

THE LEGAL, INSTITUTIONAL
AND ADMINISTRATIVE MEASURES FOR
IMPROVING THE RIGHTS OF THE CHILD

SEPTEMBER 1994

KOREA INSTITUTE FOR HEALTH AND SOCIAL AFFAIRS

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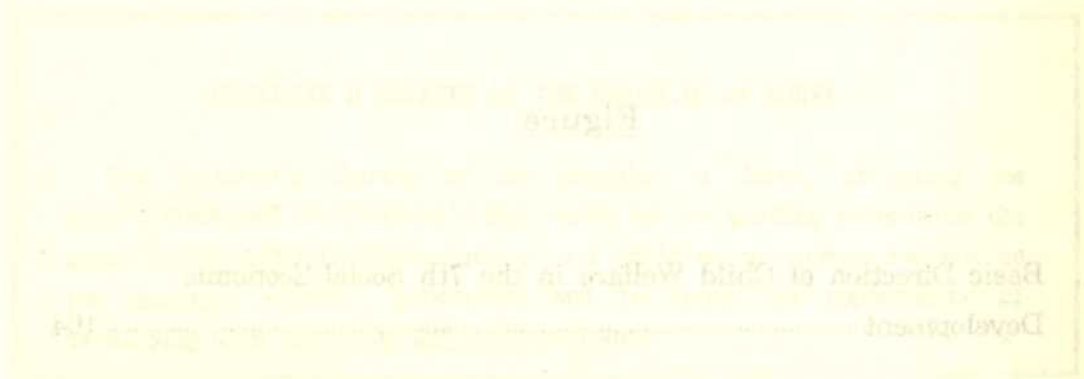
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I. INTRODUCTION

1. All children in the Republic of Korea are entitled to a good start in life, and a secure and happy childhood. They are also entitled to have their material and emotional needs provided for. The aims of the child perspective in Korea are to ensure that "every child should have human dignity and the equal right without discrimination, receive respect as the emerging future generation, and enjoy the opportunity of developing with rectitude and self-assurance"(Children's Charter of the Republic of Korea), and to help them "grow to be a pillar of the fatherland, and realize global peace and freedom"(Youths' Charter of the Republic of Korea).

2. The philosophy of the Convention is in close accord with the Korea's perception of children's rights and needs. The basic view of the Convention concerning children's rights and needs takes concrete shape in all measures of Korea to improve children's lives in a wide range of areas.

3. The Children's Charter of the Republic of Korea consisting of preamble and eleven articles, states that the child and his/her rights must be respected. The Charter reads as follows:

CHILDREN'S CHARTER OF THE REPUBLIC OF KOREA

The Children's Charter of the Republic of Korea, affirming the spirit enshrined in Children's Day, holds as its guiding principles the equal rights without distinction of all children to receive respect as the emerging future generation and to enjoy the opportunity of developing with rectitude and self-assurance.

1. Children should be born under healthy circumstances and nurtured in a warm and loving home.
2. Children should receive a balanced diet, should be provided preventive measures against disease and medical treatment as required, and should be able to live in a bright and clean environment.
3. Children should receive an education in good facilities, and should be taught with due regard to their abilities and aptitudes.
4. Children should value the great national cultural tradition and should be trained to use their creative powers to develop and extend that culture.
5. Children should be given adequate space and facilities for happy and wholesome play and recreation.
6. Children should learn to observe good manners and social orders, and as members of the one national family should help others, maturing through their own strength to become fully responsible democratic citizens.
7. Children should acquire a love of nature and the arts, and should cultivate the mind and attitude of scientific inquiry.
8. Children should, above all, be protected from all harmful social conditions and dangers.
9. Children should never be subjected to abuse or neglect, nor exploited for any wrongful purpose of heavy labor.
10. Children with physical or mental disabilities should be given the education and treatment they require, while children with behavioral difficulties should be provided with guidance.
11. Children are our future and our hope for tomorrow. They should grow and develop as Korean citizens who can assume responsibility for the nation's future, and as world citizens who can contribute to the peace of all humanity.

4. Youths' Charter of the Republic of Korea, in which the term "youth" means all the young citizens between aged 9 to 24, presents the way Korean youths should take for furthering the happiness and freedom of

the human race in the world. The Charter is as follows:

YOUTHS' CHARTER OF THE REPUBLIC OF KOREA

The youth shall be master of the new era.

With burning vigor and love for nature and knowledge in their hearts, youths shall unite solidly, working for the nation's development, and to bring freedom and happiness to all mankind.

Thus, we declare the direction we must take as follows:

Youths are not to be discriminated against on the basis of family background, gender, school attainment, or physical condition. It is by refining and nurturing their aptitudes and abilities that youths are to obtain the wisdom and courage to overcome the difficult tasks of life before them.

Home is where the youth fosters sentiments, and shares love and dialogue. Parents should present a model of honest life, and youths should develop manners respectful towards elders and attain a positive attitude.

School is where youths, through balanced learning, develop culture, knowledge, and physical strength. A youth's talent must be respected and the school should teach ways to enrich life through self-fulfillment, as well as raising the spirit of cultural awareness and democratic citizenship.

The society is where youths enjoy working and render services with pride. The society should assist the growth and development of youths and provide a good neighborhood for leisure and healthy living.

The nation must love its youth, and should make its utmost efforts for policies affecting them. The nation must provide them with all necessary learning and working places, and youths in need must be protected by the state on an individual level, so that they can adjust themselves to their surroundings and become fully independent citizens.

5. The past thirty years have witnessed great socio-economic development in the Republic of Korea. There have been achievements in the health area with economic growth. The prenatal care rate has increased to 95 percent, and the institution delivery rate to 99 percent. There has been a rapid reduction in infant mortality, and the rate was 12.8 per 1,000 births in 1992. The national health insurance system established in 1989 has provided high-quality health care for adults and children alike.

6. Education is regarded as of great importance in Korean society, and has functioned as the driving force of socio-economic development in Korea. Compulsory nine-years' education is every child's right. Higher education is provided to those suitably qualified and motivated to benefit from it. Of the children completing their six-year's primary education, 99.9 percent are in junior high school, and 99.1 percent of junior high school graduates are in senior high school. The government has sought to raise the standards of education as well as to increase the opportunities of education for all children.

7. The Child Welfare Act in Korea reflects the principles of the Convention. It was established in 1961 to provide social security benefits for the children in need, such as children in poor households, and orphans during the Korean War. Even though economic growth brought general rise of standard of living, new problems began to occur: that is, family disorganization such as divorce, separation, and abuse, and the increasing needs of day-care for working mothers' children. A comprehensive program not only for children in need but also for all the children of the country became required. Thus, on 13 April 1981, the original Child Welfare Act was fully amended to broaden welfare services from children in need to all children for their healthy development.

8. In the majority of cases, Korean children and youths grow up in good conditions. However, the government recognizes that there are still children who are in need of help. Some children are getting off to a

worse start than others. The government is conscious of the deficiencies to be tackled. The government continues to strive to promote the best interests of children through legislation, policy and practice. Also, there is a large number of non-governmental organizations contributing for the promotion of children's rights.

9. As of the end of 1990, the number of children aged 18 years or under was 13,752,575, 31.7% of the total population. There were more boys than girls; the sex ratio of children was 107.3 in 1990. The number of children population is projected to decrease to about 12 million(26% of the total population) in 2000, 11 million(23%) in 2010, and 10 million(20%) in 2020.

