

**SUPPLEMENTARY REPORT  
To the Republic of Korea's  
Second Periodic Report  
On the Implementation of the  
Convention on the Rights of the  
Child**

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Submitted by

Kuro Health & Welfare Center  
Korean Bar Association  
Corporation Leftovers Love Sharing Community  
Children's books and Association  
National Junior and High School Student's Association for Human Rights and  
Educaional Reform  
Sarangbang Group for Human Rights  
Research Institute of the Differently Abled Rights in Korea  
Korean Progressvie Network(Jinbo Net)  
National Parents Association for Education  
Equality Trade Union Migrants Branch  
Korean Foster Care Association(KFCA)

Korea Women Link

## INTRODUCTION

This report complements the Second Periodic Report on implementation of the Convention on the Rights of the Child (CRC) submitted by the Government of the Republic of Korea. We believe that governmental activities regarding children's rights will be changed for the better and advanced, by providing additional information on some problems contained in the Second Periodic Report and by supporting recommendations raised by Civil Society groups.

Korean Civil Society groups provided their own comments on the Republic of Korea's Initial Report to the UN Committee on the Rights of the Child in 1995 and took part in the Working Group Session of the Committee in November of that year. Additionally, the Civil Society groups monitored the Committee's review of the Republic of Korea Initial Report during its 11<sup>th</sup> session in January 1996.

Following this Civil Society groups published "*Children's Rights, the World's Oath*"(1997) containing reports, minutes and recommendations in the processes and have contributed to familiarizing Korean society with the CRC through a variety of educational activities,

### Contributors:

Kuro Health & Welfare Center  
Korean Bar Association  
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National Junior and High School Student's Association for Human Rights and Educational Reform  
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## ? . General Assessment of the Second Periodic Report

Like the Initial Report, the Second Periodic Report leaves out explanation of specific situations and realities faced by children. Rather it goes too far in accounting for Korean legal and institutional systems. There is a need to highlight obstacles preventing the implementation of the CRC and to search for solutions in order for the Periodic Report to be a white paper on the general situation of children every five years.

Legislative measures which are in conformity with the CRC, such as upward adjustment of minimum employment age, the ratification of ILO Convention No.138, the revision of Children Welfare Act, are welcomed. However, the Government has not fulfilled its commitment to amending related articles of Civil Law containing gender-based discrimination and parents' rights centered view and with regard to the withdrawal of reservations to the CRC, has not initiated corresponding government level action. Finally, the lack of a detailed programme and ineffective allocation of budgets and human resources has diminished the effectiveness of legislation.

It is estimated that Government has made little effort to publicize the CRC in the five years between the Initial and Second Periodic Reports. No further progress has been made in establishing a monitoring body for implementation of the CRC, in development of child-related indicators, arranging decentralized indicators and in the improvement of data-collection systems although they are central to setting-up and implementation of child-related policy.

Under these circumstances, 'A Study on Indicator Development of the Rights of Korean Child' carried out by Korea Institution for the Rights of the Child in 1999 and 'A Study on Human Rights Indicators of the Youth' by the Korea Institute for Youth Development in 2001 were useful projects. Referring to this basic research, the Government should undertake to develop and make use of indicators and use them to understand human rights situation of the child.

It is generally recognized that the Republic of Korea's traditional way of thinking, with its emphasis on patriarchy and seniority, is a great obstacle to the realization of principle of respect for free expression of the child. However the State Periodic Report is silent on the civil and political rights of the child and does not deal with how rights to free expression, association, assembly, privacy etc. are restricted in daily life. The Government ought to clarify its position and provide alternatives.

The 1997-98 financial crisis clearly revealed the frailty of Korea's

economic growth and great pain was caused by defects in the social security system. Income distribution structure has deteriorated and the income gap between the haves and have-nots has deepened. Unemployment and poverty cause abuse of children and serious situations such as the breakdown of families where the rights of the child are easily infringed.

However the Second Periodic Report lacks any analysis and assessment of these factors which are regarded to have great impact on the fulfillment of economic and social rights of the child. Additionally, no evaluation has been made of whether the Government's policies and measures for children in need of special attention and protection are adequate and sufficient.

Summing up, the Second Periodic Report fails to provide public with necessary information to monitor overall government policies for the child.

## ? . General Actions for the Treaty Implementation

### **1. Publicity of the Convention**

States Parties to the CRC have an obligation to promote and provide instruction about the contents of the Convention. As stated in the Second Periodic Report, while NGOs have been active in education and research, the government's corresponding activities were negligible. The independent activities of Civil Society groups do not substitute for state parties obligations in conformity with Article 42 of the CRC, so despite efforts made by Civil Society with limited resources, the reality is that the CRC still remains quite unknown to children at large, parents, experts and workers in schools and child-related fields.

Primarily the Korean government hasn't taken the necessary actions to publicize the CRC. For instance, versions in Korean of the Initial and Second Periodic Reports, let alone the concluding observations of the CRC(CRC/C15/ADD.51), are not found in the Government's websites in spite of the fact that Korea is a highly developed country in terms of information and nation-wide internet access. The English-version website of the Ministry of Foreign Affairs and Trade website merely provides a link to the OHCHR of the United Nations.

The Government has only published its Initial Report in the same way as a research thesis although the duty of promotion cannot be fulfilled simply by publishing the official documents of the Convention. The State Parties obligation is to publicize through active and adequate means. For people to understand precisely the contents and principles of the Convention, it is important to not

only to publish official documents but also to provide supplementary explanations in various languages through various channels. The CRC should be equally applicable to both 'adults and children'; inter alia, and the promotion of the convention, especially for children, should use easy and familiar way. In particular, integration into the school curriculum would play a pivotal role in the promotion of the Convention and be a good example of human rights education. In this regard, it can be said that Korean Government's attempts for the Convention have hardly been made.

<Recommendation>

- The Government to promote the CRC and related documents including its Initial and Second Periodic Report, the minutes, and concluding observations of the Committee so that ordinary people can make the most use of it.

## **2. Harmonization of the Convention with Domestic Law and Policies**

The Committee recommended Korea withdraw three Articles 9.3, 21.(a) and 40.2(b),(v) that Korea has, to date, reserved against since 1996. Upon the request of the committee, the Korean Delegation stated it would "positively review" the matter in a letter dated January 18, 1996. However as of June, 2002, its reservation on the Articles remains intact. Although the Korean Government said in the 1996 letter that it was positively considering withdrawing the reserved Article 9.3 (the rights of the child separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis), which means to include the children's right in its Civil Law, has not included this right of the child in amendments to Civil Law made since 1996.

International human rights law, including the CRC, has a lower standing in Korea compared to domestic laws. The Government firmly maintains general principles of law such as "rule *lex specialis derogat lege generali*"(rule of special law abrogates the general law), "rule *lex posterior derogat lege priori*"(rule of subsequent law abrogates proceeding law) when the ICCPR and the ICESCR conflict with domestic law. For example, in a conference marking the 10<sup>th</sup> anniversary of Korea' entry into membership of the International covenants on Human Rights held, April 10, 2000, co-hosted by Korea's Institute for International Human Rights Law" and "Minbyun-Lawyers for a Democratic Society, Civil Society assessed that "the judiciary has been pretty reluctant not only in making international human rights instruments directly justiciable domestically but in making use of them as a criterion for interpretation of national laws".

<Recommendation>

- Those reservations above mentioned to be withdrawn.
- Urgent need for human rights education of public officials concerned

and detailed directives so that the CRC can be used as a basis for legislative, administrative and judicial areas.

### **3. Monitoring Bodies for Child-related Policy Coordination and Implementation of the Convention**

Although national policy for children and youth is being set up by different authorities, monitoring bodies for constant and effective coordination and systematic inspection of CRC implementation are not yet institutionalized.

