



Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.197
18 March 2003

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: Republic of Korea

1. The Committee considered the second periodic report of the Republic of Korea (CRC/C/70/Add.14), submitted on 1 May 2000, at its 838th and 839th meetings (see CRC/C/SR.838 and 839), held on 15 January 2003, and at the 862nd meeting, held on 31 January 2003, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, as well as the detailed written replies to its list of issues (CRC/C/Q/REPKO/2), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-level delegation drawn from several sectors sent by the State party and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

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

3. The Committee welcomes the legislation enacted to implement further the Convention on the Rights of the Child, in particular the Special Act for Punishment of Domestic Violence of 1997, which addresses investigation and reporting of cases of child abuse, and the Juvenile Protection Act of 2000, which criminalizes persons involved in the purchase of sexual services from those under 19 years of age.

4. The Committee welcomes the establishment in 2001 of the National Commission on Human Rights.

5. The Committee welcomes the State party's ratification of ILO Conventions Nos. 138 and 182 in 1999 and 2001, respectively, and its raising of the minimum age of employment to 15 years, as was previously recommended by the Committee.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee acknowledges that, due to the 1997 Asian financial crisis and the ensuing structural adjustment reform programme of the International Monetary Fund, the State party has faced economic and financial constraints which has affected its ability to implement economic, social and cultural rights. The Committee also notes that the strict austerity measures have allowed the State party to repay its international loans in a timely manner and that the economy has largely recovered.

D. Principal areas of concern and recommendations

1. General measures of implementation

Committee's previous recommendations

7. The Committee regrets that most recommendations in the concluding observations (CRC/C/15/Add.51), adopted following its consideration of the State party's initial report (CRC/C/8/Add.21), have been insufficiently addressed, particularly those regarding:

- (a) The withdrawal of reservations (para. 19);
- (b) The development of public education campaigns to combat discriminatory attitudes towards girls, disabled children and children born out of wedlock (para. 20);
- (c) Measures to promote participation of children in family, school and social life (para. 26);
- (d) The prohibition of all forms of corporal punishment (para. 22);
- (e) A review of the State party's education policy with a view to reflecting fully the aims of education set out in article 29 of the Convention (para. 29).

8. **The Committee reiterates those concerns and urges the State party to make sustained efforts to address those recommendations contained in the concluding observations on its initial report that have not been implemented and to address the list of concerns contained in the present concluding observations on its second periodic report.**

Reservations

9. The Committee remains very concerned at the State party's reservations to articles 9, paragraph 3, 21, paragraph (a), and 40, paragraph 2 (b) and (v).

10. **The Committee, noting that juveniles sentenced for having committed a crime have the right to appeal, encourages the State party to withdraw, as soon as possible, the reservations made to article 40, paragraph 2 (b) and (v). The State party is also encouraged to expedite the process of reforming the Civil Act so that both children and parents are guaranteed the right to maintain contact with each other, and to strengthen its efforts to change public attitudes to domestic adoption, in order to withdraw the reservations to articles 21, paragraph (a), and 9, paragraph 3, in accordance with the Vienna Declaration and Programme of Action, adopted in 1993.**

Legislation

11. The Committee, while taking note of amendments to domestic legislation, nevertheless remains concerned that domestic laws do not yet fully conform with the provisions and principles of the Convention.

12. **The Committee encourages the State party to take all necessary measures to ensure that its domestic legislation conforms fully with the principles and provisions of the Convention.**

Coordination

13. The Committee notes that the National Plan of Action on Children was included in the eighth Five-Year Social and Economic Development Plan for 1998-2002. However, it remains concerned at the lack of a permanent central mechanism that is fully empowered to coordinate all policies and programmes for children run by the various ministries at different levels of government.