<Table 1> Children Population Profile, by Age Group

(unit: 1,000 persons)

	1980	1985	1990	1995	2000
Total	37,407	40,420	43,390	44,851	46,789
Children	15,219	14,844	13,752	12,801	12,037
(Children/Total, %)	(40.7)	(36.7)	(31.7)	(28.5)	(25.7)
0 year	755	611	632	673	669
1-5 years	3,840	3,929	3,313	3,304	3,363
6-11 years	5,486	4,763	4,877	3,956	3,947
12-17 years	5,138	5,541	4,930	4,868	4,058

II. INFORMATION IN RELATION TO THE ARTICLES OF THE CONVENTION

A. General Measures of Implementation

10. The Republic of Korea signed the Convention on the Rights of the Child on 25 September 1990, and committed the act of ratification on the Convention with reservations on three points on 20 November 1991. The Convention entered into force for the Republic of Korea on 20 December 1991.

11. The reservations to the Convention by the Republic of Korea are paragraph 3 of article 9, (a) of article 21 and (V) of (b) of paragraph 2 of article 40. The Convention guarantees children's right to maintain personal relations and direct contact with their parents when they are separated from one or both parents by the paragraph (3) of article 9, while the Civil Code of the Republic of Korea provides only parents' right to maintain relationship with their children. The Convention allows the adoption of a child by permission of competent authorities only, while Korea doesn't require any permission of the family court when the parents of a child make agreement on adoption of their child, and it is possible to adopt a child with a legal report according to the Family Registration Act. Concerning the right to reassessment of decisions, which is guaranteed in article 40, paragraph 2, (b), (V), the single-trial system in a military trial is allowed when the State is governed by the Martial Law.

12. The reservations to the Convention by the Republic of Korea are not considered as having a great influence on children's rights. The government of the Republic of Korea is trying to take a step on the reserving points in order to realize children's rights the Convention ensures.

13. The Convention makes it the duty of the participating State to make its provisions and principles generally known to both children and adults in the individual country. The Republic of Korea did not take concrete steps to publicize the provisions and principles of the Convention. However, the Korean Committee for United Nations Children's Fund, established in 1993, plans publicizing the Convention as the main project of this year, and the fund for this project is supported by the government and voluntary organizations.

1. Measures Taken to Harmonize National Law and Policy With the Provisions of the Convention

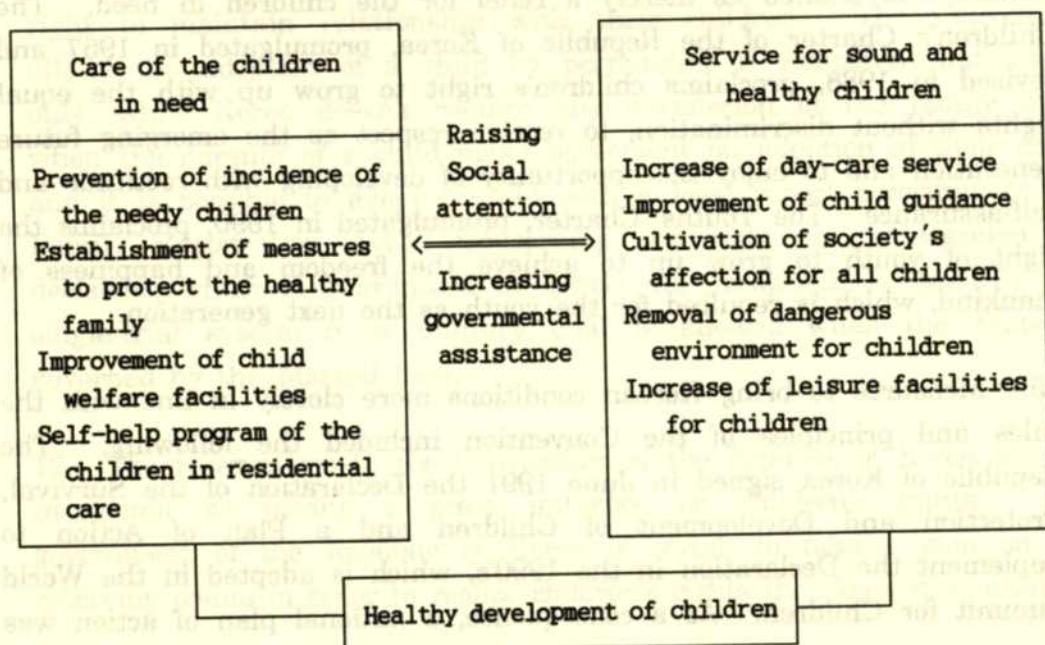
14. The Republic of Korea had been endeavoring to realize children's rights before the ratification of the Convention. The Child Welfare Act, enacted in 1961 and amended in 1981, aims to guarantee healthy birth and development of all the children of the country. This amended legislation makes clear that all children are the subject of child welfare, which is advanced from the original Child Welfare Act in which child welfare was defined as merely a relief for the children in need. The Children's Charter of the Republic of Korea, promulgated in 1957 and revised in 1988, proclaims children's right to grow up with the equal rights without discrimination, to receive respect as the emerging future generation and to enjoy the opportunity of developing with rectitude and self-assurance. The Youths' Charter, promulgated in 1990, proclaims the right of youth to grow up to achieve the freedom and happiness of mankind, which is required for the youth as the next generation.

15. Measures to bring Korean conditions more closely in line with the rules and principles of the Convention included the following. The Republic of Korea signed in June 1991 the Declaration of the Survival, Protection and Development of Children and a Plan of Action to implement the Declaration in the 1990's, which is adopted in the World Summit for Children. As a consequence, a national plan of action was

submitted to UNICEF in February 1992. For Korea's part, the plan of action is focused on i) improvement in child health care, ii) provision of safe water, iii) food sanitation and nutrition, iv) improvement of the quality of education, v) improvement of maternal and child health care and family planning, vi) free day-care programs for the children of low-income families and the protection of employed children and youths, vii) expansion of child-facilities, viii) the promotion of welfare for the disabled children, and ix) assistance to disadvantaged children.

16. The national plan of action in the 1990's is included in the sector of child welfare of the Seventh 5-Year Social-Economic Development Plan for the period 1992-1996. To realize children's rights in accordance with the Convention, the basic direction of the policy for children and youth is to promote their healthy development by increasing social attention and governmental support.

<Figure 1> Basic Direction of Child Welfare in the 7th Social-Economic Development



17. Despite such endeavor it is hard to say that children's rights presented in the Convention are fully exercised in the Republic of Korea. Many non-governmental child agencies suggest that, in order to realize children's rights, comprehensive and intensive effort must be made and that special measures are required to solve many evolving problems resulted from the rapid changes today's Korean society is experiencing.

2. Mechanism for Coordinating and Monitoring Implementation of the Convention

18. National policies for children and young persons are handled by various government departments and national authorities. Within the Government, the Ministry of Health and Social Affairs is responsible for the policies concerning children as the main department to plan and carry out child welfare policies, while the Ministry of Culture and Sports is responsible for the policies concerning youth.

19. The Division of Child Welfare of the Bureau of Family Welfare in the Ministry of Health and Social Affairs takes charge of child welfare administration. Its main functions are: i) counseling services for the prevention of incidence of the needy children, which is practiced in child guidance clinics; ii) family protection services supporting the child-headed family, adoption and foster care programs; iii) residential child care programs; iv) sponsorship programs for disadvantaged children; and v) self-help programs for the children leaving residential facilities, such as providing living places and jobs. The Child Welfare Committees at central and provincial level, especially, investigate, study and deliberate issues on child welfare policy and system, improvement of child-care facilities, and the sound development of underprivileged children.

