region-based subscription, all of the household members are jointly liable to pay the insurance contributions. The consequence is that, if the adult head of a household fails to pay any region-based contribution in time, a child member of the household may have to pay the overdue contribution.

115. In such case as is mentioned above, the Government currently imposes the obligation to pay the overdue contribution only on the children who have a certain or higher level of household income. In this regard, in February 2019, the NHRCK recommended the Government to completely remove the children's joint liability to pay National Health Insurance contributions, but the Government refused to accept the recommendation.

116. In light of the principle of social solidarity, children should be beneficiaries of social security programs and the liability to pay National Health Insurance contributions should not be imposed on any child. Accordingly, the NHRCK recommends that the Government should repeal the law provision which imposes the liability on children.

G. Education, Leisure and Cultural Activities

(Articles 28-31)

Issue 32. School textbooks and human rights

117. In 2018, the NHRCK, after monitoring the textbooks in elementary and secondary schools and examining and analyzing 49 kinds of textbooks for the 3rd and 4th graders in elementary school and for middle and high school students to see how human rights are described in those textbooks, came up with a proposal to address the human rights violations in the illustrations, photographs and texts of the textbooks examined. In 2017, the NHRCK, after monitoring 30 kinds of textbooks for the 1st and 2nd graders in elementary schools to check if human rights perspectives are properly applied to the textbooks, and announced the findings of the monitoring and asked for the MOE's action for improvement. Prior to that, the NHRCK recommended the Government to improve its policy actions to ensure that school textbooks all conform to the human rights standards, on 5 occasions during the period of 2009~2013.

118. The NHRCK's monitoring in 2018 found some improvements in school textbooks: the lessons on human rights were included in the textbooks of moral education and social studies and a fewer number of illustrations, photographs and texts were infringing upon human rights. However, some textbooks still described house chores and childcare mostly as women's responsibilities and portrayed women as being physically and mentally weaker than men, which is feared to create gender-based stereotypes among students. Moreover, no student with migrant background appeared in the textbooks and the students with disabilities were all portrayed as being on wheelchairs, and the textbooks also failed to show a diversity of family compositions, with an emphasis on the typical family composition of a married couple and 1~2 children.

119. **In order to develop human-rights-friendly school textbooks, the Government should streamline the school textbook monitoring system and promptly address the discriminations and prejudices found in the textbooks. In addition, the Government should facilitate students', parents' and teachers' participation in the process of textbook development, increase human rights education for teachers and expand the coverage of human rights education to include the responsible people from school textbook publishers and the authors of school textbooks.**

H. Special Protection Measures

(Articles 22, 30, 32, 33, 35, 36, 37(b), (c) and (d), and 38-40)

Issue 33. Migrant children who are victims of child abuse

120. As no specific statistical data on the abuse of migrant children are available, it is difficult to confirm the number of child victims and the types of abuse, but some cases reported by the organizations to support migrant children and the local child protection agencies show that the migrant victims of child abuse are not properly protected.

121. According to the data submitted by the MOHW to the National Assembly in September 2016, the number of reports of suspected child abuse against migrant children had increased from 24 in 2013; to 64 in 2014; and to 94 in 2015. In particular, in the case of unregistered migrant children who do not have a stable status of sojourn, they are highly likely to be placed outside the state's human rights protection, because they are reluctant to report when they suffer child abuse and, even when it is confirmed that they have suffered child abuse, a proper remedial action is hardly taken about them.