14. **The Committee recommends that the State party broaden the scope of the Comprehensive Plan for Child Protection and Child-Rearing, formulated in 2001, to include all rights under the Convention and the commitments made at the United Nations General Assembly special session on children (May 2002) and outlined in the outcome document entitled "A World Fit for Children". In addition, the Committee recommends that the State party designate one permanent and central mechanism to be responsible for the coordination of all policies and programmes for children, and ensure that it has the necessary authority and adequate financial, human and material resources to carry out its responsibilities effectively.**

Monitoring by public authorities

15. The Committee welcomes the information provided by the delegation that the State party is considering the establishment of a permanent body within the Government to monitor its implementation of the Convention.

16. The Committee recommends that the State party expedite the establishment of such a monitoring mechanism and actively monitor its activities in implementing the Convention.

Independent monitoring

17. The Committee welcomes, as noted in paragraph 4 above, the establishment of the National Commission on Human Rights. Nevertheless, it is concerned that the Commission has no specialization in children's rights.

18. The Committee recommends that the State party, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("The Paris Principles") (General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2 on national human rights institutions:

(a) Ensure that there is at least one child rights expert amongst the Commissioners, or alternatively, that the Commission establish a subcommittee on children's rights;

(b) Ensure that the National Commission on Human Rights is accessible to children, in particular by raising awareness of its power to receive, investigate and address complaints by children in a child-sensitive manner.

Allocation of resources

19. The Committee notes with concern that allocations for children from the central budget, particularly in the areas of health and education, have been steadily declining since 1997, despite economic recovery in the past two years. Current levels of spending are insufficient to respond to national and local priorities for the protection and promotion of children's rights and are not commensurate with budgetary allocations of other States at a similar level of economic development.

20. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by:

(a) Prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, "to the maximum extent of ... available resources";

(b) Identifying the amount and proportion of the State budget spent on children in the public, private and NGO sectors in order to evaluate the impact of the expenditures and also, in view of the costs, the accessibility, quality and effectiveness of the services provided to children in the various sectors.

Data collection

21. The Committee shares the concern expressed by the State party in its written replies that the existing data collection mechanism does not cover all children under 18 years in all areas of the Convention and notes the plan to develop a child rights index.

22. **The Committee encourages the State party to continue and strengthen its efforts to establish an effective system for the collection of disaggregated data, specifically for all persons under the age of 18, and use these data and indicators for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. It also encourages the State party to complete the work on the child rights' index as soon as possible in order to be able to evaluate continuously the progress made in implementing the Convention.**

Cooperation with civil society

23. While noting the cooperation between the State party and civil society in delivering services to children, the Committee is concerned that there is a lack of necessary standard-setting, and that cooperation with civil society at the policy-making level or in the reporting process has been limited.

24. **The Committee emphasizes the important role of civil society as a partner in implementing the provisions of the Convention, and recommends that the State party involve non-governmental organizations (NGOs) in a more systematic and coordinated manner, in all stages of the implementation of the Convention, including policy formulation, at the national and local levels, and in the drafting of future periodic reports on the implementation of the Convention. It also recommends that the State party take into account the recommendations arising from the day of general discussion held in 2002 on the theme "The private sector as service providers and its role in implementing child rights" (CRC/C/121, para. 630) and improve its supervision of private organizations delivering services by, inter alia, improving the system of registration and authorization of service providers.**

Dissemination

25. The Committee is concerned that children and the public at large, as well as all groups of professionals working with and for children, are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

26. **While noting the activities of NGOs and international organizations to disseminate information on children's rights, the Committee reminds the State party of its obligations under articles 42 and 44 to make the principles and provisions of the Convention, as well as its own reports on the implementation of the Convention, widely known. It recommends that the State party:**

(a) **Undertake public awareness campaigns on children's rights aimed at the general public and specifically at children;**

(b) Carry out systematic education and training on the principles and provisions of the Convention for all professionals working with and for children, in particular teachers, judges, parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, and social workers.

2. Definition of the child

27. The Committee remains concerned about the difference in the minimum age of marriage of girls (16) and boys (18).

28. The Committee reiterates its previous recommendation to the State party that it raise the minimum age of marriage of girls to that of boys.

