

with children's affairs were very popular and young children often appeared on them, accompanied by members of their family. Korean law regulated the portrayal of pornography and violence by the media, particularly in programmes for children. Controversy had in fact arisen in Korean society about whether the application of those provisions to foreign films constituted censorship. The provisions of the legislation on child protection, the registration of periodicals, and radio, television, film, video, musical recordings and theatre were designed to prevent the exposure of children to influences considered injurious to their moral health.

44. Mr. KOLOSOV inquired what measures the Korean Government had taken to ensure that children were familiar with other cultures and what provisions of Korean legislation allowed a child freely to choose his own religion.

45. Mrs. BADRAN said that invoking the principle of jus sanguinis to justify the denial of nationality to a child whose mother was Korean, but whose father was a foreign national defied logic because it was the mother who nourished the baby with her blood during the nine months of its gestation. Furthermore, the constitutions of all countries declared their citizens equal, so that the denial of nationality to the child of a mother who was a citizen was a violation of constitutional law.

46. What measures had Korea taken to enable children to exercise their right to freedom of association and expression? Were there children's associations through which young people could acquire the skills to participate in a democratic society? It would also be useful to know whether Korean schoolchildren were permitted to organize peaceful demonstrations and whether they exercised that right.

47. Mrs. KARP asked how often charges were brought against members of the media for violating the prohibition against revealing the name and identity of a child implicated in a criminal prosecution.

48. The abolition of security legislation was understandably a complex matter. Korea might therefore consider adapting that legislation to bring it into line with the provisions of the Convention.

49. Mrs. SANTOS PAIS said the Convention should be seen as prohibiting discrimination on the basis not only of the sex of the child, but also of the sex and status of the parents. The written replies offered a curious solution to the problem of nationality for children born to Korean mothers and foreign fathers: that a mother should register her child without mentioning its foreign father, since children with unknown fathers received Korean nationality. In her view, that approach was contrary to the right of a child to a family life and invited stigmatization of both child and mother.

50. Within the meaning of the Convention, children should be seen not merely as vulnerable beings in need of protection, but as autonomous persons capable of expressing their own views and actively participating in society. And children could not be expected to mature into full members of society if they lacked the experience of participation in school and community life. The constitutions of many countries guaranteed the fundamental rights of their citizens, but that alone was not enough. The Committee had to understand how

those rights were implemented and, in particular, what measures were taken to ensure respect for the evolving capacities of children. Were Korean children permitted to form associations? At what age? Were Korean schoolchildren allowed to formulate suggestions on and objections in respect of matters that concerned them? Those questions assumed particular importance in a country like Korea which was undergoing a transition to democracy.

51. The existence of the Military Court Law continued to be a matter of concern. The Human Rights Committee had determined that Korea's civil and criminal court systems could adequately handle the kinds of problems that arose in that country. Similarly, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had urged the Republic of Korea to repeal that Law. Agreement seemed to be taking shape that Korea's security measures went beyond what was needed. According to the International Covenant on Civil and Political Rights, moreover, any restrictions on the rights to freedom of opinion and expression should be commensurate with a real threat. The Korean Government should give careful consideration to its position on the expression of dissenting views: public scrutiny of government policy was essential to the workings of a democracy.

52. Mr. Seung HO (Republic of Korea) said that the curricula of all Korean schools included courses on foreign civilizations and religions and Korean television programmes on life in foreign countries were more popular than those which described national customs and culture. Children enjoyed the right to choose their religion, as did all Korean citizens. The Republic of Korea had no State religion, all religions being considered equal under the law.

53. Nationality was determined either by jus solis or by jus sanguinis. The Republic of Korea had always followed the latter. The denial of nationality to the child of a Korean mother and a foreign father had simply never constituted a problem in Korean society. He had nevertheless listened with great interest to the arguments put forward by the members of the Committee. The Korean Government might give some thought to revising its legislation in order to solve that essentially theoretical problem.

54. Concerning education, the Convention was a regular feature of school curricula in the Republic of Korea. Children learned about family, community and public life. The most important principle in maintaining family ties in his country, filial piety, was also part of school curricula.

55. Replying to a question by Mrs. Badran, he said that the Republic of Korea had suffered greatly from violent political demonstrations, which had unfortunately become fashionable. The right to demonstrate peacefully was anchored in the Constitution and in national law, as long as it did not disturb public order or endanger public security.

56. Mr. Chang Ho AN (Republic of Korea), taking up the question whether the names of children involved in court proceedings were kept confidential, assured the Committee that the privacy of children was protected. It was for the judge to decide, case by case, whether the names of children should be withheld.

