



**PERMANENT MISSION OF THE REPUBLIC OF KOREA
GENEVA**

**REPLIES TO THE LIST OF ISSUES
TO BE TAKEN UP IN CONNECTION WITH THE
CONSIDERATION OF THE INITIAL REPORT OF
THE REPUBLIC OF KOREA**

**Permanent Mission of the Republic of Korea
Geneva, Switzerland**

18 January 1995

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General Measures of Implementation:

1. **In light of the contents of the World Conference on Human Rights' Declaration and Plan of Action, please provide information on whether the Government is considering reviewing its reservations to the Convention on the Rights of the Child with a view to their possible withdrawal. (Paras. 11 and 12 of the report).**

Article 9 (3) of the Convention

- It is true that some stipulations of the Convention are not currently specified in the Civil Code, however the withdrawal of these reservations may be positively considered. For example, the withdrawal of the reservation to the child's right to visit and maintain a relationship with both parents in the case of their separation or divorce, as recognized in para. 3 of article 9 of the Convention, is being positively considered as a revision to the Civil Code.

Article 21 of the Convention :

- Article 871 of the Civil Code of the Republic of Korea prescribes that when a child's parents agree to an adoption, separate permission from a family court is not necessary. [Articles 878 and 881 of the Civil Code stipulate that the adoption of a child is possible simply by reporting the fact to competent authorities according to the Family Registration Law.] Therefore, requiring the adoption of a child to be recognized by competent authorities contravenes the Korean Civil Code.
- [The provisions of the Civil Code, enacted on the basis of the conventional law of the Republic of Korea, describes a system of adoption which constitutes a contract in social standing between the adoptive parents and the adopted child. The child continuously has a legal relationship with his or her own parents and blood relatives even after the adoption. Therefore, the system of adoption in Korea differs from other countries which have accepted the principle of permission and adjudication.]
- In fact, the dissolution of the adoptive relationship has been widely recognized in the Republic of Korea. This may help the child enjoy his or her rights. [The adoptive relationship may be dissolved by both an agreement between the adoptive parents and the adopted child through consultation with the biological parents, and by adjudication when the child is treated unreasonably and improperly by adoptive parents or their lineal ascendant, or if it is difficult for either party to continue the adoptive relationship. These realities serve to further protect the rights of the child.]

Article 40.2.(b)(v) of the Convention

- The provision that a decision finding a child guilty of having infringed the penal law, and any punishment, must be reviewed by a higher competent, independent and impartial authority or judicial body according to law, is contrary to the Constitution and Military Court Law of the Republic of Korea. These laws prescribe that crimes under a state of emergency may be judged by a single trial, unless the death penalty applies.

- [The Constitution and the Military Court Law of the Republic of Korea hold that a military trial during a state of emergency may be conducted by a single trial for crimes committed by soldiers or military employees, as well as crimes of military espionage, crimes against a military guard, guard post, the food supply, and prisoners of war.

- A state of emergency may be declared by the President of the Republic of Korea only when the country is at war, or when the order of society is threatened by a state of war or emergency corresponding to the above.]

2. **What is the status of the Convention in relation to national legislation? In addition, please indicate whether the provisions of the Convention may be, and have been, directly invoked before the courts.**

The principles of the Convention are provided for by the Constitution of the Republic of Korea. Paragraph 1, Article 6 of the Constitution ensures the status and effect of the Convention by stipulating that : "Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea."

[The Constitution thus holds that this Convention has the same effect as domestic law. It is not necessary to incorporate the Convention into the system of domestic law with special legislative measures or procedures because it has been ratified and proclaimed by the government with the consent of parliament.

The Constitution makes it impossible to enact domestic laws which run counter to the Convention.

- Article 10 of the Constitution, for example, specifies that : "All citizens shall be assured the dignity and value of human beings and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals".
- In this sense, the freedom and rights of all citizens cannot be disregarded due to the absence of specific provisions in the Constitution. The essential principles of rights and freedom cannot be infringed upon.
- Therefore, judging from the provisions of the Constitution described above, domestic laws do not contravene the Convention.]

The provisions of the Convention may, and have been, directly invoked before the court without special legislative measures or procedures by the government.

3. **In the light of the information contained in the report (see paras. 18-26), please provide clarification as to the ways by which the coordination of activities is ensured, including between the central, regional and local levels, to promote all the rights of the child recognized in the Convention and to monitor their implementation.**
4. **Please indicate whether there are plans to establish independent institutions such as an ombudsman for children and to what extent and in what ways the existing institutional arrangements relate to the non-governmental organizations in the country.**
7. **Please indicate the measures envisaged or being taken to ensure wide dissemination of the Convention to adults and children alike and to train professional groups such as social workers, doctors, lawyers, judges, teachers, law enforcement officials, immigration officers as well as decision makers about the principles and provisions of the Conventions.**
8. **In the light of article 44 para. 6 of the Convention, please provide information on the steps taken or envisaged to ensure that the State party report is made widely available to the public at large.**

[As specified in the initial report, national policies for children and young persons are handled by various government departments and national authorities. The Ministry of Health and Welfare (the former Ministry of Health and Social Affairs) is responsible for the policies concerning children. It is the main department to plan and carry out child welfare policies, while the Ministry of Culture and Sports is responsible for policies concerning youth.

The Ministry of Education is responsible for the education system to guide and train children and youths, and the Ministry of Justice tries to eliminate harmful environment detrimental to the healthy development of youths, and provides services for social reintegration to young offenders through guidance, supervision or education and training. The Ministry of Labor is responsible for vocational training, and providing jobs and various cultural and leisure activities for children and youths who are engaged in economic activity.]

According to the 1995 Basic Law of Social Security the government plans to establish a Consultation Committee for Social Security. The Prime Minister will be the Chairperson of the Committee, and the Ministers of Finance and Economy as well as Health and Welfare will be the vice chairpersons. One of the primary objectives of the Committee is to coordinate related social security policies, such as social insurance, public assistance, social welfare services. It is expected that the Committee will also coordinate activities related to the promotion of the rights of the child.