20. The Office of Youth Policy in the Ministry of Culture and Sports governs youth fostering policies. The Basic Act on the Youth of Korea was amended and enforced on January 1, 1993 to provide a legal ground

for the effective implementation of 'the Basic Plan for Youth'. The main functions of the Office of Youth Policy are: i) developing and distributing youth fostering programs; ii) supporting the construction and operation of youth facilities and increasing their use; iii) fostering, training and supporting youth leaders; iv) supporting youths in adverse environment; and v) developing and operating international youth exchange programs.

21. The Ministry of Education is responsible for the education system to guide and train children and youths.

22. The Ministry of Justice tries to eliminate harmful environment detrimental to the healthy development of youths, and provides services for social reintegration to young offenders through guidance, supervision or education and training. The education and training programs provided in juvenile reformatories aim to help them cope with the society so as to grow up as a whole person. In order to enlarge the effectiveness of remedial education, juvenile delinquents are classified and accommodated by juvenile delinquents' characteristics and needs.

23. The role of the family court is to mediate domestic conflicts. However, when the intervention fails, a judgment is made in accordance with the ideology of child welfare, the principle of the best interest of the child.

24. The Ministry of Labor is responsible for vocational training, and providing jobs and various cultural and leisure activities for children and youths who are engaged in economic activity.

25. There are many government-funded research institutes developing policies for children and youths. The Korea Institute for Youth Development carries out research on the way to protect and guide the youths, develops and distributes youth policies and programs and trains

youth leaders of the society. The Korean Educational Development Institute carries out comprehensive and scientific research on the purpose, content and methods of education, and new educational systems in harmony with Korean tradition and circumstances. It also operates the Education Broadcasting Station. The Korea Institute for Health and Social Affairs is established to assist in formulating and developing policies on health and social affairs through policy research on national health care, social welfare and population policies. The Family Policy Department in the Korea Institute for Health and Social Affairs carries out research on adoption and day-care service besides general research on child welfare policies. The Korean Women's Development Institute, established to improve and enhance women's status through comprehensive research projects on women's issues, and educational and training programs to raise women's consciousness, develops women's potentials and initiates various action-oriented programs concerning women, and undertakes study on children, especially on measures to assist working mothers to bring up children.

26. Non-governmental organizations are playing an important part in work for children and promotion of their rights. There are the National Teachers' League, Korea Private Institutions' League, National Parents Society for True Education, Parents Cooperation for Realization of Humane Education and Korea Youth Association as organizations related with children's education. The Korea Council of Child Organization, Korea Association of Child Welfare Facility, Korea Association of Day-Care, and Korea Women's Welfare Association are voluntary associations concerning child welfare.

B. Definition of the Child

27. The Child Welfare Act provides that "The term 'child' means a person under 18 years of age". The Livelihood Protection Act states that a child under 18 years of age shall be protected for a good start in life, and its material and emotional needs shall be met.

28. Persons under 20 are legally minors and have no voting rights in Korea. In order to perform any legal act, a minor must obtain the consent of its legal representative. The father or mother who exercises parental right shall become the legal representative of his/her child who is a minor. If there is no person to exercise parental right over a minor, or if a person with parental authority is unable to exercise the right or representation with respect to the juristic acts or the rights of management of property of a minor, a guardian shall be appointed for the minor.

29. Children may not enter into contracts of employment. There are special rules for the protection of minors at work. A person under 18 may be employed in limited occupations only. A person under 13, with a written permission for working issued by the Minister of Labor, may be employed on light work which cannot be detrimental to his/her health, development or schooling.

30. Schooling is compulsory for all children domiciled in Korea. This duty to attend school is matched by entitlement to education in elementary and middle school. Schooling ceases to be compulsory when the child has satisfactorily completed 9 years' compulsory schooling. Entitlement to education (art. 28) is further discussed under the heading Education, Leisure and Cultural Activities.

31. Children committing crimes before they are 14 years old may not be sentenced under the Penal Code. A young offender less than 20

years old receives special treatment under the Juvenile Act. It is provided so in consideration of the Civil Code and other statutes regulating voting rights, in order to satisfy the objectives of the Juvenile Act. One of the objectives is to ensure fostering of juveniles by carrying out protective measures related to the environmental adjustment and character correction of juveniles demonstrating anti-social behaviors, and by providing special measures regarding criminal punishment.

32. A person of 20 years of age and over may freely marry. A man who has reached his full 18 years of age and a woman of her full 16 years of age may marry with their parents' or guardians' consent. If a minor gets married, he/she is deemed to have attained the full age and, thus, is granted legal capacity, independent from parental authority or guardianship.

33. Korean men are liable for military service in the year of their 18th birthday, and must attain the age of, at least, 19 during the year of acceptance if he wants to be in active service. However, a person aged 17 or over who voluntarily applies for military service may be enlisted in the army, navy or air force.

34. No minimum age has been set for giving testimony in court. A child may testify if he/she can be able to express himself/herself and is physically and mentally strong enough to handle all proceedings of the court. Whether the testimony made by the child is accepted or not is at the judge's discretion. A person under 16, however, cannot testify on oath.

35. A person under 20 should not smoke, drink and be a frequent visitor to the entertainment districts, according to the Minor Protection Act, whose purpose is to forbid minors from smoking, drinking and frequenting the red-light districts which may corrupt public morals on the one hand, and to guide and nurture minors properly and to protect their health on the other.

36. The minimum age for a car driving licence is 18, while a person aged 16 or over may ride a light motor cycle.

C. General Principles

1. Non-discrimination (art. 2)

37. The requirements of this article are met through the Constitution. The Constitution prohibits any form of discrimination against a child by providing that "all citizens shall be equal before the law, and there shall be no discrimination in all fields of political, economic, social or cultural life on account of sex, religion or social status". It requires courts of law and administrative authorities and other agencies performing public administration duties in the course of their activities to respect universal equality under the law and to observe objectivity and impartiality. As Korea is a very homogeneous country, special mention can be made on the provisions aimed at preventing discrimination on grounds of sex, and there is little discrimination because of sex.

38. Children born out of wedlock have been receiving indifferent and/or unkind treatment due to the emphasis on the social custom of monogamy and legal marriage. The government of the Republic of Korea, valuing every individual as equal, endeavors to treat such child equal to a child born from legal marriage in terms of status and property. The Civil Code provides for a child born out of wedlock not to be legally discriminated against in most areas including inheritance. However, in deciding the order of succession to family headship, the child born during marriage has priority among lineal descendants having the nearest relationship. Also, under the Family Registration Act, whether the child was born in and out of wedlock is stated on the birth report.

39. No privileged class shall be recognized or ever be established in any form. Also, no citizen shall suffer unfavorable treatment on account of an act not of his/her own doing but committed by a relative. That is, privileged class is not recognized and a child is, by regulation, protected from disadvantages due to actions of relatives.

2. Best Interest of the Child (art. 3)

40. Korea's policy concerning children is based on parents bearing the main responsibility for their children's maintenance and upbringing. Parents are the most important persons in the children's lives. Parents must have community support for their parenting, and parental rights may be kept within limits under some circumstances. The child must be entitled to protection from offensive treatment even from his/her parents.

41. The principle of best interest of the child is explicitly upheld in the Child Welfare Act. It is a primary consideration to deal with all areas regarding the care, custody, education and property of the child, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. This principle underlies all the measures which have been set in place for promoting the welfare of children in the Republic of Korea.

3. The Right to Life, Survival and Development (art. 6)

42. The Constitution provides that all citizens shall be assured dignity and value of human being and have the right to pursue happiness. It is the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

43. Under the Juvenile Act, a juvenile sentenced to the death penalty or penal servitude or imprisonment for life for a crime committed before 18 years of age, shall have the sentence reduced to 15 years of penal servitude. Children's right to survival and development is further dealt with in the section headed Basic Health and Welfare.