57. Mr. Seung HO (Republic of Korea) said that he understood the Committee's concern with regard to the complex issue of the Military Court Law. Any repeal of legislation must, however, be approved by the Government, with the backing of the Korean people, and it was therefore difficult to amend that Law.

58. His country was going through a period of transition and was working to improve protection for the rights of children. Although, in some cases, Korean schools differed from those of other countries in the way they treated certain problems, his Government was doing its best to ensure conformity with international standards.

59. The CHAIRPERSON invited the members of the Committee to ask questions on the section of the list of issues entitled "Family environment and alternative care", which read:

"Family environment and alternative care
(Arts. 5, 18 paras. 1 and 2, 9, 10, 27 para. 4
20, 21, 11, 19 and 39 and 25 of the Convention)

17. In the light of the information contained in paragraphs 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.

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 and to give their informed consent to the adoption on the basis of the necessary counselling.

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.

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

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?

22. In light of the information contained in paragraphs 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.

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?"

60. Mrs. EUFEMIO welcomed the decision by the Republic of Korea to withdraw its reservation to article 9, paragraph 3, of the Convention.

61. Referring to cases in which parents had separated, she asked how the right of the child was guaranteed to visit the parent that did not have custody. What was done to ensure that the child was not caught up in the conflict between separated parents? Was it possible for a child to talk to a social worker when faced with the problem of conflicting loyalty? Was any effort being made to deal with that situation?

62. Noting that divorce was on the rise, she asked whether there was any community support to prepare couples for married life. Was the Child Welfare Committee involved in such activities? Might it be possible for the Government to introduce a structured system for strengthening family life or was that left to NGOs?

63. In the written replies, it had been stated that an adopted child had the right to know the identity of his or her parents and to preserve family relations. Did that simply entail knowledge of the identity of the biological parents or was actual contact preserved? In her view, it was important not to place the commitment of the adoptive family at risk. More generally, how long did children have to wait for placement in adoption? What was the ratio of applicants to children? What factors had led to the decline in intercountry adoption, to which reference had been made in paragraph 92 of the report? Had the Republic of Korea ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption?

64. Turning to family violence, she asked whether any measures were available to help the abused child to recover or to counsel abusive parents. Since there appeared to be a correlation between media and political violence and violence in the home, she wondered whether any action was planned by the Government to combat that development. Might it be possible to establish a regular reporting mechanism on child abuse and provide therapeutic foster care for abused children? Doctors, social workers and other professionals sometimes hesitated to report incidents of child abuse because they felt bound by requirements of confidentiality. It might be necessary to review codes of ethics to allow such professionals to reveal confidential information without being held accountable. Also, if neighbours suspected that child abuse was taking place, would they intervene or was the child merely regarded as the parents' property?

65. According to the report, unwanted pregnancies constituted one reason for abandonment and she would like to know whether any effort was made to encourage mothers to keep their children or to prevent unwanted children from becoming abused ones? Did the child have the right to be born and not to be aborted?

66. She had read in a report from December 1992 that there were nearly 8,000 "child-headed" families in the Republic of Korea. Did they receive financial support and were there services to ensure that such families were given parental supervision?

67. Mrs. SANTOS PAIS, referring to the question of adoption, said that the written replies of the Republic of Korea had given her the impression that emphasis was placed on trying to find families that wanted a child and that the needs of the child were not given the necessary consideration. She encouraged the Government of the Republic of Korea to seek a new approach in that regard. The phenomenon of "child-headed" families suggested that preventive action might be called for to persuade children not to run away from home. Clearly, "child-headed" families were not in the best interests of children.

68. She was aware that Confucian culture regarded corporal punishment as an educational measure; the Committee, for its part, encouraged dialogue and an exchange of views between parents and children and promotion of the democratic spirit, both in school and the home. Were there any awareness campaigns, professional training programmes or family counselling on the need to abandon the practice of corporal punishment?

69. Mr. HAMMARBERG said that he agreed with Mrs. Santos Pais on the importance of introducing comprehensive legislation to prevent child abuse.

70. Miss MASON asked whether there were any government measures that could be taken when parents reneged on their responsibility to pay maintenance.

71. In view of the commitment by States under article 27 of the Convention to ensure an adequate standard of living for children, she inquired what measures were envisaged to guarantee a minimum wage, provide employment opportunities and thereby prevent families from disintegrating and children from lapsing into anti-social or immoral behaviour.

72. She would like to know how frequent the phenomenon of illicit transfer and non-return of children abroad was, especially in cases of mixed Korean and non-Korean couples, and what legislation had been adopted to combat it.