However, the actual services and activities for children are delivered through the provincial and local level administrative organizations. [Those are:

- I) counseling services for the prevention of needy children, which is practiced in child guidance clinics;
- ii) family protection services supporting child-headed families, adoption and foster care programs;
- iii) residential child care programs;
- iv) sponsorship programs for disadvantaged children; and
- v) self-help programs for the children leaving residential facilities, such as providing living places and jobs.

There are 7,112 members of the Child Welfare Committee at the community level who investigate, study and deliberate issues on child welfare policy, the improvement of child-care facilities, and the sound development of underprivileged children. They also monitor the implementation of all the rights of the child recognized in the Convention.

The National Committee on the Rights of the Child was established in August 1995. The major functions of the committee are: 1) to disseminate the Convention among adults and children alike and to train professional groups such as social workers, doctors, lawyers, judges, teachers, law enforcement officials, immigration officers as well as decision makers about the principles and provisions of the Conventions; 2) to urge the government to promote all the rights of the child recognized in the Convention; 3) to monitor the activities for implementing the Convention; and 4) to coordinate governmental and non-governmental activities related to the Convention. The members of the committee are from NGOs such as the Korean Red Cross, UNICEF, research institutions, universities, news

papers, child care institutions etc, and government Ministries such as Foreign Affairs, Health and Welfare, Education, and Justice.

The Korean Committee for UNICEF is also very active in disseminating the Convention to adults and children alike, urging the government to promote all the rights of the child recognized in the Convention, and monitoring the implementation of the Convention. The detailed activities taken by the Korean Committee for UNICEF with regard to the Convention are:

[In 1989,

- to organize the Korean Association for the Prevention of Child Abuse and Neglect which has held 12 professional seminars on prevention of child abuse and neglect up to the present,
- to develop five kinds of public cartoons based on the 10 principles of the right of the child, and to financially support the broadcast of the cartoons 62 times on KBS-TV,
- to organize seminars in major cities such as Seoul, Pusan, Taegu, Kwangju, Chonju, Chunchon, Wonju, urging the government to sign the Convention on the Rights of the Child,
- to organize a Photograph Exhibition on the rights of the child, a Forum on the Rights of the Child, an International Folk Festival etc.
- to hold a Rally Promoting the Rights of the Child.

In 1990,

- to participate in the Second East Asia and Pacific Ministerial Consultation on the Rights of the Child in Bangkok, Thailand,
- to organize a Mock World Summit of the Children,
- to organize a Candle Light Vigil of 100,000 students in support of the World Summit for Child,
- to participate the First East-Asia International Seminar on Child Abuse.

In 1992,

- to organize the National Council for Survival, Protection and Development of the Child and Youth,
- to participate in the Second East Asia and Pacific Consultation on the Rights of the Child in Beijing, China,

In 1993,

- to participate in the Third International Seminar on Child Abuse in Malaysia,
- to hold professional workshops to develop guidelines for preparing the initial country report pursuant to the Convention on the Rights of the Child.

In 1994,

- to hold several meetings ensuring the wide dissemination of the Convention on the Rights of the Child to professional groups such as lawyers, judges, and doctors,
- to hold seminars in Seoul and Kwangju on the Changing Society and The Rights of the Child,
- to organize a meeting to review and discuss the initial country report on the legal, institutional and administrative measures for improving the rights of the child,
- to hold a public hearing for the initial country report on the legal, institutional and administrative measures for improving the rights of the child,
- to organize a preparatory meeting to establish a national committee on the rights of the child.

In 1995,

- to hold a Child Forum on the Mass-media and the Rights of the Child.

In addition, the government published the initial country report (in both Korean and English languages) under the title of "The Legal, Institutional and Administrative Measures for Improving the Rights of the Child." The document is presently widely available to the public.

5. Please provide information on the measures taken to develop mechanisms for the determination of appropriate indicators as well as the collection of statistical data and other information on the status of children as bases for designing programmes to implement the Convention.

[As measures taken to develop such mechanisms, the Korean Government publishes "Social Indicators in Korea" to measure changes in life style and ways of thinking for children and young adults. The 1994 version of the report includes the findings of a "Social Statistical Survey" conducted by the National Statistical Office (NSO) on social issues such as the family life satisfaction of parents, spouses, and children, the problems of child and young adults, the subjective class consciousness and social mobility, etc., which could describe the status of the child in Korea.]

The social indicators system in Korea was restructured in 1995 by the Korea Institute for Health and Social Affairs (KIHASA) with the financial support of the NSO. In this new system many indicators were developed to represent the status of children. For example, indicators regarding children in need were developed under the section on Welfare; indicators related to children's education were developed under the section on Education; indicators related to children's outdoor activities were developed under the section on Culture and Leisure.

In addition, the Ministry of Health and Welfare gathers statistical data and information on a regular basis regarding health and welfare. This data is published in the "Yearbook of Health and Welfare Statistics".

[The yearbook contains various data related to the health of the child, such as maternal and child health, the height and weight of young children by year, and the coverage of vaccinations, etc. Child welfare data includes the number of child counseling centers, the number of child-headed families, the status of child welfare facilities, the status of needy children and results of treatment, and the number of day-care centers and accommodated children, etc.]

"Educational Indicators in Korea" is published biannually by the Korea Educational Development Institute, and includes background data on education, educational opportunities, conditions, finances, social education, and an international comparison of educational indicators.

6. Please provide more information about the implementation of article 4 of the Convention in regard to the allocation "to maximum extent of (...) available resources" for the right of the child. In this regard, please indicate what proportion of the national budget is devoted to social expenditures (including health and education) for children at the central, regional and local levels.

For the fiscal year of 1996, the child related government budget (including education but excluding social insurance, public assistance and social welfare services for the elderly) amounts to 13,860 billion won. This amount is roughly equivalent to US\$ 17.3 billion. This represents 23.9 percent of the government budget. The details of the related budget are shown in the following table.

