



Convention on the Rights of the Child

Distr.: General
19 March 2012
English
Original: French

Committee on the Rights of the Child Fifty-eighth session

Summary record of the 1645th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 21 September 2011, at 3 p.m.

Chairperson: Mr. Zermatten

Contents

Consideration of reports of States parties (*continued*)

Combined third and fourth periodic reports of the Republic of Korea on the implementation of the Convention on the Rights of the Child (continued)

This record is subject to correction.

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

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

The meeting was called to order at 3.10 p.m.

Consideration of reports of States parties *(continued)*

Combined third and fourth periodic reports of the Republic of Korea on the implementation of the Convention on the Rights of the Child (continued)
(CRC/C/KOR/3-4; CRC/C/KOR/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Republic of Korea took places at the Committee table.*
2. **Mr. Koompraphant**, recalling that the suicide rate among young people was very high in the State party, asked what educational and legislative measures had been adopted to help prevent physical and emotional child abuse in the home and at school and what services were available for victims.
3. **Mr. Madi** said that, according to figures from the Ministry of Justice, there had been almost 70,000 migrant children in the Republic of Korea in 2008. That number included 8,000 undocumented children of whom only 1,400 attended school. He asked what the Government was doing to rectify that situation.
4. **Ms. Nores de García**, noting that school bullying, like suicide, was on the increase, asked whether the principle of the best interests of the child was really taken into account in the State party's educational system.
5. **Ms. Maurás Pérez** said that she would appreciate the delegation's views as to the root structural causes of the problems that appeared to afflict many young Koreans in view of the numerous cases of teenage pregnancy, Internet addiction and in-school violence.
6. **Ms. Aidoo** said that the lack of precise information about the total number of children living in poverty was regrettable. Noting that time-series changes in indicators of income did not always provide an accurate reflection of reality, she asked whether the State party envisaged adopting mechanisms that would give a more accurate measure of levels of poverty and the corresponding changes, thereby facilitating implementation of the measures envisaged under the new law on the prevention of child poverty and support for poor children adopted in July 2011. She also enquired whether the Dream Start Project was due to be extended to all municipalities and how many children were covered by the school meals support programme. In view of the huge income disparities between the different regions, information about how the State party ensured that all children enjoyed the rights established in article 27 of the Convention would be appreciated.
7. **Ms. Wijemanne** said that additional information on the respective school enrolment rates for boys and girls would be useful. She would also like to know whether preschool education was free and what was being done to enable children with disabilities to enter mainstream education.
8. **Ms. Rhee Won-hee** (Republic of Korea) said that the Government of the Republic of Korea had withdrawn its adoption-related reservations to the Convention after amending its Adoption Act to give both adopted children and adopting parents the right to request information about the biological parents.
9. **Ms. Al-Shehail** (Country Rapporteur) asked whether adopted children could obtain information about their biological parents upon reaching adulthood and whether any organizations provided assistance in that process, especially when intercountry adoptions were concerned.
10. **Ms. Rhee Won-hee** (Republic of Korea) said that adults could request information about their origins, provided that the information sought had been recorded in the adoption registers. If the adoption had taken place some time ago, that was not always the case. If a

person adopted in another country sought information, the Korean authorities would do all that they could to assist them in their research.

11. It was important to distinguish between the law prohibiting discrimination against persons with disabilities and the new law on children with disabilities enacted in August 2011. The new law sought to safeguard the best interests of the child and envisaged a range of services tailored to the specific needs of children with disabilities that aimed to guarantee the exercise of their right to education.

12. **Mr. Cardona Llorens** asked whether the new law on children with disabilities established the measures necessary to enable 90 per cent of children with disabilities to be schooled within the mainstream system, in application of the principle of inclusive education, and whether specially equipped classrooms would be created to ensure that children with disabilities were able to attend school.

13. **Ms. Choi Jung Rye** (Republic of Korea) said that a second five-year plan for the inclusive education of children with disabilities was currently being implemented. The aim was to cater for the specific requirements of children with disabilities, taking account of their needs, age and level of education, and to make equipment specially designed for those children available. Children could choose whether to enter the mainstream educational system or attend a specialist school. The number of children with disabilities being educated within the mainstream system was rising.