73. Since the report contained little information on the sexual abuse of children and incest in the family she wished to know the age of sexual consent in the Republic of Korea. What was the Government's policy on sexual abuse, especially in the family? What procedure was followed when cases of sexual abuse or incest came to light? Did they result in the automatic removal of the child from the home?

74. Were teachers trained in detecting signs that their pupils had been sexually abused? Was there a system of mandatory reporting for teachers, doctors and social workers? How were such professionals, as well as police and judges, trained to deal with the problem? Was there any coordination among professionals in the area? Was the legal system adequate to protect children's rights in that regard? Was a child's right to privacy safeguarded in court? Given that it was at a judge's discretion whether to accept the testimony of a child, how was evidence taken?

75. Was incest a crime in the Republic of Korea? Inasmuch as it had been stated that children could not bring proceedings against members of their own family, presumably they would need to turn to other agencies to do so. Were there public awareness campaigns, educational programmes or counselling on the

issue and how were the media involved in such activities? Was sex education part of the school curricula? Had there been any research on the subject and had the findings been drawn on in the formulation of government policy for assisting and treating the victims? Were any other complaint mechanisms open to abused children?

76. She had had the impression that the planned shelter centres for abused children (para. 104 of the report) were only for the physically abused and asked whether any thought had been given to opening such shelters to sexually abused children, too.

77. What measures had been taken, pursuant to article 39 of the Convention, to promote the physical and psychological recovery of victims of sexual abuse and to help their parents?

The meeting rose at 1.05 p.m.



Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.276*
26 March 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE RIGHTS OF THE CHILD

Eleventh session

SUMMARY RECORD OF THE 276th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 January 1996, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

REPUBLIC OF KOREA

* No summary record was prepared for the 275th meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-10285 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Republic of Korea (CRC/C/8/Add.21; CRC/C.11/WP.4)

1. At the invitation of the Chairperson, Mr. Seung Ho, Ms. Myung Sook Kim, Mr. Chang Ho An, Mr. Sangheon Um, Ms. Hyun Joo Oh, Mr. Keywon Cheong, Mr. Joon-Hee Lee, Mr. Yong Dal Kim and Mr. Kang Hyeon Yun (Republic of Korea) took places at the Committee table.

2. The CHAIRPERSON invited the Korean delegation to present the initial report of the Republic of Korea (CRC/C/8/Add.21).

3. Mr. Seung HO (Republic of Korea) said that the report of the Republic of Korea described as precisely as possible the legal, administrative and institutional efforts to protect and promote the rights of children in Korea as well as the difficulties faced by Korean children and the obstacles to the full implementation of the Convention. Statistical data had been included where possible, in order to illustrate policy effectiveness. The report had been prepared through cooperation between the government ministries in charge of children's affairs and non-governmental organizations whose work was related to the protection and promotion of the rights of the child.

4. The Republic of Korea had always made efforts to promote children's rights. The Constitution, the Civil Code, the Criminal Code and the Education Law stipulated that the fundamental human rights of the child should be respected. The Child Welfare Act of 1961 had been revised in 1981 to broaden the scope of welfare services, which had hitherto been restricted to orphans and children from poor households, to all children. The Basic Act on Youth of 1992 was designed to create an enabling environment for the young generation. Policies for children and youth were formulated by the various relevant Government Ministries and national authorities. Various departments in the Ministry of Health and Welfare and the Ministry of Culture and Sports dealt solely with youth and children's affairs. Following the World Summit for Children, the authorities had formulated a National Plan of Action aimed at improving maternal and child health care, family nutrition and family planning, providing safe drinking water and food sanitation, improving the quality of education, protecting employed children and youth and promoting the welfare of disabled children. That Plan was now being implemented as an integral part of the seventh five-year socio-economic development plan for 1992-1996. Considerable progress had also been achieved in the fields of basic health care and education for children. Rising income, improved housing and hygienic conditions and increased dietary and nutritional awareness had contributed to that progress. Under the Education Act, every citizen was entitled to six years of elementary school education, as well as three years of middle-school education. Investments in education were not merely crucial to the well-being of children, but constituted the cornerstone of Korea's economic and social development.

5. However, much still remained to be accomplished. Full enjoyment of children's civil and political rights still tended to be restricted by a growth-oriented national policy. Similarly, the exercise by children of their

right to proper leisure, recreation and cultural activities was hampered by a system of education which required the passing of an entrance examination before promotion to a higher school, as well as by social pressure which placed special emphasis on higher academic careers.