Child Related Budget, 1996>

(In Billion Won)

Classification	Total	National Government	Transferred Budget	Fund	Local Government	Others
Total	13,860.0	10,751.3	19.0	1,883.5	1,007.2	199.0
Support for Education	12,962.6	10,600.0	-	1,600.2	760.4	2.0
- Support for Facilities	12,960.0	10,600.0	-	1,600.0	760.0	-
- Home and School Roles	2.6	-	-	0.2	0.4	2.0
Support for Day-care	504.8	110.4	-	267.2	127.2	-
Protection for Children	209.6	4.2	2.0	1.3	10.7	191.4
- Support for Low Income Child	199.5	3.6	2.0	0.5	10.3	183.1
- Surrounding Environment	0.5	0.2	-	0.2	0.1	-
- Prevention from Juvenile Delinquency	9.6	0.4	-	0.6	0.3	8.3
Support for Sound Activities	154.7	20.9	17.0	12.7	103.1	1.1
- Build Up Training Area	6.0	0.1	2.0	0.9	2.0	1.0
- Training Leaders	2.3	0.9	-	0.5	1.0	-
- Training Facilities	145.6	19.7	15.0	10.7	100.1	0.1
- Volunteering Center	0.8	0.2	-	0.6	-	-
Exchange Program	2.3	0.9	-	0.7	0.6	0.1
- International Exchange Program	0.3	0.3	-	-	-	-
- Support for Child Exchange	2.0	0.6	-	0.7	0.6	0.1
Strengthened Citizen's Participation	25.9	15.0	-	1.4	5.1	4.4
- Citizen's Participation	10.1	0.3	-	0.3	5.1	4.4
- Strengthened Delivery System	15.8	14.7	-	1.1	-	-

Note: Excluded social insurance, public assistance, and other social welfare services, because the coverage of all of the above mentioned measures were total population,

Definition of the Child:

9. **Please provide information on the measures taken or envisaged, including channels available, by which children may receive legal and medical counseling without parental consent.**

In Korea children may receive legal and medical counseling without parental consent. For that purpose there are 79 Child Service Consultation Centers, of which 13 are managed by provincial or local governments. The rest are either financially supported by the government or privately managed. In addition there are 297 Social Welfare Centers where free counseling is available.

General Principles:

10. **In the light of para. 37 of the report and of article 2 of the convention, please indicate to what extent all possible grounds of discrimination are covered by the national legislation.**

Paragraph 1, Article 2 of the Constitution of the Republic of Korea sets out the fundamental principles of equality by stipulating that "All citizens shall be equal before the law, and there shall be no discrimination in political, social or cultural life on account of sex, religion or social status."

The references to sex, religion and social status should be interpreted as merely examples of the various areas for which non-discrimination is guaranteed. Therefore, discrimination based on those areas related to the rights of a child is also strictly prohibited in accordance with the principle of equality enshrined in the Korea Constitution and other relevant laws.

[With respect to the human rights and freedoms of the child in Korea, such rights are also guaranteed under the Constitution and other relevant laws. Basic rights directly related to the dignity and the value of human beings, as well as the right to seek happiness, are regarded as the rights of all human beings. Therefore, the fundamental freedoms and human rights of a child are fully respected and protected. Other rights of the child are, as stipulated in paragraph 10 of the Constitution, also guaranteed under the principle of equality.]

- 11. In the light of para. 32 of the report, please provide information on the compatibility between the minimum age for marriage between boys and girls and the principle of non-discrimination on the basis of gender as recognized by article 2 of the Convention.**

It is a Korean social tradition that the men's minimum age for marriage is higher than that of women. This social reality is based on the belief that women are biologically more mature than men at a younger age, and also because men need more time for social independence in view of their traditional roles in Korean society.

In fact, the actual age of marriage in the Republic of Korea exceeds the minimum legal age of marriage.

Considering such social realities, as well as Korean tradition, the distinction between the legal age between men and women corresponds to the ideology of proportional equality. In this regard, some other countries with oriental traditions make the same distinction.

- 12. In addition to the legislative measures adopted, please provide information on the steps to prevent and eliminate discriminatory attitudes or prejudices and to ensure an effective protection against discrimination, particularly towards girls, disabled children, children born out of wedlock and children living in rural areas.**

We think that there is no discrimination in Korea based on sex, disability, and legitimacy, etc. Therefore, we consider that special measures are unnecessary.

However, some benefits have been provided for disabled children and students from rural areas. For example, a special college entrance program has been introduced which allows disabled and rural students to enter universities or colleges at a fixed rate of the total student body.

- 13. In the light of information contained in para. 41 of the report, in what way is the principle of the best interests of the child, as recognized by article 3 of the Convention, reflected in legislation or other actions undertaken by public or private social welfare institutions, courts of law or administrative authorities?**

With respect to legislation, the Child Welfare Law and the Infant-Baby Care Law has been implemented since they were enacted in December, 1961 and January 14, 1991 respectively. In addition, the Orphan's Guardianship Affairs Law has been implemented since 1961 in order to care orphans staying at public facilities.

At the same time, the national and municipal governments have the obligation to support guardians and children towards safe and natural birth and a healthy, happy childhood. Accordingly, a Child Welfare Committee has been established to concretely research and examine child welfare affairs, and child welfare facilities have been set up to support child welfare organizations.

- 14. What concrete measures have been taken to sensitize public opinion and educate personnel working with children to the need to encourage respect for the views of the child including in the family, school or social life.**

The Korean Committee for UNICEF published the "Teacher's Handbook on the Convention on the Rights of the Child", which has been made widely available to the public at large. In addition, the Committee has organized several meetings, workshops and seminars on the rights of the child recognized in the Convention.

A monthly neighborhood meeting called "BansangWhoe" is held every 25th day of the month. The importance of the respect for the right of the child is discussed and explained at such meetings.

In view of the importance of the Right of the Child in the Republic of Korea, the Children's Charter and the Youth's Charter have been declared. These Charters emphasize the importance of the protection and promotion of the rights of the child. They are contained in some school textbooks and posted on boards of facilities for children such as parks, welfare institutions, etc.

Civil Rights and Freedoms:

15. With respect to the information contained in para. 50 of the report, please indicate whether the Government has any plans to review its legislation relating to nationality, in the light of the provisions of articles 2, 3 and 7 of the Convention, particularly with a view to preventing statelessness.

The Nationality Act, which prescribes that a person whose father is a national of the Republic of Korea at the time of his or her birth shall be a national of the Republic of Korea on general principles, guarantees a nationality for all children, including those born out of wedlock, foundlings, and stateless children.

