

**Submission by National Human Rights Commission of
the Republic of Korea to the fifty eighth session of the
Committee on the Rights of the Child in connection
with the consideration of the third and fourth periodic
report of the Republic of Korea**

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National Human Rights Commission of the Republic of Korea

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A. Introduction

1. The National Human Rights Commission of Korea (NHRCK) submits this statement to the Committee on the Rights of the Child, before the Consolidated 3rd and 4th Periodic Report on implementation of the Convention on the Rights of the Child (hereinafter referred to as "CRC") by the Korean Government is deliberated. The NHRCK, as an independent national human rights institution, having monitored the national implementation of the CRC in this country, intends to provide information which the Committee on the Rights of the Child may refer to in deliberating the Periodic Report.

2. This Statement, in reviewing the Periodic Report, has consulted international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as the recommendations and general comments of relevant treaty organizations. This Statement, by reference to the General Guidelines regarding the Form and Content of Periodic Reports (CRC/C/58/Rev.2), presents pending issues related to children's rights under the eight theme clusters and the Protocols, and describes the current situation in implementation and recommendations to the Korean Government.

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

I. General Measures of Implementation of CRC (Articles 4, 42 and 44 (6))

1. Reservations (CRC/C/KOR/3-4, para.14~23; CRC/C/KOR/Q/3-4, para. 34, 40~41 and 42-1~42-3)¹

3. The Government withdrew the reservation to Article 9, paragraph 3 of the CRC (on the right of the child to maintain personal relations and direct contact with both parents) in October 2008. It is also welcomed that the Government considers revising the Civil Code to introduce an adoption permit system and plans to review for ratification of the Hague Convention on Intercountry Adoption. Given that the 'Special Act concerning Promotion of Adoption and its Procedures' was revised to include the provision on the adoption permit system in June 2011, the Government may withdraw its reservation to Article 21 (a). However, the reservation to Article 40-2-(b)-(v) remains effective under the Constitution and the Military Court Act, and further efforts, including a thorough review of the relevant national legislation, are required to withdraw this reservation.

4. The process of ratifying the Hague Convention on Intercountry Adoption could be undertaken, including revision of the relevant provisions in the Civil Code, that are necessary to withdraw the reservation to the adoption permit

¹ The figures in parentheses refer to the relevant paragraphs of the 3rd and 4th Periodic Reports by the Government of the Republic of Korea (CRC/C/KOR/3-4) and the List of issues concerning additional and updated information related to the consideration of the third and fourth report of the Republic of Korea (CRC/C/KOR/Q3-4).

scheme. Furthermore, in-depth reviews could be made to revise and improve the national legislation which restricts the children's right to appeal.

2. Policy Coordination and Monitoring

Policy Coordination: Child Policy Coordination Committee (CRC/C/KOR/3-4, para. 25~27; CRC/C/KOR/Q/3-4, para. 1~2)

5. The Periodic Report describes the Child Policy Coordination Committee (CPCC) as an agency responsible for drafting and coordinating a comprehensive plan on child policy and monitoring and evaluating the policy implementation (para. 25~27). In effect, however, CPCC has not fully functioned as a body for child policy deliberation and coordination since its role does not go beyond discussing relevant policies. Moreover, CPCC has been inactive since November 2007. The Youth Policy Intergovernmental Council has merely engaged in one-off discussions, failing to achieve substantial contribution and coordination for youth policies.

6. The Government needs to ensure that the Child Policy Coordination Committee resumes its functioning at the earliest possible date and the CPCC and the Youth Policy Intergovernmental Council fulfill the roles of discussing and coordinating key policy issues. More financial and personnel support needs to be provided to the Committee and Council for their effectiveness in fulfilling their roles.

Monitoring by Public Agencies: Children's Rights Monitoring Center (CRC/C/KOR/3-4, para. 28~29; CRC/C/KOR/Q/3-4, para. 6~7)

7. The mandate of the Children's Rights Monitoring Center is renewed every a term of three years, depending on the year-end evaluation on its performance. Thus, it is difficult to guarantee its independence and continuity. There are also no legal provisions on the status of the Center. The Children's Rights Ombudspersons, consisting of 10 adults and 10 children, was appointed for the monitoring purpose. However, they had been in operation until December 2008 but stopped functioning for the following one year and a half until new Ombudspersons were appointed in June 2010.

8. The Government needs to take steps to ensure that the implementation of the CRC is substantially monitored by a public agency, by promoting the Children's Rights Monitoring Center to a permanent body for monitoring of CRC implementation.

Independent Monitoring: National Human Rights Commission of Korea (CRC/C/KOR/3-4, para. 30~32; CRC/C/KOR/Q/3-4, para. 10~12 and 43-1)

9. The National Human Rights Commission of Korea (NHRCK) was founded in 2001 as an independent institution from the legislative, administrative or judiciary section of the Government, in accordance with the Principles Relating to the Status of National Institutions. The National Human Rights Commission Act provides for the independence of the NHRCK in its functions and personnel composition as well as

status of its staff. However, the Government downsized the organization and personnel of the NHRCK by 21% in March 2009, making it very difficult to perform the functions as a national human rights institution. In response, the UN Committee on Economic, Social and Cultural Rights, expressing concerns about the inordinate curtailment of the NHRCK's organization and the possible infringement on its independence, recommended to the Government that appropriate personnel and financial resources should be allocated to NHRCK. In a related move, the UN Committee on the Rights of the Child recommended to the Government in 2003 and 2008 that the subcommittee on children's human rights should be set up within the NHRCK and a government agency dedicated to children's human rights should be established, but the Government has not taken any specific action to comply with the recommendation.

10. The Government should provide full personnel and financial supports to facilitate the NHRCK to fulfill its function of protecting children's human rights and reinforce its expertise in that area.

3. Allocation of Resources

Budget for Children's Welfare (CRC/C/KOR/3-4, para. 33~38; CRC/C/KOR/Q/3-4, para. 13~14)

11. It is encouraging that the budget for children's welfare of 2011 is 16.5% higher than that of 2008 (CRC/C/KOR/Q3-4, para. 13), but it is still substantially low by international standards. According to the 2009 OECD Family database, Republic of Korea ranked the lowest among the 26 Member states in terms of the budget for children's welfare as percent of GDP by 0.17%, comparing with the OECD average of 2.3%. **A detailed plan should be formulated to increase budget allocations for children's welfare to the level of the OECD average.**

4. Data Collection (CRC/C/KOR/3-4, para. 39~47)

12. It is noted that the various kinds of statistical data mentioned in the Periodic Report were used as basic data for preparing and implementing the policies concerning children. However, the statistical data cannot serve as comprehensive standards for evaluation of the CRC implementation because the data does not provide detailed information by age, regional area and sub-group. Moreover, as the government agencies and the research institutes have separately produced the statistical data for their own purpose and using a different method of data collection, the possibility of data overlapping or omission cannot be ruled out. These concerns about possible data overlapping or omission are particularly apparent for the Child-Youth Panel Survey (a longitudinal study by the National Youth Policy Institute that includes first-grade and fourth-grade students in elementary schools and first-year students in junior high schools, until they become a freshman in college/university), the Child Panel Survey (a longitudinal study by the Korea Early Childhood Policy Research Institute, which was conducted among children aged 1~12), the Comprehensive Study on Children's Status (a repeated cross-sectional survey by the Ministry of Health and Welfare) and the

Comprehensive Study on Youth's Status (a repeated cross-sectional survey by the Ministry of General Equality and Family), as these large-scale studies use inconsistent questions and different survey respondents, due to a lack of the system of connection or cooperation with each other.

13. The Government could build a comprehensive and streamlined system to manage the statistics on children, under which any overlapping or omission of data in the statistics released by various organizations can be easily detected and the current status and trends of children's human rights can be identified.

5. Public Awareness and Education on the CRC (CRC/C/KOR/3-4 para. 50~53, 58~67 and 402~405)

14. Sufficient educational or promotional efforts have not been made to raise awareness on the CRC and relevant General Comments and Recommendations among children and the general public, as well as those engaged in the work related to children, such as judges, prosecutors, police officers, public officials, teachers and social workers. According to the Comprehensive Study on the Status of Children and Youth in Korea, which was conducted by the Ministry of Health and Welfare among 6,900 households in 2009, merely 24.8~39.1% of the parents (grouped by the age of their child) responded that they had heard about the CRC. On the children's part, 14.2% of those aged 9~11 and 22.6% of those aged 12~18 said in the affirmative. The Government-run websites on the rights of the child are not easily accessible to children as its structure is designed for adult Internet users.

15. The contents or elements of human rights education are partly contained only in the school subject of social studies or moral studies. Accordingly, there is a lack of connectivity or systematization in human rights education. The NHRCK has called for formulation of a 'law on human rights education' with a view to promoting human rights education in public institutions, including schools, and the civil society, but no visible progress has been made toward enactment of such law.