14. **Ms. Al-Asmar** asked whether the State party's five-year plan provided for the adoption of all measures necessary to the inclusive education of children with severe disabilities and the assessment of each case on an individual basis. She would also like to know what arrangements had been made to enable children with disabilities to sit exams on the same basis as other children.

15. **Ms. Choi Jung Rye** (Republic of Korea) said that steps had been taken to enable all pupils to sit exams and that all the necessary arrangements had been made to enable pupils with disabilities to sit them without problems. The Government authorities were also working to enhance teachers' understanding of the specific needs of pupils with disabilities.

16. **Ms. Rhee Won-hee** (Republic of Korea) said that the suicide rate among young people was high and that the public authorities were taking the problem very seriously. On the basis of studies to ascertain the causes of suicide among young people, preventive measures based on identifying persons at risk had been adopted. The authorities ran 164 psychotherapy centres staffed by specialist personnel that provided assistance for young people in difficulty and made it possible to diagnose psychological problems at an early stage. To supplement those facilities, the Ministry of Education had adopted a set of policies to diagnose mental problems such as depression and attention deficit hyperactivity disorder in pupils. Thanks to the diagnostic tool made available to them, teachers were able to identify signs of depression and take prompt action to provide care and psychological support for the children concerned.

17. Lastly, a preventive campaign to combat the Internet addiction problems that affected large numbers of young people was being run in schools.

18. **Ms. Wijemanne** said that suicides among young people were not necessarily attributable to psychological problems. Family problems, diverse pressures and the competitive nature of the school system could all act as triggers. It would be useful to examine the causes of suicide in the light of those factors and encourage young people to get involved in leisure activities conducive to their well-being.

19. **The Chairperson** (Country Rapporteur) said that the tool for diagnosing psychological problems could be useful for assessing the current situation but raised problems with regard to the confidentiality of the data collected and the manner in which

they were used. He had doubts as to the validity of the results obtained and whether the psychotherapeutic approach was appropriate.

20. **Ms. Rhee** Won-hee (Republic of Korea) said that the Government was aware that the causes of suicide were not only psychological and that there were other contributing factors. Korea was a very competitive society and children were subject to educational, family and social pressures that could lead some to commit suicide. The Ministry of Education was fully aware of that situation and encouraged extra-curricular activities to reduce stress in children. Recreational, cultural and sporting activities had been included in school curricula since 2009.

21. The data collected using the tool for diagnosing psychological problems were confidential. Teachers were informed of the diagnosis only with the consent of the pupils concerned.

22. **The Chairperson** asked whether abortion was legal in the State party. He would appreciate precise data regarding the number of terminations of pregnancy and information about any action taken to prevent teenage pregnancies.

23. **Ms. Al-Shehail** asked for more details about the system whereby single mothers received monthly allowances whose amount varied according to their age. Noting that 90 per cent of children available for adoption were given up for adoption by single mothers, she asked whether there were incentives to encourage those women to give their children up for adoption. She would also like to know whether it was true that the parents of single teenage mothers could decide to give their grandchildren up without the consent of the mother.

24. **Ms. Huh** Hwa-su (Republic of Korea) said that the allowance paid to unmarried mothers aged under 24 was up to twice the amount paid to older unmarried mothers because younger mothers faced greater difficulties. The allowances were also intended to enable young single mothers to continue their studies.

25. **Ms. Al-Asmar** asked whether unmarried women genuinely had the option of attending school since it appeared that schools did not really wish to accept them.

26. **Ms. Choi** Jung Rye (Republic of Korea) said that teenage mothers had the option of continuing their studies but that social stigma could discourage them from doing so.

27. **Ms. Rhee** Won-hee (Republic of Korea) said that the social status of single mothers was improving every year and that their rights were guaranteed. Young single mothers had been placed in social services homes until a few years ago but they currently had the option of finding an apartment and living independently as a family with their child.

28. Abortion was illegal but was permitted under the Maternal Health Act in exceptional circumstances, such as when the health of the mother or foetus was at risk. The number of abortions remained high but a downtrend was apparent, mainly because young women had easier access to contraception.

29. **Mr. Kim** Seung-kwon (Republic of Korea) said that unmarried mothers could be housed with their children in one of two types of facility, depending on the age of the child.