[Paragraph 1, Article 2 of the Nationality Act specifies that anyone falling under one of the following categories shall be a national of the Republic of Korea:

- (I) A person whose father is a national of the Republic of Korea at the time of his or her birth,
- (ii) A person whose father died before his or her birth and was a national of the Republic of Korea at the time of death,
- (iii) A person whose mother is a national of the Republic of Korea or,
- (iv) A person who is born in the Republic of Korea, if his or her father is unknown or he has no nationality.]

[Thus the Nationality Act ensures the nationality of a child and prevents statelessness by providing that all foundlings discovered in the Republic of Korea presumed to have been born in the Republic of Korea.

Furthermore, to elaborate on paragraph 50 of the initial report, statelessness is indeed prevented by existing Korean legislation.] In cases where a child born of a Korean mother and father whose country follows the birth-place principle in determining nationality. The child can acquire nationality of the Republic of Korea by the following measures :

- (I) By being acknowledged by a mother who is a national of the Republic of Korea.

- (ii) By having a domicile in the Republic of Korea, without fulfilling the usual conditions required by law to acquire nationality. [These usual conditions include, *inter alia*, having a domicile in the Republic of Korea for 5 or more years consecutively, being of full twenty years of age or more, and having sufficient property or ability to secure an independent livelihood.]

- (iii) By registering the child's name in the mother's family register without reporting the father, (as mentioned above) because the Nationality Act of the Republic of Korea stipulates that a child who is born in the Republic of Korea, if his or her father is unknown or has no nationality, shall be a national of the Republic of Korea.

- 16. In the light of para. 63 of the report, please provide information on any mechanism in place to ensure that a child in school may receive instruction in his/her religion. In addition, please indicate whether the Government has any plans to provide for alternative subjects for students in school who choose not to have religious instruction.**

According to paragraph 2, article 5 of the Education Act, religious education is in principle, not allowed in schools. However, it may be provided for under the following cases:

Elementary school

Textbooks may include general information on religions including Christianity, Islam and Buddhism.

Middle and High school

As mentioned above, religious education is not allowed in public schools. However, some private schools established by religious foundations can provide instruction on religion as an optional subject. Alternative subjects are available, including: computer operation and Chinese classics (middle school), psychology, pedagogy and environmental engineering etc. (high school)

Family Environment and Alternative Care:

- 17. In the light of the information contained in paras. 11, 12 and 82 of the report, please provide information on any measures being taken or planned to ensure the child's right to visit and maintain a relationship with both parents in the case of their separation or divorce.**

As I explained at the outset, the child's right to visit and maintain a relationship with his/her parent is not currently specified in the Korean Civil Code. However, in reality a child enjoys the right to visit his or her parents in the case of their separation or divorce. In this regard, the withdrawal of the reservation to the above mentioned is being positively considered.

18. **Please provide further information on the measures taken to ensure that adoption procedures allow sufficient opportunity for parents and other persons concerned, including the child, to weigh up the consequences of and alternatives to adoption on the basis of the necessary counseling.**
19. **Please provide further information as to how the rights of the child are safeguarded in the proceedings of adoption and how the best interests of the child is the paramount consideration, including with regard to the rights of the child to know his or her parents and to preserve family relations.**

[Adoption is a process that allows the transfer of the legal rights, responsibilities, and privileges of parenting from legal parents to new legal parents. The process is administrated under the Civil Code and the Special Act on Adoption Procedure, which was revised from the Special Adoption Act on 1995.] Steps in the adoption process are: 1) identification of suitable child; 2) freeing for placement; 3) preparation for adoption; 4) selection of adoptive parents; 5) placement with adoptive family; 6) legal finalization of the adoption; and 7) post adoption services to the adoptee.

The first step in the process of the adoption is to insure that every child who needs an adoptive family is identified. In this step the social workers in adoption agencies determine whether the child should be considered for adoption on the basis of the best interests of the child. [Freeing children for placement has two significant aspects: helping children separate from former parents; and legally terminating parental rights so that they can be vested in new parents. The child's parents and the adoption agency subsequently caring for the child are presumed to act in the child's interest. The child cannot be adopted without his/her parents' or guardian's consent, and a child aged 15 or over may not be adopted without his/her own consent.]

The process through which applicants become eligible may be carried out in groups or individual interviews, and the final decision is based on verbal and written reports gained through interviews with the applicants, or a variety of tools and simulations which capture and organize information in alternative ways. The applicant or the prospective parent is assessed by the adoption agency as to the ability to give the child good care and upbringing, and generally favorable conditions under which to grow up. [However, some basic criteria are applied in the selection of the adoptive family. Those

are: 1) that the upper age limit for adoptive parents is 55; and 2) that the number of children in the adoptive family should be less than five.]

[Post-adoption services are also very important. In fact, most adoptive families want to be free of the agency as soon as possible, to function independently as any other family. But many adopted children need continued professional help. Children and their families often need help with information about the child's background, or to be comfortable with the whole notion of adoption. The revised Enforcement Regulations of the Special Act on Adoption Procedure states that the adoption agency should provide postadoption services at least six months after adoption.]

With regard to the second half of question 19, one of the most controversial issues of adoption is whether, or under what circumstances, to allow the adopted child information about the identities of biological families. In Korea, an adopted child has the right to know the identity of his or her parents and to preserve family relations. The revised Enforcement Regulations of the Special Act on Adoption Procedure states that the adoption agencies should preserve all the records on the biological parents, the adopted children, and the new parents, and give information about the identities of their biological families when requested by an adopted child. All the records should be preserved and sealed to protect adopted children from the stigma of their adopted status, and to protect the adopted family from future intrusions into their lives by the birth parents.

20. Please provide information on the programmes developed to prevent and reduce the abandonment of children.

As specified in para. 100 of the country report, a typical form of child abuse in Korea is abandonment. [It is very difficult to find information about the parents of the abandoned children, but it is presumed that most of the abandoned infants result from unwanted pregnancy.] The government recognizes that an effective prevention of abandonment lies in the prevention of unwanted pregnancies.