6. Aware of its responsibilities and duty to ensure the best interests of children and knowing that children's rights could only be guaranteed in a democratic society, his Government would continue to pursue its children's policy as part of its efforts to promote the political, social and cultural rights of the Korean people. His delegation hoped that the outcome of the discussions would help to identify the steps that still needed to be taken in that area.

7. The CHAIRPERSON, noting that the replies of the Government of the Republic of Korea (document without a symbol) to the list of issues prepared by the Committee (CRC/C.11/WP.4) had been distributed during the meeting and the members of the Committee had not had the time to read them, proposed that the delegation of the Republic of Korea should briefly present those replies starting with the questions concerning general measures of implementation (questions 1 to 8).

8. Mr. Seung HO (Republic of Korea), replying to the question concerning his Government's reservations to the Convention on the Rights of the Child, said that the withdrawal of the reservation to article 9, paragraph 3, of the Convention was being considered as part of the revision of the Civil Code. Article 21 of the Convention was contrary to the Korean Civil Code, article 871 of which stipulated that, when a child's parents agreed to an adoption, permission from a family court was not necessary. Article 40, paragraph 2 (b) (v), was contrary to the Constitution and Military Court Law, which stipulated that crimes under a state of emergency might be judged by a single trial unless the death penalty applied.

9. With regard to the status of the Convention in relation to national legislation, under article 6, paragraph 1, of the Constitution of the Republic of Korea, international instruments to which the Republic of Korea was a party had the same effect as the domestic laws of the Republic of Korea. Therefore, the Constitution made it impossible to enact domestic laws which ran counter to the Convention. Article 10 of the Constitution guaranteed the fundamental rights and freedoms of citizens. The provisions of the Convention might be and had already been directly invoked before the courts.

10. Turning to questions 3, 4, 7 and 8 of the list of issues (CRC/C.11/WP.4), he noted that the Government planned to establish a Consultation Committee for Social Security to be chaired by the Prime Minister. Its vice-chairpersons would be the Ministers of Finance and Economy and Health and Welfare, respectively. One of the primary objectives of the Committee would be to coordinate policies in the area of social security. It was also expected to coordinate activities related to the promotion of the rights of the child. Actual services and activities for children were delivered through provincial and local-level administrative organizations. There were 7,112 members of the Child Welfare Committee at the community level who studied and deliberated issues on child welfare policy, the improvement of child-care facilities and the sound development of underprivileged children and monitored the

implementation of all the rights of the child recognized in the Convention. In addition, a National Committee on the Rights of the Child had been established in August 1995. Its main functions were to disseminate the Convention, to train persons who were in contact with children about the principles and provisions of the Convention, to urge the Government to promote all the rights of the child recognized in the Convention, to monitor the activities for implementing the Convention and to coordinate governmental and non-governmental activities related to the Convention. The members of the Committee included non-governmental organizations, research institutions, representatives of newspapers and officials of the Ministries of Foreign Affairs, Health and Welfare, Education, and Justice. The Korean Committee for UNICEF also organized many activities aimed at 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 Government had published the initial report of the Republic of Korea in both Korean and English.

11. The system of social indicators had been restructured in 1995 by the Korea Institute for Health and Social Affairs with the financial support of the National Statistics Office. Many indicators concerning, for instance, needy children, children's education and children's outdoor activities had been developed. The Ministry of Health and Welfare gathered and published on a regular basis statistical data and information on the areas within its jurisdiction. Similarly, the Korea Educational Development Institute published biannually background data on educational opportunities and conditions, the financing of education, social education and an international comparison of educational indicators.

12. On the question of the implementation of article 4 of the Convention, for the 1996 fiscal year, the child-related Government budget, including education, amounted to US\$ 17.6 billion, representing 23.9 per cent of the overall Government budget.

13. Mrs. SANTOS PAIS welcomed the size of the Korean delegation and the fact that many of its members had come from Korea specifically for the presentation of the report. She also welcomed the very critical approach used in the drafting of the initial report. Despite the difficulties that the Republic of Korea was experiencing during the current period of economic change, one positive achievement worth noting in the area of the promotion and protection of the rights of the child was the National Plan of Action which had been submitted by the Government to UNICEF in 1992 and which was devoted not only to education, water supply and health, but also to services for underprivileged children. The fact that the Plan of Action was part of the five-year Socio-Economic Development Plan was also extremely encouraging. However, greater efforts could be made to draw up a global policy in the area of children. The recent establishment of the National Committee on the Rights of the Child was therefore a step in the right direction. In that regard, she wished to know whether the National Committee had been requested to study the situation of all children in the country in relation to the provisions of the Convention.