A "National Committee on the Rights of the Child" mentioned in the Initial Report has not been established, triggering condemnation for 'false commitment' from Civil Society groups. A 'Committee on the Welfare of the Child' stated in Initial Report ended in failure, due to the abrogation of its foundation legislation on September 25, 2000.

The "Children Rights Coordination Committee" mentioned in the Second Periodic Report has turned out to have no competence to set up and coordinate child-related policy. It has only been activate once, holding a session to hear opinions form Civil Society experts regarding the Second Periodic Report. Meanwhile, the Government declared that it would establish a "consultative Committee on Protection and Promotion of the Child" on May 1, 2002. However the competence and policy instruments of this body have not been clarified. It is also difficult to find any connections between this committee and the "children Rights Coordination Committee". Furthermore, this "Consultative Committee" is supposed to deal with issues for children aged 5 to 12 and it is not clear how it will consult and coordinate the other policy groups regarding children in other age groups.

<Recommendation>

- The Government to establish a central body for constant coordination and monitoring, not a committee or a consultative committee whose composition and competence is vague and restricted.

## ? . General Principles

### **4. Principle of Non-discrimination**

In the 10 years since migrant workers first entered Korea seeking job opportunities, the ever growing discrimination and human rights violations against them are now extending even to their children.

The Second Periodic Report states "the Republic of Korea is composed of only one race, therefore does not have any conflict or discrimination on

account of race". This is an obvious expression of the Korean government's attitude negating the existence of about 30 thousands migrant workers and the reality of discrimination against them.

No changes have been made to the minimum marriageable age between teenagers (men: 18, women: 16) about which the Committee expressed concerns that caused. Any child born out of wedlock, pursuant to the present family registration system, has to be registered separately from children born to married parents increasing future social discrimination.

In addition to discriminations against females, the disabled, children born to unmarried parents, and rural-area children pinpointed by the Committee in it's Concluding Observations to the Initial Report, discrimination on the basis of 'appearance, weight, age, educational backgrounds and record orientation' loom large as serious social problems. Factors such as appearance and weight cause trouble in job interviews for adults and can be a great obsession for children who suffer from being isolation because of discrimination based on appearance. The heavy stress on educational backgrounds produces a results oriented atmosphere from the infant education stage, pushing children towards 'early-stage education' and 'extra-curricular education'. This kind of public tendency is a factor widens the gap between children born in middle-class and poor families.

#### <Recommendations>

- ·The Government should make it sure that the State's obligations in accordance with the CRC are true of all children within its 'jurisdiction', and not applicable to territory-based or nationality-based children only.
- ·Even though a variety of discriminatory practices have been raised and followed by due social concerns, the policy of non-discrimination or remedy has been left intact. The Government needs to review the effectiveness and impact of non-discriminatory treatments so far and should come up with far-reaching and special treatments for non-discrimination.
- ·The National Human Rights Commission, established in 2001, has filed petitions of discriminatory actions in its 'Subcommission on Investigation of Discriminations'. Accordingly, the Government ought to provide for the effective strategy for elimination of discriminations against children through keen analysis of discrimination.

### **5. Principle of 'the Best Interest of the Child'**

'The best interest of the child' is a principle covering all CRC requirements. This principle should be duly regarded as top priority in all measures in favor of children regardless of the implementing body, be it public or civil, courts,

administrative authorities or the legislative. However, it is too much to expect that this principle will be given due consideration in present situation of no public awareness-raising or education for the rights of the child. Only when children's own opinions are reflected will this principle be achieved. Norms and procedures collecting and reflecting the children's opinions in a way to correspond with children's development are absolutely insufficient.

<Recommendation>

- It is imperative that the training and drill processes in authorities dealing closely with children (teacher, police, social enterprise, lawyer, public health agent, or related public servant) should cover the education on the human rights of children.

## **6. Rights to Life, Subsistence and Development of the Child**

According to analysis from the 1997 Annual Report for Statistics of Mortality, Korea Institute for Health and Social Affairs (KIHASA) quoted in the State Report, the death toll for children from aged 0 to 9 years equals 30 out of 100,000 population, a large figure when compared with 10 out of 100,000 in Japan and 7 out of 100, 000 in the United Kingdom. This is largely due to a lack of safety facilities and inspections.

A series of incidents have shocked Korean society: the Seeland fire (June 1999) which cost the lives of 19 children; Incheon Pubhouse fire (October 1999) where as many as 57 teenagers died and the Yeji Institute fire (May 2001) accounting for 10 lives of youth. These incidents unveiled that all the children-related facilities in Korea such as private institutes, reading rooms, youth training centers were seriously exposed to the safety risks like fire. However, this remains an unsolved problem in the sense that when faced with similar incidents, related authorities tend to pass their due responsibilities over to each other, not to mention not taking preventive measure.

The Government's obligation to respect life is not limited to the physical. The complete and harmonious development of children should be achieved on mental, ethical and social terms.

In this sense, it can't be overemphasized that child abuse, an increase in children without meals, 'left-outs' and subsequent suicides or dropouts from school, school violence, and teenage prostitution are the main culprits threatening the subsistence and development of the child in Korea. Also among them, the so-called 'IMF-type child abuse' resulting from an increase in violence from socially stressed out adults venting their anger on children following lay-offs or bankruptcy following the International Monetary Fund(IMF) bail-out agreement in 1998.

<Recommendation>



- That comprehensive safety measures focusing on prevention be set up and implemented.

## **7. Principle of Respect for Opinions of the Child**

Whereas the CRC defines the children as subjects of rights, traditional thought and stereotypes in Korea remains unchanged to the effect that 'children must be subject to adults', and 'adults should protect children'. Korean Civil Law stipulates that 'a minor must be subject to the parental rights' and 'students should not intervene in the administrative business of the principal, the head of the school' according to school regulations. A deeply-rooted sense of authority and seniority prevail over society, discouraging children from expressing their own views and being involved in decision-making processes.

A recently emerging trend is for the youth to voluntarily voice opinions on their own problems. There have been gatherings through the internet to discuss youth human rights and a small number of groups have been set up aiming at the improvement of youth rights. As part of this movement, a petition was sent to the Ministry of Education in 2000 "recommending abolition of the compulsory hair-cutting regulation which may infringe upon the student's self-control and right to liberty and thus has a potential risk of violating human rights". A campaign calling for student involvement in the Board of School Management has also been under way since 2001. However, some students participating in these activities risk being pressured and penalized by School Board.

According to the Second Periodic Report, the acceptability of a child's testimony in Court depends upon whether they reach the eligible physical and mental capacities prescribed by law. This is controversial in cases of sexual violence especially where children are victims. The difficulty lies in that because hearsay evidence and admissibility of evidence from children are so restricted in accordance with Article 310.B and 312 of Criminal Procedure Law that the criminal investigation cannot accept children's statements as evidence unless they are confessed in court. Most parents strongly dislike this insensitive repetition of investigation and court procedure and don't want their children have to be subject to repeated mental stress, however unless children testify in court, their evidence is often inadmissible and even when they do testify this way, their evidence is often viewed from an adult viewpoint and dismissed as being inconsistent. There is an urgent need to secure the special treatment for children's testimony and its admissibility on the basis of psychological consideration.