4. Respect for the Views of the Child (art. 12)

44. The parental authority has the right and duty to protect and

educate the child. However, if a parental authority or its representative abuses, is guilty of gross misconduct or endangers the property of his/her child by mismanagement, parental rights are forfeited. Moreover, forfeiture or pronouncement of forfeiture of the right of representation on juristic acts of the child and the right of management of the property of the child may be requested.

45. Pronouncement of forfeiture of parental authority may be requested by the relatives, pursuant to the provision of the Civil Code, prosecutor, Mayor of Seoul or the provincial governor, and is adjudged by the Family Court with a prior petition to the Court for arbitration.

46. When the person with parental authority is representing a child, in the case where an obligation is to be assumed requiring any act of the child, the consent of the child itself shall be obtained. Also, a minor with the ability to express his/her own thought, with approval of his/her parental authority, may conduct business acts. Juristic acts for the purpose of merely acquiring a right or being relieved of an obligation may be done without consent from the parental authority.

47. When the parents cannot reach agreement on matters concerning custody in case of legal separation, a child who is more than 15 years old is consulted as to which parent he/she wants to stay with. In case of adoption of a child aged 15 or over, the child may not be adopted without his/her own consent.

D. Civil Rights and Freedom

1. Name and Nationality (art. 7)

48. Concerning the registration and the surname of a child, the Civil Code provides that a child shall take his/her father's surname and the origin of his surname, and be enrolled in the father's family registry. In the case of a child whose father is not recognized, his/her mother's surname and the origin of her surname are taken, and he/she is enrolled in the mother's family registry. However, a child whose father and mother are not ascertainable, with approval of the court, may establish a new surname and origin of surname, and establish a new family.

49. Under the Family Registration Act, parents of all children must report the date and time of birth, place, etc. at the child's birth-place, within one month from the date of the birth of the child. For foundlings and children in residential care, authorities of municipality, district, and town or the directors of the residential facilities, with the court's permission, establish the child's surname and origin of surname, and later decide on the name and permanent domicile to be entered on the family registry.

50. All children, including children born out of wedlock, foundlings, and/or stateless children, are guaranteed to acquire nationality as provided under the Nationality Act. (i) A person whose father is a national of the Republic of Korea at the time of his/her birth, (ii) a person whose father died before his/her birth and was a national of the Republic of Korea at the time of death, (iii) a person whose mother is a national of the Republic of Korea or, (iv) a person who is born in the Republic of Korea, if his/her father is unknown or they have no nationality, is a citizen of the Republic of Korea. However, in the case of a child born of a Korean mother and a father whose country follows

the birth-place principle in determining nationality, there is a possibility for the child to have no nationality.

51. All foundlings discovered in the Republic of Korea are presumed to have been born in the Republic of Korea, and therefore a child is prevented from being stateless.

2. Preservation of Identity (art. 8)

52. No Korean citizen who is or had been domiciled in Korea may be deprived of his/her citizenship except when he/she expresses consent to become a citizen of another country. In the case of children or minors under 20, however, it may be prescribed that citizenship is to follow the parents or one of them. The conditions on which a Korean may be deprived of citizenship are defined in detail by the Nationality Act. Korean nationality is lost by (i) one who has married an alien and has acquired the nationality of the spouse; (ii) one who has been adopted by an alien and has acquired the nationality of the alien; (iii) one who once acquired the nationality of the Republic of Korea by marriage but acquired the nationality of a foreign country by annulment of the marriage or divorce; (iv) one who has voluntarily acquired the nationality of a foreign country; (v) one who, having a dual nationality, relinquished the nationality of the Republic of Korea with the permission of the Minister of Justice; (vi) one who, being a minor of nationality of the Republic of Korea, has acquired the nationality of a foreign country by acknowledgement of an alien, provided that it will be an exception if such minor has become the wife or an adopted child of a national of the Republic of Korea; (vii) In case of an alien who has obtained the nationality of the Republic of Korea and has not lost the nationality of his original country after six months have elapsed.

53. When a person has forfeited the nationality of the Republic of Korea, he/she may restore nationality of the Republic of Korea with the

approval of the Minister of Justice. A child of a person who acquires the nationality of the Republic of Korea and who is a minor under the law of the country, obtains the nationality of the Republic of Korea together with his/her parents.

54. A child born out of wedlock may be acknowledged by his/her father or mother. A child born out of wedlock is deemed to be born during the marriage by the subsequent marriage of the father and mother from the time of their marriage.

55. A child, any of his/her lineal descendants or the legal representative of any of them, may bring a legal action against his/her father or mother for acknowledgement. Also, an action claiming acknowledgement may be brought against the prosecutor within one year from the day on which the death of the father or mother becomes known.

3. Freedom of Expression (art. 13)

56. Children's freedom of expression and gathering information is guaranteed under the Constitution presenting that all citizens enjoy freedom of speech, the press, learning and the arts. A provision to prohibit licensing and censorship is newly established in the Constitution so as to prevent violation of human rights through activation of the supervisory and critical functioning of the press.

57. Right to freedom of expression is not only the core of spiritual freedom, but also a cornerstone of a democratic society. However, unlike the intrinsic freedom of thought, the right to freedom of expression is not absolutely unrestricted, but can be restricted under the some social conditions. The Constitution clearly states the specific duties and responsibilities pursuant to the exercise of this right by providing that neither speech nor the press shall violate the honor or rights of other persons, or undermine public morals or social ethics, and that if speech

or the press violate the honor or rights of other persons, claims may be made for damages.

58. The Article 309 and 751 of the Civil Code are the major legal provisions regulating the incidents of abuse by overstepping the inherent boundaries of speech and the press. A person who violates other's reputation by means of the newspaper, magazine, radio or other publication with intent to defame is punished by penal servitude or imprisonment for not more than three years or by a fine not exceeding one million won(\$ 1,250). A person responsible for injuring the reputation, freedom or secrets of privacy of another through unlawful acts is liable to pay compensation for the damages resulted from that behavior. Other legal provisions concerned regulate insurrection and inducement of foreign aggression, disturbance of the public peace or instigation to destroy the national order, and distribution of obscene material, etc.

59. With respect to freedom of expression, the Constitution restricts general basic rights, in which freedom of expression may be restricted by law only when necessary for national security, the maintenance of public order or public welfare. Accordingly, any necessary and reasonable restriction on freedom of expression is deemed to be allowed to a certain extent unless it violates the essential content. When the President issues an emergency decree, freedom of speech and press may not be subject to the general principles described above and is restricted by the emergency decree. When the Extraordinary Martial Law is proclaimed, the martial law commander may take special measures, as provided by law, by the decree with respect to freedom of press and publication.

4. Freedom of Thought, Conscience and Religion (art. 14)

60. The provisions concerning the right of the child to freedom of thought, conscience and religion refer to rights which, in Korea, are guaranteed to every citizen through the provisions of the Constitution on

freedom of conscience and religion. Although there is no stipulated provision to guarantee freedom of thought in the Constitution, it is interpreted that freedom of thought is included in the notion of conscience.

61. Freedom of conscience includes freedom of not having any enforcement, pressure and interference with respect to the decisions of conscience and keeping silence in respect to such decisions. Accordingly, in criminal cases, the suspect or the accused shall not be compelled to testify against him/herself.

