Child Rights References in the Universal Periodic Review

Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Republic of Korea - 2nd Session - 2008

7th May, 2.30pm to 5.30pm

National Report

The Republic of Korea (ROK) is party to the CRC, and International treaties duly concluded and promulgated under the Constitution and generally recognised rules of international law have equal effect as domestic law.

The Government ratified the Convention on the Rights of the Child in 1991 to participate in the international community's efforts to guarantee and protect the rights of the child. The Government has made realizing the rights of children as one of its key national policy goals in order to implement 'A World Fit For Children' as adopted at the United Nations General Assembly Special Session on Children in May 2002.

To meet international standards on the rights of the child, the Government has been implementing three key general measures related to children. First, the Comprehensive Plan for Child Protection and Development was introduced in 2002 to foster a healthy social environment for growing children. Second, the Government put in place the Comprehensive Plan for Child Safety in 2003 to ensure that children could live free from abuse, school violence, and accidents. Lastly, through the introduction of the Comprehensive Plan for Children and Youth in Poverty in 2004, the Government began to provide children in need with a basic standard of living and strengthen support designed to help them stand on their own feet. Since 2007, as means to active investment in human capital, the Children Development Account (CDA) was introduced to support accumulation of assets of low income children. Furthermore, the ‘Hope Start Project’ was launched to provide customised integrated services in health, welfare, education and culture to children residing in poor areas.

In compliance with a recommendation adopted by the United Nations Committee on the Rights of the Child (CRC) in 2003, the revised Civil Act in 2007 extended children's rights of direct contract with their parents, the rights of which used to be limited to parents. As for the prohibition of physical punishment of children, the Government is working to ban physical punishment of children entirely by modifying related laws while strengthening education on children's rights during training for school teachers.

The Government expanded the scope of people who are obliged to report child abuse by revising the Child Welfare Act in 2004. By establishing 44 specialised institutions dedicated to protecting children from violence throughout the nation, the Government provides rapid protection and other necessary services for child victims. In order to deal with school violence, the Act on the Prevention and Countermeasures against School Violence was enacted in 2004 while government-wide policies were implemented under the leadership of the Prime Minister in 2005 to eradicate school violence including cyber crimes and sexual violence.

Six years of elementary school and three years of middle school education are mandatory, and the former is provided free of charge. Necessary protection and assistance for underprivileged students such as the children of those receiving basic livelihood assistance, children from single parent families and the near poor, are being provided in such forms as school meal subsidies.

In May 2007, the Act on Special Education for Persons with Disabilities was enacted to guarantee the right of students with disabilities to receive proper education. This Act stipulates the establishment of a system for the early detection of disabilities, free education for children with disabilities under three years of age, successive mandatory education in kindergarten and high school for those in special education programs, the obligation of universities to provide support to students with disabilities, amongst others. Efforts are being exerted to expand the number of special education classes as well as teachers so that the law can be brought into full effect from May
To ensure a high quality of education for school dropouts, the Government is seeking to improve alternative schools and facilities including the development of curricula, financial assistance and joint workshops between teachers of standard schools and alternative schools, and is operating programs to ensure the right to lifelong education through the Lifelong Education Act.

In the case of children of international marriages, education rights are guaranteed by Article 31 of the Constitution as they become a Korean national at the time of birth pursuant to Article 2.1 of the Nationality Law. According to Article 6.2 of the Constitution and the Convention on the Rights of the Child, the children of foreign workers enjoy the same rights to education as Korean children. Other than such institutional guarantees, rights to education for children from multi-cultural families who are newly emerging as an alienated class are assured through various government programs such as the 'Comprehensive Plan on Education and Welfare', 'Multi-Cultural Family Children Education Support Plan' and 'Multi-Cultural Family Education Support Plan'.

As part of an effort to respond to the gradual decline in the birth rate, the Government will strive to ensure that society shares the child-care burden of women and families by improving the maternal care system, expanding public child-care centres and providing a wider range of child-care services.