## **? . Civil Rights and Freedoms**

## **8. Name and Nationality, maintenance of status**

**8.1.** According to the Republic of Korea's House Holder System, the last name of children has to be the same as their biological father's. The householder system identifies a person in terms of his or her relationship to the householder, e.g., householder's mother, wife, child and, records changes in status such as birth or marriage in a status registration book called the "*Hojeok*" or family register. Men have priority in the order of succession to the status of householder. If parents get divorced, their children remain in the father's household registry even though the mother is the carer. Under this system, if a woman marries again and reports her new marriage, her relationship to her children under the law changes into that of mere cohabitants. Such a system results in gender discrimination by putting the wife in a lower position than the husband, the mother in a lower position than the father, and is an obstacle to maintaining the status of children. Children from a family formed by remarriage suffer from deeply-rooted social prejudice in Korean society as they have different last names to their stepfathers'. Both the Committee on Economic, Social and Cultural Rights and the Human Rights Committee have commented on the unfair status of Korean women by the householder system that only approves patrilinealism.

### **<Recommendation>**

- Repeal the mandatory provisions in the Civil Code that require one's last name to follow the father's and revise the status registration system centered on the householder.

**8.2.** According to a report reviewed by the National Human Rights Commission, there are a total of 331,000 foreign workers in Korea, of which 258,000 are working without permits. Their unstable status affects their children, because current Korean nationality law is based on the rule of having one's parents' nationality. Therefore children of unregistered workers automatically undocumented status from birth. Subsequently many of them cannot officially record their marriages incurring fines and costs, because according to Korean household registry law, when a foreign male and a Korean female get married, they have to go to the male's home country to record their marriage. Any children from these marriages are then also put into an unstable status because they are recorded in the household registry of their mother.

## **9. Freedom of expression**

**9.1.** To find out about the actual state of children's civil and political rights and compliance with the CRC, the civil groups *Sarangbang Group for Human Rights; National Junior and High School Student's Association for Human Rights and Educational Reform* collected and reviewed school regulations at junior-high and high schools in Korea for one year starting December 2000. Lawyers, legal scholars, and education scholars participated

in the analysis which covered student association regulations (189 schools), appearance and dress codes (209 schools), and the code of discipline (195 schools). The results were reported through major mass media and widely distributed to children and education-related organizations.

Sections 9, 10 and 14 are based on the results of this analysis which showed that most school regulation see students as objects to control, and is not geared to protecting their human rights. In addition, ambiguous and abstract provisions are over-restrictive and punitive of students' activities.

**9.2.** 51.2 % of student association regulations forbid any type of political activity, meaning not only "political party activities" but any "political activities" that the school itself defines by arbitrary judgment. Any activities related to social organizations are also included in this definition.

**9.3.** Most school regulations students do not allow students to participate in the school principal's administrative functions even though Article 5 of the Framework Act on Education provides: "Faculties, students and parents can participate in school administration according to laws and regulations." Student's expression of their views on and participation in school administration is totally excluded.

**9.4.** With regard to discipline, prior notice of the reasons for disciplinary action and the right of an opportunity to offer an explanation in person to the disciplinary board is not guaranteed. While generally, opportunities are provided to the students and their parents to testify before the disciplinary board, it is not clear whether they can attend the board meeting to give testimonies or if the disciplinary board just listens to the testimony before the board meetings. The opportunities to give testimony must be clearly provided for because previous testimonies tend to be is very different from the testimonies at the actual disciplinary board hearings. Some schools do not even provide this opportunity and will only consider explanations by the teacher-in-charge.

#### <Recommendations>

- Repeal regulations barring students' from political activities.
- Guarantee students' participation in school administration. Amend Article 31 of the Elementary and Secondary Education Act which eliminates students' participation in the Board of School Management.
- Guarantee the right to a rehearing on the disciplinary action to the students and their parents in case of disagreement.

## **10. Freedoms of Thoughts, Conscience, and Religion**

**10.1.** School regulations resemble the ambiguous National Security Law, the well known example of laws infringing freedom of thoughts, conscience and religion. Behavior strictly restricted under school regulations such as

“dangerous thoughts or enemy benefiting acts”, “concealment, reading, production, posting, or propagating dangerous literature”, “anti-national or anti-social actions” are ambiguous, mostly negative value-judgments on freedom of thoughts and conscience.

**10.2.** Up to high school, the government allocates students to schools according to their place of residence, which includes allocation to private schools established by religious institutions. Students that are assigned to such private religious schools can be forced to go to or participate in religious services and conferences. While the government asserts that students can take alternative courses, there is no certainty that such a proviso is enforced and it is said that the majority of such private schools force religious education upon all students.

<Recommendation>

- Repeal regulations prohibiting or negatively portraying the fundamental civil and political rights of children.
- Investigate and supervise schools forcing students to participate in religious activities.

## **11. Freedom of association and assembly**

**11.1.** Research on student association regulations of 189 schools show 88.3% have directly elected student association positions. However, they rarely have any powers with only 6 schools giving them rights to decide on matters of ‘enactment and revision of the student association regulation, budget and settling accounts, enactment and revision of the student association minor regulations, ratification and no-confidence vote of association officers, appropriation of fees and convening a meeting’. In the remaining 147 schools the school administration have those powers. Student associations cannot pass resolutions or act as executive organs because all their activities need prior or ex post facto approval from the school administration.

**11.2.** The expressions in the regulations on freedom of association and assembly are mostly negative. For example, students are strictly punished with expulsion and suspension comparable to other violations in cases of ‘participating an illegal assembly or joining in an illegal circle’, ‘organizing or managing an illegal circle without approval, which brings disorder to the school’, ‘exhibiting at, donating to or participating in an external event without the approval of the principal’, ‘instigating the students or participating or aiding in that kind of movement’, ‘participating in an subversive organization or conducting any subversive activity related to that’, ‘conducting political activities.’

## **12. Protection of privacy**

Regulation of appearance and dress in school are too severe in Korea. In general, the regulations specifically and broadly cover not only school uniform but also hairstyle, length of hair, hair accessories, shoes, backpacks, underwear, and thermal static clothes. Such regulations are criticized for being so excessively detailed and strict that they do not respect the student's right to self-determination of his or her lifestyle. Violations of appearance and dress regulations have become the main source of corporal punishment or other disciplinary action. Strict enforcement of these regulations have given rise to and are accompanied by customs such as teachers using offensive language, forced cutting of students' hair, inspection of personal possessions, and underwear inspection. Students' opinions are not reflected in the appearances and dress regulation, and it is enforced through the arbitrary and ambiguous standard of being "unbecoming of a student". In various studies, students have pointed to hair regulations as the most representative of human rights infringement against them. There was a massive petition drive and the announcement of Declaration of School Democratization Against Hair Policy in the year 2002.

<Recommendation>

- Guarantee each student the right to determine his or her own lifestyle to the extent that it does not pose a concrete and practical obstacle to another student's safety or studying environment. The appearance and dress policy centered around control and punishment must be changed into a minimum restriction equipped with 'rationality' in substance and procedure.
- Take all appropriate measures to guarantee that the school rules abide by children's human dignity and the rights guaranteed under the CRC.

### **13. Right of access to information**

**13-1.** Generally, the environment that enables children to read books is not well established. In-class and library book collections and the size of collections in the library are insufficient due to the lack of a government budget, and education on book-reading is not provided by the professional librarian. The rate of publication of study reference books and study aids is very high in the environment that emphasizes education centered on entrance examinations. According to the Educational Statistics Yearbook by the Ministry of Education, the government's annual library operating budget per student was only 1,203 Won (about 1\$) in 1998, 2,145 Won (about 1.7\$) in 1999, 2,316 Won (about 1.9\$) in 2000, 3,363 Won (about 2.8\$) in 2001. The libraries of 7,918 schools can only buy about 280 books per year with the budget of 2,610,000 Won (about 2,175\$) per school and 3,363 Won (about 2.8\$) per student. And if buying visual aids like videos is considered, the budget is in a serious situation. According to Article 34 of the Library and Reading Promotion Act, each elementary, junior high, and high school should be equipped with a library.