16. First of all, the Government needs to take actions to ensure that a human rights education course for school students is created to interlink curricular and extracurricular activities related to human rights, customized human rights education programs are developed and disseminated and the education on children's human rights is incorporated in the curricula of the institutions for teachers' training and education. Second, human rights education needs to be reinforced in the basic and upgrade training/education courses for those engaged in child-related work, and educational materials should be developed and distributed for parents or guardians and the employees of child-related institutions. Third, all of the relevant Government-run websites needs to be made accessible to children. Fourth, the law on human rights education needs to be enacted at the earliest possible time.

6. The Measures Taken by Local Governments to Guarantee Children's Human Rights (CRC/CKOR/Q/3-4 para. 28-1)

17. Recently, some local governments have taken measures to set up an

institutional system to guarantee children's rights. For instance, the Student Human Rights Ordinance of Gyeonggi Province, which was formulated in September 2010, specifies the children's rights at school, such as the rights to have their opinions respected and participate in school affairs. The Ordinance also provides for implementation of human rights education and policy monitoring, and counseling and remedies under the Student Human Rights Defender system. At present, some other local governments are also working to create the ordinance to protect children's human rights at school. **The Government could share the relevant information and provide supports to ensure that these efforts at the level of local governments are extended further.**

II. Definition of the Child (Article 1)

1. Age of Children with Criminal Responsibility (Article 1 of CRC)

Minimum Age for Criminal Responsibility (CRC/C/KOR/3-4, para. 72)

18. The Government amended the Juvenile Act in 2007 to lower the age of the child with criminal responsibility from the existing '12 or above and under 14' to '10 or above and under 14'. The NHRCK pointed out that the statistical data presented by the Government to support its argument, that juvenile crimes were getting more serious and a growing number of juvenile crimes were committed by younger children, were hardly justifiable for the revision of the age of the child with criminal responsibility. The NHRCK also expressed that the revision to lower the age of criminal responsibility would not be compliant with international human rights standards, including the General Comment No. 10 (Children's rights in juvenile justice) of the Committee on the Rights of the Child in 2007, the UN Standard Minimum Rules for the Administration of Juvenile Justice ("the Beijing Rules"). **Revision of the Juvenile Act should be reviewed in order to reinstate the minimum age for criminal responsibility to the age 12.**

III. General Principles (Articles 2, 3, 6 and 12)

1. Prohibition of Discrimination (Article 2 of CRC)

Discrimination against Migrant Children (CRC/C/KOR/3-4, para. 96)

19. According to the database of the Ministry of Justice, there are 19,659 foreigners in Korea who have stayed in this country for longer than 90 days (from the date of their entry), are registered at the Immigration Office and fall into the schooling age (7~18) as of 2010. The data released by the Ministry of Education, Science and Technology shows that, as of 2010, approximately 11,700 migrant children are enrolled in schools, including 1,748 children of migrant workers. Based on these sets of data, we can guess that about 8,000 migrant children do not attend school. Meanwhile, the 2008 Survey on the Rights of Unregistered Migrant Children by the Ministry of Health and

Welfare estimated the number of unregistered migrant children at 8,259 (which compares to an estimate of 20,000 by civic groups). All considered, it can be said that at least 15,000 migrant children at their schooling age do not attend school. Nevertheless, little effort has been made to get a clear picture of the migrant children at their schooling age (7~18), especially in regard of their schooling.

20. It is imperative that detailed information needs to be obtained about the education status of the migrant children at their schooling age. Additionally, the Government needs to take comprehensive measures to protect their right to minimum education and eliminate any discrimination against them in education.

Guarantee of the Migrant Children's Access to Public Schooling (CRC/C/KOR/3-4, para. 458~461)

21. Although unregistered migrant children may enroll in the school simply by proving their residence, more often than not, the children of unregistered foreigners have a difficulty in being admitted to the school, as illustrated in the NHRCK's Survey on the Migrant Children's Right to Education in 2010, because the process of school admission usually includes confirmation of the parents' visa. The Korean language education for migrant children differs from school to school, depending on the school's capability, and the Korean language education for pre-school migrant children are usually given by individuals or civil organizations. The migrant children's poor command of the Korean language makes it hard for them to adapt to the school life in general. There is a succession of cases in which migrant children walk out of school, but almost none of the schools take particular steps to prevent their walk-out.

22. NHRCK recommended, in December 2010, that the Government should take actions to guarantee the right to education for migrant children, for example, by upgrading the relevant legislation or strengthening its administrative guidance or supervision to ban the school's practice of refusing to admit or accept migrant children; providing the Korean language lessons through a public system to migrant children, in addition to the lessons within the school curricula; giving them more counseling about their school life; and minimizing their schooling costs. It is encouraging that the Government has expressed its intention to accept this recommendation. **There should be constant efforts to implement the NHRCK's recommendation by the Government, regarding the prohibition of the practice of refusing to admit or accept migrant children, more education on the Korean language for them and prevention of their departure from school.**

Protection of Children in the Course of the Crackdown on Unregistered Migrant Workers (CRC/C/KOR/3-4, para. 96 and 458~461)

23. In case an unregistered migrant worker is identified, he/she shall be transferred to a public shelter for foreigners and kept there until he/she leaves the country. However, in the process of detecting and detaining unregistered migrant workers, appropriate measures are not taken to protect human rights of their children. The relevant national legislation, including the Immigration Control Act², has no

² The clause provides that even when it is determined that a person is subject to forced expulsion, the Minister of Justice may permit his/her sojourn in the Republic of Korea so long as the Minister finds that

specific provisions on the treatment of the migrant children, or the right to direct contact with parents of the migrant children under custody and other essential measures to protect them. The Government observed, in the statement of its opinions on the 'Bill on Guarantee of Migrant Children's Rights' which was pending in the National Assembly in 2010, that it is advisable to utilize the special clause on sojourn permit in the Immigration Control Act, but the special clause alone is not enough to protect the human rights of the children of migrant workers. Currently, the public foreigner shelters do not take measures to protect the children of unregistered migrant workers, other than detaining them.

24. The Government should insert new provisions on the treatment of minors in the event of detecting, detaining or deporting unregistered foreigners into the Immigration Control Act, based on the NHRCK's recommendation of December 2010 on the protection of children in the course of the crackdown on unregistered migrant workers.

Discrimination Against Religious Minorities

25. It is estimated that around 140,000 Muslims live in Korea and some 45,000 of them are naturalized or native Koreans. The number of 'Koslims', who are the children in the families of migrant Muslims living in Korea, is on a steady rise, reaching approximately 4,000 as of end-2009. However, there is a lack of regard and respect for the religious minority children. For instance, the children who cannot eat certain foods for a religious reason (for example, pork) have difficulty in having school meals. Still, no accurate information is available about the situation of these religious minority children. **It is quite important to take actions to have a clear understanding about the current situation concerning discrimination against religious minority children and improve the school meal system so that their religious faith and culture is fully respected.**

2. Children's Rights to Life, Survival and Development (Article 6 of CRC)

Juvenile Suicide (CRC/C/KOR/3-4, para. 111~114; CRC/C/KOR/Q/3-4, para. 35~36 and 76)

26. According to the data released in 2010 by the Statistics Korea, the number of children who committed suicide grew sharply from 280 in 2005; 233 in 2006; 310 in 2007; 318 in 2008; to 450 in 2009. The children aged 15~19 recorded a particularly high share, with 239 in 2005; 198 in 2006; 257 in 2007; 269 in 2008; and 369 in 2009. In response, the Government has carried out the 2nd Comprehensive Measures to Prevent Suicide (2009~2013), but these measures, which are largely adult-oriented and fail to take into full consideration the conditions of children's maturity and development and the social environment surrounding them, cannot be seen as a comprehensive solution. The part of the measures regarding juvenile suicide is confined to the social safety net for at-risk youth and the children's mental health management. In this light, **the Government needs to draw up additional child-oriented and comprehensive**

the person has an outstanding reason to remain in the country.

measures to prevent juvenile suicide.

Youth Counseling (CRC/C/KOR/3-4, para. 115)

27. The Government provides counseling service to prevent and address a range of problems involving children and youth, such as sexual violence, violence at school and child abuse. However, the counseling personnel resource is too small for the large number of children and youth in need. For instance, with regard to the 1318 Help Call for Youth, a Government-run youth counseling service, some local governments fail to provide timely counseling service, as they cannot afford to employ specialized counselors due to the lack of budget. A report of the Gyeong-in Ilbo (dated January 8, 2011) revealed that, as of end-November 2009, there were 125 youth counselors in Gyeonggi Province while about 560 youths were on the waiting list. It means that those on the waiting list should wait 23 days on average before getting the counseling service.