**Compilation of UN Information**

CRC welcomed the legislation enacted to implement further the Convention. CRC welcomed the fact that the State is considering to establish a permanent body within the Government to monitor the implementation of the Convention and recommended to expedite its adoption.

In 2003, CRC expressed concern that the Constitution does not explicitly prohibit discrimination on the grounds of race, colour, language, political or other opinion, national or ethnic origin, disability, birth or other status. The Committee was further extremely concerned that societal discrimination against children with disabilities is widespread.

CRC noted with great concern that corporal punishment is officially permitted in schools and recommended that the State implement the recommendation of NHRCK that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions.

In 2001, CESCR expressed concern about the rising incidence of sexual exploitation of children, child labour, and hardships caused by the breakdown of the family. While welcoming the enactment in 2000 of the Juvenile Protection Act, CRC expressed concern that it is not being effectively implemented. CRC recommended inter alia the development of a National Plan of Action on Commercial Sexual Exploitation of Children.

CRC noted with concern that juveniles accused of violating the law and subject to protective disposition may be deprived of their liberty without undergoing criminal procedures and having access to legal assistance.

CERD welcomed the adoption in May 2006 of the Educational Support Plan for Children from Multi-cultural Families. CRC and CESCR noted with concern that despite the State’s relatively high level of economic development, only primary education is free. CESCR also expressed concern about the quality of education in public schools, which is low compared to private schools and about the predominance of private institutions in higher education, a fact detrimental to lower income groups. CRC and CESCR recommended that the State develop a time-bound strategy in this regard.

CRC in 2003 recommended, as highlighted also by UNHCR, that the Republic of Korea amend domestic laws to include specific provisions which ensure equal access to services for all foreign children, including those of undocumented migrant workers. According to the Special Rapporteur, the deportation of irregular migrants’ children is an issue of particular concern, following the new policy on children of undocumented migrants put in place on 21 August 2006.

**Summary of Stakeholders' Information**

The NHRCK reported that there is a growing recognition of the importance of the rights of children, yet corporal punishment against children is still a particularly serious issue.

MINBYUN-PSPDKWKAUPKPNJ and other NGOs also reported that corporal punishment is still prevalent in schools. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) pointed out that corporal punishment is lawful at home. Children have limited protection from violence under the Child Welfare Act, the Penal Code, the Special Act On Punishment of Domestic Violence, the Act on Prevention of Domestic Violence and Victim Protection, and the Constitution. Corporal punishment is lawful in schools under article 18(1) of the Act on Primary and Secondary Education and article 31(7) of the Enforcement Decree of the Act. GIEACPC further indicated that corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. There is no explicit prohibition of corporal punishment in alternative care settings. GIEACPC strongly recommended introducing legislation as a matter of urgency to prohibit corporal punishment of children in all settings.

MINBYUN-PSPDKWKAUPKPNJ and other NGOs indicated that compulsory primary school education, although free in principle, is placing a significant financial burden on families. As noted by NHRCK, middle school education is also compulsory, but parents still need to pay for some portion of the education. Furthermore, according to MINBYUN-PSPDKWKAUPKPNJ and other NGOs, the continued emphasis on college entrance examination-centred policy is increasing the financial burden on
families and is also causing a disparity in the quality of education amongst Koreans belonging to different income tax brackets. NCHRK recommended that measures be taken to guarantee the right to education for students from low-income families. MINBYUN-PSPD-KWAU-KPNJ and other NGOs indicated that the Government should adopt concrete measures to implement the recommendations of the United Nations Committee on Economic, Social and Cultural Rights which mention the alleviation of the financial education burden on the lower income tax bracket families by the normalisation of public educational systems, reforms for the excessive college entrance examination competition, and the promotion of equal accessibility regarding higher education.