Most contraceptive services are provided by family planning workers and designated doctors, and these activities are implemented through the use of the national health center network. The programmes provide education on precise contraceptive methods, precise information before and after sterilization services, and following-up care. In addition, school education on the reproductive system, population education, and sex education are also being strengthened with the goal of preventing unplanned pregnancies. For instance, in 1995, sex education was provided for 300,000 unmarried women working in service and manufacturing industries and bars.

21. In view of the information contained in the report (paras. 89 and 90), what measures are being taken to develop alternatives to institutional care of children?

[Institutional care for children in Korea is intended to provide care and treatment for children who have behavioral or emotional problems and their parents. However, many residential facilities for children in Korea had been initially established to protect orphans resulting from the Korean War and provide care for abandoned children.]

Foster care and group homes are the major alternative measures to institutional care. [The structure of institutional care programmes vary widely, from small group homes and short-term shelters to large institutions that provide long-term treatment or custodial care. They all share one feature, however - the provision of care for children with special needs on a 24-hour per day basis.] The programmes of group home services are developed to provide care and treatment in an agency-owned or operated facility that assures the continuity of care and opportunity for community experiences, in combination with planned group living programmes and specialized services.

Foster family care is considered a viable short-term treatment solution while a family struggles to remedy the problems that led to removal and placement. [The foster family approach is used when the social worker believes that there is some possibility that the family can, with sufficient assistance, eventually be reunited. When reunification is not possible, the search for a more permanent family may be conducted by an adoption worker.]

- 22. In light of the information contained in the paras. 98-104 of the report, please indicate the steps envisaged to undertake further legal and other measures, including the development of awareness campaigns, to prevent and combat child abuse, including within the family.**

The government has a plan to provide a shelter service for abused children as part of a long-term plan for promoting child welfare. In the first stage, the government prepared a guide to shelter services for abused children. In the second stage, from 1996 to 1997, there will be an experimental establishment of child abuse centers adjacent to the Child Guidance Center in six metropolitan areas, as well as training for personnel on how to handle child abuse cases. The last stage, designated for 1998, will analyze the results of the service on child abuse, the enlargement of the services to 15 provinces, and improving the laws and regulations on child abuse based on the initial results.

[In addition to providing shelter services for abused children, the government has developed protective services. The slogan "Better to prevent than lament" is very proactive in developing protective services. A change in society values to clearly outlaw violence in interpersonal relationships, particularly with regard to the use of force with children, will contribute to the prevention of child abuse. A change in attitudes regarding the rights of children in the parent-child relationship will also be helpful.]

The government also plans to establish a tentatively named "Prevention Act of Family Abuse and Neglect." There is no standardized definition of child abuse in Korea. With the Confucian culture and tradition in which parents' and teachers' corporal punishment is considered as educational discipline, there has been confusion between abuse and discipline. For this reason, there has not been a growth of awareness concerning problems connected with child maltreatment and abuse, nor has a general consensus evolved. The government therefore plans to distinguish discipline from abuse that is excessive and inappropriate, and hence unacceptable violence toward children in the act.

23. What mechanisms exist to allow children within the family and in child care institutions, including residential care facilities, to lodge complaints of abuse or neglect?

Child abuse can be reported to a Children's Hot Line by, or on behalf of the child. If the Children's Hot Line takes a report of child abuse or neglect, legal and clinical services can be provided by professional social workers in 79 Child Service Consultation Centers, 297 Community Social Welfare Centers, and by grassroots local governments, including the administrative offices of townships and villages.

Furthermore, the Minister of Health and Welfare, Provincial Governors, and the Mayors of Cities and Counties can designate officials to monitor and prevent incidences of child abuse and neglect. When child abuse is reported in a child care institution, those responsible are punished. If child abuse occurs within the family, the parents are punished.

In addition, if a father or mother abuses parental authority or is guilty of gross misconduct, or if there are any other reasons for terminating parental rights, the court may, upon the application by any of the child's relatives or a public prosecutor, decide to terminate parental power.

Basic Health and Welfare:

24. **With reference to para. 119 of the report, please provide details on the welfare plan for the disabled, prepared by the Committee on Welfare. Please indicate whether and to what extent it addresses the issue of the child's active participation in the community, the training of sufficient specialized staff to care for disabled children and the integration of disabled children in regular schools.**

A short-term plan for promoting the social welfare of the disabled was initiated in July 1995. [The plan is committed to ensuring that all people have an opportunity to demonstrate their skills, their abilities, and their productivity, and suggests some measures to break down barriers that for too long have made people with disabilities an underutilized and underestimated resource.]

The plan will establish four more centers for vocational rehabilitation of the disabled by 1998, and two more local offices of the Korea Employment Promotion Agency for the Disabled by 1996. This year the government will declare September as the month for promoting employment of the disabled.

Furthermore, children with disabilities and children in households headed by disabled person have received free education for vocational high schools. This policy will be applied to general high schools starting this year.

As another initiative to increase educational opportunities and quality for disabled children, the Ministry of Education plans to achieve a 100 percent enrollment rate by the year 2001. The rate in 1996 is 90.8 percent (10% in special schools, 15% in special classes, and 75% in integrated classes). The at-home education system includes measures allowing specialized staff to visit homes and rehabilitation facilities, and to care for the disabled unable to attend school.

Teaching quality is promoted through various efforts, including the certification of specially qualified teachers and the strengthening of student-teacher apprenticeships, etc.

- 25. Please provide information on the budget allocation to health and preventive health care, the situation of health services in rural areas and the special measures taken to address the special needs of the most vulnerable groups of children.**

Budgetary allocation to health and preventive health care amounts to 274.41 billion Won, which is the equivalent of US\$ 343 million, as shown in the table below.

[The situation of health services in rural areas has improved significantly over the years. This is mainly due to the work of the major providers of health and preventive health care services in rural areas and health centers, health sub centers, and clinics. In health centers, medical doctors are in charge of resident's health. Due to the Korean Government's efforts, there are no remaining areas of Korea where medical doctors are not available. The recent drop of the percent of births delivered at home indicator to almost zero, is exemplary of the improvement of health services in rural areas.]

[Regarding special measures for the most vulnerable groups of children, the health insurance and health protection program is designed, in particular, to cover the health needs of the most vulnerable groups of children.]