62. Freedom of religion includes: freedom of belief by which one shall not be compelled by external influences with respect to the belief and can express one's religious faith freely; freedom of religious actions by which one may practice one's belief such as praying, services, reading of scriptures, etc.; freedom of religious assembly and association by which one may assemble or establish any organization for religious purposes; freedom of mission by which one may propagate one's religion and gather new believers; and freedom of religious education by which one may practice such education. Freedom of speech and the press provided in the Constitution is secured in religious activities. Each religious group is not be discriminated against in comparison with other groups and may produce and distribute publications.

63. The Civil Code provides that a person with parental authority has rights and duties to protect and educate his/her child, and guarantees that a parent or legal guardian has freedom to educate his/her child with religious and moral education. It is not deemed natural, however, in the Republic of Korea that the belief of a parent shall be succeeded by that of his/her child. Even if students attend schools established by religious organizations, they may have their own respective religion. Any adult or child chooses his/her religion according to his/her own discretion and free intention. However, under the current system of

deciding schools, from elementary to high school, except private elementary schools, in which students are allocated to the schools located nearest to the student's residence without any consideration on the student's orientation in terms of religion, students' right to enjoy freedom of religion is encroached substantially by receiving religious education they do not want and not receiving what they do want.

5. Freedom of Association and of Peaceful Assembly (art. 15)

64. Under the Constitution all citizens are guaranteed freedom of assembly and association. Licensing of assembly and association is not allowed. Peaceful assembly is institutionally guaranteed. The Act Concerning Assembly and Demonstration provides that no person may disturb a peaceful assembly or demonstration and disrupt public order by means of violence, intimidation or any other means.

65. Freedom of association and freedom of assembly may be restricted by law, subject to the same conditions which apply to those concerning restrictions of freedom of expression. However, even when such restriction is imposed, no essentials of freedom or right is violated. Therefore, while restriction by law is acknowledged, limitations thereon are provided.

6. Protection of Privacy (art. 16)

66. It is one of the fundamental principles of democracy and the rule of law that no person should be subjected to intrusion of the kind referred to in article 16. One of the objectives declared in the Constitution is for government to assure men and women of equal rights and to safeguard the privacy and family life of the individual. The Constitution guarantees freedom of residence, freedom of privacy and secrecy of communication. In case of seizure or search in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

67. These rights can only be restricted by law, when, as stated earlier, speech or the press is considered to violate the honor or rights of other persons, or undermines public morals or social ethics.

7. Access to Appropriate Information (art. 17)

68. The structure of broadcasting in Korea has been changed from the public system to the mixed one of public and commercial to satisfy people's increasing information need. The Broadcasting Act enacted in 1987, whose purpose is to engage in public opinion formation with democratic process and to strive for the national cultural development and the public welfare, provides the extensive freedom of expression and public responsibility of broadcasting. In 1994, there are 5 television and 13 radio stations including 1 educational television station to provide educational programs exclusively.

69. The total publications in 1991 was about 186 million books, among which children's book composed 14.5% and text reference books are to 53.8%.

70. In order to express children's and youths' dream and ideal and to allow them to grow up in a sound cultural environment, the government tries to produce and distribute appropriate movies. The State pays grants for good scenarios for children and youth as a part of the project to select sound films.

71. Any movie, television or radio program offensive to the proprieties of language and behavior of children is prohibited. There are the Broadcasting Inquiry Council to preserve public responsibility and objectivity and to promote the quality of television and radio programs, the Performance Ethics Commission to oversee performances, movies, tapes and videos, and the Publication Ethics Commission to investigate all kinds of publication.

72. All movies are classified into four grades by their contents. Movies graded as 'general' are showed to the people of all age groups; movies for 'persons over 13 years old' are permitted to those aged 13 or over; movies for 'persons over 16 years old' are shown to persons aged 16 or over; and, 'restricted' movies are permitted to persons aged 18 or over only. It is unlawful for any person below 18 years of age to enter, misrepresent or make use of any false evidence about his/her age in order to gain admission into a movie house showing a motion picture classified as restricted. It is against the law if any employee of a movie house sells to anyone below 18 years of age an admission ticket to such motion pictures. In case of doubt about the age of a person seeking admission, proof of age is required.

73. In order for children to access appropriate and healthy information, under the Child Welfare Act, those who induce a child see a harmful show, movie and similar public performance, and who make books, publication, advertising matters and other materials which might seriously hurt children's moral character, or who sell, distribute, offer, exchange, display, narrate orally or broadcast them to children or make another person to do so, are punished.

8. The Right Not to be Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 37 (a))

74. Under the Constitution, all citizens are assured the dignity and value of human beings. Torture and cruel punishment is prohibited. No citizen is to be tortured or to be compelled to testify against himself/herself in criminal cases. In case a confession is determined to have been made against a defendant's will by means of torture, violence, intimidation, unduly prolonged arrest, deceit etc., such a confession is not to be admitted as evidence toward a conviction nor punishment be meted out on the basis of such a confession. By forbidding confessions obtained by torture to be admitted as evidence, obtaining legal evidence with such acts on

victims is prevented.

75. In Korea, the death penalty is provided for in the Criminal Code and the Special Laws. However, crimes subject to death penalty are limited to very severe crimes, such as, crimes to jeopardize the country's existence including insurrection and felonious crimes of killing and injuring human life. In case of such severe crimes, the penalties are enforced in compliance with a proper process by securing judgement through fair examination by an independent and authorized court, presumption of defendant's innocence, guarantee of right to representations, right to appeal, and right to request for re-opening of a procedure.

76. In the past, the minimum age subject to death penalty was 16 years. On December 31, 1988, the Juvenile Act was amended to the effect that the minimum age was raised to 18 years. The amended Juvenile Act states that in case of death penalty for a child of less than 18 years of age, penal servitude for 15 years shall be sentenced in place of death penalty. Penal servitude for life for juvenile offenders has been prohibited. The Juvenile Act provides that penal servitude for a child of less than 18 years of age is limited to 15 years.

8. The Right Not to be Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 7) (a)

E. Family Environment and Alternative Care

1. Parental Guidance and Responsibilities (arts. 5 & 18, paras. 1-2)

77. Children are the dream of tomorrow and will lead this country in the future. The basic direction of the government's policy in the child and youth sector is to secure an optimal environment for all children and young persons to be able to grow up with a healthy mind and body. The main responsibility for care and upbringing rests with the family. Children are best brought up by their parents in their own home. One of the most important tasks of the government is to improve and encourage family functioning so that children have enough concern and love from their parents. The Civil Code states that both parents jointly exercise parental authority over a child who has not attained the age of majority.

78. Parents are jointly responsible for the upbringing and development of their children. It places a duty on government to provide services for children in need to help parents bring up their children. The welfare of the child is the paramount consideration when arrangements are being made for the care of children following divorce or separation of the parents. A person with parental authority has rights and duties to protect and educate his/her child.

79. Under the Labor Standards Act a female employee, who is pregnant, has a 60 day paid maternity leave before and after childbirth; provided, however, paid maternity leave is granted for not less than thirty days after birth. A female employee who has an infant under one year old is guaranteed 30-minute break for nursing twice a day. Also, a female employee with a baby aged one or less may apply for one-year childcare leave to nurture the baby including the 60 day paid maternity leave, provided by the Labor Standards Act. The period of the childcare leave is included in working years.