14. The Committee welcomed the fact that the Korean authorities were considering the possible withdrawal of the reservation to article 9,

paragraph 3, of the Convention. However, she was still concerned about the reservations to article 21 and article 40, paragraph 2 (b) (v), of the Convention. A lengthy discussion had been held on article 21 of the Convention concerning adoption. The paramount concern underlying the provisions of that article was the best interests of the child. However, in view of the fact that, in the Republic of Korea, the adoption process could be ratified by a simple declaration, it was questionable whether the best interests of the child concerned were really taken into account. Similarly, it was not at all certain that the biological parents, adoptive parents and the child concerned received sufficiently complete information in order to take a fully informed decision. Moreover, article 21 provided that the "competent authorities" must intervene to determine the child's status concerning his biological parents and adoptive parents. In most countries, courts carried out that function, but that was not an obligation, since article 21 did not specify the "competent authorities" which had to undertake that task. In any case, in the area of adoption, decisions must not be taken solely by the biological parents and adoptive parents. The dissolution of an adoption also gave rise to similar concerns.

15. Turning to article 40, paragraph 2, she noted that, while the Republic of Korea was not the only country to have made a reservation to that particular provision, it was one of those that had made reference to laws concerning military courts and a state of emergency. When a state of emergency was declared, fundamental rights and freedoms were restricted because it was felt that such restriction was necessary for national security. However, some balance must always be struck between the restrictions in question and what was needed to ensure the country's security. In that regard, a civilian court should perhaps be allowed to assess whether such a balance was maintained in the decisions taken by military courts. Her concerns on that issue were based on the recommendation of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who had recently visited the Republic of Korea and had urged the authorities to repeal the Military Court Law.

16. Concerning the status of the Convention in relation to national legislation, she welcomed the fact that the Convention had the same effects as national laws. The fact that the Korean Constitution contained a provision that the freedom and rights of citizens could not be disregarded due to the absence of specific provisions in the Constitution was equally encouraging. That being the case, she wondered whether the failure to mention a right in the Constitution amounted to unconstitutionality by omission. In other words, if a citizen wanted to exercise one of the rights under the Convention that was not mentioned in the Constitution of the Republic of Korea, what would be the outcome of possible proceedings instituted before a court?

17. She wished to know whether the authorities of the Republic of Korea intended to establish an independent institution, such as an ombudsman, to monitor the implementation of the Convention.

18. Mr. HAMMARBERG, noting from the reply to the question on the list of issues (CRC/C.11/WP.4) concerning the proportion of the budget allocated to spending on children that about 24 per cent of the national budget was devoted to children, said that a careful scrutiny of the table annexed to the

statement revealed that the bulk of that sum went to education and that the other entries accounted for only 2 per cent of the national budget. He would appreciate more information on that subject. He also wished to know whether the Korean authorities had assured themselves that there was indeed a debate on the consequences, for the rights of the child, of decisions taken on the allocation of resources. He requested additional information on the status of the Child Welfare Committee and its members and asked whether any machinery had been established to ensure that the reports that the 7,112 members of that Committee prepared at the community level and the recommendations of the National Committee on the Rights of the Child led to decisions at the central level.

The meeting was suspended at 4.10 p.m. and resumed at 4.20 p.m.

19. Mr. Seung HO (Republic of Korea) said that the Korean Committee for UNICEF was the body which devoted the most time to the dissemination of the Convention since it organized seminars, courses and lectures on that topic on a continuing basis in various parts of the country. Moreover, the 7,112 members of the Child Welfare Committee all worked at the local level and received any complaints or suggestions concerning the promotion of the rights of the child. They met regularly, analysed the information available and reported to their local authorities, which forwarded the reports to the central authorities.

20. In the Republic of Korea, there was no institutional machinery for legally approving or dissolving adoptions. When the parties concerned reached agreement in good faith taking due account of the paramount interests of the child, they went before the administration responsible for recording the adoption or the dissolution of the adoption. As soon as the adoption was recorded, the adopted child was considered as a full member of the adopting family. Similarly, as soon as the dissolution of an adoption was recorded, the child immediately regained the status he had had within his former family. If nothing in the procedure clearly militated against the rights of the child, the administration concerned proceeded to register it. That mechanism was part of a long-standing tradition in the Republic of Korea whereby courts did not intervene in adoption matters. Thus far, moreover, that mechanism had not caused any major problem.

21. According to the jurisprudence of Korean courts, the factors listed in the Constitution and in the laws of the Republic of Korea were considered examples and were by no means exhaustive. The principle applied was that a factor should not be ignored or neglected simply because it would not be part of an enumeration in the Constitution or in the laws. That was why, thus far, no major problem had arisen in that regard.