<The Budget for Preventive Health Activities, 1996>

(In Billion Won)

Classification	Total	National Government	Local Government	Fund
Total	274.4	101.03	51.67	121.7
Family Planning	2.4	1.6	0.8	-
Maternal and Child Health Care	2.8	1.8	1.0	-
Health Education	0.5	0.3	0.2	-
Tuberculosis	5.8	3.8	2.0	-
Leprosy	6.6	4.4	2.2	-
Venereal Diseases and AIDS	2.0	1.3	0.7	-
Acute Infectious Disease	2.0	1.3	0.7	-
Quarantine Services	11.3	7.5	3.8	-
Chronic Degenerative Disease	0.2	0.13	0.07	-
Cancer	22.9	15.1	7.8	-
Mental Diseases	51.3	33.9	17.4	-
Operation of Health Centers	44.9	29.9	15.0	-
Health Insurance Screening Activities	121.7	-	-	121.7

- 26. Please provide further information on the child headed household project mentioned in para. 134 of the report and the measures taken to ensure the effective enjoyment by these children of their fundamental rights.**

The child-headed household project was started in 1985. The target population of the project are children and young persons under the age of 20 whose parents are not able to provide proper care economically or emotionally, because of death, divorce, physical or mental disability and diseases. In 1994, there were 7,540 households with 14,372 members. For the children, the Korean Government provides economic (livelihood allowances, clothing, food, and transportation support), health (medical aid program) and educational (tuition fees) support under the Livelihood Protection Law. In addition, the government tries to match the children with sponsors for emotional support.

[The basic idea of the project is to prevent members of the child-headed household from institutionalization, and to enable them to live in their community, under the assumption that children at home or in their community enjoy a better quality of life than those in institutions. For this reason, children in the project enjoy their rights to the "Best interest of the Child (art. 3)" and "The Right to Life, Survival and Development (art. 6)".]

Education, Leisure and Cultural Activities:

27. What is the real cost to a family of having a child in different levels of education ?

During the last decade (1982-1992), private expenditure has increased by about 4.5 times (Elementary: 9 times, Middle: 3.5, High: 2.5), while the public expenditure has risen by 2.5 times. To reduce the private portion of educational expenditure, the government plans to increase the educational budget to 5% of GNP. In 1995 the educational budget amounted to 19.3% of the total government budget, or about 4.3% of GNP. On the other hand, the Ministry of Education recommends that schools themselves should offer various kinds of extracurricular programs to ease the burden of the parents.

Tuition Fees by School Level

School Level	Tuition Fee	Remarks
Elementary School	free	
Middle School	\$ 519/year	freshmen should pay \$10 each as entrance fee
High School	\$ 845/year	freshmen should pay \$10.6 each as entrance fee

- 28. In light of the provisions of para. 1(b) of Article 28 of the convention, please provide information on whether the Government is considering the possibility of extending free education for the nine years of compulsory schooling (para. 141 of the report)**

At present, all elementary education (6-year) are free and compulsory, and middle school education (3-year) is free in rural areas as of 1995.

Students in urban middle schools will receive free education by 1996 for the 7th and 8th grades, and 1997 for the 9th grade.

- 29. What measures are being taken to improve the quality of education and teaching and to fully reflect the aims of education as recognized by the Convention ?**
- 30. Please indicate the measures taken to ensure that school discipline is implemented in a manner consistent with the child's dignity and in conformity with the convention on the Rights of the child.**

According to the Constitution and the Education Act, children have the right to be educated, to develop their latent talents, to be individually respected, and to grow into good citizens. These are the aims of education in Korea, as recognized by the Convention.

To secure this right, the Ministry of Education has developed a teaching curriculum reflecting those objectives, and supports facilities to implement the curriculum. To follow up and verify the execution of these objectives, the government is planning to evaluate regional (local) educational administration bodies and schools. The results will be made public and used as criteria for administrative and financial support from the government.

The evaluation indices will be based upon improvements in the quality of education and the dignity of the child.

- 31. In view of the recent adoption by the General Assembly of resolution 49/148 proclaiming the United Nations Decade of Human Rights Education, has the Government considered the possibility of using this opportunity to incorporate education about the Convention on the Rights of the child into the curricula of school and higher educational establishments ?**

Education in primary and secondary schools generally includes subjects concerning human rights, including the rights of the child, in such subjects as Society and Politics. Furthermore, the Children's Charter and the Youth's Charter are recited by children during school and other extracurricular activities.

Additional efforts are being made, including a great emphasis on the dignity of the child, which is a special focus of Children's Day (May 5) in Korea, which is a holiday celebrated by children and adults alike. In the future, the government will endeavour to strengthen its efforts in Human Rights education in the schools.

- 32. In the light of paras. 162-163 of the report, please provide further information on the measures adopted to overcome the approach to children as "mini adults" or "immature adults" and to build a healthy youth culture against the examination-oriented education and vulgar popular culture.**

The government has taken several measures in order to encourage children and young people to develop their potential and to participate in various social and cultural activities.

Youth facilities, youth information centers and youth volunteer centers have been built to enable children to experience a natural environment and group interaction with young people of different ages.

With the aim of protecting children and young people from the vulgar elements of popular culture regulatory organizations have been set up, such as the Press Ethics Commission, the Public Performance Ethics Committee, the Public Ethics Commission and the Information and Communication Ethics Committee. Financial support is also provided for voluntary watchdog activities which help encourage a healthy environment for youth.

In addition, the government and youth organizations have offered various programs to build a healthy youth culture.

[For example:

- In 1990, the culture school opened to cultivate the aesthetic sentiments of people and to restore values and morality through education in culture and the arts, while establishing a new strategy for culture named "culture to every citizen".
- A big festival of culture, arts and sports of yesterday and today, mingled into one interconnection program, has been held to provide youth with opportunities to create new culture through direct experience.
- "Participating literary programs" and "inviting literary programs" have been developed since 1992 with the goal of promoting youth literary activities and to offsetting the examination-oriented educational atmosphere.]