80. The Republic of Korea has passed and enforced the laws providing the state's assistance to children in need to help parents perform responsibilities of raising a child. The Maternal and Child Welfare Act has been passed and enforced in order to secure a healthy and decent life for female-headed households; the Maternal and Child Health Act, to contribute to promotion of national health by improving the health of mother and child and encouraging child's health development; the Child Welfare Act, to guarantee the child's welfare in that the child is born sound and brought up with happiness and health; the Infant's Education Promotion Act, to provide a good educational environment for the infants so as for infants to be sound in mind and body and to develop their potential, which leads them to be raised as well-rounded citizens and to contribute to the Nation's development; the Infant and Preschool Child Care Act, to bring up children as the sound members of society through sound education and to care for infants and preschool children, where their guardians are unable to care for them due to their work, ill health, or other reasons, and to make the guardians' economic and social activities more harmonious. The Livelihood Protection Act, with the purpose of promotion of social welfare through securing the minimum standard of living and encouraging self-sufficiency by providing necessary protection required by persons who do not have the ability to maintain a living or who have a low income.

2. Separation from Parents (art. 9)

81. In Korea the parents are primarily responsible for the child's basic needs. On the other hand, society has laid down that the basic rights and needs of all children are to be provided for. This makes it the duty of society to intervene in cases where children's basic rights are violated. If a father or mother abuses parental authority or is guilty of gross misconduct, or there exist any other cogent reasons for terminating parental rights, the court may, upon the application by any of the child's relatives or a public prosecutor, adjudge the termination

of parental power.

82. The Civil Code guarantees the parent's right to maintain relationship with the child when the parents are divorced or separated, by providing that a father or mother has visitation rights with respect to a child who has been brought up by the other parent. However, the child's right to visit and maintain relationship with the parent is not guaranteed. The Family Court, when deemed necessary for the welfare of a child and with request from the child concerned, may limit or terminate the parent's visitation. That is, limitation or termination of visits is allowed when a child does not want them, in the interest of welfare of the child.

83. A child aged 15 and over may express his/her own consent when adopted. When parents are divorced or legally separated and they disagree on custody, the opinion of the child who is more than 15 years old is taken into consideration.

84. The Code of Criminal Procedure institutionalizes a written notice of arrest to be sent immediately from the arrest with the reason for the arrest. The Penal Administration Act Enforcement Ordinance provides that in case of death of a prisoner, the prison officer must immediately notify the family or relatives the cause of death, the case history, and the date and time of the person's death.

3. Family Reunification (art. 10)

85. Freedom of residence, moving within the country, emmigration and travel to a foreign country is guaranteed by provision under the Constitution.

86. An alien with a valid passport and visa is allowed to enter Korea, except for those who may be prohibited from entering pursuant to the

Immigration Control Act, such as patients with an epidemic disease, carriers of unlawful firearms, mentally disabled persons, those who are deemed to have reasons to commit any act detrimental to social order or good morals, etc. For aliens residing in Korea their departure is guaranteed except those whose departure is suspended pursuant to the same act, i.e. persons suspected of committing a grave crime, persons in arrears with the payment of taxes, etc. Therefore, except for those who fall under the Immigration Control Act, there is no restriction on entry and departure of children and parents as provided under the Convention.

4. Recovery of Maintenance for the Child (art. 27, para. 4)

87. Concerning article 27, paragraph 4, an account of maintenance advances is given with reference to the article 27, paragraphs 1 to 3, heading Standard of Living.

5. Children Deprived of a Family Environment (art. 20)

88. Children must be born and brought up in a family environment. Having a family environment is children's right and essential for their healthy growing up and development. However, when a child cannot have such an environment, or remaining in his/her parents' home is detrimental to the child's development, a child-caring institution may be a substitute. In 1993, 2,940 children were placed in residential facilities, composing of 64% of the entire needy children occurring in the same year.

89. The number of residential facilities for children, established to protect orphans resulting from the Korean War, decreased after the 1970's. Residential care has been accepted as the most generalized alternative to care for children in need. Attaching weight to the residential care in caring for needy children is due to the lack of the development of substitutional caring arrangements. To develop a broad

range of substitutional caring environment is one of the urgent tasks that Korea is facing to improve the welfare of children in need.

<Table 2> Status of Needy Children and Placement, 1990-1993

Year	Total	Origin		Placement		
		Abandoned children	Lost children	Residential care	Foster care	Adoption
1990	5,721	4,213	1,508	3,734	1,134	853
1991	5,095	3,630	1,465	3,414	999	682
1992	5,020	3,294	1,726	3,122	1,212	686
1993	4,451	3,234	1,217	2,940	943	568

90. Foster family care, as an alternative to institutional care, is practiced at an experimental level. Foster family care is classified into foster family care for adoption and for apprenticeship, and paid- and non-paid foster family care. Although foster family care is emphasized and encouraged at policy level, it is still inactive and functioning merely as a previous stage for adoption. It is estimated that i) the blood-oriented family system, ii) economic instability, iii) insufficient living place, iv) deficiency in social security, such as child allowance, and v) the lack of specialized foster family care agency are the primary reasons for inactive foster family care.

6. Adoption (art. 21)

91. Adoption, regulated and administrated under the Civil Code and the Special Adoption Act, is classified into domestic adoption and intercountry adoption. Permission for adoption can only be granted if the adoption is beneficial to the child. A person under the age of 18 may not be adopted without his/her parents' or guardian's consent. A person aged 15 or over may not be adopted without his/her own consent.

The applicant or the prospective parent by adoption is assessed by the adoption agency whether he/she can give the child good care and upbringing and generally favorable conditions to grow up. In case of domestic adoption, the adoption process is completed with a legal report according to the procedure of the Family Registration Act, and in case of intercountry adoption, with the permission for emigration of the Minister of Health and Social Affairs and removal of the child's nationality from the family court of the registry.

<Table 3> The Trend of Adoption, 1958-1993

Year	Total	(units: person, %)		
		Domestic adoption	Intercountry adoption	Ratio of domestic adoption
1958-1960	2,700	168	2,532	6.2
1961-1970	11,481	4,206	7,275	36.6
1971-1980	63,551	15,304	48,247	24.1
1981-1985	50,502	15,424	35,078	30.5
1986-1990	41,322	11,079	30,243	26.8
1991	3,438	1,241	2,197	36.1
1992	3,235	1,190	2,045	36.8
1993	3,444	1,154	2,290	33.5
Total	179,673	49,766	129,907	27.7

92. The recent trend of domestic and intercountry adoption is that, as in <Table 3>, the number of adoptions is decreasing. It is expected that, if there is no sharp decline, about 1,000 children are adopted within Korea and about 2,000 children to foreign countries every year. The ratio of intercountry adoption to domestic has decreased. Intercountry adoption is 2.8 times higher than domestic adoption in 1975, 3.3 times in 1987 and 1.9 times in 1993. In 1993, 1,154 children were placed for adoption in domestic families, and 2,290 children to abroad. Nine

countries of U.S.A., Sweden, Denmark, Norway, Netherland, Australia, Belgium, France and Luxemburg adopted Korean children. Of them, 78.9% of children are adopted to U.S.A. The government seeks measures to improve the adoption system to encourage domestic adoption so as to reduce intercountry adoption 10-20% yearly.

<Table 4> Distribution of Intercountry Adoption, 1993

Country	The number of the adoptees
U.S.A.	1,807
Sweden	60
Denmark	139
Norway	104
Netherland	4
Australia	69
Belgium	1
France	85
Luxemburg	21
Total	2,290

93. Domestic adoption service is carried out by five authorized non-profit agencies and twenty five child-guidance clinics in cities, counties, and districts. Since 1988, to activate domestic adoption, the government has given family reduction benefit to the income tax of the family adopting a child. The upper age limit for adoption parents is increased from 45 to 55, and a housing grant up to 35 million won, equivalent to U.S. \$ 43,750, is granted to the family adopting a child.