28. The Government has appointed counseling teachers to schools who do not give class lessons but are exclusively engaged in student counseling, since 2005. For this purpose, the Government hired 119 counselors in 2008, 12 in 2009 and 99 in 2010, all of whom were appointed to public schools or education offices. Still, the school penetration rate of these counseling teachers is merely 5%.

29. The Government needs to clearly identify the current status of the children and youth counseling system and improve the operation of the system by, for example, expanding the counseling personnel. Furthermore, it needs to take actions to ensure that each and every school has a qualified counseling teacher who can provide useful counseling to students and help them with their school life.

3. Respect for the Views of the Child (Article 12 of CRC) (CRC/C/KOR/3-4, para. 88~93, 116~129 and 139; CRC/C/KOR/Q/3-4, para. 82-1)

30. In the Korean society, a common perception is that children are immature. According to the 2010 Diagnostic Study on Korean Youth's Core Capabilities by the National Youth Policy Institute, a large majority of the respondent students in middle or high school replied that 'Korean people tend to disregard children just because they are young' (73%) or 'they have a stereotype that children are too immature to make a right judgment' (77.2%). Only 18 % of the respondents gave an affirmative answer about the extent to which their participation is guaranteed.

31. The extent to which children participate in the process of making such decisions as affect themselves is low. For instance, the School Steering Committee, whose establishment is provided for in Article 31 of the Elementary and Secondary Education Act, is merely composed of the representatives from teachers, parents and community leaders, excluding the students of the school. Moreover, although the Government revised the law in March 2011 to provide that children's views should be reflected in the process of devising or revising school regulations and, in case of public schools, the student representative may be heard in the sessions of the School Steering Committee, the reality is that the students' participation in the process is no more than a formality, partly because the law provisions have no binding force and partly because of

the conventional idea that students are the subject of guidance, not a part of the school community.

32. The Periodic Report describes the operational status of several bodies designed to promote children's promotion, such as the Special Commission on Youth and the Korean General Assembly on Children (para. 118~129). Still, most of them, having failed to secure substantial participation of the children in the decision-making process, are no more than a formality, largely due to the lack of space and budget and the low awareness about the significance of children's participation.

33. As mentioned in the Periodic Report, under the current national legislation including the Civil Code, when ruling on the matters such as parental authority, the Family Court is required to listen to the views of any child aged 15 or above (para. 91). There have been also efforts to hear the views of children under the age of 15 during the trials. However, it has been considered that the age standard could be lowered in view of physical and mental development progress of children. In 2009, the NHRCK presented its view to revise the existing legal provision on the age standard.

34. The Government should monitor whether students' opinions are substantially reflected in devising and revising the school regulations and students participation in a student council or union are guaranteed by school authorities. Furthermore, it should take measures to ensure that students' bodies in schools would functions properly. Moreover, the age threshold of the child whose opinions should be listened to, which is now 15 under the current law, could be lowered.

IV. Civil Rights and Freedoms (Articles 7, 8, 13~17 and 37 (a))

1. Freedom of Expression, Association and Assembly (Articles 13 and 15 of CRC)

Students' Freedom of Expression, Association and Assembly
(CRC/C/KOR/3-4, para. 152~153)

35. Many schools restrict the freedom of expression, association and assembly of the children. Some school regulations still ban the students' political activities and after-school assemblies. NHRCK has made several recommendations in regard of the restriction on these freedoms. For instance, NHRCK recommended a remedial measure for the cases in which a student was forced to make a written statement and go through a disciplinary procedure for having given out fliers at school (in 2008); and a student was forbidden to run for the chairman of the student council, on the ground that he had been engaged in the activity to revise the school regulations (in 2009).

36. The Government needs to provide measures to ensure school authorities to respect the students' freedom of expression, association and assembly. Additionally, it could ensure that the school regulations which are feared to restrict the freedom are investigated and improved.

Freedom of Political Activities

37. Under the national legislation, the right of election is given to those aged 19 or older. It has been suggested that the age threshold of the election right should be lowered to 18. NHRCK also recommended in 2004 that the age threshold should be appropriately revised downward.

38. The Government needs to fully consider lowering the age threshold of the election right to an appropriate extent. Furthermore, it needs to take actions to ensure that children's freedom of political activities is not restricted under the arbitrary judgment of the school authorities and the school regulations restricting the freedom are revised and improved.

2. Freedom of Thought, Conscience and Religion (Article 14 of CRC)

Freedom of Religion at Schools and Other Institutions (CRC/C/KOR/3-4, para. 155 and 188)

39. In reality, the schools established by religious foundations require the students to join the religious activities at school, but the Government has not taken sufficient actions to resolve this problem. In May 2010, the Supreme Court ruled that compulsory religious education for students is illegal. The Court determined, in the ruling, that "in case a student's freedom of religion collides with a private school's freedom of education, the rights of both parties should be respected", adding that "the school should prepare alternative subjects for the students who refuse to take religious lessons". Despite this ruling, the students in some schools founded by religious groups are still forced to join religious functions. According to the 2010 Survey on the Situation of Human Rights in Child Welfare Facilities by NHRCK, 47.1% of the childcare facilities and 74.3% of the institutions for children's protection and treatment require the children to participate in religious activities, and 8.3% of the children in the childcare centers and 10.8% of the children in the institutions for children's protection and treatment replied that they had been victimized for not having joined a religious activity.

40. The Government should ensure that the schools and institutions established by religious foundations develop alternative programs or take other actions to guarantee children's freedom of religion.

3. Protection of Privacy (Article 16 of CRC) (CRC/C/KOR/3-4, para. 155)

41. Recently, the education offices in some local governments have adopted the Student Human Rights Ordinance which provides for a ban on the hair length control and the guarantee of children's privacy, but many schools are still restricting children's freedom of privacy, as they apply the school regulations that control the students' hair length or style and clothing or prohibits them from carrying a cell phone at school. In particular, in some cases, school authorities use the school regulations to the detriment of student's privacy, emphasizing that the students participated in the process of devising or revising the regulations, although their participation, in effect, was no more

than a formality. NHRCK, in relation to the restriction on students' hair length or style, recommended in 2005 that a forced hair cut against the student's voluntary will constitutes a breach of human rights and students' hair length and style should be controlled or restricted at school to the minimum extent necessary to fulfill the purpose of education so long as the students' views are substantially taken into account. Additionally, NHRCK, determining that the practice of attaching a name tag to the school uniform might violate students' privacy, recommended the measures to improve the practice (in 2009). It also made recommendations on revision of the school regulations that forbid students to carry cell phones at school (in 2007) or prohibit them from using cell phones during non-class hours (2010).

42. The Government should ensure that school authorities revise the school regulations or take other actions, based on children's substantial participation, to guarantee their freedom of privacy and that their privacy is not restricted arbitrarily by the school authorities and teachers.

4. Right to be Free from Torture and Other Inhumane Treatment (Article 37 (1) of CRC)

Corporal Punishment at Schools (CRC/C/KOR/3-4, para. 144~145 and 184; CRC/C/KOR/Q/3-4, para. 28)

43. Under the Elementary and Secondary Education Act which was revised in March 2011, 'guidance should be provided regarding forms of discipline or admonition which are in accordance with the school regulations, do not either use a tool or body part or cause students physical pain.' The Ministry of Education, Science and Technology once gave a few examples of discipline or admonition neither using a tool or body part nor causing physical pain: standing in the back of the classroom, with or without the hands raised; push-ups; or running around in the playground. However, the dividing line is blurred here. Besides, it cannot be said that the forms which do not use a tool or body part are always safer or less painful than the forms using a tool or body part. Even when a form of discipline or admonition does not result in a serious physical pain, it still causes mental pain. The General Comment No. 8 of the UN Committee on the Rights of the Child defines "corporal" or "physical" punishment as "any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light." In light of this definition, the forms of discipline or punishment that do not use a tool or body part or cause physical pain may be also problematic. Moreover, absence of physical contact through use of tools or body parts in punishment does not mitigate its effect of human rights violations and detrimental nature of corporal punishment. In this light, NHRCK stated in March 2010 that it was not desirable to acknowledge the types of corporal punishment that do not use tools or body parts and provide for those types in the school regulations. Previously in September 2002, the NHRCK expressed the view that corporal punishment should be totally banned.

44. The Government should revise the Enforcement Ordinance of the Elementary and Secondary Education Act to expressly ban the types of punishment that may cause children physical or mental pain, and should make consistent efforts to find and realize alternative forms of discipline.

Student Discipline (CRC/C/KOR/Q/3-4, para. 29)

45. The Enforcement Ordinance of the Elementary and Secondary Education Act, which was revised in March 2011, introduced the attendance suspension system (no longer than 10 days at one time, and no longer than 30 days in a year) as a form of student discipline. In this regard, in March 2011, the NHRCK expressed concern that the new system has a broad adverse effect on the students, reasoning that it corresponds to a severe sanction that deprives the students concerned of the right to learning, its educational effectiveness has not been proved and the students against whom the disciplinary action was taken may be disadvantaged with regard to their advance to a higher-level school as it is recorded as 'unauthorized absence' in their school reports. Furthermore, considering that the attendance suspension system fails to guarantee the students' right to petition for review, although it is prescribed in the national legislation, The NHRCK stated that, in case the system is adopted for an inevitable reason, it should be accompanied by the provision that guarantees the students' right to petition for review.