MINBYUN-PSPD-KWAU-KPNJ and other NGOs informed that it is still very difficult for persons with disabilities to receive a proper education. In order to realistically promote education amongst persons with disabilities, the Bill for the Special Education of Persons with Disabilities, which advocates the establishment of schools and classes with specialised teachers, as well as free compulsory pre-school education for infants with disabilities, should be supported with an adequate budget and personnel.

**Final Report**

(ii) Interactive Dialogue and Responses by the State under Review

- Indonesia valued the national efforts to promote and protect the rights of women and children, in line with CEDAW and CRC.

- The Democratic Peoples’ Republic of Korea noted the concern expressed by the Committee on the Rights of the Child in relation to limitations on freedom of expression and assembly of students.

- Turkey commended the Republic of Korea on its programmes to achieve gender equality and to promote children’s rights.

- Canada recommended that marital rape, child abuse and domestic violence be criminalised, perpetrators be prosecuted and sanctioned, human rights training be provided for officials dealing with instances of domestic violence and child abuse, and that child-sensitive procedures be adopted during criminal proceedings involving children. Evoking reports that migrant workers face persistent discriminatory treatment and abuse in the workplace, women migrant workers and their children being particularly vulnerable to trafficking and sexual exploitation, Canada recommended that the Republic of Korea place special emphasis on women and children when formulating policies to protect the rights of migrant workers.

- Azerbaijan asked how non-discrimination is guaranteed, a concern also raised by the Committee on the Rights of the Child, given that the Constitution does not explicitly prohibit discrimination on specific grounds.

- The Republic of Korea did not view trafficking of foreign women as a large scale problem but the Government was nevertheless making every effort to prevent female migrants’ workers from being employed in sex industries or being trafficked. A certain type of sexual crime is subjected to investigation only upon complaint from the victim. But there are many circumstances, including cases of child victims under 13, where investigations are undertaken automatically.

- Egypt asked for more information on the widespread societal discrimination against children with disabilities, a concern raised by the Committee on the Rights of the Child in 2003, and measures taken or envisaged in order to combat this phenomenon.

- Italy recommended that the Republic of Korea urgently amend relevant legislation to expressly prohibit corporal punishment in schools and at home and implement educational measures promoting positive and non-violent forms of discipline.

- Ukraine welcomed the efforts aimed at raising public awareness in the field of human rights, as well as steps taken to protect children from violence and prohibit corporal punishment.

- Japan asked what measures the Government has taken so far to address violations of human rights on the Internet while protecting freedom of expression, given that wider use of the Internet has not only affected the privacy of individuals but also disseminated harmful information, such as discriminatory materials and child pornography.

- On the issue of aging and the low birth rates, the Republic of Korea, in order to prevent related problems, has come up with a comprehensive plan under which women who give birth and newborn babies receive support from various services. Furthermore, subsidies and services are provided to for single-parent families and families in which children are living with their grandparents as well.

- Regarding the issue of corporal punishment of children in the home, it is important to reflect the views of various sectors of society in order to amend legislation. Since 2007, the Republic of Korea has designated some pilot schools where corporal punishment is not practiced and alternative measures for student discipline in this regard are provided.

**Conclusion and Recommendations**

In the course of the discussion, the following recommendations were made to the Republic of Korea:

- To adopt relevant measures for legislative and criminal justice improvements in relation to concerns expressed by the Committee on the Rights of the Child in relation to limitations on freedom of expression and assembly of students (Democratic Peoples’ Republic of Korea);

- That marital rape, child abuse and domestic violence be criminalised, perpetrators are prosecuted and sanctioned, human rights training
be provided for officials dealing with instances of domestic violence and child abuse, and that child-sensitive procedures be adopted during criminal proceedings involving children (Canada);

- To place special emphasis on women and children when formulating policies to protect the rights of migrant workers (Canada);

- To urgently amend relevant legislation to expressly prohibit corporal punishment in schools and at home and implement educational measures promoting positive and non-violent forms of discipline (Italy);