94. Intercountry adoption service, started to aid orphans and mixed blood children born during the Korean War, is provided by four authorized non-profit organizations. Even though intercountry adoption has a similar procedure to domestic adoption, special attention and

assistance to the adoptee and adopting parents and post-placement service in a concrete form are required because of the differences in ethnic background, culture and language between the adopted child and the adopting parents. When the child gets the adopted country's nationality after adoption, the agency of the foreign country reports it to Korea's adoption agency. Then, Korea's adoption agency reports it to the Ministry of Law so that the child's nationality may be deleted from Korea. The foreign country's adoption agency makes a report on the child's progress, at least, every six months and sends it with his/her photographs to the Korea's adoption agency until the child gets the country's nationality.

95. About 86.5% of all children who apply for adoption are from out of wedlock in 1993. Poverty, death of parents and divorce are the other causes for adoption.

96. Under the Child Welfare Act, Korea forbids persons rendering assistance in connection with an adoption to derive improper financial gain from the adoption proceedings.

7. Illicit Transfer and Non-Return (art. 11)

97. A person who kidnaps a child by force or inveiglement is punished by penal servitude for not more than ten years. In particular there is a great effort to eliminate illegal transport of a child abroad by providing that a person who kidnaps by force or inveiglement or buys or sells a person for the purpose of transporting him/her out of the Republic of Korea, is punished by penal servitude for not less than three years.

8. Abuse and Neglect (art. 19), Including Physical and Psychological Recovery and Social Reintegration (art. 39)

98. The duty of society to intervene in cases where a child's basic

rights and needs are neglected is provided in the Child Welfare Act, the Minor Protection Act, the Labor Standards Act and the Criminal Code. In order to protect children from violence, cruelty, exploitation, etc., the Criminal Code provides that a person who delivers a child under 16 years of age, who is under his/her protection or supervision over, to a proprietor or his/her operator who will employ the child in such work as is dangerous to life or limbs, is punished by penal servitude for not more than five years. A person who kidnaps a minor by force or inveiglement is punished by penal servitude for not more than ten years. The Additional Punishment Law of Specific Crimes provides that a person who kidnaps a child with intent to obtain pecuniary or proprietary gain or with intent to kill the child, is punished by penal servitude for life and up to death penalty respectively.

99. The Child Welfare Act provides that all citizens, the State and local government are responsible for the protection and sound upbringing of children. For such provisions, the Act prohibits various kinds of acts such as violence, cruelty, exploitation against children, etc., and such violation is punished severely.

100. The typical form of child abuse in Korea is abandonment. The incidence of lost and abandoned children has decreased, but the rate of incidence of abandoned children is 2-3 times higher than that of lost children(see Table 2). Since all abandoned children caused by family conflict are cared for, Korea's protection services for abused children are focused on caring services for those children.

101. There is no standardized definition of child abuse in Korea. With the Confucian culture and tradition in which parents' and teachers' corporal punishment is considered as educational discipline and even called the "spanking of love", there has been confusion between abuse and discipline. For this reason, there has not been a growth of awareness concerning problems connected with child maltreatment and

abuse, nor has general consensus evoked. However, the problem regarding child abuse in Korea is, according to small-sized surveys on child abuse, estimated much more serious than had been actually assumed.

102. The Children's Rights Protection Center, as the voluntary agency for the prevention, finding and treatment of abused children, was established in 1985 within the Child Guidance Center in Seoul. The Area agency on Child Abuse and Neglect was also organized as a substructure of the Korean Association for the Prevention of Child Abuse and Neglect in 1989. In addition, in 1990 the Parents Cooperation for Realizing of Humane Education created the 'Horuragi(whistle) Hotline' as a part of the campaign to banish violence in schools.

103. Social intervention for child abuse and neglect in Korea has remained at the level of "finding-out", which is the initial stage of the way to confront and solve the problem of child abuse and neglect. Specialized and active intervention for the prevention and treatment of child abuse by professional personnel has not developed, due to the lack of legal device for the professional intervention. Above all, legal institutionalization of reporting child abuse is necessary as the first step for solving the problem.

104. The state has a plan to provide a shelter service for abused children as part of a long-term plan for promoting child welfare. In the first stage, planned 1994 and 1995, preparing a guide for shelter service for abused children and assisting research on child abuse, are set as its goals. In the second stage from 1996 to 1997, experimental establishment of child abuse centers adjacent to the Child Guidance Center in six metropolitan areas and training personnel for child abuse so as to handle such cases, are the main tasks. The last stage, assigned for 1998, is set for the analysis of the result of the service on child abuse, its enlargement to 15 provinces, and improving laws and

regulation on child abuse.

9. Periodic Review of Placement (art. 25)

105. According to the Enforcement Ordinance of the Child Welfare Act, the child welfare facility refers to child guidance clinic, child-caring institution, child emergency protection facility, child vocational guidance center, juvenile reformatory, self-support facility for those discharged from child-caring institution, foster-care facility for adoption, and facility for emotionally disturbed children. In December 1993, 20,194 children were cared for in 278 residential care facilities.

106. The number of child-caring institutions and children cared for in such facilities has decreased together with the decrease of the number of abandoned and lost children. The government expects that about 20,000 children, 0.15% of the whole child population, will need to be cared for in residential facilities in the future.

107. The mayor, provincial governor and ward head are responsible for a periodic inspection to these child-caring institutions on their management, programs and audit.

<Table 5> Children in Residential Care, by Type of Institution, 1993

Type of institution	No. institutions	No. children	Average no. children
Inst. for Infants	38	2,260	59
Inst. for Children	218	16,914	78
Vocational Guidance	8	346	43
Juvenile Reformatory	7	545	78
Self-support Assistance	7	129	18
Total	278	20,194	73

<Table 6> The Trend of Institution for Infants and Children, 1975-1980

Year	No. the institutions	No. children
1975	350	32,996
1980	287	23,357
1985	271	24,430
1990	261	22,535
1991	259	21,333
1992	257	20,286
1993	256	19,174

F. Basic Health and Welfare

1. Survival and Development (art. 6, para. 2)

108. With the rapid economic development during the 1970's and 1980's, the health status of Korean children has steadily improved. The general rise in prosperity, with better housing, improved hygienic conditions and increased awareness concerning diet and nutrition, has been a powerful contributory factor of this improvement. Korea's infant mortality rate has been reduced from 38.5 per 1,000 in 1978 to 12.8 in 1992. Maternal mortality has been reduced from 4.3 per 10,000 in 1978 to 3.0 in 1988 and stayed at the same level thereafter. The institutional delivery rate has been increased from 32.0% in 1977 to 98.9% in 1991, and the amount of prenatal care from 57.2% to 95.1% during the same period.

109. Under the Maternal and Child Health Act, the government is improving pre- and post-natal care, systems of delivery and health care for infants and children. The Maternal and Child Health(MCH) Center has been constructed within the Public Health Center to improve the health of mothers and children by increasing institutional delivery. They are in charge of medical services for delivery, emergency treatment, family planning and pre- and post-natal care. In 1993, there were 267 public health centers with 1,329 local branches and 2,039 health clinics, together with 77 MCH centers, which are government sponsored, and 11 non-profit MCH centers, 12 MCH centers under the Family Planning Association, providing maternity health care in public sector.

