

**Country session: Republic of Korea**  
**Date of session: 18-19 September 2019 (82<sup>nd</sup> session)**

**Background information**

[OHCHR press release](#)  
 Webcast: [Part 1](#) and [Part 2](#)  
[Audio file](#)

**Reporting**

*Reporting methodology*

Regular reporting procedure       Simplified reporting procedure       Concluding Observations with urgent measures

*State report*

<u>Common core document</u>	
<a href="#">Initial submission</a>	22 August 2003
<a href="#">Updated document</a>	9 November 2009
<a href="#">Annexes</a>	22 February 2016

<u>CRC</u>	
No. of report	5 <sup>th</sup> to 6 <sup>th</sup>
Due date	19 June 2017
Submission	27 December 2017

<u>Written replies</u>	
Submission	9 August 2019
Due date	15 May 2019

*Public reports from children's rights defenders*

<u>Alternative reports</u>	
<b>NGOs</b>	<ul style="list-style-type: none"> <li>• Child Voice</li> <li>• The Global Initiative for Economic, Social and Cultural Rights</li> <li>• ECPAT International</li> <li>• Feminism for Youth</li> <li>• US Corporation</li> <li>• Global Initiative to End All Corporal Punishment</li> <li>• Human Rights Watch</li> <li>• JANGHUN NAM_KOCOO</li> <li>• Juvenile Justice advocates</li> <li>• Korean Adoptive Families Alliance</li> <li>• Lawyers for Democratic Society</li> <li>• National Secular Society</li> </ul>

	<ul style="list-style-type: none"> <li>• NPO Coalition</li> <li>• Save the Children</li> <li>• South Korean NGO's Coalition for the Rights of Migrant Children</li> <li>• Stand up Against Sex-Trafficking of minors</li> <li>• The Advocates for Human Rights and the World Coalition Against the Death Penalty</li> <li>• The LGBTQ Youth Crisis Support Center_Association for Public interest law_International Child Rights Centre</li> <li>• Working Group on the Rights of the Child_KCOC</li> </ul>
<b>NHRIs</b>	Republic of Korea National Human Rights Commission

### State delegation

The [delegation](#) was large and consisted of both high-level and technical staff. The large delegation was headed by Mr. KIM, GANG LIP, Vice Minister of the Ministry of Health and Welfare and composed of representatives of the Ministry of Foreign Affairs, the Ministry of Justice, the Jeju District Court, the Daejeon District Court, the Ministry of Education, the Ministry of National Defence, the Ministry of Environment, the Ministry of Gender Equality and Family, the National Youth Policy Institute, the Constitutional Court, the National Institute of Environmental Research, the Permanent Mission of the Republic of Korea to the United Nations Office at Geneva as well as interpreters.

### Committee's Task Force members

Name & Last Name	Country
Amal Aldoseri (coordinator)	Bahrain
Cephas Lumina	Zambia
Benyam Dawit Mezmur	Ethiopia
Renate Winter	Austria

### Dialogue description

i. Character of the dialogue:

The dialogue was cooperative and an in-depth discussion. The Korean Republic received a large number of questions and covered most of them across the large delegation.

ii. General assessment made by the Committee:

In its concluding remarks, the Committee admitted that it had a lot of questions to the delegation. Hence, the Committee explained that the reason behind this is that it wanted to provide clarifications on the fact that it considers children as individuals with their best possible development to become a fully-fledged human being while it felt that the State party expect children to become the best functioning human being in the society. The Committee expressed its concern on the goals of education; an area the state party spends a lot of financial resources. On matters such as the fight against discrimination or the participation of children in decision-making process, the Committee recommended changing of mindsets, as social consent seems to be an issue in the State party. Finally, the Committee asked the State party to ratify the OPIC.

iii. Main issues discussed:

- **General measures of implementation:** The Committee commended the State party for the removal of the reservation of art.21a and asked clarifications about the measures taken to amend or modify the national

adoption Act to comply with such a provision as a practical step of the withdrawal. The delegation responded that in 2018, the government has conducted a full revision of the Act on Special Cases concerning Adoption; and that in February 2019, there has been a new rule regarding the Adoption of minors established in the Family Court complementing the legislative measures. The Committee also inquired as to whether the State party has set a timeframe for its withdrawal of art.40 para 2 (b) (v). The delegation replied that for the reservation to be withdrawn, the Military Court Act -which has a provision in conflict with the Convention- would have to be revised and admitted it would be difficult to give a specific timeframe at that moment. In response to a question and doubts of the Committee about the reluctance of the State party to teaching and disseminating the CRC, the delegation replied that the school curriculums include Human Rights education. To a question on whether the government is planning to establish a Ministry on children's rights for coordination purposes, the delegation provided a negative response.