3. General principles

29. The Committee is concerned that the general principles and rights, enshrined in the Convention, such as the right to non-discrimination (art. 2), the principle that the best interests of the child shall be a primary consideration (art. 3), the right to life, survival and development of the child (art. 6) and the right of the child to express his or her views freely and to have those views taken into account according to age and maturity (art. 12) are not fully reflected in the State party's legislation, policies and programmes at the national and local levels.

30. The Committee recommends that the State party:

(a) Appropriately integrate the general principles of the Convention, namely articles 2, 3, 6 and 12, into all relevant legislation concerning children;

(b) Apply those principles in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children;

(c) Apply those principles in planning and policy-making at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.

Non-discrimination

31. The Committee notes with concern the absence of information in the State party's report on racial discrimination, and the limited amount of information regarding acts of discrimination against children from single parent families, children born out of wedlock, children with disabilities, girls and migrant families. It is also concerned that the Constitution does not explicitly prohibit discrimination on the grounds of race, colour, language, political or other opinion, national or ethnic origin, disability, birth or other status, as stated in the Convention.

32. The Committee recommends that the State party enact legislation explicitly prohibiting discrimination in order to include all grounds enumerated in article 2 of the Convention. In addition, the Committee recommends that the State party undertake all

necessary proactive measures to combat societal discrimination, in particular against children from single parent families, children born out of wedlock, children with disabilities, children of migrant workers and girls through, inter alia, public education and awareness campaigns.

33. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, taking account of the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Respect for the views of the child

34. The Committee is concerned that traditional attitudes towards children in society still limit respect for their views within the family, schools, other institutions and society at large.

35. The Committee recommends that the State party, in accordance with article 12 of the Convention:

(a) Ensure that the Child Welfare Act, amended in 2000, be revised to include the right of children to express their views freely in all matters affecting them, and take effective measures, including legislation, to promote respect for the views of children and facilitate their participation in all matters affecting them, by courts, administrative bodies, schools and disciplinary proceedings in the education system;

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

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

4. Civil rights and freedoms

Freedom of expression and association

36. The Committee is concerned at the limitations on students' freedom of expression and association due to strict administrative control of student councils and school regulations that limit or prohibit outside political activities of students in elementary and secondary schools. It is further concerned about allegations that Internet chat rooms, set up independently by teenagers, have been arbitrarily closed down by the authorities.

37. **In the light of articles 12 to 17 of the Convention, the Committee recommends that the State party amend legislation, guidelines issued by the Ministry of Education and school regulations to facilitate children's active participation in decision-making processes and in political activities both within and outside schools and ensure that all children fully enjoy their right to freedom of association and expression.**

Corporal punishment

38. The Committee notes with great concern that corporal punishment is officially permitted in schools. The Committee is of the opinion that corporal punishment does not conform with the principles and provisions of the Convention, particularly since it constitutes a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, para. 36). The fact that the Ministry of Education guidelines leave the decision on whether to use corporal punishment in schools to the individual school administrators suggests that some forms of corporal punishment are acceptable and therefore undermines educational measures to promote positive, non-violent forms of discipline.

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

(a) **Implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;**

(b) **Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.**

5. Family environment and alternative care

Alternative care

40. The Committee notes the State party's establishment of group homes as an alternative to the institutionalization of children separated from their families. However, it is concerned that the establishment of group homes and the development of the foster care system remain limited, and that private alternative care institutions are not subject to governmental regulations or regular inspections.

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

(a) **Continue to expand the number of group homes and the foster care system, in particular by providing greater financial support to foster families and increasing the counselling and support mechanisms for foster families;**

(b) **Ensure a periodic review of placement of children in all public and private institutions, that takes into account the views and best interests of the child, and, wherever possible, aims to reintegrate children into a family environment;**

(c) Increase the number of social workers and upgrade their skills and capacity to provide assistance to children in alternative care and to vulnerable families.