46. At present, many schools have used the merit and demerit points system as a way of student guidance. However, the system has some side effects in its operation: there are cases where the system is being carried out without the students' opinions being taken into consideration; demerit points are overused or misused; or the students who, with accumulated demerit points, are subject to a disciplinary action have little access to the complaint-making or remedial procedure and, therefore, may face an unfair disciplinary decision. In this regard, the NHRCK judged that, when a student, as a consequence of accumulated demerit points, was forced to leave the school and transfer to a school in another local community, the school failed to comply with the statutory procedures and violated the student's right to choose schools, and recommended the authorities concerned to take actions to prevent recurrence of similar cases (in 2008).

47. The Government needs to re-examine feasibility of the attendance suspension system. If the system should be adopted for an unavoidable reason, the Government should work out the ways to ensure that the system is not abused at school and the disadvantage to the students is minimized and also should legally guarantee the students' and parents' right to petition for review of any decision on attendance suspension, considering that attendance suspension is a severe disciplinary action. Additionally, the Government should take guidance and supervisory measures to ensure the merit/demerit points system is not abused as a student disciplinary method.

V. Family Environment and Alternative Care for Children (Articles 5, 9~11, 18 (1) and (2), 19~21, 25, 27 (4) and 39)

1. Prohibition of Children's Separation from Their Parents (Article 9 of CRC)

Female Inmates' Childcare within the Detention Facilities

48. According to Article 53, paragraph 1 of the Act on Penal Execution and Treatment of Inmates in Correctional Institutions, female inmates may apply for care of their children within the detention facilities, but they are allowed to bring up their children only until they are 18 months old, unless in exceptional cases. Currently, four female inmates at Cheongju Women's Correctional Institution, a detention facility exclusively for female inmates, take care of their children within the Institution. Although other detention facilities house female inmates, accurate information on their in-facility childcare is not available. Article 79 of the Enforcement Ordinance of the Act provides for designation and operation of the living room for childcare within the detention facilities, but it simply deals with the space arrangement. The Act does not include specific provisions on the treatment of children within the facilities, in physical, emotional and educational terms.

49. The Government needs to have an accurate understanding about the female inmates who are taking care of their children within the detention facilities and the environmental conditions of childcare, and draw up specific measures for the in-facility childcare that give the highest priority to the best interest of the children and write the measures into law.

2. Securing the Recovery of Maintenance for the Child (Article 27 (4) of CRC) (CRC/C/KOR/3-4, para. 210, 211 and 231~233; CRC/C/KOR/Q/3-4, para. 47)

50. With the revision of the Family Litigation Act in 2009, the system for property statement and property inquiry was established for the cases claiming division of property, support allowance and child support. The Government also introduced the Order for Direct Payment of Child Support, which, upon an application by a child support obligee, directly pays child support to the child support obligee by deducting the child support regularly from a child support obligor's salary if the child support obligor fails to pay the child support (CRC/C/KOR/Q/3-4, para. 47). If the parents fail to reach an agreement on childrearing matters including child support, however, the children may be left without support care. In this light, **the Government should seek measures to secure substantial child care support.**

3. Children Deprived of Their Family Environment (Article 20 of CRC) and Adoption (Article 21 of CRC)

Alternative Care (CRC/C/KOR/3-4, para. 234~238; CRC/C/KOR/Q/3-4, para. 30 and 72~73)

51. The Committee on the Rights of the Child, in the course of reviewing the 2nd Report, recommended that the Korean Government should place the families headed by children with no adult guardians in the care of foster families and expand the number of group homes and the foster care system by providing greater financial support to foster families and increasing the counseling and support mechanisms for foster families. As was recommended by the Committee, some of the child-headed families have been replaced by foster families, increasing the number of the children in foster homes, although by a small margin. However, this comes from the rise in the number of the former children heads who were sent to their grandparents as their kinship care givers. It would cause another problem if child-headed families are placed in the care of kinship members or foster families with no appropriate advance examination of their childrearing capability or environment giving. In this light, it is advisable to promote foster care by their relatives or other families who are able to provide substantial care and protection to those children. The reality is, however, that the number of the children living with the caregiving relatives or other foster families has decreased since 2007 (see Table 1³).

52. The Government needs to map out the measures to promote and support ordinary foster homes as an alternative care system. Furthermore, it needs to expand the financial support to foster homes, while increasing practical follow-up services for foster homes and the children in the foster home care, including counseling, to help build their capacities. Additionally, the Government needs to increase the number of the Foster Home Support Centers (there are only 18 Centers, including the National Foster Home Support Center, throughout the country).

³ Table 1. The number of children in foster care by year and by care type

Year	Total	Grandparents' Care	Kinship Care	Foster Home Care
2003	7,565	3,458	3,541	566
2004	10,198	5,196	4,133	869
2005	12,562	7,552	4,007	1,003
2006	14,465	9,062	4,160	1,243
2007	16,200	10,112	4,850	1,238
2008	16,454	10,709	4,519	1,226
2009	16,608	10,947	4,503	1,158
2010	16,359	10,865	4,371	1,123

* Source: Ministry of Health and Welfare, The 2010 Report on the Status of Children in Foster Care, 2011

Adoption (CRC/C/KOR/3-4, para. 242~244, 263 and 266~267; CRC/C/KOR/Q/3-4, para. 34 and 42-2~42-4)

53. The number of the children adopted at home began to surpass that of the children adopted overseas in 2007. However, this is the result of the government policy restricting overseas adoption (including the overseas adoption quota), and the number of the domestically adopted children is also on the decline (see Table 2⁴). In particular, almost all of the children with disabilities who are to be adopted are sent for inter-country adoption. A report by the Ministry of Health and Welfare shows that, during the years of 1995~2008, children with disabilities accounted for 0.5% (362 persons) in the total cases of national adoption and 24.0% (38,613 persons) in the total cases of inter-country adoption.

54. The data on adoption is not managed in a systematic way. Since the data and information are not commonly shared nor exchanged among adoption agencies, there exists a discrepancy in the information concerning the children to be adopted and those who want to adopt a child. Furthermore, as adopted children do not have easy access to their pre-adoption information, they have difficulty in finding their biological parents. It is encouraging that, in a bid to address these problems, the Government set up the Korean Central Adoption Resources in 2009 and revised the Special Act concerning Promotion of Adoption and its Procedures in June 2011 to provide a legal foundation for the agency. It is feared, however, that this agency may not function properly, given the lack of the legal foundation for its operation and the organizational and budgetary instability.

55. First of all, the Government should take positive actions to ensure that more children are adopted domestically, by providing more support to domestic adopting families and promoting public awareness about adoption. Second, it needs to secure an appropriate level of organization and budget for an effective functioning of the Korean Central Adoption Resources, and build and operate the adoption database in an efficient way.

Unwed Mothers and Their Children

56. In Korea, unwed mothers find it hard to live with their children, largely due to the people's prejudice against them and the lack of the government's assistance. According to the data of the Forum to Improve the Support to Unwed Mothers released by the National Assembly in 2011, around 90% of the children sent for inter-country adoption are those of unwed mothers. Although a growing number of unwed mothers

⁴ Table 2. The status of national and intercountry adoption by year

Year	2003	2004	2005	2006	2007	2008	2009	2010
National	1,564	1,641	1,461	1,332	1,388	1,306	1,314	1,462
Inter-country	2,287	2,258	2,101	1,899	1,264	1,250	1,125	1,013
Total	3,851	3,899	3,562	3,231	2,652	2,566	2,439	2,475
National, as % of total	40.6%	42.1%	41.0%	41.2%	52.3%	50.9%	53.9%	59.1%

* Source: Ministry of Health and Welfare, The Status of National and Inter-country Adoption, 2011

want to take care of their children themselves, more than 60% of them have a hard time in affording the expenses of caring and educating their children and above 80% live in an unstable residence paying monthly housing rents.

57. Young unwed mothers can hardly continue their schooling. According to the data released by the Ministry of Education, Science and Technology in 2008, 43% of young unwed mothers were attending school but 23% of them were once asked to leave temporarily or drop out of the school. The 2008 NHRCK Survey of the Status of Young Unwed Mothers' Right to Education reveals that, out of the 63 young unwed mothers who responded to the survey questions, 71.4% stopped their schooling already while they were pregnant and 87.6% wanted to continue their schooling. NHRCK recommended in 2010 that the relevant government agencies and ministries should devise or revise the national legislation, regulations or guidelines to guarantee the right to education of young unwed mothers, specifically providing for a ban on disciplinary actions or discrimination against the students on the ground of their pregnancy or child bearing; protective arrangements for young unwed mothers, including sick leave or temporary leave of absence for the period of pregnancy or delivery; a minimum resting place for young unwed mothers within the school; a stronger link with alternative schools for commissioned education of young unwed mothers; and financial supports for their living, education, employment and medical treatment. It is welcomed that the Government expressed its intention to accept the recommendation in December 2010.