According to the Educational Statistics Yearbook (Ministry of Education), the percentage of elementary, junior high, and high schools equipped with a library was 84.2 % in 1998, 78.8 % in 1999, 70.4 % in 2000, and 78.6 % in 2001, with 5.1 books per student. According to the same source, there were 139 professional librarians in 2001 or 1.38% of school libraries in all of Korea. The fact that there is no professional librarian creates a poorly equipped library.

Libraries are considered as a place to study for exams rather than a place to find and read books in Korea. School libraries established and operated in such a manner are not able to draw the children's attention.

<Recommendation>

Establish a library policy and a reasonable operating budget based on the idea that the establishment of school libraries and the operating content is tremendously important to children's development. Make reading lessons provided by a professional librarian available.

**13-2.** According to the revision of the "Information and Communication Network Promotion and Protection Act", the Korean government will be enforcing the Internet Content Rating System On Materials Harmful For Youth in Korea as of July 2001.

The system is enforced by:

Firstly, the Information Communication Ethics Committee under the Ministry of Information and Communication deliberates which Internet content is material harmful to youth according to the Juvenile Protection Act.

Secondly, if the content is rated as material harmful to youths, it must be labeled by PICS (Platform for Internet Content Selection) as "materials harmful to youths" according to the government's guidelines.

Thirdly, software that can recognize and filter such content has to be set up in access points such as internet cafes, school and libraries. Internet cafes must have filtering software set up as of September 2001 or face criminal punishment.

The problem with the system are as follows:

Firstly, the Information Communication Ethics Committee, the deliberating body, is a state censorship agency. All the members of the committee are appointed by a minister. This institution does not make legal judgments but makes arbitrary judgments according to the standard of harm or danger. Then, the reviewed website is shut down or posted contents are deleted based on its judgment. However the Korean government still does not acknowledge that the Information Communication Ethics Committee is a state censorship agency.

Before the internet content rating system was enforced, the Information Communication Ethics Committee closed down the so-called *school withdrawal* website ([Http://www.inoschool.net](http://www.inoschool.net)) operated by students because the committee believed that the website was a negative influence on other students. Also, nude art pictures posted in the cyber art gallery run by an award-winning

junior high school art teacher were rated as harmful materials.

It is very dangerous for a technical method of review to be enforced on a nation-wide scale. This technique will infringe the access right of citizens under the pretext of protecting students. It will never be able to effectively distinguish students from adults or effectively protect students. This will have a chilling effect on the freedom of expression of the citizens. Above all, there was no social consensus or assessment of the technology before the enactment of the system.

The Internet Content Rating System Against Materials Harmful To Youth in Korea limits the freedom of expression by using not a “legal” standard but an arbitrary “harmfulness” standard. The government has no right to distinguish arbitrarily between materials that children can see and those they cannot. Communication is especially restricted among minority children such as homosexual students or students not in school and needing special care.

<Recommendation>

- Divert resources into facilitating and encouraging freedom of information and away from intervening with “judgment” of “good” or “bad”.

## **14. Torture and freedom from other inhumane treatment**

**14.1.** Children are regularly subjected to corporal punishment at school and in the home. 107 schools out of 195 surveyed have corporal punishment regulations, mainly for “inappropriate appearances and dress”, “in case of rude language or conduct”, and “in other cases of need for corporal punishment”, which are all ambiguous and arbitrary standards.

According to the Year 2000 Report On Parliamentary Inspection, 51.2% of 10,009 surveyed schools allowed corporal punishment. According to the same report, seven out of ten teachers in Korea have given out corporal punishment. 69 junior high and high school students out of 503 students surveyed (13.7 %) had received corporal punishment higher than the number of students beaten up by upper classmen, 41 students (8.8 %).

Corporal punishment in Korea is a serious issue because it exists not only as a custom but also as a government policy. The Elementary and Secondary Education Act (article 18) and its Enforcement Decree (section 7 in article 31) allows corporal punishment in cases of educational necessity. The Ministry of Education also announced a policy permitting corporal punishment on March 18, 2002 reinforcing even further the government’s support for corporal punishment. In it’s First Recommendation, the UN Committee on the Rights of the Child expressed concern about corporal punishment against children and it’s acceptance by parents and teachers as a pedagogic method.

<Recommendation>

- Banning corporal punishment in homes can develop only through banning corporal punishment in public schools. Banning corporal punishment has to be developed not from the opinions of adults who accept it as natural but from the perspective of protecting human dignity of children.

**14.2.** According to the Korean Bar Association, investigation procedures on children and other criminal justice procedures on all people are very backward in Korea. The government's report on 'ban on torture or coerced testimony' is only textbook-level. The actual criminal justice system relies heavily on suspect's confessions. Putting aside torture, beating, threats, imprisonment of unjustified duration, long hours of interrogation and barring attorneys from interrogations represent the current status of due process in Korea.

## v. Family Environment and Alternative Care

Although the Korean divorce rate is increasingly recently, measures for child-care and protection regarding parental authority, custody, visitation and contact rights and, child-rearing costs are not well established in divorce procedures. These procedures focus on parental rights rather than protecting children's rights, ensuring the best interests of the children, which should be the primary consideration. The Second Periodic Report revealed its intention of revising the law but this has not happened.

Visiting rights are still decided only by the parent's requests, based on the assumption that visiting and contact rights belong to parents only but for the welfare and benefit of the child, it is also necessary for other relatives and legal guardians, for example, grand-parents or siblings, to have visitation rights. It is sometimes more important for separated siblings to meet each other if they were deprived of their family, rather than meeting with their parents. There are no measures taken on these alternative regulations and obligations, which must be ensured for the rights of children.

Current divorce proceedings do not require agreement between the parents' or court decisions on child-rearing responsibilities. There are no detailed provisions or obligations in the divorce laws regulating all the situations of child rearing and expenses. The welfare of children is threatened when the parents go through a divorce with no legal agreements or court rulings on child rearing costs and responsibilities between the two divorcing parents.

The NGOs argued that the required age of 15 for children to form their



own views and express them freely during court proceedings is too high and should be lowered. The government did not accept this advice. Another problem concerns the methods of obtaining children's views. It is impossible for the court to determine the child's real choices or expression in only a few minutes of court proceedings. Children's views must be heard and collectively determined on the basis of various regular meetings and continuous consultations with the child's counselors or family court officials.

<RECOMMENDATIONS>

- Measures to be taken to properly and efficiently consider the children's own views and reflect their decisions or choices in child rearing matters including the child's place of residence.
- Divorce should only be granted when both parents reach agreement on ALL child-rearing measures.

**16. Collection of child support payments**

**16.1.** According to a recent survey conducted by the Korean Family Law Institute entitled "Divorced Parents and Child Support Payments", 61.3% of divorced women do not receive proper child-support payments from the fathers while 83.3% of currently separated women do not receive proper child-support payments. Although child support payments are legally required by court rulings, there are no legal measures to force fathers who are avoiding payments to pay.

<RECOMMENDATIONS>

- Forceful measures are necessary to tackle the problems of unpaid child support. Effective payment collection measures are required for irresponsible parents after divorce. Measures must be taken to allow State Parties to become legal representatives of children in order to send bills for child support payments to the delinquent parents.
- State Parties could deliver advance payments to the child's caregiver and collect payments from the delinquent parent, when the child rearing parent does not receive regular child support payments.

**16.2.** Single parenthood is increasing due to death, divorce, separation and runaway. In 2000, 6.1% out of 14 million were single parent families, and 70% of those single parents are mothers. There are no statistics compiled by the government on single parents who have children under 18 years old. One-third of married couples end up in divorce and thus divorce has become a common practice in the society. However, prevailing social values do not recognize the diversity of family structures, so child rearing and educational

support becomes the mother's obligation and burden. Therefore, single parent families suffer from discrimination, isolation and economic difficulties.