Special Protection Measures:

33. **Please provide information on the implementation of article 22 of the Convention and the legislative, administrative and other measures taken to ensure that asylum seekers and refugee children, including when unaccompanied receive appropriate protection and humanitarian assistance in the enjoyment of the rights recognized by the Convention on the Rights of the Child.**

A child who is considered a refugee under the Refugee Convention is able to apply for refugee status, whether unaccompanied or accompanied by his or her parents or by any other person, in accordance with Article 76-2 of the Immigration Law. When accepted as a refugee by a Refugee Recognition Council, which consists of government officials and refugee experts, he or she is able to receive legal and humanitarian protection as well as financial support for domestic settlement as a refugee.

Also, an asylum-seeker is eligible for the same refugee status as described above.

An unaccompanied refugee child is not only granted opportunities to obtain information necessary for reunification with his or her family, in accordance with "Convention on the Rights of the Child", but it is also guaranteed that the child and his or her family will be free to come to and go from the Republic of Korea.

[There are eight persons who have sought a refugee status as of Dec. 29, 1995, including two children. They have been permitted to stay in Korea from a humanitarian point of view even though they were not refugees as prescribed by the Refugee Convention.]

34. In the light of articles 37, 39 and 40 of the convention, please provide information on :

- (a) Special training for professional groups, including judges, social workers, and law enforcement officials, on the Convention and other relevant UN standards in the field of juvenile justice .**

Judges and officials working for the juvenile training schools and juvenile classification offices are trained for 2-4 weeks following their appointment as government officials, as well as 2-3 weeks of extra training for career officials.

Furthermore, training is conducted for youth leaders by Ministry of Culture and Sports, for psychotherapists by the Korean Clinical Psychology Academy, and for other overseas training by the Government.

- (b) The measures designed to establish laws, procedures, authorities, and institutions specifically applicable to children.**

The Juvenile Act and the Juvenile Training School Act have been enacted to treat anti-social children specifically through protective treatment and special criminal measures.

There are a few public prosecutors in charge of juvenile crimes at district prosecutor's offices and proper juvenile guidance counselors in the region who are experts of high moral standing and recognized competence in the field relating to juvenile delinquency. In criminal cases where an adult may be subject to indictment, children may be subject to suspension of indictment under which they are dealt with by proper juvenile guidance leaders.

A judge in the juvenile division of a family court or district court deals with light cases treating children specifically.

At the same time, the judgements of professionals, such as psychotherapists, psychologists, social workers, and educators, as well as the opinions of the juvenile classification offices may be considered when children are examined or investigated.

In addition, there are eleven juvenile training schools across the country geared at effectively educating anti-social children. There are also five juvenile classification offices made up of professionals which classify and examine the character and propensity of children.

- c) The measures taken or envisaged to ensure that arrest, detention, and imprisonment of a child is only used as a measure of last resort and for the shortest period of time.**

Accommodation in juvenile classification offices:

- The period of time under custody in a juvenile classification office shall not exceed one month. It is provided, however, that if more time under custody is required, the period of time may be prolonged for only one additional period by means of an official ruling(Paragraph 3, Article 18 of the Juvenile Act).

Accommodation in juvenile training schools:

- When children are transferred for a short period to juvenile training schools by a judge, the period of accommodation shall not exceed 6 months (Paragraph 5, Article 32 of the Juvenile Act). In order to maintain treatment of the juvenile inmates, at a reasonable level, each juvenile training school has a Treatment Examination Committee for the protected juveniles. The Committee shall decide terms of treatment for inmates (Paragraphs 1 and 2, Article 4 of the Enforcement Ordinance of the Juvenile Training School Act).
- The periods of inmate treatment are classified as short-term, mid-term, and long-term and is divided into general and special periods (Paragraph 1, Article 21 of the Guidelines for Inmate Accommodation). The short-term shall be within six months, mid-term shall be from 6 to 13 months, general long-term shall be 13 to 19 months, and special long-term shall be 19 to 25 months(Paragraph 2, Article 21 of the Guidelines for Inmate Accommodation).

- (d) Measures adopted to ensure that children are separated from adults when deprived of their liberty:**

In accordance with Paragraph 1-6 and 7 Article 32 of the Juvenile Act, the juvenile training school shall perform the duties of receiving juvenile criminals from the juvenile division of the court and providing correctional educations(Paragraph 1, Article 2 of the Juvenile Training School Act).

The juvenile classification office shall receive anti-social children from the juvenile division of the court according to Paragraph 1-3, Article 18 of the Juvenile Act and classify and examine inmates' character and propensity (Paragraph 2, Article 2 of the Juvenile Training School Act).

Separating accommodation

Men and woman shall be detained separately (Paragraph 1, Article 8 of the Juvenile Training School Act), and those under 16 in age shall be accommodated separately from those over 16 (Paragraph 2, Article 8 of the Juvenile Training School Act).

The chief of a juvenile training school shall assign inmate groupings according to classification tests or the results of the screening for classification, taking into consideration personality, age, offense committed, relation of accomplice, level of education, etc. (Article 16 of the Enforcement Ordinance of the Act).

- (e) **Measures on whether treatment for a child recognized as a suspect, defendant or found guilty is suitable for a well-being of a child.**

Supplies:

Clothes, bedding, school supplies and articles necessary for treating a child recognized as a suspect, defendant, or found guilty, shall be supplied to an inmate (Paragraph 1, Article 17 of the Juvenile Training School Act).

For inmates, staple food and subsidiary food, drinking water, and other nutrients shall be supplied and provided properly so that he or she keeps his or her health, and promotes the growth of his or her mind and body (Paragraph 2, Article 17 of the Juvenile Training School Act).

Meeting and correspondence

The chief of the juvenile training school shall permit the inmate to see his or her family or relatives, etc., unless it is harmful to inmate's protection and correctional education (Paragraph 1, Article 18 of the Juvenile Training School Act).

An inmate shall see others for up to thirty minutes from 11 a.m to 2 p.m save for special reasons (Article 48 of the Enforcement Ordinance of the Act).

An inmate can write and receive letters all the time without restriction. However, when it is harmful to the inmate's protection and correctional education, the chief of the juvenile training school may not only limit the delivery of letters but also inspect their contents (Paragraph 2, Article 18 of the Act).