58. The Government should fully implement the NHRCK's recommendation on the guarantee of young unwed mothers' right to education and, furthermore, provide them and their children with a range of social welfare services covering schooling, livelihood and residence, as well as consulting and advice on legal affairs, employment and education.

4. Prohibition of Child Abuse, and Social Reintegration of the Victims (Articles 19 and 39 of CRC)

Child Abuse and Neglect (CRC/C/KOR/3-4, para. 204~209 and 250~253; CRC/C/KOR/Q/3-4, para. 74)

59. According to the 2010 Report on the National Status of Child Abuse, the cases of neglect and psychological abuse (two types of child abuse) are growing at the fastest rate and take up the largest portions in the cases of child abuse. In this light, the Government is required to take prompt actions to handle the cases of neglect and psychological abuse, as well as proactive measures to prevent occurrence of those cases (see Table 3⁵). The number of reported cases of repeated child abuse was 503, which

⁵ Table 3. The number of child abuse cases by year and type

Type \ Year	2003	2004	2005	2006	2007	2008	2009	2010
Physical abuse	1,315	1,587	1,728	1,827	2,095	1,857	2,095	2,182
Psychological abuse	1,172	1,680	2,034	2,182	2,420	2,315	2,847	2,974
Sexual abuse	203	266	305	372	409	424	426	400
Neglect	1,514	2,071	2,416	2,842	3,018	3,105	2,939	2,878
Abandonment	126	160	176	106	92	94	43	32

underpins the need to provide consistent service to both the victims and the offenders of child abuse. The Periodic Report proposes more training and education programs for the people responsible for reporting child abuse cases, including teachers, medical professionals and the employees in child welfare facilities (para. 252), but the 2009 publication released by the National Child Protection Agency shows that people who are not responsible for reporting child abuse takes up a much larger percentage (69.1%) than those with the reporting obligation (30.9%) in the total reported cases of child abuse.

60. The Government, first of all, needs to draw up the measures to prevent the cases of neglect and psychological abuse (two types of child abuse) and strengthen the programs for the victims and offenders of child abuse to prevent repeated abuse. Second, it should take actions to increase the proportion of those with the obligation to report child abuse in the total reported cases of child abuse (for example, by banning victimization of the reporters and protecting their personal status).

VI. Basic Health and Welfare (Articles 6, 18 (3), 23, 24, 26 and 27 (1)~(3))

1. Children with Disabilities (Article 23 of CRC)

Education and Caregiving for Children with Disabilities (CRC/C/KOR/3-4 para. 288~292, 310, and 311)

61. This means that disabled children and non-disabled children are still segregated in educational settings. The number of disabled children who are to be placed in ordinary classes is on the rise (the number increased by 1,704, respectively in 2008 and 2009) but there is an acute shortage of teachers with special education because the requirement for recruitment of those qualified teachers is only applicable to the schools with special classes. The number of children with disabilities who are placed in ordinary classes keeps growing (by approximately 1,700, respectively in 2008 and 2009), but there is an acute shortage of specially trained teachers for integrated education. It is because the requirement for recruitment of those qualified teachers is only applicable to the schools with special classes. What is worse, the students in special classes are not offered other supports than special teachers or teaching assistants, and the students with disabilities in ordinary classes do not even have access to special teachers or teaching assistants. According to the 2010 Handbook on the National Special Education, the national average of the schools with special classes in municipalities and provinces that are equipped with the conveniences for students with disabilities recorded merely 41.1%.

62. Onsite education programs are organized to support children with

total	4,330	5,764	6,659	7,329	8,034	7,795	8,350	8,466
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* Source: Ministry of Health and Welfare, The 2010 Report on the National Status of Child Abuse, 2011

disabilities in ordinary schools. As of April 2010, a total of 2,742 students (458 in kindergartens; 1,157 in elementary schools; 628 in middle schools; and 499 in high schools) were participating in the programs, which was 908 persons more than in 2009. Still, significant number of children with disabilities has not received the programs and the number of children with disabilities in ordinary schools increases by 1,700 per year.

63. The 2008 Survey on the Status of Persons with Disabilities by the Ministry of Health and Welfare reveals that 74.5% of children with disabilities aged 9 or below did not use any day care facility and 80.5% of them did not go to a kindergarten. Namely, a large majority of children with disabilities aged 9 or below just stayed home, not using a day care center or kindergarten. According to the 2011 data released by the Ministry of Health and Welfare, as of 2010, there were 166 childcare facilities specifically for disabled children (with 6,137 users) while there were 810 integrated childcare facilities (with 3,487 children with disabilities). These figures tell us that a much larger number of disabled children used specialized facilities. Meanwhile, it is reported that 45% of the children with disabilities using childcare service are placed in ordinary childcare facilities, not special or integrated facilities.

64. First of all, the Government should work out measures to provide all children with disabilities with integrated education and caregiving in step with their stage of development. Second, it should develop and provide the policy of special education for children with disabilities and the specific program of integrated education, taking their life-cycle into consideration. Third, the Government should expand the training and placement of special education teachers and the conveniences for students with disabilities at the earliest possible time, to improve the general quality of special education.

Rehabilitation Programs for Children with Disabilities and Assistancess for Their Families (CRC/C/KOR/3-4, para. 312~317; CRC/C/KOR/Q/3-4, para. 56, 58~59 and 78~81)

65. The Government, in the Five-Year Plan on the Development of Policies on the Disabled (2008~2012), announced that it would provide assistance for the families with disabled children and expand rehabilitation treatment services for the disabled children younger than 18 with a brain disorder, language disorder or autism. In 2009, however, about 60,000~70,000 of the children with disabilities were in need of rehabilitation services but these services were given only to 18,000 of them. Although the number of service users increased to 37,000, the supply of services is still far short of the demand. Furthermore, in a requirement for eligibility, the services are accessible only to the families whose monthly income is 100% or lower of the national average, and the out-of-pocket expense for the service was raised from 40,000 won in 2009 to 60,000 won in 2010, increasing the financial burden on the families. The Government subsidies for the families with disabled children are given in three ways: disabled child allowance (4.5%); the support for educational expenses (4.9%); and the support for medical expenses (7.0%). It is encouraging that the Government recently formulated the Disabled Children Welfare Support Act which includes the establishment of the service delivery system and the provision of welfare services, including medical support.

66. The Government should take detailed and practical measures to

support children with disabilities and their families and to extend the services of rehabilitation treatment of disabled children and the financial support to cover the services.

2. Health Service (Article 24 of CRC)

Basic Health of the Child (CRC/C/KOR/3-4, para. 324 and 331-339)

67. According to the 2009 Comprehensive Study on the Status of Children and Youth by the Ministry of Health and Welfare, the average frequency of medical checkup in a year among the children aged 19 or below recorded 0.6. The ratio of essential and optional vaccinations among the children aged 2 or below varied depending upon the family income level: 52% in the families below the poverty line; 64.3% in those immediately above the poverty line; and 78.4% in the other families. At present, the government subsidies are only applied to essential vaccinations, and the cost of vaccinations for the children in their early childhood varies widely, depending upon the presence or absence of the local government subsidy (by a margin of up to 420,000 won), the hospitals and the distribution channels of vaccinations.

68. According to the Youth Health data released by the Statistics Korea in 2010, the obesity ratio of the elementary and secondary school students was rated at 13.2%. The Comprehensive Study on the Status of Children and Youth reveals that 45.1% of the children aged 12~18 did little exercise all through the week while the largest percentage of the children aged 3~11 did some exercise for 1~3 hours a week. By age group and income level, the incidence of child obesity was the highest in the poor class among the children aged 11 or below, and in the class immediately above the poverty line among the children aged 12~18. The Government started the health management service for obese and weak children, as part of its investment in the local community services (voucher projects), in 2011 but the service is not available to all the children in need. The service is provided for a limited time of one year only to the children who have succeeded in making a timely application for the service.

69. The Government needs to increase the financial support for vaccinations to narrow the gap in vaccination ratios among the families of different income levels, with a view to promoting the basic health of children. Furthermore, the Government needs to resolve the difference in the vaccination cost caused by the local community subsidies, hospitals or distribution channels, by promoting equitability among different local communities and supervising and controlling the hospitals and distribution channels. In an effort to prevent child obesity, the Government needs to ensure that the child health management service is available in a universal and consistent way, not to a selected group or for a limited period of time.