122. According to Article 15 of the Child Welfare Act, when the head of a local government has found a child subject to protection in the local area under his/her jurisdiction or has received a request from the child's guardian, the head shall take protection measures, such as counseling, foster care or institutional care in a child welfare facility, for the best interests of the child. However, the Child Welfare Act does not have any provision which prohibits child welfare facilities from refusing to accept such child or imposes a sanction for such refusal. As migrant victims of child abuse are not Korean nationals and, therefore, are not the eligible recipients under the National Basic Livelihood Security Act, they are not eligible to the facility-based benefits even when they are admitted to a protection facility and are often rejected by such facility as no government subsidy is available to the facility for the migrant children. In this regard, in December 2017, the NHRCK recommended that the Government should adopt the law which requires child welfare facilities to take an appropriate action to protect migrant victims of child abuse and imposes a sanction on any child welfare facility which refuses to admit a migrant victim of child abuse without a justifiable reason, and should work out a measure to provide a financial support to a child welfare facility which admits a migrant victim of child abuse.

123. **The Government should adopt a system in which a status of sojourn is granted to an migrant child or his/her term of sojourn is extended in case the child is a victim of child abuse and the process to remedy his/her rights is in progress or the granting or extension of the status of sojourn is required for his/her recovery from the damage done. In addition, the Government should amend the relevant regulations to ensure that a proper protection measure is mandatory for a migrant child who is a victim of child**

abuse, and secure a legal foundation which forbids the head of a child welfare facility to refuse to accept such migrant child and imposes a sanction on the violator of such ban. Furthermore, the Government should find out a way to give a financial support to a child welfare facility to which a migrant victim of child abuse is admitted so that an adequate cost may be covered by the financial support.

Issue 34. Migrant children under 6 years of age – in relation to para. 9 (a) of the List of Issues

124. With the revision of the Child Care Act in 2013, the childcare fee subsidy whose availability was previously limited to children in low-income families, children with disabilities and children in multicultural families has been greatly expanded to include all pre-school children under 6 years of age, regardless of their family income, and the subsidy may take the form of the childcare fee subsidy for children who attend a day care center or the childcare allowance for children who are in family-based care.

125. However, the eligible beneficiaries of the childcare fee subsidy are confined to 'Korean nationals with the resident registration number' and, therefore, migrant children are excluded from the scope of beneficiaries. Consequently, migrant children's parents who cannot afford to pay day-care expenses are forced to leave the children alone at home or bring the children to their workplace of poor environmental conditions, which is threatening the safe and healthy growth of migrant children.

126. The MOHW has the position that, as the Framework Act on Social Security provides that the eligible recipients of social security benefits are 'Korean nationals' and most of the individual social security programs do not recognize foreigners as qualified recipients, those who are eligible to the childcare fee subsidy should be the children aged 0~5 who have Korean nationality and have been granted the resident registration number in a normal way under the Resident Registration Act.

127. The Government's support for children's care is aimed at ensuring the safe and healthy growth of all children under 6 years of age, and it is desirable that this support should be also guaranteed for migrant children, as a special protection measure. In particular, it can be said that the childcare fee subsidy is one of the factors that are most closely related to the safe and healthy growth of children under 6 years of age. In May 2019, the NHRCK recommended the Minister of Health and Welfare to specify the relevant obligations of the national and local governments and the provisions concerning the implementation of those obligations which are prescribed in the CRC, in the Child Care Act; to revise the relevant legislation and upgrade the relevant guidelines in order to ensure that the childcare-related rights are guaranteed for all children under 6 years of age, including migrant children, in this country; and to take positive actions to increase public awareness that migrant

children under 6 years of age without a resident registration number are also entitled to use the publicly subsidized day care centers for children.

128. In order to guarantee the rights of all children staying in the Republic of Korea, the Government should revise the Child Care Act so that the provisions concerning the obligations of the national and local governments and the compliance of the obligations in the CRC may be incorporated into the Child Care Act, and revise the relevant legislation to ensure that the childcare-related rights are guaranteed for all children under 6 years of age, including migrant children, in this country.

Issue 35. No permission of entry to asylum-seeking children

129. Four children from Angola who arrived at the Incheon International Airport of Korea on December 28, 2018 applied for refugee status, along with their guardian, but the Incheon Airport immigration office decided not to forward their applications to the deliberation for refugee status recognition on January 9, 2019, on the ground of the law which allows the immigration office not to bring an application for refugee status to a deliberation process in case the applicant wants to obtain the refugee status solely for an economic reason. Upon this decision, they were moved to the departure zone in the Passenger Terminal 1 of the Incheon International Airport and, since then, they have stayed there, eating the foods they bought from the airport stores and sleeping in the open.

