

# CHILD RIGHTS IN REPUBLIC OF KOREA

UPR Pre-sessions 42

Palais des Nations, 1211 Geneva 10, Switzerland

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# I. UN Convention on the Rights of the Child Implementation



## 1. Implementation of previous recommendations

No recommendations yet raised on the need to take the measures to ensure the full incorporation of the UN Convention on the Rights of the Child (hereafter, CRC) in national legislations in previous UPR cycles.

## 2. New Developments

Legislation of a 'Framework Act on Children' included as a major task in the 'Master Plan for Child Policy II (20'-22')' (Aug 2020)

## 3. New Needs

- Absence of domestic legislation to fully incorporate CRC in the national level
- Children's awareness of CRC remains under 50% (National Youth Policy Institute, 2019)
- Over 400 'No-Kids Zone' stores, restaurants, museums which prohibits entrance of children.
- Recent tendencies of local governments to repeal Student Human Rights Ordinance.
- In the 19<sup>th</sup> ROK Children's General Assembly held in August 2022, child delegates called for child-friendly access to remedy and public complaints mechanisms to promote children's right to participation.

# I. UN Convention on the Rights of the Child Implementation



## 4. Recommendations

- Implement necessary legislative measures to incorporate the Convention on the Rights of the Child in national legislations
- Take measures to include education on child rights in school curriculums to raise public and children's awareness
- Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure, granting children the right to lodge individual complaints against the State.
- Develop child-friendly access to effective remedies and national complaints mechanisms at both national and local levels including measures such as introduction of the Ombudsperson system.

## II. Juvenile Justice

### 1. Implementation of previous recommendations

- No notable implementation after Hungary's recommendation to "Adopt child friendly procedural rules in the justice system" (2nd UPR, 2012)
- No recommendation raised regarding 'Minimum Age of Criminal Responsibility (hereafter, MACR)' and 'Crime-prone Juveniles' issues

### 2. New Needs

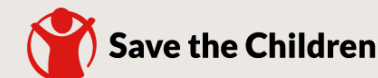
- Legislative bills to lower MACR and strengthen punishment for juveniles with felony charges introduced in the 20<sup>th</sup> and 21st National Assembly
- Nov 2022, the Ministry of Justice announced an advance publication of legislative amendment:
  - Lower MACR from the current standard of 14 years to 13 years (Juvenile Act – Art 4(1)(3), Criminal Act – Art 9)
  - 'Crime-prone Juveniles' over age 10 remain subjected to criminal punishment even in the absence of an actual offence (Juvenile Act, Art 4(1)(3))
  - New article which prohibits detention of 'Crime-prone Juveniles' (Juvenile Act – Art 32(1))
- This fails to meet the recommendations in CRC/C/GC/24 (2019) and CRC/C/KOR/CO/5-6 (2019)
- The provision on crime-prone juveniles under the Juvenile Act (Art 4(1)(3)) violates the principle of non-discrimination as it imposes proactive measures on the grounds of possible delinquency, whereas such provisions do not apply for adults

## II. Juvenile Justice

### 3. Recommendations

- Reconsider the Juvenile Law amendment plan and maintain the Minimum Age of Criminal Responsibility to age 14 in line with the Committee on the Rights of the Child's recommendation to the ROK in 2019
- Establish comprehensive measures for early intervention and prevention juvenile crime based on the understanding the limitations and improvements of the current juvenile system such as lack of educational and correction facilities, delays in judicial proceedings and the poor management of juvenile offenders
- Repeal Article 4(1)(3) of the Juvenile Act on crime-prone juveniles

# III. Intercountry Adoption



## 1. Implementation of previous recommendations

- Not implemented recommendations by France, Ireland, Honduras to “ratify the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption ” and one by Germany to “establish a national adoption centre” (2nd UPR, 2012)
- No recommendations raised regarding intercountry adoption in the 3rd UPR cycle

## 2. New Developments

- Government plans to revise existing national legislations and enact new one on intercountry adoption to establish a national adoption system in line with the international standards by 2021. (Master Plan for Child Policy II, 2022-24) Relevant bills were introduced to the National Assembly in October 2021.
- Expansion of the government’s role in the intercountry adoption process upon the revision of the Child Welfare Act in 2021.
- Public statement of government commitments to ratify the Hague Adoption Convention in June 2022.