Mental Health of the Child (CRC/C/KOR/3-4, para. 341~342)

70. According to the analysis of the health insurance payments during 2003~2009 by the Health Insurance Policy Research Institute under the National Health Insurance Corporation, the incidence of ADHD (Attention Deficit Hyperactivity

Disorder) is growing fast, particularly among secondary school students: in 2009, compared to 2003, the number of ADHD patients aged 15~19 increased by 766%. A 2009 publication by the Ministry of Health and Welfare shows that 29.9% of the secondary school students ever suffered from depression in 2005 and the rate was on the rise, recording 41.4% in 2006 and 41.3% in 2007. One of the biggest causes is the competitive education system mainly oriented toward the college entrance examination.

71. The Periodic Report mentioned the Government's plan to gradually expand the scope of the early-detection programs for mental health of children (para. 342), but, as of 2011, only 38% of the elementary and secondary school students are selected to receive the student mental health services by the Ministry of Education, Science and Technology and the mental health management services for children and youth by the Ministry of Health and Welfare.

72. The Government needs to expand school-based or community-based services for children's mental health so that early detection and early intervention is possible. In relation to the secondary school students, the Government needs to ensure that child-oriented mental health service programs are in progress linking families, schools and local communities. Additionally, it needs to take actions to reduce social stigma against children's mental health checkup while increasing people's awareness about mental health so that children may not be stigmatized on the ground of the outcome of the selective checkup.

3. Social Security (Article 26 of CRC)

Fostering Allowance (CRC/C/KOR/Q/3-4, para. 51)

73. The Government is offering child care subsidy to a selected group of children in a varying amount according to the income level of their parents. This subsidy is sort of fostering allowance, in that it is given only to the families immediately above the poverty line with a child under 36 months in age who does not use a nursery facility and the subsidy amount differs according to the child's age (in monthly terms). **The Government should extend progressively recipient groups of child care subsidy.**

Impoverished Children (CRC/C/KOR/3-4, para. 298-299; CRC/C/KOR/Q/3-4 para. 16-1, 17)

74. The Government has reinforced its support to impoverished children by increasing the community-based child centers, initiating the Dream Start Project and introducing the Child Development Account. However, the community child centers are concentrated in urban areas, widening the gap between the urban and rural communities; the Dream Start Project is, as of 2011, in operation only 131 municipalities out of the total 230 throughout the country. The extent of Child Development Account Program on recipient children differs by budget size for children welfare of local governments.

75. The Additional Report said that the child poverty rate continued to drop and the number of children eligible for the state-funded meal support program increased

(para. 17), but no accurate information is available regarding the total number of children in poverty and the number of children in need of the state-funded free meals. In particular, the state-funded meal policy is governed simultaneously by the Ministry of Education, Science and Technology and the Ministry of Health and Welfare, and is financed by the budget of local governments. For this reason, it is considerably probable that the children in need of free meals do not benefit the state-funded meal program. Furthermore, it is criticized that the meal subsidies fail to reflect the current level of prices. It is encouraging that the Act concerning Prevention of Child Poverty and Support to Poor Children was formulated in July 2011, but this legislation is still limited, given that it does not specify a clear division of roles between the national and local governments and a set of specific standards on the budget allocation and service delivery system.

76. The Government, first of all, should build up the community-based system for child protection, increase the community child centers especially in the rural areas to narrow the urban-rural gap, and establish more community-based child protection programs, including the Dream Start Project, at the municipality level. Second, the Government should come up with accurate data on child poverty rate, in both absolute and relative terms, and conduct the relevant fact-finding studies and research on a regular basis. Third, it should ensure that the duality in administration of the state-funded meal policy does not lead to a blind spot of the state-funded meal program and the meal subsidies are readjusted to a realistic level.

VII. Education, Leisure and Cultural Activities (Articles 28, 29 and 31)

1. Right to Education (Article 28 of CRC) and the Goals of Education (Article 29 of CRC)

Highly Competitive Education Geared to College Entrance Tests (CRC/C/KOR/3-4, para. 435)

77. According to the outcome of the Diagnostic Study on Core Capabilities of Korean Youths conducted by the National Youth Policy Institute in 2010, Korea ranked 35th among the selected 36 nations, in terms of the socially interactive capability of young people. Specialists analyze that this low standing is largely due to the lack of education for character building under the current education system marked by high competition and disproportionate emphasis on college entrance tests. Although the Government, after submitting the 2nd Periodic Report in 2003, received the recommendation from the UN Committee on the Rights of the Child 'to draw up the education policy that reduces competition and reflect the objectives of education specified in CRC', it is still intent on encouraging competition among the students and orienting the curricula toward the college entrance tests, adopting the High School Diversification Project. This highly competitive education with great emphasis on college entrance is closely associated with many problems, such as the growth of child

suicide, children's mental disorder and the lack of their leisure time.

78. The education programs still give an undue emphasis on the school subjects included in the college entrance tests. The education for creativity and character building through arts and physical education has been stressed but, in reality, the lessons on these subjects are simply a formality or given in a distorted manner. For instance, according to a survey of 585 elementary and middle schools throughout the nation which was conducted by the Korean Federation of Teachers' Associations in February 2011, 28 elementary schools reduced physical education lessons by 5.9 hours on average for the third graders, and 8 middle schools reduced PE lessons by 31.9 hours on average for the students. Even after the Intensive Course Completion System (particular subjects are to be completed within one semester) was adopted under the revised school subject curricula of 2009, some schools didn't give a single PE lesson for a year. A lawmaker found, after a survey of 3,673 high schools throughout the nation, that one in every 10 high school students didn't have any PE lesson for two years (during their 3-year high school attendance). This is closely related to the worsening basic physical strength among the children.

79. The Government should develop and implement an alternative model of learning that can improve the current system of high competition and undue emphasis on college entrance. It also should set up the policy orientation and draw up specific policy measures to drastically improve the present environment of education, and make consistent efforts to realize the measures.

Low Spending on Public Education, and High Costs of Private Education (CRC/C/KOR/3-4, para. 379~382; CRC/C/KOR/Q/3-4, para. 37~39)

80. According to the 2010 OECD Educational Index released by the Ministry of Education, Science and Technology, the Korean Government covered 4.2% of the total public schooling expenses as compared to GDP (which is lower than the OECD average of 4.8%) while the individual persons paid 2.8% (which more than triples the OECD average of 0.9%). Meanwhile, public spending on education per student is very low, with 5,437⁶ (6,741 on OECD average) in elementary education; 7,860 (8,267) in secondary education; and 8,920 (12,907) in tertiary education.

81. The Additional Report said that the private education spending fell in 2010 from a year earlier (para. 38), but the nation's total private education spending for elementary and secondary school students is still high at 20 trillion and 900 billion won, according to the 2010 Education Statistics. The data also shows that private education participation rate was 86.8% among elementary school students; 72.2% among middle school students; and 52.8% among high school students. Private education spending accounted for 3% of the monthly average household expenditure in the 1990s, but it sharply grew to 12% in 2008. It is also reported that the households with the monthly average income of 7 million won or more spent 880% more on private education than the households that earned less than 100 million won per month, indicating a wide gap in private education spending between the haves and the have-nots. Moreover, it is concerned that this gap in private education spending due to different income levels does not only result in a gap in access to educational opportunities, but also widen the

⁶ The figures are PPP (purchasing power parity) translations of the US dollars. In 2007, the PPP of one US dollar was translated in 755.28 Korean won.

vocational differences among the different income groups. The Government has run after-school programs with a view to strengthening public education, but the regular curricular lessons more than double the extracurricular lessons as is illustrated in the figures given in the Additional Report (para. 37-1). It should be noted again that high private education spending is closely linked with the educational programs marked by high competition and high emphasis on college entrance.

82. The Government should expand the public spending on education remarkably and take appropriate actions to reduce the individual persons' burden for the public education spending as compared to GDP.

Poor Conditions in Education Environment (CRC/C/KOR/3-4, para. 416~418)

83. According to the 2010 Diagnostic Study on Core Capabilities of Korean Youth by the National Youth Policy Institute, the number of students per teacher is generally higher than the OECD average, with 17.9 (14.4 on OECD average) in kindergartens; 24.1 (16.4) in elementary schools; 20.2 (13.7) in middle schools; and 16.5 (13.5) in high schools. The number of students in a class is also high, with 30.0 (21.6 on OECD average) in elementary schools; and 35.3 (23.9) in middle schools. **The Government should take actions to improve the conditions of the education environment so that both the number of students per teacher and the number of students in a class may be lowered to the OECD average.**

School Dropouts (CRC/C/KOR/3-4, para. 393~395, 422~423 and 432; CRC/C/KOR/Q/3-4, para. 27)

84. The 2010 Education Statistics shows that, in 2009, the dropout rate was 0.3% in elementary schools; 0.8% in middle schools; and 1.8% in high schools. According to a report of 2011 by the Office of Education in Seoul Metropolitan City, the number of dropouts in the elementary and secondary schools throughout the nation in 2009 alone totaled 61,910 in 2009. This accounts for 0.85% of the total students (7,236,248), but the number of total dropouts is supposed to be much larger when the dropouts in the previous years are taken into consideration. Meanwhile, according to the data of the Ministry of Education, Science and Technology (in 2010), the number of children that alternative schools can admit is 1,007 in 9 middle schools and 2,013 in 19 high schools. The 2010 Education Statistical Yearbook of the Korean Educational Development Institute reveals that the number of non-schooling children was 305,000 in 2009 (which is divided into 73,000 in elementary-school-age children; 77,000 in middle-school-age children; and 155,000 in high-school-age children).