Adoption

42. The Committee remains concerned that, due to prevailing negative cultural traditions, domestic adoptions may be arranged without authorization or involvement of the competent authorities and that such arrangements do not necessarily take into account the best interests of the child or, where appropriate, the views of the child. The Committee also notes with concern the high number of intercountry adoptions, suggesting that this form of adoption is not necessarily a measure of last resort, and reiterates its concern, stated in previous concluding observations, that the State party has not ratified the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

43. **The Committee reiterates its previous recommendation to the State party and calls for:**

(a) A comprehensive review of the system of domestic and inter-country adoptions with a view to reforming legislation in order to bring it into full conformity with the principles and provisions of the Convention on the Rights of the Child, in particular article 21;

(b) The ratification of the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

Child abuse and neglect

44. The Committee welcomes the establishment of Centres for the Prevention of Child Abuse in many regions of the country that deal with reports of child abuse and neglect and provide counselling and assistance to victims. Nevertheless, it is concerned that there is no nationwide system for receiving and effectively addressing complaints of child abuse and neglect, for providing assistance to victims.

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

(a) Take all appropriate measures, including legislative reform, to establish a national system for receiving, monitoring, and investigating complaints of child abuse and neglect, and, when necessary, prosecuting cases in a child-sensitive manner, and provide training for law enforcement officials, social workers and prosecutors in this regard;

(b) Strengthen its efforts to establish Centres for the Prevention of Child Abuse in order to develop a nationwide response system which is designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than solely intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance with recovery and reintegration;

(c) **Establish a mechanism for collecting data on the perpetrators and victims of abuse and neglect, disaggregated by gender and age, in order to assess properly the extent of these problems and design policies and programmes to address these concerns.**

Child maintenance

46. The Committee is concerned at the high number of divorced and single parents, primarily mothers, who do not receive the child maintenance payments to which they are legally entitled.

47. **In the light of article 27 and the principle of the best interests of the child (art. 3), the Committee recommends that the State party take all effective measures to enforce child maintenance obligations based on a court order or agreements between parties in a manner that does not stigmatize the child or his or her custodial parent. For instance, the State party might consider establishing a national fund to ensure payment of overdue child maintenance obligations to the custodial parent while enforcement measures are enacted, or introducing a system in which child support payments are automatically deducted from salaries of those employees with child maintenance obligations.**

6. Basic health and welfare

48. The Committee is encouraged by the very positive health indicators for children. Nevertheless, it is concerned that the proportion of the government budget allocated to health is less than 1 per cent, and that 90 per cent of all health care facilities are privately operated. The Committee is also concerned that the proportion of mothers breastfeeding their children has declined significantly during the 1990s, and that the number of adolescents smoking and using amphetamines and other illicit substances is increasing.

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

(a) **Increase to a significant level the funding allocated to health and establish a system of public care facilities so that low-income families may have access to health systems at no cost;**

(b) **Take steps to encourage and educate mothers on the benefits of exclusive breastfeeding of infants during the first six months and adopt a national code on breastfeeding;**

(c) **Take effective measures to counteract any negative impact on the employment of women who breastfeed their children;**

(d) **Undertake a study of adolescent health with a view to developing a comprehensive adolescent health policy that addresses, inter alia, education on HIV/AIDS and other sexually transmitted diseases, the problem of smoking and drug abuse amongst teenagers as well as other relevant issues.**

Children with disabilities

50. The Committee is extremely concerned that societal discrimination against children is widespread and prevents these children from enjoying their right to “a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation”. In particular, it is concerned at reports that a significant number of children with disabilities are abandoned each year, that many cannot attend school and when they do attend school they are segregated from other students.