#### <RECOMMENDATIONS>

- The Government must take measures to provide economic support and independence to single parents after carefully examining the situation through surveys.
- The Government must provide proper economic support to day care facilities and after school care systems for children with single parents.
- The Government to be aware of, and change current discrimination through introducing various family structures, including single parents and adopted families in elementary school textbooks. Various educational programmes are necessary for teachers and students to acknowledge the emerging variety of family types and structures and to avoid discrimination.

### **17. Children deprived of their family environment**

**17.1.** An increasing number of children are entitled to special protection and assistance provided by the State, including abandoned, missing, and runaway children. According to the Ministry of Health and Welfare, as of the end of 2000, 7700 children were protected by the State, among which 4453 were sent to orphanages, 1406 were cared for by foster caregivers, 1337 were adopted and 564 children were protected by other means. Most children are still being sent to orphanages and large facilities. The missing children that have been found are sent to large facilities by court decision. Although they are entitled to State protection they are sent to illegal and unapproved poor facilities, beyond State supervision.

**17.2.** Several hundred to a thousand children previously missing children are taken to police stations and then to child support facilities in the region. Some of those children are sent to illegal and unapproved orphanages that do not use the Internet system to show pictures of the children with their unique features or identifiable points as soon as the children are admitted to their facilities. The government does not have information on the illegal orphanages so parents wander around the whole nation searching for their missing children. Some childcare facilities count missing children as abandoned children in order to receive financial support from the Government, and sometimes do not allow parents who have lost their children to enter the orphanages and look at the children housed there.

**17.3.** The Government has supported the residential care/group home system since 1985 as alternative care to orphanages. However, only 32 group homes are currently financially supported by the State. Group homes, administered by individuals or religious groups, are unapproved and

unregistered welfare facilities that do not receive State support and supervision. Long working hours of social workers and use of partially trained employees cause problems, and the group homes are not considered proper alternative care as they are facilities without family environments. The alternative care should be foster placement and adoption as stressed by the CRC. The CRC recognizes that the child, for full and harmonious development of his/her personality, should grow up in a family environment.

The foster care system is currently has 300 family members who look after the best interests of children in order to reunite them with their separated parents after temporary care. The Korean Foster Care Association provides regular foster care training and persons who have received certificates of completion of training are entitled to be foster parents. There is no direct State administration but as of 2002 the State only provides 65,000 Won (about 54\$) per foster care child per month. There is the problem of follow up of children returned to their biological parents after foster care, as foster homes and group homes only provide temporary care.

**17.4.** According to the Ministry of Health and Welfare, the number of children who are heads of families is increasing annually; the number of them reached 13,390 in 2002. Among these, 2,600 children are living with their grandparents or relatives. Most of all, it can be considered child abuse emotionally and mentally for those children to be forced to become heads of family and financially support the family. The system of children heads of family must be abolished, and legally changed to the foster care system immediately.

The State declared that those child heads of family who are under 15 years old will be transferred to the foster care system or be sent to orphanages in its booklet of '2002 Child Welfare Plans'. Recognizing that the child, for the full and harmonious development of his/her personality, should grow up in a family environment in an atmosphere of happiness, love and understanding, Article 20 of the Convention states that institutional care is particularly inappropriate for children, especially for younger children, whose developmental needs require a one-to-one relationship with a permanent adult caregiver. The plight of large numbers of children in inappropriate institutional care has led the Committee on the Rights of Children to refer to institutionalization as a "last resort" with necessary measures. The Committee has frequently expressed concern that the assistance provided may not be of consistent quality for child development and that insufficient attention is given to preparing children for their integration into the community.

#### <RECOMMENDATIONS>

- Children deprived of their family and in need of protection to be entitled to special protection and assistance provided for their best interests by the State in a family environment.

- The State to monitor and supervise illegal and unregistered childcare facilities.
- Childcare that is oriented towards large facilities to be altered and avoided in favor of family environments in the best interests of children.
- The Government should support and supervise the foster care and group home systems.
- The Government should secure social workers in the fields for responsible welfare services and increase their salaries.

## **18. Adoption**

The State has not acted yet on the 1996 Recommendations of the Committee: withdrawal of reservations to Paragraph (a) Article 20; revision of related laws to harmonize with the CRC; joining the Hague Convention for child protection and cooperation.

According to a report by the Ministry of Health and Welfare in 2001, 4,046 children had been adopted as of the year 2000. Among them, 1,686 children (including 18 disabled children) have been adopted domestically and 2,360 children (including 432 disabled children) were adopted abroad. There are no efforts to keep adoption abroad as a 'last resort'.

Child adoption agencies receive from several million won to several hundred million won (from several thousand dollar to several ten thousand dollar) from adoptive parents. According to the survey conducted by the Korean Health and Social Welfare Institute in 2001, the agencies required an average of 9.6 million won (about 8,000\$) for an overseas adoption, and 2.2 million won (about 1,833\$) for a domestic adoption. The related laws and regulations stipulate that the adoption agency fees are generally described as expenses required to process the adoption, personnel expenses, child rearing costs, agency administration costs and publicity fees. Adoptive parents pay the costs, which should be covered by the State.

The approval of adoptions is a matter for the State and agencies but there are no proper procedures for screening adoptive parents or education and after-service supervision by the State. All of the procedures are handled by the adoption agencies. When the adoptive parents provide the documents to show that the child is listed in their family register to the adoption agency, the adoption agency submits the papers to the government. The lack of supervision by the State of the adoption agencies and the fact that the children are usually infants when adopted, mostly secretly, poses the problem of adoptive children maintaining personal relations and direct contact with biological parents. Also, children under the age of 15 can be adopted by decision of the legal without the child's agreement; this age limit is too high and should be lowered. The State reports that 98% of adopted children are from unmarried mothers. It is impossible for unmarried mothers to raise their

children alone due to discrimination against women and social criticism of and accusations against unmarried mothers. Because of almost non-existent child support by the State and lack of legal action against delinquent fathers, most unmarried mothers choose abortion or adoption of their children. It is also known that most unmarried mothers are under age. Other reasons include lack of sex education and publicity of contraceptive measures for young people by the State.

#### <RECOMMENDATIONS>

- Adoption to be approved by the State through legal adoption agencies' examination of and consultation with adoptive parents as well as prior education about adoptions.
- The Government to respect child's right to make his/her views known, and to lower the age limit of 15.
- The right of children to know their biological parents to be detailed in the Special Adoption Law. The State to establish and operate a registration system of biological parents to enable adopted children to later locate their biological parents.
- The adoptive parents shall pay no fees to the adoption agencies, which shall be covered by the State.
- Overall, the old adoption laws and procedures to be revised according to current trends and publicity efforts to encourage adoption shall be made by the State.
- The Government to sign the Hague Convention for Child Protection Cooperation regarding overseas adoption cases. Opportunities for domestic adoption and foster parents to be provided first, and only if these efforts fail should adoption overseas be considered.
- Measures by the State to be provided to prevent child- birth by under age unmarried mothers.

#### **19. Child abuse, physical and psychological abuse, and reintegration into society.**

The Government revised and implemented the Child Protection Act in July 2000 to provide legal protection to children abused but procedural responsibilities have been turned over to voluntary civic organizations. The State has approved and been funding a number of civic NGO's to operate Child Abuse Prevention Centres across the nation since October 2001. Each center has been provided with a personnel budget for 5 social workers (13 Million won/person/year, about 10,800 \$) and an annual administration budget of 20 Million Won (about 16,600\$). This budget is not sufficient to operate Child Abuse Prevention Centers, take proper measures to prevent child abuse, provide for physical and psychological recovery and for social reintegration of children.