85. The Government, in a bid to prevent school dropout, should require the schools to appoint relevant specialists (for example, school-based social workers or student counselors). It also should identify the status of non-schooling children and set up the measures to prevent non-schooling. Furthermore, the Government should take a range of actions to guarantee the right to learning of school dropouts (including, by increasing alternative schools and introducing a re-admission system).

National Security Education

86. In March 2011, the Ministry of Education, Science and Technology signed an MOU with the Ministry of National Defense and the Korean Federation of Teachers' Associations, to promote education on national security. The MOU provides that the films on national security shall be played in kindergartens and elementary and secondary schools throughout the nation; children shall visit military units; soldiers will give lectures at school; and teachers will experience a military life. Indeed, on March 31 this year, an elementary school invited a soldier to give a lecture on national security, and the lecturer used real weapons to teach the students how to fire a gun. Also, the Ministry of National Defense announced in July 2011 that it will run a voluntary program of national security experiences for high school students (16 or above) and older citizens from October this year onwards. This program, which is to take place in the training locations for reserve forces, includes a firing session in which the participants can use a M16 rifle to fire 10~20 rounds of live ammunition at a 25-meter shooting range, and a survival game using mock combat gear. Those measures do not comply with the principles set out in the CRC that the education of child shall be aimed in the spirit of understanding, peace and tolerance. **National security education on children should be delivered in compliance with the CRC principles of respect for human rights and promotion of peace.**

2. Leisure and Rest, and Recreational and Cultural Activities (Article 31 of the CRC)

Right of Children to Leisure and Rest (CRC/C/KOR/3-4, para. 433~434)

87. Under the education system with disproportionate emphasis on competition and college entrance, the right of children to play or rest is severely restricted. The Periodic Report observed that the right of children to participate in play, rest and cultural activities is being infringed upon due to private education geared towards the college entrance examination (para. 433), but the fact is that their right is also restricted in the public education settings, such as nighttime learning or supplementary learning at school. **The Government could set up drastic measures to guarantee the right of children to leisure and rest.**

Recreational and Leisure Facilities for Children (CRC/C/KOR/3-4, para. 406~412)

88. There is a great shortage of recreational and leisure facilities for children that take into consideration the developmental characteristics of infants (under 6) and young children (aged 7~12). The standards for recreational and leisure facilities for different age groups of children and the legal provisions on the safety of those facilities are not established properly, except for the clauses in the Youth Activities Promotion Act. In particular, there are not sufficient statutory standards on the operation and safety of the children-specific facilities under Article 16 of the Child Welfare Act (children's parks, playgrounds, children's halls, facilities for athletic or theatrical exhibitions, movies or scientific experiment display, children's resting or lodging facilities, camping

grounds, etc.), and the safety problems in those facilities have been raised.

89. The Government needs to expand the leisure and recreational facilities for different age groups of children - infants (under 6), young children (aged 7~12) and older children (aged 13~18) - that take into consideration their developmental characteristics. Additionally, it needs to establish the legal foundations for the standards on the operation and safety of the leisure and recreational facilities for different age groups of children.

VIII. Special Protection Measures (Articles 22, 30, 32~36, 37 (b)~(d) and 38~40)

1. Children in Collision with the Law: Juvenile Justice (Article 40 of CRC)

Juvenile Crimes and Repetitive Offense Rate (CRC/C/KOR/3-4, para. 474~484 and 527)

90. Juvenile crimes still takes up a high proportion in the entire crimes: the share of juvenile crimes as % of total crimes was 3.4% (67,478 cases) in 2005; 3.6% (69,211 cases) in 2006; 4.4% (88,104 cases) in 2007; 5.5% (134,992 cases) in 2008; and 4.5% (113,002 cases) in 2009. The ratio of juvenile offenders with a previous criminal record rose in 2009, after the downtrend of the previous five years. In 2009, the proportion of juvenile offenders without any previous criminal record was 64.3%, while the proportion of those with a criminal record was 35.7%, which was 4.8% up from a year earlier. The Government initiated a set of comprehensive measures in 2007 to prevent and combat the crimes of the children with criminal responsibility, but the measures were largely confined to revising the Juvenile Act to lower the upper limit of children with criminal responsibility; tightening probation; combating school violence; and providing welfare support to certain groups of children and youth. **The Government needs to establish comprehensive measures to prevent juvenile delinquencies and crimes and stop the growth in repetitive crime cases.**

Professionalism in Juvenile Justice

91. The decisions are made in juvenile justice while the professionalism of those engaged in juvenile justice is fully secured. Although the Prosecutor's Office has appointed juvenile-specific prosecutors, they are also working on adult cases at the same time. The judges in the juvenile division are transferred to another assignment after working for 2 years or so in the division. **The Government needs to ensure that juvenile-specific judges and prosecutors receive human rights education and trainings.**

2. Economic Exploitation (Article 32)

Guarantee of the Children's Right of Labor (CRC/C/KOR/3-4, para. 499~502 and 522~523; CRC/C/KOR/Q/3-4, para. 45~45-3)

92. According to the Supplementary Survey of the Economically Active Population Survey released in August 2009 by the Statistics Korea, every one in five children aged 15~19 had a paid job, but 63.7% of them were paid less than the statutory minimum wage. The Survey also found that 18.5% of them worked longer than 7 hours a day (which is the statutory maximum workday for children) and only less than 10% were offered statutory working conditions, including social insurance programs and retirement pay. Furthermore, they suffered verbal or physical violence or sexual harassment from customers, employers or senior workers while at work. At some workplaces, the employer instructs a child worker to take time off while he/she is not busy (for example, there are few customers at the store) and does not pay him/her for the time (so called 'non-paid idle hours').

93. The Periodic Report and the Additional Report mentioned the Government's effort to protect children's right of labor by specifying the length of workday, implementing the ban on overtime work in excess of 40 hours a week (as is prescribed in the Labor Standards Act), detecting the violating employers for correction or punishment and giving education for employers, teachers and children. Still, this effort is not enough at all. About half of the working children are employed at a business with 4 workers or fewer, which is not bound by the provisions of the Labor Standards Act on the ban of dismissal without reasonable justification, the restriction of extended work or additional pay for extended, nighttime or holiday hours of work. Moreover, there are no legal provisions that regulate irregular labor practices, such as non-paid idle hours (practically corresponding to the stand-by waiting the given working time). The labor inspection to detect law violations is not properly administrated: as an advance notice is given before an inspection is conducted, its effectiveness is not secured; and the checklist of labor inspection simply enumerates the provisions contained in the law, omitting many of the matters that should be checked. Furthermore, the contents of labor rights contained in the school textbooks are not adequate, either.

94. The NHRCK recommended in February 2010 that the Government, with a view to guaranteeing children's right of labor, should revise the relevant provisions of the Labor Standards Act; take preventive actions to reinforce inspection and supervision on the businesses employing children and provide education for the employers; identify the accurate status of the practice of not paying for idle hours and find a solution to eliminate the practice; and make the education on labor rights a compulsory part of the school curriculum. The Government should take measures to implement this recommendation.

3. Sexual Exploitation (Article 34 of CRC)

Child Sexual Abuse (CRC/C/KOR/3-4, para. 254; CRC/C/KOR/Q/3-4, para. 31~33, 50, 61~62 and 82-4)

95. The Government has increased protection of the victims of child sexual abuse in the course of criminal proceedings, but the problem of secondary damage remains unresolved. In effect, the investigators, in many cases, have the victims of sexual abuse make repeated statements, induce them to make wanted statements or fail to take into consideration of the characteristics of children's statements. According to the Measures to Prevent Repeated Child Sexual Violence and Protect Children released by the Korean Women's Development Institute in 2008, in 34% of the cases of child sexual violence, the victims had to repeat their statement in the process of investigation. Despite the presence of the dedicated investigator system, the investigators cannot be trained to have sufficient expertise, because they are transferred to other assignments after working for one year or two. In the process of interrogation, a child victim is supposed to be accompanied by a person he/she trusts, but in some cases, he/she was accompanied mistakenly by the person who was in favor of the offender. Furthermore, protection is not sufficient for the victims who are to give testimony in court: for instance, the courts of law in Korea have little space for a child to wait in before taking the witness stand in court.