51. The Committee recommends that the State party, in accordance with the recommendations arising from the Committee’s day of general discussion, held in 1997, on children with disabilities, and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex):

(a) Take effective measures to combat the culture of discrimination against children with disabilities, including through awareness-raising and education campaigns aimed at parents, children, teachers and the general public;

(b) Undertake a comprehensive survey of the number of children with disabilities, including those currently not attending school, which assesses their educational needs and access to education and other social services;

(c) Expand existing programmes aimed at improving the physical access of children with disabilities to public buildings and areas, including schools and recreational facilities, and increase the number of integrated education programmes at pre-primary, primary, secondary and tertiary levels.

7. Education

52. The Committee is concerned that, despite the State party’s relatively high level of economic development, only primary education is free, yet it welcomes the information that the State party is in the process of making middle school education free. Similarly, while there is no disparity in enrolment rates of girls and boys in primary education, significantly fewer girls than boys attend higher education. Finally, the Committee reiterates its concern that the highly competitive nature of the education system risks hampering the development of the child to his or her fullest potential.

53. The Committee recommends that the State party:

(a) Raise the quality of public schools, which is low compared to private schools, by increasing material resources provided to schools and improving the quality of teaching;

(b) Develop a time-bound strategy for reducing and eliminating the cost of pre-school and secondary education;

(c) Take effective measures to ensure that higher education is accessible to all on the basis of capacity, by promoting the enrolment of girls and addressing persistent gender stereotypes;

(d) Review its education policy with a view to reducing competitiveness and reflecting the aims of education set out in article 29, paragraph 1, of the Convention and in the Committee's General Comment No. 1 on the aims of education.

8. Special protection measures

Sexual exploitation

54. The Committee welcomes the enactment in 2000 of the Juvenile Protection Act, which aims to penalize those purchasing sexual services from children. However, the Committee is concerned that this Act is not being effectively implemented, and that there is limited data available on the prevalence of child sexual exploitation. It is also concerned at reports of the widespread phenomenon of "Wonjokyuje" in which adolescent girls engage in a sexual relationship with older men for money.

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

(a) Develop a National Plan of Action on Commercial Sexual Exploitation of Children, which includes measures for effective data collection, as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children, held in 1996 and 2001, respectively;

(b) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner;

(c) Ensure that all victims of sexual abuse and exploitation have access to appropriate recovery and reintegration programmes and services;

(d) Develop preventive measures that target those soliciting and providing sexual services, such as materials on relevant legislation on the sexual abuse and exploitation of minors and education programmes, including programmes in schools on healthy lifestyles.

Juvenile justice

56. The Committee is concerned that juveniles accused of violating the law and subject to protective disposition may be deprived of their liberty without undergoing criminal procedures and having access to legal assistance.

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

(a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations

Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's day of general discussion, held in 1995, on the administration of juvenile justice, and carry out specialized training for personnel in the juvenile justice system;

(b) Use deprivation of liberty only as a measure of last resort and ensure that all juveniles involved in protection dispositions that may result in deprivation of liberty have access to legal counsel at an early stage;

(c) Amend legislation in order to eliminate the discretionary power of the public prosecutor to decide whether a minor is subject to criminal procedures or protective dispositions.

Children of migrant workers

58. The Committee is concerned that education and social welfare laws and regulations do not include specific provisions providing for the welfare and rights of foreign children, in particular those of undocumented migrant workers.

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

(a) Amend domestic laws, in particular those on education and social welfare, to include specific provisions which ensure equal access to services for all foreign children, including those of undocumented migrant workers;

(b) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

9. Optional Protocols to the Convention on the Rights of the Child and Amendment to article 43, paragraph 2, of the Convention

60. The Committee notes that the State party has signed but not ratified the two Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

61. The Committee recommends that the State party ratify the two Optional Protocols to the Convention on the Rights of the Child.

10. Dissemination of documents

62. In the light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and children in particular, and that the publication of the report be considered, along with the relevant summary records and concluding observations thereon adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the parliament and the general public, including concerned NGOs.

11. Next report

63. In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its third and fourth reports in one consolidated report by 19 December 2008, date on which the fourth report is due. The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.