There is only one Child Abuse Prevention Centre in each province, located too far away to deal with cases of abused children and their continued support. The shortage of social workers (only 7-8 in each center) causes another problem of efficiently dealing with child abuse cases. Although the Child Welfare Law provides for local social worker and expert support in cases of child abuse, social workers are burdened with heavy workloads. Reports of abused children are also very low due to lack of publicity and community education efforts. Only 2,105 cases of child abuse have been reported to the centers, representing 0.5% of potential abuse cases. Only 26.3% of persons in positions required to compulsory report actually reported.

#### <RECOMMENTATIONS>

- Overall child abuse prevention measures to be introduced immediately by the Government to provide legal measures for child abuse and to uncover the potential for child abuse at an earlier stage through careful supervision. The State to provide overall measures for the recovery of physical and mentally abused children.

### **20. Supervision of childcare and protection facilities**

Orphanages and large childcare facilities are loopholes in Korea. The State does not establish or run the facilities, this is done by social welfare organizations, to which the State provides financial support. The problem is that the State does not supervise the organizations enough. Social welfare organizations established for public interests are becoming privatized and profit-oriented. These facilities have a notoriously bad public image because of misappropriation of government funds, charging improper entrance fees, diversion of donations by the public, the family-inherited operation system, profit-making business activities and operations, appropriation of profits, and association with corruption and briber of regional supervisory bodies.

The lack of state supervision of child welfare facilities leads the neglect of child abuse within the large childcare facilities. The State's supervision or examinations rarely detect child abuse cases, which are revealed to the public by the press or NGO efforts. Then even though the child abuse cases are reported to the State, proper measures are rarely taken by the State. An example is the case of the Evada Disabled Facility, where problems were revealed in November 1996 but were not resolved until May 2002. Disabled students in the Facility revealed systematic abuse to the press, and staged protests against physical abuse, rape, forced labor, residents by the facility's owner and cases of missing and dead residents. Nevertheless, the State continued to ignore the problem for 6 years and failed to inspect the facility or take measures to solve the problem.

#### <RECOMMENDATIONS>

- The Government to carry out careful and regular examinations of child welfare facilities including non-registered facilities.
- State Parties shall monitor and supervise the expenditure by State-supported programmes and the operation of programmes in order to determine whether they are being properly run.

## VI. Basic health and welfare issues

### 21. Disabled children

The Korean government has never precisely documented the number of disabled children under 18 years old, basing its data on the number disabled children who are in school. These figures show that there are about 50,000 disabled children or, 0.39% of children. The government-sponsored National Special Education Institute estimates that there are about 110,000 disabled children, needing special education or, 2.71% of children between the ages of 6 and 11. The number is greatly increased if the number of nursery school children, children who quit school and children over 11 years old are added.

About 1,000 children are abandoned annually because they are disabled, but the domestic adoption rate is very low, and they mostly get adopted abroad or sent to domestic asylums. From 1997 to 2001, there were 64 in-country adoption cases of disabled children, while 3917 were adopted abroad. The government reported that there are about 6235 disabled children in the asylums, but due to the lack of thorough research on the 600 non-authorized asylums the actual number may be much larger.

Laws relating to the disabled limit the government's responsibility to "may do" type optional, rather than mandatory "must do" provisions. In 2002, the Ministry of Health and Welfare plans to pay 50,000 won (about 41\$) monthly in child-support to families if their child qualifies under the National Living Standards Security Act (NMLSSA) as having 1<sup>st</sup> degree disability. NGOs claim that the support is almost useless, because the amount of the money is too small and the chance to get the money is very limited. Most of the disabled are excluded from medical benefits, and they often choose to quit medical treatment because it is very expensive.

In 2002, the Ministry of Health and Welfare plans to spend 2,327 million won (about 1.9 million \$) for disability welfare, which is only 2.9% of the ministry budget, 0.2% of the government's and 0.04% of GDP. In 2000, 63.8% of the disability welfare budget was spent on the maintenance of the asylums holding

about 50,000 disabled, with the disabled living at home receiving very little. The family expenditure of the disabled spend average 157,900 won per month more than that of the able-bodied, but government support is very insufficient.

In 1996, a survey by the Research Institute of the Differently Abled Rights in Korea of 180 disabled women on domestic violence showed 70% of them had experienced it. There were even cases in which disabled females were beaten up, raped or sexually harassed by local residents. Because of family prejudice towards disabled women and the common perception they do not need to be educated, 79% of them had never been to school or only completed elementary school. This discrimination in education meant that more than 70% of the disabled women did not have jobs with resulting poverty among them.

Outside their homes, the disabled face life-threatening situations all the time. There have been many recent reports of accidents resulting in injury or death from the use of chair-lifts on stairs. Using public transport is very inconvenient as it is impossible to get onto the buses in a wheelchair. On top of this, the sills and surfaces of sidewalks, as well as crosswalks, overpasses and underpasses are not suitable for the disabled adding to the inconvenience. A law has been passed to assist the disabled and the old who have problems with mobility, but according to an April 2000 report from the Ministry of Health and Welfare to the National Assembly, only 74% of public buildings have installed any facilities. According to a report from Seoul Office of Education, 52.7% of nursery schools and elementary schools, 58.8% of middle schools and 50.5% of high schools are equipped with facilities for the disabled. Most of the time, schools that are classified as having convenience facilities, only have ramps and rest rooms for the disabled, and sometimes even these are not fully working.

According to Korean Employment Promotion Agency for the Disabled, the Vocational Training Institute for the disabled is mostly offering training in declining trades, and training is not leading to employment as a result. In 1999, the turnover rate of the disabled workers who were trained in separate vocational training centers was 79.2%. The Employment Promotion Act for the Disabled requires companies with more than 300 workers to employ disabled people as over 2% of the workforce, but the results of December 2000 show that the actual rate was only 0.95%. The employment of the disabled is very unstable. The turnover rate for the 25,560 disabled people that the Korean Employment Promotion Agency for the Disabled helped to find jobs in the last 5 years was 50.6% in the first year of their employment and 40% of them quit their jobs after 6 months. Job opportunities for disabled youth are very limited. 42.3% of the disabled youth between 20-29 years old are unemployed. Even though they do get employed, most of the jobs they get are farming (25.6%), unskilled labor (21.0%) and unskilled service related jobs (21.0%). The average monthly payment the employed disabled receive is 43.1 % of the able bodied.

<recommendation>



- The government must raise a disabled child care and protection allowance to realistic levels according to the law.

## **22. Health care and medical services**

Public health care is poor and getting worse because of the social restructuring process following the 1997 financial crisis. Public health care and medical facilities in Korea, accounted for only 15% of sickbeds in 2000 and are less important than private facilities. This rate is the lowest among the OECD member countries. Moreover, the ratio of government spending on health issues to GDP was only 0.2% in 2001.

School students get an annual physical check-up that includes measurements of height, weight, vision, hearing ability and decay of teeth, but this is not followed by actual medical support or treatment. Additionally, while physical examinations should be included in the check-up, there aren't enough doctors or the budget to conduct them. The Ministry of Education and Human Resources has declared that any physical examinations done without a doctor present would be prohibited as from 2002, but the budget problem remains.

A lack of concern from guardians and of a health care system threatens the health of children living in poor areas. The Kuro Health & Welfare Center, which provides health and medical care in the labourer-populated area of Kuro in Seoul carried out check-ups on 195 children from 14 facilities such as children's homes, social welfare centers etc. 142 children needed hepatitis B vaccinations, 112 dental treatment, 77 internal and pediatrics treatment, 44 optical treatment and 106 general treatment care. Most of the children's symptoms could have been easily prevented and cured with a little concern from their guardians.