## 3. New Needs

- Over 95% of intercountry adoptees from Korea are from single mother families
- Ranked 3<sup>rd</sup> internationally for intercountry adoption in 2020, despite COVID-19 pandemic and border closures

Top 10 States of Origin*		
	2016	2020
1	China	Colombia
2	Congo DR	Ukraine
3	India	<b>South Korea</b>
4	Colombia	India
5	Russia	China (Mainland)
6	Vietnam	Haiti
7	Haiti	Bulgaria
8	Ukraine	Hungary
9	<b>South Korea</b>	China (Taiwan)
10	Bulgaria	Nigeria

\*Source: Selman, P. (2022) Global Statistics for Intercountry Adoption: Receiving States and States of Origin 2004-2020

# III. Intercountry Adoption

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## 3. New Needs (continued)

- According to the report by the Netherlands Committee Investigating Intercountry Adoption in Feb 2021, ROK held responsible for absence of documents/personal data, document forgery, maladministration, fraud and corruption before and after 1998
- Aug 2022, a CSO application submission to the Truth and Reconciliation Commission for an investigation on human rights violation amid intercountry adoption. 300 intercountry adoptees filed a complaint that their identities and family relationships were misrepresented in the adoption process.

## 4. Recommendations

- Ratify the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) and take necessary measures to do so, such as, amend the Civil Act and the Act on Special Cases Concerning Adoption
- Establish transparent, effective, appropriated government mechanisms to monitor the intercountry adoption process
- Develop implementation strategies to support families in vulnerable situations, such as single, minor or unmarried parents
- Ensure adequate provision of human, technical, financial and material support to effectively guarantee the rights of adoptees to request information disclosure to find birth families

# IV. Universal Birth Registration



## 1. Implementation of previous recommendations

- Partial implementation of recommendations by Peru(132.12) Botswana(132.124) Kazakstan(132.122) Turkey(132.121) Kyrgyzstan(132.119) Iran(132.118) Sierra Leon(132.123) to “establish a birth registration system regardless of status or nationality of parents” (3<sup>rd</sup> UPR, 2017)

## 2. New Developments and Needs

- Online birth registration system introduced by the Supreme Court of Korea and the Ministry of the Public Administration and Safety in 2017
- Birth notification system addressed in the Master Plan for Child Policy II. Relevant law amendment proposed in March 2022. A bill on birth registration of foreign children introduced to the National Assembly in June 2022.
- 178 children among abused children were undocumented, 13.3% of which were migrants (Universal Birth Registration Network, data collected from 2019 to 2021)

## 3. Recommendations

- Establish universal birth registration and available to all children regardless of parents’ legal status or origins
- Pass the proposed amendment/enactment bills on both the introduction of the birth notification system and the Foreign Child Birth Registration Act
- Take all measures necessary to identify unregistered births, including by establishing monitoring mechanisms
- Ensure legal status of the child is not required during any of the birth registration process



# V. Violence against Children



## 1. Implementation of previous recommendations

- Well-implementation of recommendations by Ecuador (130.75), Azerbaijan (130.75), Zambia (130.31), Tunisia(130.29), Japan (130.27), Algeria (130.76), Sri Lanka (130.32), Maldives (130.28) to “continue efforts to eliminate domestic violence / corporal punishment of children”

## 2. New Developments and Needs

- Abolishment of Article 915 of the Civil Act which thereby prohibits corporal punishment in any environment
- 78.8% of the respondents unaware of the prohibition of corporal punishment due to the abolishment of the Article 915 in the Civil Act (Save the Children Korea, 2022)
- 37,605 reported cases of child abuse in 2021, which is a 21% increase compared to 2020. 257 died from child abuse since 2014 to 2021
- According to the OECD Social Expenditure Database 2017, ROK’s family spending was 1.1% of GDP (OECD average 2.1%) and child protection proportion within the family spending category was 10% (OECD average 17.6%)
- In 2021, 4,176 children were repeatedly abused, but only 1,162 children used the abuse victim shelter. There were only 97 shelters

## 3. Recommendations

- Implement follow-up policy measures on prohibition of corporal punishment including promotion of positive discipline at home, public awareness campaign
- Develop a comprehensive strategy and action plans to prevent and monitor all forms of violence against children
- Increase budget allocation for children and overall social expenditure proportionately to its GDP to meet the OECD average



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