96. Schools have a legal obligation to provide sexual education and preventive education on sexual violence to the students, but their performance report is simply a formality. The question has been raised about effectiveness of the education programs at school, since schools usually conduct a one-off program on prevention of sexual abuse, by giving a lecture in the auditorium or broadcasting a lecture to the whole students or giving out printed materials.

97. Starting from June 2009, medical treatment under custody has been conducted for the criminals of sexual violence with sexual disposition. This program, however, has been criticized for neither having clear standards for evaluation nor providing systematic and specialized treatment. The other programs that are operated by correctional institutions are usually short-lived or inconsistent. It is required to secure specialized workforce and develop such programs as are tailored to the characteristics of target groups. Besides, there are no accurate data or evaluations on the status and effectiveness of the policy measures to prevent repeated crimes.

98. NHRCK recommended in June 2010 that the Government should improve the policy measures to protect human rights of child victims of sexual violence and support them. To the end, the Government first should **strengthen the protection for a child victim in the process of criminal proceedings**, by ensuring that all of the concerned parties, including police officers, participate in the session of the child victim's initial statement; the rotational position system is improved or incentives are offered for long-term engagement and a special investigation team is organized; the law is upgraded to prevent abuse of the provision that the child victim is accompanied by the person he/she trusts, and the court arrangements are more child-friendly. Second, the Government should **take actions to ensure that schools are more active and responsive in providing preventive education on sexual violence**. Third, it should **establish correctional education and medical treatment programs for the criminals**

of sexual violence, and build the systems to monitor the implementation of the repeated crime prevention policy and accumulate and evaluate the relevant information and data. The Government is invited to make further efforts to implement this recommendation.

4. Other Forms of Exploitation (Article 36 of the CRC)

Child Entertainers (CRC/C/KOR/3-4, para. 45-2)

99. According to the interview-based survey of 103 child entertainers conducted by the Youth Policy Analysis & Evaluation Center in 2010, 47.6% of them had missed more than half of the daily school lessons every week; 34.1% couldn't find enough time for their homework; and 40% didn't have their right to education fully guaranteed. The survey also showed that 35.9% of the respondents worked 8 hours or longer a day; 10.3% worked 40 hours or longer a week; and 41.0% worked nighttime or holiday hours. Another concern is that they are increasingly regarded as sexual objects. The survey found that 10.2% had ever 'overexposed' their body parts, 60% of whom were forced to do so. It was also revealed that they suffered insomnia (64.3%) and took medication for depression (14.3%).

100. It is welcomed that, in November 2010, the Government announced its plan to establish the legal foundations for protection of child entertainers from sexual exploitation, guarantee of their fair entertaining activities and protection of their physical and mental health and their right to learning, and to upgrade the legislation and institutions for that purpose. However, the process of legislation has not initiated yet to protect human rights of child entertainers, including their right to learning and labor rights. **The Government needs to take positive actions to ensure that the law to protect human rights of child entertainers is formulated.**

Underage Athletes (CRC/C/KOR/3-4, para. 515)

101. According to the NHRCK's 2006 survey of the 746 students in the sport teams at elementary schools, 74.3% of the respondents experienced verbal violence, 74.9% suffered physical violence and 14.9% suffered sexual violence while in athletic activities. The 2008 Study on the Status of Human Rights of Athletes, which was also conducted by NHRCK, shows that 78.8% of the athletes in middle or high school experienced violence and 63.8% suffered sexual violence, including sexual harassment, sexual assault and rape. It was found that the average number of regular class hours of an underage athlete in secondary school was 2 hours when he/she was in a competition, and 4.4 hours when he/she was not, which was by far shorter than that of ordinary students. Furthermore, 82.1% of the respondents said that they didn't have supplementary lessons for what they had missed.

102. NHRCK recommended in 2007 that the Government, with a view to protecting and promoting human rights of underage athletes, should take comprehensive actions to guarantee their right to learning, improve their social adaptability by removing the closed environment (lodging house), introduce the 'minimum educational attainment accreditation system', prevent violence against underage athletes and improve the ways in which competitions for underage athletes are processed. The

Government released, in 2008, the measures to eliminate sexual violence in sport, including permanent disqualification of sport instructors who commit sexual violence. In 2010, it also unveiled the plan to establish an advanced system to operate school sport teams. Under the plan, the Government would introduce the minimum educational attainment accreditation system, prohibit the athletes short of the minimum standards of educational attainment from participating in competitions, adopt the programs to promote educational attainment of underage athletes, ban the use of lodging houses and set up the guidelines on the dormitories for athletes. Despite the Government's efforts, however, it is questionable whether they are effective enough. In fact, the athletes who failed to meet the standards of minimum educational attainment were allowed to take part in such privileged competitions as the Olympics, World Cup, Asian Games and Universiade. Additionally, the weekend league system was adopted to prevent underage athletes from missing school classes, however, with exception of important competitions at home and abroad. The guidelines on the dormitories for athletes have not been drawn up yet, and the minimum educational attainment standards, which have no binding force with regard to selection of qualified student athletes, are questionable in their effectiveness. Furthermore, the problem of violence against underage athletes is persistent.

103. The Government should draw up and implement practical measures to prevent violence against underage athletes and guarantee their right to education.

IX. Optional Protocols

1. Implementation of the Optional Protocol on Sale of Children, Child Prostitution and Child Pornography

Child Pornography (CRC/C/KOR/3-4, para. 560-561; CRC/C/KOR/Q/3-4, para. 64)

104. The child pornography as defined in the Act on the Protection of Juveniles from Sexual Exploitation does not include an adult who looks like a child engaged in sexual activities or the image of a non-existent child. Accordingly, child pornography with the appearance of virtual or seem-to-be children cannot be punished under the Act. The UN Committee on the Rights of the Child, finding that the Act is not compatible to Article 2 (c) of the Optional Protocol on Sale of Children, Child Prostitution and Child Pornography, recommended in 2008 that the Korean Government should revise the Act.

105. The whole process of producing, distributing and selling child pornography is usually carried out on Internet and, for this reason, in many cases, those involved in the process are elusive. Furthermore, no fact-finding effort has been made to identify the current situation of child pornography and, consequently, no estimates are available on the number of child victims and the extent of damage that is done to the children.

106. The Government should revise the Act on the Protection of Juveniles from Sexual Exploitation to ensure the child pornography with the appearance of virtual or seem-to-be children is also subject to punishment. Additionally, it needs to conduct a regular fact-finding survey to have a clear understanding about the number of child victims and the extent of damage.

Child Prostitution (CRC/C/KOR/3-4, para. 545~563, 569~571 and 567~577; CRC/C/KOR/Q/3-4, para. 75)

107. According to the data released by the National Police Agency, as of 2007, 93.6% (701 out of the total 839 cases) of the child prostitution incidents were Internet-based, and the age of child victims is getting younger. The Analysis on the Tendencies and Trends of Sexual Crimes against Youth, released by the Ministry of Gender Equality and Family in 2010, shows that the share of child prostitution crimes against children aged 7~13 was 6.6% in 2004 and grew to 8.2% in 2007 and further to 12.9% in 2008.

108. In accordance with Article 9, paragraph 2 of the Act on the Protection of Juveniles from Sexual Exploitation, the acts of attempted child prostitution is also subject to punishment, starting from January 2010. In an effort to implement this provision, the Government has operated the Youth Keeper program: any act of soliciting or alluring a child for prostitution on Internet, by mobile phone or in another way shall be punished when it is reported to the Cyber Police Agency. In reality, however, the reported cases are not processed immediately in the Agency but are sent to the competent police station for actual handling. This dual structure of case reporting and processing makes Youth Keeper less effective. A lack of public relations efforts is another reason of its low effectiveness.

109. The Government needs to take more responsive measures to prevent and combat Internet-based child prostitution, and increase supports to the shelters and group homes for the victims of child prostitution. In addition, the Government needs to make public relations efforts to promote public awareness about Youth Keeper and increase effectiveness of the program.

2. Optional Protocol on Children in Armed Conflict

Data Collection and Disclosure of Information (CRC/C/KOR/3-4, para. 597)

110. The Government has not collected the data and information, in a systematic way, with regard to the Optional Protocol on Children in Armed Conflict. Even the national agencies that release child-related data also find it hard to get information concerning implementation of the Optional Protocol. The access to the information on sale of arms and weapons to the countries where children are participants in armed conflicts is very limited, for a reason of national security, national defense or diplomatic relations.

111. The Government should establish a system of collecting and compiling relevant data and information to help identify the implementation of the Optional Protocol on Children in Armed Conflict, and improve the practice of not publishing even the information that has no justifiable reason (e.g. for national security) to be classified.