30. **Mr. Hong** Kwan-pyo (Republic of Korea) said that the National Action Plan for the Promotion and Protection of Human Rights 2007–2011 was a comprehensive plan that included a component focused on the rights of the child. The current plan would come to an end in 2011 and a successor was being drafted. The National Human Rights Commission of Korea was about to submit recommendations for the second plan to the Government. The new plan would take into consideration new human rights instruments such as the Convention on the Rights of Persons with Disabilities as well as the recommendations made by treaty bodies.

31. With regard to discrimination, the basic plan for the treatment of foreigners included measures addressing the situation of children from multicultural families. The anti-discrimination legislation in force since 2004 prohibited discrimination in employment and education and guaranteed the right to services and benefits as well as the right to participate in political life.

32. **Ms. Sandberg** asked what was being done to facilitate the school enrolment of the approximately 15,000 unregistered migrant children in Korea.

33. **Ms. Choi Jung Rye** (Republic of Korea) said that the Decree enforcing the Education Act had been amended to enable migrant children to enrol in the compulsory primary and lower secondary levels of education. Migrant children who wished to continue their studies were currently referred to private establishments but would soon have the possibility of remaining in the State system. In 2014, schools would be established in areas with large concentrations of migrants at which children would be able to take additional courses such as language training. Mothers were also given training, to enable them to adjust to Korean culture and society and make them better equipped to assist their children.

34. **Ms. Al-Asmar** asked what penalties, if any, were imposed upon parents who refused to send their children to school and whether Koreans and migrants were subject to the same legislation.

35. **Ms. Choi Jung Rye** (Republic of Korea) said that education was a right but that responsibility for the exercise of that right rested with parents. For that reason, no penalties were imposed on parents who did not send their children to school.

36. **The Chairperson** asked about the situation regarding the registration of children born to migrant parents in Korea and expressed concern about the lack of reception centres for refugees, asylum-seekers and unaccompanied minors, the fact that asylum-seekers were deprived of their liberty and the practice of refoulement of migrants.

37. **Mr. Hong Kwan-pyo** (Republic of Korea) said that refugees should register their children's births with their embassy but that they did not generally do so for fear of persecution. They could also register births with the civil registry; in that way, they gained access to health-care services for foreign nationals and, if necessary, to financial assistance.

38. Migrant children aged under 14 were allowed to stay with their parents in detention centres. There was also a system of temporary protection allowing families with children of that age to live outside detention centres. To date, there had been no cases in which families with children had had to spend more than one month in a detention centre.

39. The Chairperson said that birth registration should be compulsory. Highlighting the fact that the detention of migrant children, with or without their parents, was a reality in the State party and that in the absence of reception centres for unauthorized migrant children, they were placed in detention centres in application of administrative decisions and without procedural safeguards, he said that additional information on those issues would be appreciated.

40. He would also like to know whether migrants had access to health-care services.

41. **Mr. Hong Kwan-pyo** (Republic of Korea) said that it was very rare for migrant children to be detained with their parents; when they were, their detention was a response to a parental request rather than a punitive measure.

The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.

42. **Ms. Rhee Won-hee** (Republic of Korea) said that the Act on the Punishment of Sexual Crimes and Protection of Victims had been amended on 15 September 2011 to take account of the 11 recommendations made by the National Human Rights Commission of

Korea, which covered issues including the presence of an expert during police interviews of victims of sexual offences, the presence of the parents during interviews of child victims, the recording of interviews, the provision of psychotherapeutic support for victims and the requirement that professionals working with children must report any presumed cases of sexual violence.

43. **The Chairperson** asked whether all the acts defined in articles 2 and 3 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography were recognized as criminal offences in the Act on the Punishment of Sexual Crimes and Protection of Victims, as amended. He would also like to know whether the State party had assumed extraterritorial jurisdiction for offences covered by the Optional Protocol and, if so, whether that jurisdiction was subject to a double criminality requirement.

44. **Mr. Kang Jung Min** (Republic of Korea) said that the Act on the Protection of Juveniles from Sexual Exploitation had been amended and that the definition of child pornography had been expanded. All Internet service providers were required to remove any pornographic content that they identified and were subject to criminal penalties if they did not.

45. **Mr. Lee Jeong-min** (Republic of Korea) said that Korean legislation prohibited the involvement of children in armed conflict. Act No. 8719 of 21 December 2007 on the implementation of the Rome Statute of the International Criminal Court prohibited the recruitment of minors aged under 15 into the armed forces and their involvement in hostilities.