Sanitation management:

When an inmate contracts a disease, the chief of the juvenile training school shall let him or her receive a suitable medical treatment without delay(Paragraph 1, Article 20 of the Juvenile Training School Act). The chief, when the inmate receives a suitable medical treatment within the juvenile training school or the juvenile classification office, may let him or her be placed under the medical care of the exterior medical institutions (Paragraph 2, Article 20 of the Act). When the inmate, or his or her parents, wants to receive private medical treatment at their own expenses, the chief may permit it(Paragraph 3, Article 20 of the Act).

The chief of the juvenile training school must take suitable measures such as preventive inoculation and disinfection to prevent inmates from being infected when an infectious disease develops, or if there is a possibility of its development in the juvenile training school or the juvenile classification office(Paragraph 1, Article 21 of the Act). Also the chief must isolate inmates with infectious disease and give him or her emergency treatment when he or she has contracted an infectious disease (Paragraph 2, Article 21 of the Act).

The chief of the juvenile training school must be concerned about the inmate's sanitation, and keep his or her body, clothes, living room, bedding, clean kitchen and cookery, rest rooms, and other living environment clean (Paragraph 1, Article 52 of the Enforcement Ordinance of the Act) The chief is further required to check up the living environments and conditions of the facilities, and carry out close inspections of them more than once a month (Paragraph 2, Article 54 of the Enforcement Ordinance of the Act). The physical examination and medical check up shall be carried out once every three months, and the results shall be carefully recorded (Article 56 of the Enforcement Ordinance of the Act).

Going-out

The chief of the juvenile training school may permit an inmate to go out for purposes falling under the following categories (Article 19 of the Juvenile Training School Act) :

- When his or her lineal ascendant has a serious illness or dies.
 - In case of the 60th anniversary ceremony of his or her lineal ascendant's birth or, brother's or sister's wedding ceremony.
 - When a serious loss or damage of life or property occurs in his or her family.
 - When it is necessary to go out for military service, study, health care and so on.
 - When it is especially necessary for the purpose of correctional education.
- (f) **Measures taken to promote the social reintegration of a child in an environment that fosters his or her self-respect and dignity.**

Academic education

The curriculum of elementary, junior high, and high school shall be available in juvenile training schools according to the Education Act. Those who have completed the required courses in the juvenile training school shall be granted the same qualification as those who have been educated in the ordinary corresponding schools under the Education Act (Paragraphs 3 and 4, Article 29 of the Juvenile Training School Act).

Academic education courses situation

There are elementary courses within eleven juvenile training schools, junior high courses within eight juvenile training schools, and high-school courses within four juvenile training schools

It is worth noting that inmates educated at juvenile training schools and correctional institutions have sometimes placed first in the qualification examinations across the country.

Vocational training

The chiefs of the juvenile training school have carried out vocational training for inmates with technical assistance or funding sponsored by industrial organizations with permission of the Minister of Justice(Paragraph 2, Article 35 of the Juvenile Training School Act).

Living guidance and extra-curriculum activities

The chief of the juvenile training school must help inmates to lead a their life regularly, to promote their self-discipline and to solve problems for themselves, so that they may cultivate their adaptability into a ordinary social life (Article 39 of the Juvenile Training School Act).

The chief must establish extra-curriculum activity programs helping inmates develop their hobby and special talent, and cultivate the democratic and cooperative attitude of their lives through experiences of their group lives(Article 40 of the Juvenile Training School Act).

Moral nature-purifying guidance

Juvenile training schools establish psychotherapy method programs such as psycho-drama, DANHAK training, sensitivity training and mind control as well as various programs, including boy scout's field camp, visiting historical sites, literary contest, and proprieties and computer class to reinforce ability of inmates' rehabilitation into their coming ordinary social lives.

**RESPONSE BY THE REPUBLIC OF KOREA
TO QUESTIONS POSED BY THE
COMMITTEE ON THE RIGHTS OF THE CHILD**

January 22, 1996

- 1. What is the process through which children may lodge complaints concerning treatment in juvenile detention centers?**

Both children and their families may lodge complaints concerning treatment in juvenile detention centers. Actions available include appeals for improvements in facilities and systems, and violators of regulations concerning treatment may be sued. In addition, public prosecutors may inspect the prisons of police stations several times a month, during which those in detention are able to lodge official complaints.

- 2. What specific procedures and criteria are used in deciding cases of asylum and refugee status?**

Asylum seekers can apply to the Ministry of Justice for refugee status. Once refugee status is requested, acceptance is determined by a process of inspection and qualification carried out by the Refugee Recognition Council. This determination is based on the rules and principles stipulated in the Refugee Convention and Protocol.

As explained in the replies already submitted, eight people applied for refugee status who did not satisfy the conditions of qualification. Nonetheless, for humanitarian reasons they have been permitted to stay in Korea.

- 3. What is the societal attitude towards homosexuality? Are there any measures to ensure that there is no discrimination against homosexuals?**

The societal attitude towards homosexuality is very negative. However, various incidences of homosexuality have recently been reported in the newspapers.

4. **What is the incidence of child prostitution in Korea? Has there been any research carried out in this area? Does a sex tourism industry exist in Korea?**

All prostitution is prohibited by law in Korea. If a case of prostitution is reported, the provider and buyer are both punished. Furthermore, a sex tourism industry does not exist in Korea. The Government does not keep any official data on child prostitution.

5. **How many cases of pedophilia have been reported in Korea?**

Some cases of pedophilia have been reported in the newspapers. However, the government does not have any official statistics on the incidences of pedophilia.

6. **How many children live on the streets in Korea? What measures are in place to keep track of and protect such children?**

In Korea, there are no children living on the street. If there is a child living on the street without a guardian, he/she is admitted to a social welfare institution.

7. **What sort of research has been done on the subject of drug and alcohol abuse in Korea? What measures are being taken to reduce the incidence of such abuse? Is there a correlation between such abuse and the pressures of the exam oriented school system?**

There are two treatment centers for children suffering from drug and alcohol abuse. Social workers, priests, medical doctors, and psychologists in the centers provide counseling and clinical services to such children.

There is no scientific evidence of a correlation between such abuse and the exam or schooling system.