- **Principle of non-discrimination:** The Committee asked about the status of the draft anti-discrimination Act as it noted that children who find themselves in a migration situation face a form of discrimination. The delegation responded that the suggested inclusion of some prohibited grounds of discrimination such as sexual orientation, had generated different views and debates and therefore asked the Committee to be understanding on that matter.
- **Respect for the views of the child:** The Committee asked whether there is an effort to move away from the ad hoc approach of child participation to a more institutionalized and systematic approach. It also noted that it was not clear to which extent the views expressed by children inform policy and law; it was asked whether efforts are made to provide feedback to children who are involved in child participation processes. The delegation assured that children's views are solicited and are still reflected into policy; the Korean General Assembly of children is held annually as means to ensure child participation. Furthermore, the child policy impact assessments notably evaluate the impact of policies on child participation.
- **Freedom of expression, of peaceful assembly and of association and protection of privacy:** The Committee asked whether the government would consider lowering the age of voting as requested by children. The delegation reassured the Committee that a law -currently pending- has been presented to lower the age of voting from 19 to 18 years. The Committee requested to indicate if there exist schools which limit children's rights and liberties and if so, which sanctions are imposed. The delegation affirmed that the freedom of expression, of assembly and other human rights is guaranteed by the Constitution. On the protection of privacy, as the Committee has been informed that schools run searches in students' belongings without their knowledge and asked whether the government was planning on reacting on such violations. Moreover, the Committee also inquired about whether the surveillance cameras in schools were installed to protect students' privacy. The delegation replied that to ensure students' safety, each school unit- by means of certain criteria and procedures- may restrict some activities such as students' participation and assemblies.
- **Right to life, survival and development:** The Committee noted that suicide is a serious issue in Korea and requested the delegation to provide the actual updated data on its victims; it also asked about the impact of the national plan of the Government. The delegation affirmed that the Republic of Korea has the second highest rate suicide rate among countries of the Organization for Economic Co-operation and Development, and that the Government has made significant efforts to address this issue. Still on suicide prevention, several initiatives are in place: a national action plan has been established to reduce the nation's suicide rate in January 2018 and the Child Suicide Prevention Committee chaired by the Prime Minister created to support the Government.
- **Freedom of thought, conscience and religion:** The Committee inquired on the specific actions taken by the government to ensure that religious beliefs of students of certain religious backgrounds particularly from those from minority religions are fully taken into consideration in school programs. *No clear response was provided.*



- **Violence against children:** The Committee showed serious concern around the issue of corporal punishment while it mentioned that it was among the three main areas of concern that children have requested it to discuss with the delegation. It asked whether such an act is explicitly prohibited in all settings. The delegation responded that in schools, disciplinary action can only be taken for the welfare of the child and that this could not provide grounds for corporal punishment. Moreover, it was added that Korean legislation on education and human rights prohibit corporal punishment and that the latter is prohibited in correctional facilities. The Committee raised concern about the fact that the school administrations are left with the discretion of using corporal punishment, including indirect methods which would imply that such an act is not prohibited by law. The delegation affirmed that indirect corporal punishment is still committed in schools and that there is a question of discrepancies within provinces as some authorities autonomously enforce different rules. The Government promised to work on harmonizing regulations on the prohibition of corporal punishment across the country. To a question of whether there have been awareness raising campaigns, the delegation replied that a child abuse prevention forum has been conducted and diverse activities shall be carried out continuously. The Committee also raised concern on sexual harassment of girls by teachers in school, which crimes -these instigated the “Me too” movement”- often went unreported; the Committee hence asked which reparations were provided to the victim. The delegation acknowledged that the “Me Too” movement in 2018 had spread across society in the Republic of Korea, including in high schools. In March 2018, the Ministry of Education created an online reporting centre -still operational- for victims to be able to denounce perpetrators without fear of reprisals and a total of 292 complaints have been filed. It was added that counselling is also offered to victims in school environments and victims can ask to be transferred to other schools if they so wished, following the amendment of the admission and transfer guidelines by the Government.
- **Environment health:** According to the information that the Committee received, the state party relies on coal-fired power plants for its energy needs estimated at 28% in 2017 which results in pollution and has a significant environmental impact, particularly on children. Likewise, the Committee expressed concern for children whose mothers are exposed to pollution during pregnancy as they might be at risk of a number of health conditions such as lower birth weight, premature birth, etc. In this sense, the Committee asked about measures taken to mitigate the impact of climate change resulting from high reliance on fossil fuels and measures to protect children and mothers from pollution occasion by coal-fired plants. The delegation responded that the government has been conducting, since 2017, a study which takes into account children and the elderly who are more vulnerable in order to identify the status of local residents living near coal-fired power plants in terms of their exposure to environmental pollution and their health. With regards to pregnant women and environmental health, the government places a priority in protecting them and is also monitoring, through the survey, the impact on the health of the newly born. By comprehensively evaluating the results of the survey, the government will identify the areas which need actions for protecting the mothers and child and will formulate the necessary national action plan.
- **Education:** The Committee noted that the aims of education in the state party was to enter prestigious universities, rather than to support the full potential of students. This is resulting in high levels of competition and sometimes suicide. The Committee asked, in this sense, if the State party has conducted studies to understand root causes of school dropouts and therefore find solutions. The delegation acknowledged that children face significant academic stress, notably in private education institutions. However, the Public Education Act stipulates that there should be no classes after or before school hours; children should only be tested on material that had been included in the official curriculum and covered in class. A new board had been formed to ensure compliance with this act and take corrective measures addressing violations. Moreover, a system has been put in place for middle school students, providing them with the opportunity to take a break from knowledge-driven education for a predetermined period. The Committee also expressed concern about the fact that the right to education is only granted to Korean nationals and how it can facilitate access of undocumented students to education in general. The delegation assured the Committee that the right to education is also guaranteed to migrant children in primary and middle schools; principals can in fact not refuse admission to migrant children without justification; Korean language classes are offered to migrant