22. Concerning the reservation to article 40, paragraph 2 (b) (v), the single trial system did exist in Korea, but was peculiar only to military courts, which, when a state of emergency was declared, had to deal with offences committed by soldiers or military employees as well as with crimes of military espionage, crimes against military guards, guardposts, prisoners of war and offences designed to interfere with the food supply. While it was true that from a purely legal standpoint, the rights of children could theoretically be violated, in practice, there had never been a major problem in that regard.

23. The Republic of Korea did not have an independent body that dealt solely with the rights of the child. At the local level, the local authorities and members of the Child Welfare Committee performed functions that were comparable to those that could be carried out by an ombudsman.

24. Mrs. KARP asked whether there were statistics on the number of civilians tried by military courts during the previous five years.

25. Mrs. SANTOS PAIS said that, although she was aware that the members of the Committee acted as devil's advocates, she wished to raise two questions concerning military courts. First, she wondered whether only soldiers could be tried by military courts. An affirmative answer would mean that such soldiers must necessarily be over 18 years old. That being the case, what was the purpose of maintaining the reservation to article 40, paragraph 2 (b) (v)? Secondly, if an offence, even one committed by a soldier, was an offence under ordinary law, she wondered whether it would not be preferable for ordinary rather than military courts to deal with the matter.

26. Noting that the dissolution of an adoption entailed serious consequences for the child, especially with respect to his identity and development, she asked what became of the child and whether he went back to his original family and took that family's name again. She also wondered whether the fact that, under Korean law, the adoption of a child did not require the authorization of the competent authorities might not facilitate the dissolution of adoptions to a much greater extent than the interest of the child would sometimes justify. Such a danger should perhaps be a valid argument for withdrawing the reservation to article 21 (a).

27. She also wished to know whether a provision of the Convention could be invoked directly before the courts, what specific training was provided on the Convention to the 7,000-odd members of the Child Welfare Committee, what the ratio of social expenditures was to military expenditures in the Korean budget and what priority was assigned, with regard to social expenditures, to disadvantaged groups such as homeless children or children from isolated regions.

28. Mr. HAMMARBERG said that the Ombudsman for children was but one means of monitoring the implementation of the Convention. He wished to know who appointed the 7,000 members of the Child Welfare Committee at the local level, who they reported to and what sort of follow-up - political, legislative and so on - was given to their reports. He wondered whether the National Committee on the Rights of the Child established in August 1995 (p. 5 of the written replies) had a secretariat responsible for carrying out research and formulating proposals or whether it was merely an advisory body. If the Committee felt that the policies being implemented or the current systems needed to be adjusted, to whom should they address their concerns?

29. Mrs. BADRAN asked how the future Consultation Committee for Social Security was going to coordinate its activities with the National Committee on the Rights of the Child.

30. Mr. Seung HO (Republic of Korea) said that his delegation did not have statistics on the number of civil cases brought before military tribunals, the

ratio of military expenditure to social spending and the proportion of social resources earmarked for disadvantaged groups. That information would be communicated to the Committee as soon as possible.

31. The Constitution itself provided that, when martial law was in force, the decisions of military courts should be final; it was not easy to amend the Constitution of any country. That was why the Republic of Korea had made a reservation in respect of the right to file an appeal against a decision in criminal proceedings, as referred to in article 40, paragraph 2 (b) (v), of the Convention.

32. Mr. Keywon CHEONG (Republic of Korea), replying to concerns relating to the dissolution of adoption, said that, while social workers and competent adoption services tried to ensure that the best interests of the child were taken into account in adoption proceedings, difficulties could still crop up after the fact. It was better in such a case to dissolve the adoption. In the Republic of Korea, very few adoptions ended in a dissolution; there were only a handful of examples. By comparison, 20 per cent of adoptions in the United States of America were dissolved. After the adoption was dissolved, there were two possible options. The first, the return of the child to its biological family, was fraught with difficulties because the child might be disliked by the family. Social workers therefore generally preferred the second option, which consisted of placing the child in an institution. Afterwards, he could be put up again for adoption or placed with a foster family.

33. Mr. Seung HO (Republic of Korea) said that, in practice, there was hardly any difference between the process of adoption and its dissolution; both were done by mutual agreement between the parties without going through the courts and a new identity was established for the child concerned. That was the traditional system in his country. If it resulted in serious drawbacks, the question of a possible withdrawal of the reservation would be considered.