46. The restriction on children's right to appeal against the judgments of military courts created under martial law in cases involving issues of national security had been incorporated in the Constitution following a national referendum and could only be repealed by the same mechanism. However, there was currently no national consensus in favour of such an amendment.

47. **Mr. Kotrane** noted that, in the concluding observations issued in 2008 after consideration of the State party's initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/KOR/CO/1), the Committee had urged the State party explicitly to prohibit by law the recruitment of minors aged under 18 and their involvement in hostilities and to impose penalties in the event of violations of that prohibition. However, the recommendation had not been implemented.

48. The Committee would also like the State party to bring domestic legislation prohibiting sexual exploitation and child pornography fully into line with the provisions of the Optional Protocol on the sale of children, child prostitution and child pornography. For example, possessing pornographic materials was not explicitly criminalized in Korean law and the definition of prostitution was limited and excluded sexual acts that did not involve penetration, whereas States parties to the Optional Protocol were required to prohibit and punish all forms of child prostitution.

49. **Mr. Kang Jung Min** (Republic of Korea) said that following amendments to the Act on the Protection of Juveniles from Sexual Exploitation, details of sex offenders were currently disclosed, especially to residents of the same neighbourhood, and were accessible on the Internet, from the time of the first offence. The use of virtual representations of sexual acts involving children was prohibited.

50. **Mr. Lee Jeong-min** (Republic of Korea) said that Korea's national security situation was unique because it shared its borders with the Democratic People's Republic of Korea. The restrictions on children's right of appeal against military court judgments in cases

affecting national security applied in exceptional circumstances only and the right to appeal was guaranteed when the death penalty was imposed.

51. **The Chairperson** requested further information about the administration of juvenile justice.

52. **Ms. Im Eun-jung** (Republic of Korea) said that the Government of Korea had prosecutors and courts specializing in juvenile justice. Training was organized for juvenile judges on an annual basis.

53. Any national of the Republic of Korea who engaged in sex tourism in another country was liable to criminal penalties. To put an end to such practices, the National Police Agency, the Ministry of Justice and other relevant ministries had established a special task force to investigate offences of that kind.

54. **The Chairperson** said that he was deeply concerned by the State party's decision to lower the age of criminal liability from 12 years to 10 years. That decision ran counter to international standards and the provisions of the Committee's general comment No. 10 on children's rights in juvenile justice. He asked the delegation to provide further information about that issue, and about the detention of minors with adults.

55. **Mr. Hong Kwan-pyo** (Republic of Korea) said that young offenders aged less than 14 years of age were tried only by juvenile courts. When young offenders aged between 14 and 18 were involved, the prosecutor decided whether the case should be dealt with by the ordinary criminal justice system or the juvenile justice system, depending on the circumstances.

56. The age of criminal liability had been lowered to 10 years because a growing number of young offenders were less than 12 years old. The Government had adopted measures to identify delinquent behaviour as early as possible with a view to preventing and fighting juvenile delinquency. The Juvenile Act stated that children in conflict with the law should, by preference, be sent to protective medical facilities rather than to reformatories. Only one child aged under 12 years had been placed in a facility of that type since the age of criminal liability had been lowered to 10 years.

57. **The Chairperson** said that early detection of juvenile delinquency should be achieved by means other than criminal justice. He saw no benefit in having lowered the age of criminal liability given that only one child aged under 12 had been placed in a reformatory since the change had been made. He feared that when deciding in the final instance whether a young offender aged between 14 and 18 should be tried before a juvenile court or an ordinary criminal court, the prosecutor might be guided first and foremost by the gravity of the offence committed. That was regrettable, especially since adult court judges were unlikely to accord due importance to the principles of rehabilitation and reintegration. Those principles were essential safeguards from which every child should benefit.

58. **Ms. Im Eun-jung** (Republic of Korea) said that, in criminal cases, children aged over 14 were systematically heard in juvenile courts and that there was a special detention facility for young offenders.

59. **Mr. Hong Kwan-pyo** (Republic of Korea) said that the reformatories were more like educational establishments than detention centres. Young people were supervised and counselled by teachers and the only restrictions imposed upon them concerned their freedom of movement.

60. **Ms. Rhee Won-hee** (Republic of Korea) said that 100,000 children benefited from the school meals programme established by the Ministry of Education. During school holidays and at weekends, approximately 4,800 children benefiting from food aid were also

entitled to receive one meal a day provided by the community child centres established by the Ministry of Health. Those children also had access to other services, including health-care services.