children. The Committee asked whether there are plans to stop the deportation of child migrants after their graduation. The delegation responded that children without a stay permit, after graduating from high school, could obtain a visa granting them the right to stay in the Republic Korea for a longer period of time.

## Recommendations of the Committee

In its [Concluding Observations](#), the Committee drew attention to the need of urgent measures concerning the following six areas:

- **Non-discrimination:** The Committee urges the State party to expeditiously adopt anti-discrimination legislation and ensure that it includes prohibition of discrimination based on origin, sexual orientation and gender identity. The State party is also requested to (a) Enact a comprehensive anti-discrimination law and strategy (b) Ensure equal access to birth registration, childcare facilities, education, healthcare, welfare, leisure and State support for all children within its territory; (c) Prevent and eliminate achievement-based discrimination in schools; (d) Ensure equal treatment for all families.
- **The right to life, survival and development:** The Committee urges the State party to strengthen its efforts to effectively prevent child suicide and address its root causes, as previously recommended, through comprehensive policy, psychological, educational and social measures and therapies targeting children, families and the public at large. The State party is also requested to (a) Investigate possible health damage caused by humidifier disinfectant; (b) Continue monitoring indoor air quality and exposure to hazardous substances in all childcare and educational settings; (c) Continue its efforts to provide adequate remedies and reparation to child victims of humidifier disinfectant; intensify its efforts to control chemical substances and prevent hazardous incidents.
- **Violence against children:** With reference to its general comments No. 13 (2011) and No 8 (2006) and SDG target 16.2, the Committee recommends that the State party to (a) Establish a national database on all cases of violence and abuse against all children and undertake a comprehensive assessment of their extent, causes and nature; (b) Formulate a comprehensive strategy and an action plan for preventing, combating and monitoring all forms of violence and abuse against children, including online violence; (c) Explicitly prohibit corporal punishment, including “indirect corporal” and “disciplinary” punishment, in law and practices in all settings, in all territories of the State Party; (d) Intensify awareness-raising and education programmes on all forms of violence and abuse; (e) Train professionals concerned to identify and adequately respond to cases of violence and child abuse; (f) Ensure that cases of violence and child abuse are investigated and appropriately addressed; (g) Ensure the development of programmes and policies for the prevention, recovery and social reintegration of child victims of abuse; (h) Allocate adequate resources for implementing the abovementioned recommendations and reducing regional disparities.
- **Sexual abuse:** The Committee urges the State party to: (a) Take all measures necessary to prevent and respond to all manifestations of child sexual exploitation and abuse, including online prostitution and grooming, and sexual harassment by teachers; (b) Define and criminalise online grooming; (c) Increase the age below which it is prohibited to engage in sexual activities with a child; (d) Ensure that all children, by definition under the age of 18, who are engaged in prostitution and sexual abuse (“children involved”) are not treated as offenders but treated as victims, including by: (i) referring to them as “victims” in the legislation; (ii) abolishing the “protective disposition;” (iii) providing them with support services and legal aid; (iv) ensuring their access to justice, including compensation and redress; (e) Strengthen awareness-raising; (f) Ensure that sex offenders, including teachers, are prosecuted, regardless of the evidence of coercion, and duly sanctioned; and align the penalties for sexual offences with the international standards.
- **Education:** While referring to its General Comment No. 1 (2001), the Committee urges the State party to reform its public education system and with a view to reducing competitiveness, including by diversifying the National Curriculum, reconsidering its college admission system and strengthening career counselling, and to: (a) Reduce