34. Replying to other questions raised by members of the Committee, he recalled that the provisions of the Convention could be invoked directly before the courts. Members of the Child Welfare Committee at the community level were volunteers - teachers, journalists, eminent persons - and were appointed by the provincial governors. The National Committee on the Rights of the Child did not have its own secretariat. Secretariat tasks were carried out by the local authorities, while the Ministry of Health and Social Affairs dealt with general policy measures and legal issues. Research, suggestions and proposals were then communicated to the grass-roots units. The Consultation Committee for Social Security, chaired by the Prime Minister, did not handle day to day affairs. Its role was to coordinate the variety of social security policies implemented. Any decision by that Committee was binding on the competent local authorities.

35. Mr. Keywon CHEONG (Republic of Korea), replying to the question concerning the relationship between the Consultation Committee for Social Security and the National Committee on the Rights of the Child, said that the two committees performed completely different functions. The Consultation Committee for Social Security was basically responsible for coordinating policies in the area of social security, such as social insurance, public

assistance and social welfare services. The National Committee on the Rights of the Child was basically responsible for coordinating the activities of public authorities and those of non-governmental organizations relating to the Convention on the Rights of the Child. The two committees did not really have any ties with each other.

36. Miss MASON, referring once again to the reservation to the right to appeal against a decision in criminal proceedings under article 40, paragraph 2 (b) (v), of the Convention, asked whether the Korean delegation could read out the provision of the Constitution of the Republic of Korea with which that provision of the Convention was incompatible. As far as the authority of a constitution was concerned, two systems were possible: in some countries, the Constitution took precedence over any other internal or international provisions, while, in other countries, any obligation deriving from an international treaty took precedence over any domestic legal provision, whether or not such provision was included in the Constitution. She wished to know which one of the two systems was applied in the Republic of Korea.

37. Mrs. SANTOS PAIS, referring to the reservation of the Republic of Korea to article 21 (a), said it was important that adoption should be considered as a solution for the child and not as a solution for the parents or for other interested parties. While the parents had an interest in the matter, the Committee should be concerned above all about the best interests of the child. In the causes for adoption indicated in paragraph 95 of the report, as in the solutions proposed in case of dissolution of the adoption indicated by the delegation, the child seemed to be treated as an object and not as a human being. She was also concerned about the complications of such an approach with respect to international adoption and wondered about the prospects of monitoring the progress of the child adopted and taken abroad and ensuring that it had settled down in its new family and evaluating his chances for a stable future.

38. Mr. HAMMARBERG said that the National Committee on the Rights of the Child could effectively coordinate and monitor policies in that area only if it were independent. He requested additional information in that regard.

39. Mrs. EUFEMIO asked for information about the role of UNICEF in the implementation of the Convention and the way in which UNICEF's activities were coordinated with those of the National Committee on the Rights of the Child.

40. Mr. Seung HO (Republic of Korea), referring to the Republic of Korea's reservation concerning the implementation of the Convention, said that in his country the Constitution was the highest law and that its provisions took precedence over all others. In case of a conflict between national laws and international treaties to which the Republic of Korea had acceded, international treaties took precedence. Moreover, such instruments were taken into account during the drafting and promulgation of new laws.

41. The members of the Korean Committee for UNICEF were appointed at the local level by provincial authorities from among volunteers who might be individuals or civil servants. Replying to Mrs. Eufemio's question, he noted that the Korean Committee for UNICEF was under the Ministry of Health and

Social Affairs. As a last resort, the Consultation Committee for Social Security would assume responsibility for coordination, but basically the Korean Committee for UNICEF was a non-governmental body. There was no independent body responsible for the implementation of the Convention.

42. The CHAIRPERSON invited the delegation and members of the Committee to consider the questions relating to the definition of the child and general principles (questions 9 to 14 of document CRC/C.11/WP.4).

43. Mr. Seung HO (Republic of Korea), replying to question 9, said that, in Korea, children might receive legal and medical counselling without parental consent. For that purpose, there were 79 Child Service Consultation Centres, of which 13 were managed by provincial or local governments. The rest were either financially supported by the Government or privately managed. In addition, there were 297 social welfare centres.

44. Concerning question 10, article 2, paragraph 1, of the Constitution of the Republic of Korea set 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 was guaranteed. Discrimination based on those areas related to the rights of the child was also strictly prohibited by Korean law.

45. With respect to question 11, it was a Korean social tradition that men's minimum age for marriage should be higher than that of women. That was based on the belief that women were biologically more mature than men at a younger age and that men needed more time for social independence in view of their traditional roles in Korean society. In fact, the actual age at which marriage took place was higher than the minimum legal age of marriage. The difference in the age of marriage corresponded to the ideology of proportional equality practised in other countries with oriental traditions.

46. Replying to question 12, he noted that, in the Korean Government's view special measures were unnecessary, since the principle of non-discrimination was established in Korea. However, disabled children and students from rural areas were entitled to some benefits. Thus, a university and college registration quota had been introduced for such students.