130. As of August 2019, those children have been living in a limited space of the departure zone for almost 8 months. It is not possible for them to take a sufficient rest due to the spatial limitations, such as their exposure to the airport users around the clock and no freedom from lights and noises, and they cannot have a balanced diet because only limited kinds of foods are available at the airport. Moreover, due to the legal ban on their entry to the country, the children do not have access to the opportunity of education. Their situations will remain the same until they win the lawsuit which has been filed to seek the cancellation of the refusal to deliberate their applications for refugee status recognition.

131. The Government should find a way to ensure that the fundamental rights of these children are protected until the end of the lawsuit for the cancellation of the refusal to deliberate their applications for refugee status recognition.

Issue 36. Student athletes

132. In the Republic of Korea, student athletes are vulnerable to violence and sexual violence, particularly due to the unequal structure of power, the culture of hierarchy and the overemphasis on results in the name of the national interest. The 2007 scandal in which the head coach of a women's professional basketball team committed sexual violence against a player drew public attention to the violence and sexual violence in sports. In 2007, the NHRCK recommended the Government to find a solution to address student athletes' missing of school lessons, improve the training camp system, introduce the minimum educational attainment standards certification system and work out a comprehensive initiative to prevent and eliminate violence against student athletes. Later in 2008, the Government announced the Countermeasures to Eliminate Sexual Violence in Sports which includes the introduction of a measure to permanently expel the coaches who commit sexual violence and, in 2010, adopted the minimum educational attainment standards certification system. Additionally, in 2009, the Center of the Human Rights in Sports was inaugurated under the Korean Sport & Olympic Committee and, in 2014, the Center for Reporting of 4 Major Crimes in Sports was set up under the Ministry of Culture, Sports and Tourism.

133. The NHRCK conducted a series of surveys to identify the human rights situations of: the athletes in elementary schools in 2006; the athletes in middle and high schools in 2008; the students who ceased to be athletes in 2009; and the athletes in colleges/universities in 2010. Based on the findings of these surveys, in 2010, the NHRCK formulated the Guideline on the Human Rights in Sports and recommended the Government to adopt and implement the Guideline. The Guideline on the Human Rights in Sports makes it clear that no discrimination or violence may be tolerated at any time when sports are enjoyed, calling for the streamlined national policy for the human rights in sports, the implementation of the measures to prevent violence and sexual violence in sports, including education for prevention, and the establishment of the remedial procedures for victims.

134. However, in early January of 2019, a short track speed skater of the Korean national team disclosed her having suffered violence and sexual violence from her coach, in the midst of the Me Too movement which was a worldwide movement against sexual violence, and this disclosure revealed that violence is still persistent in the sports community. This has led to people's common ground of understanding that a drastic and systematic action should be taken to address violence in sports and, in response, the Government has set up the Sports Reform Committee and is working on the ways to reform the sports community, and the NHRCK has also launched the Special Investigation Team for the Human Rights in Sports.

135. The NHRCK's Special Investigation Team for the Human Rights in Sports is now investigating all the complaints about human rights violations in sports and carrying out the survey to identify human rights situations of about 100,000 athletes, including about 63,000 student athletes in elementary and secondary schools, about 8,000 athletes in

colleges/universities, about 8,000 professional athletes and about 13,000 athletes with disabilities. The NHRCK also plans to monitor human rights violations in the training camps and major sports competitions and, based on the monitoring results, map out a guideline, as part of the effort to seek solutions.

136. The Government should drastically improve the existing sports policy with a high emphasis on result-oriented elite sports, and draw up and actively implement effective measures to prevent violence against student athletes and guarantee their right to learn.