There is little government support for rare and incurable diseases with high medical cost. 1991 figures from the National Cancer Center show 1,077 cases, of infant cancer including 381 cases of leukemia. However, the accumulated cases are still not counted. The government provides 500,000 won a month (about 400\$ a month) for the support of infant leukemia patients (6 million won annually, 5,000\$) nowhere near the annual cost of treatment to the families which is usually 50 Million Won (about 41,000\$). There isn't enough government research on the numbers of children who have to stop treatment because of the high costs. Finally, the medical aid allowance is hard to get if the parents are in stable employment and that is threatening the standard of living.

## **23. Social Security budget**

In 2000, the entire social security budget was equivalent to 15% of the government's annual budget. This is about half the amount in other mid-developed countries and one third or a fourth of the budget of highly-developed countries. Considering the size of it's economy, the allocation to social security

in Korea is very small both in absolute and relative terms.

## **24. Standard of living**

At the time of the 1997 financial crisis, the Korean government could not provide precise figures on the number of meal-skipping children. According to the report of 2001 parliamentary inspection, the Ministry of Education and Human Resources has been providing lunches for about 164,000 meal-skipping children for the least few years. This figure does not include pre-school children, the first and second grade students in elementary school who do not need lunch in school, and some high school students who refuse to receive meal support because of the feeling of stigmatization. Once all these students are included, the total number of meal-skipping children is greatly increased. However according to the Ministry of Health and Welfare, the number of children receiving meal support was only 14,218, a figure allegedly including pre-school children. The proportion of children whose families are beneficiaries under the NMLSSA out of the entire aided children is only 66.4%. It shows that many low-income families were excluded from meal support even under the NMLSSA enacted to guarantee the minimum standard of living.

NGOs do not trust the government figures. One of the NGOs which provides meals for children, the Corporation Leftovers Love Sharing Community pointed out in the 'Recommendation for Children Skip Meals' that the government had not properly educated the examiners, and because survey time was very short many examiners simply re-submitted their previous year's report. Only 644 children out of the 1,238 children (52%) who received meal support from this organization were receiving benefit from the government, and only 22% were from families beneficiary under the NMLSSA. It show that even those families that cannot feed their children enough are not supported by the government.

# ? . Education, Leisure, and Cultural Activities

## **25. Education**

### **25.1. Juvenile school drop out**

Every year, about 7 million (4.5% of entire students) middle and high school students drop out of school because of maladjustment to the results oriented education, fear of school violence, being excluded by peers, and so forth. According to the study conducted by Seoul Counsel Center for Youth, in 2001 half of the all the students attending schools in the city of Seoul have

considered dropping out of school. The study shows the seriousness of teenagers' desire to drop out. However, it's difficult to find alternative institutes and programmes for dropped out children's physical and psychological recover.

### **25.2. Elementary school**

In 1999, the government dealt with the problem of teacher shortage caused by greatly lowering retirement age and mass dismissal of teachers the country, by using middle and high school teachers as elementary school teachers. This action was criticized for ignoring the professionalism of elementary school teachers. In 2001, the Government persisted with this unjustifiable policy, even though there was a lack of 8,000 teachers. There should be a fundamental solution about the supply of teachers since the side effect of bringing in middle school high school teachers as elementary school teachers on one-year-long 70 hour contracts affects the children.

### **25.3. Middle/high School**

In 1999, in order to normalize public education and reduce competition in the entrance exam, the Government abolished supplementary classes. On March 19, 2002, however, the Government revived these classes under the new name "additional program for students" and conducted mock college admission exams, intensifying results-oriented education. The status of supplementary lessons is an indication of the over-competitive nature of education. According to a survey done by the department of education in 2002, around 55% of elementary, middle, and high school students have taken extra lessons, and the money spent on this is over 7 trillion won (about 5.8 billion \$)

### **25.4. Nursery School Education**

In Korea, financial support for nursery school is only 1% of government educational spending, the lowest out of all OECD countries. The equivalent is 16.8% in Sweden, 14.6% in Denmark, 11.5% in France, 3.5% in the United States, and 7% in an average OECD country. Only 26% of Korean infants enter nursery school and 77.4% of these are enrolled in private schools. It is urgent to bring nursery school education into the public domain by expanding state- or public-owned nursery school facilities and government expenditure on nursery school education.

<Table 1> Percentage of children in nursery school by age (1999)

Age	3 Years Old	4 Years Old	5 Years Old
Average in OECD	40.4%	67.9%	82.0%
Korea	8.9%	24.3%	43.2%

Nursery school education is under the overlapping jurisdictions of the Ministry of Education & Human Resources and the Ministry of Health and Welfare and is not systematically supervised. Of the twenty thousand nursery schools, only 6.7% are public and subject to a financial audit while private

nursery schools are not supervised at all.

The poor working environment for nursery school teachers is a further problem. According to the 'Report On the Working Condition Of Daycare Teachers' a survey by the 'Korea Daycare Teachers Association' from July to September 2001, the teachers' average work hours are 10.6 hours per day and 55.7 hours per week, well in excess of the 44 hours set forth by 'the Labor Standards Act'. Average wages are low. Teachers in private facilities earn 5–600,000 won (about 416-500\$ per month) while being responsible for more than 30 children.

### **25.5. Vocational School**

The emphasis on education raises the essential problem of vocational high schools. Due to hiring practices and wage systems that attach importance to one's education and the prestige of one's school and to a societal tendency to denigrate technical skills, Vocational High Schools are perceived as places for people who have failed in the competition for better schooling. Students attending these schools have experienced estrangement and discrimination; the number of dropouts is double the number in academic high schools. Any effort to solve the problems arising from a results-oriented education is directed only at academic high schools. There is very little interest within society about what vocational students are learning and in what environment they are studying. There is an urgent need of policy considerations for specialized course for vocational education.

### **25.6. Private Schools**

Secondary education in Korea started off as public. During the 60's to 70's, when there was a great demand for education, the government shifted the burden of public education to the private sector, and currently around 40% of secondary schools are private establishments. Most of these schools are indigent and low in financial self-sufficiency due to the low level of input from the foundations, and often suffer from nepotistic administration and embezzlement.

Under the façade of private school autonomy, these schools are not properly supervised and any problem that might occur there directly hits the students. Therefore, it is urgent to declare the public character of private schools, strengthen the qualifications of founders or managers, establish transparency in school finance, and strengthen supervision by the education-related government agencies.

### **25.7. Education for the disabled**

The government overlooks the fact that it plays an important role in enabling disabled children to get an early education and prevent a secondary disability. The National Education for Disabled Institute estimates the disabled children, between the age of 3 to 5, who need early education, at about 49,000. According to a survey on the conditions of education for the disabled done by the Ministry of Education in April 2000, only 1,456 children are getting

complimentary education in 129 schools for disabled children, and most are not able to get education or some of them are in one of 203 private facilities for early education. Since private facilities cost at least 5-700,000 won per month (about 416-583\$ per month) for special swimming, physical therapy, sensory integration treatment, and Vojta therapy etc., the fees become an economic burden on the parents of the disabled children, sometimes causing the breakdown of the family.

The teachers assigned in the schools or classes for disabled children receive advantages in promotion. Teachers not properly trained for disabled children or equivalently qualified sometimes teach in schools for disabled children. The education by unqualified teachers convert disabled students into the tools for their promotion and would lower the quality of teaching. According to the Special Education Promotion Law, the special education facilities (including special schools and classes) must have one therapy education teacher for every six classes. However, the students in the special education classes in regular schools do not benefit at all from therapeutic education. This is a discrimination against the students and a government-sponsored violation of the existing laws.