47. Concerning question 13, the Child Welfare Law and the Infant-Baby Care Law had been enacted in 1961 and 1991, respectively. In addition, the Orphan's, Guardianship Affairs Law, which had been in force since 1961, was intended to care for orphans in public facilities. At the same time, the National and Municipal Governments had the obligation to support guardians and children. Accordingly, a Child Welfare Committee had been established and child welfare facilities had been set up to support child welfare organizations. With regard to question 14, the Korean Committee for UNICEF had published the Teachers' Handbook on the Convention on the Rights of the Child, which had been made widely available to the public at large. In addition, the Committee had organized several meetings, workshops and seminars on the rights of the child. Monthly neighbourhood meetings were held on the twenty-fifth day of every month to emphasize the importance of respecting the

rights of the child. Lastly, the Children's Charter and the Youth's Charter emphasized the importance of protecting and promoting the rights of the child. They were contained in some school text books and were posted on boards of facilities frequented by children.

48. Mrs. KARP, referring to the theory of proportional equality, said that it had not been scientifically demonstrated that girls matured mentally earlier than boys and that, by marrying very early, girls might have children at a very early age. In her view, such a policy was contrary to the best interests of girls. She asked for more information on the reasons for the adoption by Korea of the theory of proportional equality. The establishment of 79 Child Service Consultation Centres to provide health care to children was a very positive development. She wished to know whether children in rural areas were sufficiently catered for by such centres.

49. Mrs. SANTOS PAIS said that there was a need to change attitudes with regard to the age of marriage of boys and girls and to draw inspiration from the conclusions of the Beijing Conference, particularly the debate which had taken place on that occasion concerning girls. The concepts of equality and non-discrimination were not equivalent. She expressed the hope that greater efforts would be made to take account of the provisions of article 2 of the Convention in that regard and that steps would be taken towards that end. Referring to paragraph 38 of the report (CRC/C/8/Add.21), she regretted the fact that society was hostile to children born out of wedlock and that, in deciding the order of succession to family headship, children born during marriage had priority among lineal descendants. Steps should therefore be taken in that regard and the Convention should be widely disseminated to correct that situation.

50. Referring to paragraph 139 of the report, which referred to the situation of disabled children, she said she hoped that legal provisions would be adopted to encourage such children to attend school in keeping with the spirit of article 23 of the Convention.

51. She asked for additional information on paragraph 34 of the report and urged the public authorities to take account of the best interests of the child when he was asked to give testimony in court, especially in certain painful situations such as the divorce of his parents or abuse of which he might have been the victim. She also wished to know what criteria were used by judges in deciding whether or not a child could testify in court. More information should also be provided on cases concerning children who were victims of sexual abuse and had to be accompanied to give testimony in court. What happened if the person accompanying the child was the perpetrator of such abuse? She also wished to know how a child's views were taken into account when that particular child was the subject of expulsion proceedings from school.

52. Miss MASON, referring to the preference for sons over daughters in Korea, expressed concern about the fact that, by the time such children became adults, there would be half a million more men than women. In that regard, she wished to know whether the Government was taking steps to deal with persons who were conducting foetal testing, which was illegal.

53. Concerning adoption, she asked whether social workers provided assistance to children whose adoptive parents wished to separate and whether natural parents could go to court to separate from their natural child. In such cases, were the best interests of the child taken into account?

54. Mrs. EUFEMIO, referring to the principle of non-discrimination, pointed out that, in practice, children of mixed blood could only be adopted abroad and not in the country. She wondered whether that was not discrimination against such children and wished to know whether the views of the natural child were taken into account when its parents considered adopting another child.

55. Mr. HAMMARBERG, referring to the reply to question 14 and to article 12 of the Convention concerning the views of the child, requested further information on the way in which the society and authorities respected the view of the child by considering him not as an object, but as a subject of law.

The meeting rose at 6 p.m.

25
A67 402 22



등록일	번호	일련번호
	A7	17
	-1	

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

INDEX

<u>Issues:</u>	<u>Page Numbers:</u>
General Measures of Implementation (Questions 1-8)	1-10
Definition of the Child (Question 9)	11
General Principles (Questions 10-14)	12-16
Civil Rights and Freedoms (Questions 15-16)	17-19
Family Environment and Alternative Care (Questions 17-23)	20-26
Basic Health and Welfare (Questions 24-26)	27-30
Education, Leisure and Cultural Activities (Questions 27-32)	31-35
Special Protection Measures (Questions 33-35)	36-43

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 of 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