Issue 37. Police practice of investigating children with no prior contact with their guardian

137. The Criminal Procedure Act provides that when a suspect is investigated, a person who is in the trust relationship with the suspect may be allowed to be present in the investigation if, in consideration of the suspect's conditions, including his/her age, gender and nationality, it is necessary for the suspect's mental stability and a smooth communication. Other relevant legal instruments also prescribe that when the police calls for a child's attendance at the police or investigates a child, they should contact the child's guardian or a person who can protect the child on behalf of the guardian (except when such contact is not appropriate for the child's welfare). However, the NHRCK has received a succession of complaints about the police's practice of investigating children without contacting their guardians in advance, and the NHRCK has determined that this practice is in violation of the right to defense which is guaranteed in the Constitution of the Republic of Korea.

138. In February 2019, the NHRCK, in regard of the case where a child, who was going through a police investigation without his parent or another person in the trust relationship with him being present in the investigation, jumped to his death, determined that the child's right to defense was violated. The police should be careful to protect children's right to defense, with a right understanding about children who, in nature, are very fearful of being investigated by the police and, in some cases, don't want the police to contact their guardian, but they don't, in practice. Moreover, under the current legislation, in case a child is a suspect, only the notification to the child is mandatory and the notification to his/her guardian is not required, which does not fully protect the right to defense in the criminal procedures involving children.

139. The Government should expand the relevant systems and improve the existing practices, to ensure that when a child's attendance at the police is called for or a child is investigated by the police, the child's guardian is contacted in advance and is later notified of the progress of investigation, for the purpose of protecting the right to defense of the children in the process of police investigation.

Issue 38. Juvenile Classification Review Center

140. In case a child commits a criminal offense or commits an action in violation of the legislation on criminal punishment, a court of law may order a protective disposition in accordance with the Juvenile Act. When necessary for the investigation or hearing of a case involving a child, a court shall refer the child to the Juvenile Classification Review Center to examine the child's bodily conditions, personality, environment and educational attainment in order to identify the cause of the delinquency or criminal offense concerned and treat the child in the most appropriate way.

141. The NHRCK's 2018 on-site research about all of the 7 Juvenile Classification Review Centers in this country revealed several problems: juvenile classification review had been made within the juvenile reformatories; the reformatories were overcrowded and the staff had too much work to do; and pre-trial children in the process of classification review and post-trial children which had already received a protective disposition were accommodated together in the same reformatory. The MOJ has tried to establish Juvenile Classification Review Centers, in separation from juvenile reformatories, and extend or remodel the current offices of the Centers, but has much difficulty, particularly due to the opposition from the local communities. In June 2019, the NHRCK, based on the findings of the on-site research, recommended the Minister of Justice to work out measures to separate the Juvenile Classification Review Centers from the juvenile reformatories, extend and modernize the facilities in the Centers and resolve the overcrowding problem; to set a guideline on the children who need additional assistance; to draw up the disciplinary procedures and prescribe the obligation to give an explanation on the disciplinary procedures; to find a solution to reinforce the counseling for classification review and supplement the relevant staff; to set forth the standards and methods for physical examination which help minimize the sense of shame or humiliation and apply those standards and methods; and to amend the relevant legislation to specify justifiable reasons and duration of extended custody and the procedural requirements for objection.

142. Although the Juvenile Act is aimed at helping juveniles grow in a sound way, the children in the process of the classification review under the Juvenile Act are detained in the Juvenile Classification Review Center for 1~2 months, which means that they are practically in pre-trial detention. The period during which a child is in the custody of the Juvenile Classification Review Center should be minimized and the justifiable reasons for such custody should be clearly specified, but the relevant decisions are simply made at the judge's discretion because of the lack of the corresponding legal requirements.

143. The period during which a child is in the custody of the Juvenile Classification Review Center practically constitutes a period of pre-trial detention. Accordingly, the Government should find a way to minimize the period and formulate a relevant law or regulation which provides for strict requirements for the reason and duration of custody and the reason of extended custody.