61. The Dream Start Project that aimed to assist poor families by countering the wage disparities that were continuing to widen because of the economic crisis was already operating in half of the country and should have been extended to the entire country by the end of 2013. Child Development Accounts has been introduced and the poor also received financial assistance to help them meet health-care and daily living expenses.

62. Childcare facilities that catered for children outside school hours had been established by the Ministry of Health, Welfare and Family Affairs and the Ministry of Education. Unaccompanied minors were also entitled to protection and were either placed in foster homes or care institutions or offered for adoption.

63. **Mr. Hong Kwan-pyo** (Republic of Korea) said that working children enjoyed the same safeguards as adults and that labour inspectors made regular visits to companies that employed minors and dispensed guidance to managers who infringed labour legislation. It was therefore rare for companies to face criminal proceedings. The minimum age of admission to employment was 15 years, but children aged between 13 and 15 who wished to work could request a dispensation from the Ministry of Labour. Except in those exceptional cases, children in that age bracket were required to remain in school until they had completed their lower secondary education.

64. **Mr. Cardona Llorens** asked how many dispensations of that kind had been granted by the Ministry of Labour and to what extent such decisions were guided by the best interests of the child.

65. **The Chairperson** asked whether children aged between 15 and 18 worked at night.

66. **Mr. Nam Sang-in** (Republic of Korea) said that he did not have the statistical data requested. However, education was compulsory under the Constitution and other relevant legislation and the requirement for children aged between 13 and 15 to obtain ministerial authorization to work made it possible to contain child labour. As a general rule, children were not permitted to work more than seven hours a day and if they worked between 10 p.m. and 6 a.m., which was prohibited by law except with express authorization, they received one and a half times the regular wage.

67. **Ms. Im Eun-jung** (Republic of Korea) said that there was no legal requirement for children's views to be heard in criminal proceedings. In the case of sexual offences, the rationale for that was to avoid forcing children to recall the traumatic events that they had suffered. In contrast, when ruling on issues such as the custody of children in divorce cases, the family courts were required to take the wishes of any children aged over 15 years into consideration.

68. **Ms. Al-Asmar** said that she feared that young migrants aged between 13 and 15, who were not required to attend school, might be exposed to exploitation and asked whether unaccompanied Muslim children could enjoy the benefits of the school meals programme without having to eat foods that were forbidden by their religion.

69. **Ms. Rhee Won-hee** (Republic of Korea) said that the meals programme had entered its second phase and would shortly be adapted to take account of the dietary restrictions imposed by different religions. In view of the increasing number of vegetarians in the Republic of Korea, the Government was providing financial support for the production of fruit- and vegetable-based meals and snacks.

70. **The Chairperson** asked where the Convention ranked in the domestic legal order and whether international treaties or national laws took precedence in the event of conflict between their provisions.

71. **Mr. Hong** Kwan-pyo (Republic of Korea) said that international treaties and national laws had equal effect unless the national law post-dated the treaty, in which case the law took precedence.

72. **Ms. Al-Shehail** said that while she commended the State party's progress in implementing the Convention and particularly in creating an inter-agency task force to explore the possibility of acceding to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, she wished to highlight a number of areas of concern for the Committee, including the inadequacy of the resources earmarked for implementation of the Convention, given the State party's level of development, and the lack of statistical data. The State party needed to accord greater importance to freedom of thought, conscience and association and to the best interests of the child, specialized education and continuing training. It also needed to take steps to guarantee judicial oversight of adoption procedures, including in intercountry adoptions, and more effective enforcement of the provisions of the Optional Protocols to the Convention.

73. **Ms. Rhee** Won-hee (Republic of Korea) said that she would like to thank the members of the Committee for highlighting the shortcomings in the implementation of the Convention and assured them that their recommendations would be used to enact more pertinent laws, especially in relation to the best interests of the child.

74. **Mr. Park** Sang-ki (Republic of Korea) said that his country had made great progress since ratifying the Convention 20 years ago but that further efforts were needed to ensure full respect for the rights of the child in the Republic of Korea. He assured the Committee that the Government of Korea would continue to cooperate with NGOs and international institutions to that end.

The meeting rose at 6 p.m.