Not every region has a high school equipped with a special education class, forcing some to be assigned to schools outside their school districts. In Seoul, there are 494 special education classes in elementary schools but only 28 in high schools. Most high schools, being private schools, are reluctant to offer special education, and so are public high schools for the reason of 'college admission.' Such a state of affairs restricts the disabled children's right to receive education. The number of high schools equipped with special education classes is unacceptably small. The number of students for each of the classes is more than 15. The facilities, financial support, and personnel for vocational education and other types of education for social adjustment are in shortage.

### **25.8. Educational Expenditure**

Korea's educational expenditure is small compared to other nations. To improve this situation, the government promised to increase the educational expenditure to 6% of GNP, but it fell from 4.2% in 1998 to 3.7% in 2000. The total government budget in 2002 shows an increase by 7% from 2001 while the educational budget shows only 1.8%.

Such a low budget weakens school education and increases parents' dependency on private education. The 'comparison of economic index' announced in March 2002 show that Koreans spend 4.9% of their household income on education. This is twice as much as Americans (2.4%) and, 3.5-8.2 times higher than England(1.4%), Germany(0.7%), and France(0.6%).

### **26. Goals of Education**

The goals of education stated in Basic Educational Law are losing their meaning while school education is being swayed to and fro by changes in college admission policies. Schools continue to be considered as preparatory institutions for college admission. As the number of graduates who entered prestigious schools determines the name value of the school, schools cannot escape from results-oriented education or adhere to the true purpose of education. Schools not operated around college admissions are distrusted, and the students from those schools are then thrown to out-of-school lessons, causing a vicious cycle. Being hired for jobs, salary, and social position are greatly influenced by the amount of one's schooling, more than by one's abilities and capacities. Under such a situation, not only schools, but also the employment policies of businesses and the society emphasizing school prestige must change together.

<Recommendation>

- Take actions to improve the hiring practices of businesses and change the societal emphasis on school prestige.
- Promote school autonomy based on the participation of parents, students, and teachers.
- Increase educational expenditure, a necessity for any educational reform.

## **27. Leisure, recreation and cultural activity**

Korea requires 220 days of class per year over and above the 210-220 days in Japan, 190 days in England, and 180 days in United States and France. Also due to the 6 days classes, it is difficult to enjoy a break over the weekends. Moreover, unlike other OECD countries, who have in average 935 hours of classes per year, Korea has 1,254 hours of classes, being the most hours in the world. According to the 'research on realities of school lessons' by Korean Teachers Union conducted in March 2002, 54% of the school require students to come to school for class before 7:30 am and 80% of the schools require the students to stay in until 9:00 pm after the regular classes for supplementary classes. On top of this, if they go to private teaching institutions to study, they arrive home past midnight. In conclusion, it is not exaggeration to say that there is no spare time to enjoy leisure, recreation and cultural activities.

# **VIII. Special Protection Measures**

## **28. Children in Legal Disputes**

The practice of juvenile justice is not consistent with the purposes of the Juvenile Reformatory Act and other related laws. Due to the stigmatizing effects of juvenile justice proceedings, it undermines the sound growth of the youth. Many laws relating to juveniles cannot cope with social trends and there is a lack of reality in the requirements of criminal policies.

### **28.1. Problems of the principle of prosecutor's priority**

The principle of prosecutor's priority means that the prosecutor chooses whether to put a child through a protection procedure or a criminal procedure. In Korea, prosecutors tend to emphasize the severity of crimes without investigating fully the personality or the environment of the child and choose punishment over reformation. Due to this tendency, the human rights of the child can be easily violated during criminal investigation and procedure. Indeed, since 1986, the rate of indictment and arrest has been higher among juveniles than among adults.

### **28.2. Problem with the State-appointed assistants**

Although a judge of the juvenile court or the investigator performs the role of guardian in juvenile protection proceedings, the involvement of an assistant is necessary to guarantee the interest of the juvenile fully. Despite this, in reality, only scarcely, an assistant is appointed to a juvenile. It is problematic that criminal proceedings provide for state-appointed attorneys while protection proceedings do not appoint assistants.

### **28.3. Potential Juvenile Crime Victims**

Potential juvenile crime victims who are 12-20 years old in crime-ridden areas easily can become the targets of juvenile arrests, which leads to severe discriminatory problems and preventing the social reintegration of a child victim.

### **28.4. Problems of the Juvenile Classification Judgement Home and Its Delegated Investigations**

A juvenile in a protection proceeding is entrusted with the Juvenile Classification Judgement Home for at least one month for an investigation into the child's character and environment. These investigations are conducted before a decision of protection and therefore may infringe on the child's liberty-rights and cause the side-effects of stigmatization.

## **29. Children Under Exploitation**

### **29. 1. Economic Exploitation**

The protection of children from labour is clearly defined in the provision 217 to 225 of the government report. However, we cannot find out a single word in the report about real situations concerning economic exploitation of children such as overtime work, low wage, unpaid wage and ill treatments.

The number of children workers is increasing as owners of restaurants, fast food shops, food delivery shops, patrol stations are making use of the low wage of children to make profits. But the children's rights which should be observed by law are ignored. A report on 'Juvenile working situations and how to support them' issued by Seoul YMCA, in October, 2000 clearly demonstrates that 22.6 per cent of them were not paid at all, 20.5 per cent were not paid over time work, 10.5 per cent experienced physical ill treatment or sexual harassment, and 12.2 per cent said they were discriminated against. According to the report, the juvenile's rights concerning work are extremely abused.

Governmental supervision and inspection is not at a level to protect children from economic exploitation. This governmental supervision and inspection on juvenile work is done annually in July, however, it focuses only on large working places, and totally excludes small places with less than 5 employees. Even worse, governmental measures to control economic exploitation are not widely known to children, who then do not report their cases to authorities. For instance, not a single case of economic exploitation of children was brought to the Relief Committee of Unemployed, Seoul in 2000, according to a report issued by the committee. Therefore, education of juvenile workers on measures aimed at curbing exploitation is urgently required.

#### <Recommendation>

- Establish solid and specified measures to eliminate economic exploitation of children and make the measures widely known to the public and children.
- Only appropriate work should be offered to children who need to work.

### **29.2. Sexual Harassment and Physical Ill Treatment**

There are no statistics on child prostitution or even prostitution in general, though, it is estimated that up to a third of those in the sex trade in Korea are juveniles. In fact, out of 17 people who answered a survey conducted by Saeumtuh, a human rights organization, 12 were aged 13 to 18. The organization conducted the survey on victims of sex trade in Kyungki-do area in February, 2002.

The issue of so-called 'Enjokosai' (A sexual relation between male adult and young school girls under 19. The adult pay the girls for the relation) has become a severe social problem, and whether the names of male adults associated in 'Enjokosai' are to be publicized or not created a social controversy. However, social rehabilitation programmes for juvenile victims of the sex trade are at all not fully established. 'The law of Juvenile Protection from Sex Trade' was enacted in July, 2000. According to the law, anybody who buys sex from a



juvenile can be sentenced to a maximum of three years in prison or fined 20 million won (about 16,000 \$).

The idea is that the trade in sex cannot be decreased without punishing those who buy another's body. However, the problem is that only 6 per cent of those accused of buying have been found guilty in judicial courts but they received slight punishment, according to the Annual Judicial Statistics in 2001. Another problem to be noted is that juveniles who have escaped the sex trade are likely to become involved again because the punishment is not strict enough on the one hand and the trade is run secretly on the other.

<Recommendation>

- Establish efficient rehabilitation programmes for the juvenile victims.
- Increase the number of professional personnel involve in juvenile affairs.