reliance on private education; monitor the compliance of public and private schools with the Prior Learning Act; (b) Review the Framework Act on Education to ensure compulsory education for all children; (c) Ensure the provision of inclusive education and reasonable accommodation to children with disabilities; (d) Strengthen efforts to identify and effectively address the root causes of school drop-out and assess the magnitude of the phenomenon; (e) Reduce regional disparities; (f) Provide age-appropriate sexual education; (g) Strengthen and diversify career counselling and the Free Semester System; (h) Prevent and combat discrimination in school; and provide training on stress reduction and emotional stability; (i) Strengthen measures to combat bullying; (j) Undertake awareness-raising programmes and public campaigns to change the perception and attitudes towards rest, leisure and play.

- **Juvenile justice:** The Committee urges the State party to: (a) Establish a system of specialised child justice courts for all cases involving children in contact with the law; (b) Maintain the minimum age of criminal responsibility at 14; (c) Ensure that fair trial guarantees are respected; ; (d) Ensure, in law and in practice, the provision of qualified legal assistance to all children in conflict with the law from the investigation onwards; (e) Repeal Article 4(1)(3) of the Juvenile Act (“crime-prone juveniles”); (f) Establish legal basis for court diversion and promote non-custodial sentences; (g) Establish clear grounds for detention in the Juvenile Act; use detention as a measure of last resort and for the shortest period of time; (h) Ensure that detention conditions, including temporary detention, are compliant with international standards; ensure that children deprived of liberty are held in facilities close to their residences; (i) Revise legislation and take all effective measures to eliminate all possibility that a child is detained with adults; (j) Abolish disciplinary confinement and transfer and promote restorative measures for discipline; (k) Regulate the use of force and protective devices in relation to children and ensure that is limited to specific circumstances, necessary and proportional; (l) Ensure that the privacy of children in detention is respected; prohibit DNA collection and HIV testing for child detainees; (m) Strengthen non-custodial measures to prevent reoffending; (n) Ensure that all children in conflict with the law are treated equally and without discrimination. Follow up to the Committee’s previous concluding observations on the OPSC.

**The Committee also issued recommendations on the following topics:**

- **General measures of implementation** (Reservations, Legislation, Comprehensive policy and strategy, Coordination, Allocation of resources, Data collection, Independent monitoring, Dissemination, awareness-raising and training, International cooperation and Children’s rights and business sector)
- **General principles** (Best interests of the child)
- **Civil rights and freedoms** (Birth registration, Right to identity, Freedom of expression, association and peaceful assembly, Right to privacy)
- **Family environment and alternative care** (Family environment, Adoption, Illicit transfer and non-return, Children of incarcerated parents)
- **Disability, basic health and welfare** (Children with disabilities, Health and health services, Mental health, Adolescent health and Standard of living)
- **Special protection measures** (Asylum-seeking, refugee and migrant children, Economic exploitation, including child labour, Sale, trafficking and abduction)
- **Ratifications** of OPIC and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

**Sustainable Development Goals**

- 2.2 on ending all forms of malnutrition,
- 3.4 on promoting mental health and well-being
- 3.5 on strengthening the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol
- 3.8 on universal health coverage,
- 4.5, on eliminating gender disparities in education and ensuring equal access to all levels of education and vocational training for the vulnerable



child rights connect

- 5.6 on ensuring universal access to sexual and reproductive health and reproductive rights
- 8.7 on taking immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour
- 10.3 on ensuring equal opportunity and reducing inequalities of outcome
- 16.2 on ending abuse, exploitation, trafficking and all forms of violence against and torture of children,
- 16.9 on providing legal identity for all, including birth registration
- 17.2 for developed countries to implementing fully their official development assistance commitments

## Next State report

CRC	
No. of report	7 <sup>th</sup>
Due date	19 December 2024

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