Issue 39. Juveniles aged 10 years or older but younger than 14 years who committed an action in violation of the criminal legislation (juvenile criminal offenders)

144. The Criminal Act includes a clause on criminal minors, by providing that "the act of a person under 14 years of age shall not be punished". Meanwhile, under the Juvenile Act which is aimed at helping juveniles grow in a sound way by carrying out necessary measures, such as protective dispositions, for the environmental adjustment and behavioral correction of juveniles with anti-social behaviors, and taking special measures regarding criminal dispositions, a court of law may order a protective disposition even for a criminal minor aged 10 years or older but younger than 14, if the child has committed an action which violates the criminal legislation. There are 10 types of protective dispositions, including entrusting the child to a juvenile protection facility under the Child Welfare Act and transferring the child to a juvenile reformatory. In particular, once a child is transferred to a juvenile reformatory under a protective disposition, the child will be detained in the reformatory for 6 months ~ 2 years. That is, although the law provides that those under 14 years of age are criminal minors, it is still possible to legally detain children as young as 10 years. (The Government revised the law provision on the age of juvenile criminal offenders to change it from the previous 12~14 years to 10~14 years in 2008. When the revision draft was released for public notice in 2007, the NHRCK expressed its opposition to the idea of lowering the age of juvenile criminal offenders, on the ground of the CRC, but the MOJ did not accept the NHRCK's opinion.)

145. The Government, in the draft of the 1st Framework Plan to Prevent Juvenile Delinquencies, attempted to lower the maximum age of criminal minors under the Criminal Act from the existing 14 years to 13 years. In response, the NHRCK expressed its opinion, to the National Assembly Speaker and the Minister of Justice, that a lower maximum age of criminal minors would be incompatible to the perspectives of juveniles' social rehabilitation and restoration and would not be desirable as it would not likely work effectively to prevent juveniles' criminal offenses, and the NHRCK also delivered its opinion, to the Minister of Justice, that it is desirable to make comprehensive improvements in the juvenile justice policy and to guarantee the victims of juvenile crimes the right to participate in the procedures and the right to be informed and draw up a variety of measures to support them, for the purpose of protecting them and facilitating their return to society.

146. The Government should make a legislative review to see if the age of juvenile criminal offenders is too low, and should work out a way to ensure that custodial arrangements which deprive juveniles of their liberty, including the detention in a juvenile reformatory, is used as a measure of last resort and for the shortest possible time.

Issue 40. Pre-delinquent juveniles

147. The Juvenile Act includes the so-called clause of 'pre-delinquent juveniles'. Pre-delinquent juveniles refers to juveniles aged 10 years or older who are prone to commit an action in violation of the legislation relating to criminal punishment, in view of their character or environment, as they 1) have an inclination to cause uneasiness to people around them by roaming in groups; 2) stay away from home without any justifiable reason; or 3) have an inclination to drink alcohol, raise a disturbance or expose themselves to a harmful environment. The Juvenile Act prescribes that the pre-delinquent juveniles may be subjected to protective dispositions. Specifically, a court of law may refer a pre-delinquent juvenile to the Juvenile Classification Review Center for classification review or order a protective disposition about the juvenile. Depending on the protective disposition, the juvenile may be detained in a juvenile reformatory.

148. In January 2017, the NHRCK recommended the MOJ to repeal the clause on pre-delinquent juveniles in the Juvenile Act, in order to minimize stigmatization of runaway juveniles and protect their human rights, but the MOJ has not accepted this recommendation, on the ground that it is necessary to make a cautious review about whether to delete the clause of pre-delinquent juveniles because it is compatible to the protectionism to take proactive measures about the children in the phase of pre-delinquency and it is important to provide them with protection, in combination with a program to correct their disposition and conduct.

149. The Government should repeal the clause on pre-delinquent juveniles in the Juvenile Act.