110. The principal aim of child health care is to reduce mortality, morbidity and disability in the child population by free pre- and post natal care. Since 1987 the Government has issued "Maternal and Child Health Care Handbook", which contains useful information on pregnancy, child bearing and upbringing and serves to record the health conditions

of the mother and her babies, for expectant mothers to promote maternity health care on a national scale. Since the Maternal Health Center gives medical, dental and general health guidance, an expectant mother can be medically examined freely at the center whenever she wants. This preventive and promotive procedure is also applied to babies, infants and nursing mothers. Mass-screening for birth defects of metabolism and neuroblastoma has been carried out. About 50,000 newborns are examined every year in the Maternal Health Centers. Free vaccinations (or with nominal fee) for children up to age 5 are also provided. The general vaccination program comprises Tuberculosis, Diphtheria, Pertussis (Whooping cough), Tetanus, Polio, Measles and Hapatitis B. Also, health supervision involves regular health checks for all newborns when they are 6 months old, and 18 months old.

<Table 7> Proportion of Immunized Korean Children, 0-1year old, 1989

(unit: %)

B	C	G	D P T			Polio			Measles	MMR	Hapatitis B
			1st	2nd	3rd	1st	2nd	3rd			
93.7	98.2	96.4	93.0	98.2	96.4	93.0	92.4	96.3	71.0		

111. The rate of breast-feeding, in spite of its importance, has decreased. According to the survey of the Korea Institute for Health and Social Affairs, the rate of breast-feeding decreased from 69% in 1981 to 57% in 1994. However, with the adoption of the International Baby Friendly Hospital Initiative, an active movement for breast-feeding is underway among many hospitals and voluntary organizations.

112. The main cause of hospital morbidity among children is diseases of the respiratory system, such as Pneumonia and Bronchitis.

113. According to the survey carried out by the Korea Institute for Health and Social Affairs, the proportion of incidence of disability among newborns was 0.6% in 1992.

114. A problem that requires special consideration is children's accidents, since they represent the first cause of death in childhood, except the case of children in the 0-1 age, whose primary cause is congenital anomalies together with prematurity and low birth weight. With the development of medicine the rate of death from diseases has decreased, but the rate of death from accidents, especially from traffic accidents, has increased relatively. The death from traffic accidents among children aged under 14 years was 1,566 in 1991, which was 11.7% of death from traffic accidents of all age groups during the same year.

115. 'The Five-Year Campaign To Reduce Traffic Accidents' is underway for the period of 1992-1996. With this campaign the death from traffic accidents in 1992 was reduced by 13.7% compared to the previous year, and the children's death was also reduced to 1,114, which showed about 30% decrease. Nevertheless, these figures are still high compared with those in other countries.

116. 'The Safety Traffic Promotion Corporation' created to prevent traffic accidents, provides traffic safety education for children to the guidance teachers of schools having more than 10 classes. The "Children Protection Zone" is also established within the radius of 500 meters of school in order to protect children from traffic accidents.

117. The School Health Care Act enacted 1967 has the purpose of heightening the effectiveness of school education by improving students' and teachers' health. The school free lunch program as the main program to improve children's nutrition is classified by the characteristics of the region. The government bears the expenses for the food, management and facility of public schools. The prevalence of the

free lunch program is 39% of all elementary schools and 22% of all elementary students in January 1994. It is expected that all elementary schools will be covered by the end of 1996.

2. Disabled Children (art. 23)

118. There are about 100,000 disabled children and young persons aged up to 19 in Korea, who are 0.76% of the relevant age group and require supportive measures from the community on account of their disability. They are with various types of disability such as physical disability, hearing impairment, visual impairment, mental retardation and other medical disabilities. Most disabled children grow up in their own home, together with their parents and siblings. In cases where for various reasons this is not possible, they may be placed in homes for the disabled. About 6.5% of all disabled children, 6,443, were cared for in 152 residential facilities at the end of 1993.

119. The State and municipalities have the responsibility for their economic security and welfare. The aim of Korean policy for the disabled is to assure each individual of social integration and equal opportunity. The legislations regarding the disabled are the Welfare Act for the Disabled, the Employment Promotion Act for the Disabled, and the Special Education Act. The 1988 Seoul Para Olympics provided an opportunity for people to improve their understanding of the disabled and the welfare needs of the disabled. A comprehensive welfare plan is prepared and carried out by the Committee on Welfare for the Disabled under the President, which aims to increase the rehabilitation and social participation of the disabled.

120. Since November 1988, a registration system for the disabled has been implemented throughout the country. The government encourages the disabled persons to register in their residential area office in an effort to achieve an exact understanding of their current status and

pertinent services. In order to promote disabled persons' employment, the Employment Promotion Act for the Disabled provides that governmental and municipal organizations, and enterprises with 300 employees or more must employ the disabled persons for 2% of their total employees.

<Table 8> Estimated Number of Disabled Children, by Age, Sex and Types of Disability (unit: 1/1,000 persons)

Age	Total	Sex		Types of disability				
		Male	Female	Physical	Visual	Hearing	Speech	Mental retardation
0-4	2.61	3.46	1.61	0.70	0.43	0.46	1.04	1.23
5-9	5.69	6.96	4.30	2.02	1.36	0.71	1.83	2.32
10-14	7.46	8.82	6.01	2.36	1.49	0.99	2.80	2.89
15-19	8.28	10.38	6.10	3.42	1.39	1.24	3.00	2.92

121. Medical rehabilitation service is provided in eight rehabilitation hospitals, and one of them is for disabled children only. These rehabilitation hospitals are managed with the central governmental fund(40%), local governmental fund(40%) and self-fund(20%). The National Rehabilitation Medical Center is established with 200 beds in 1994, where medical rehabilitation for the disabled and research on disability are to be carried out. As the community-based services of medical rehabilitation, education and vocational training for the disabled, there are 21 general welfare centers, which are constructed at the provincial level, and 13 welfare centers for certain types of disability.

122. The Korea Heart Foundation, established in 1984, is a specialized voluntary organization. It has arranged the operations for the children of low-income families with heart disease or deformed heart. So far 9,242 children have benefited from this agency with the participation of

43 medical institutions.

3. Health and Health Services (art. 24)

123. The achievement of the national health insurance program, with the introduction of health insurance for salaried workers employed by firms with 500 or more workers in 1977, for farmers, fishermen and self-employed workers in rural areas in January 1988, and for self-employed workers in urban areas in July 1989, increased the utilization rate of health services. The rate was not significantly different by regional or socio-economic group. In 1991 more than 90% of the entire population was covered by the national health insurance program. The State bears the half of the national health insurance fee for farmers, fishermen and self-employed workers.

124. For the effective medical service a three-level health care delivery system has been introduced in Korea. The primary medical examination is carried out in a medical office or clinic, the lowest level in the delivery system, where service is for outpatients. Secondary medical examination is carried out in an intermediate hospital, where service is for outpatients and inpatients who are referred from medical clinics. The tertiary medical examination is carried out in a general hospital adjacent to a university, the highest level in the health care delivery system, whose service is mainly for inpatients and referrals from the secondary medical institutions. The medical service for children also is operated under the same system and procedure.

125. Korea's health service is dominated by private or voluntary sector. About 85% of all medical institutions are non-governmental. There are two children's hospitals and 2,188 pediatricians, which compose 8.8% of all medical specialists, 24,994, in 1992. About 200 pediatricians qualify every year. The number of the pediatric clinics is 1,555 in the primary health service setting, 428 in hospitals as the secondary level, and 34 in

the general hospitals.

126. According to the National Health Survey on Morbidity, Utilization of Health Services and Health Behavior in 1992, children's morbidity rate per 100 children is 50 in the 0-4 age group, 27 in the 5-9, and 16 in the 10-19 age group. Visits to medical institutions per 100 children is 49, 25 and 13 in each age group respectively. About 12% of children in the 0-4 age group and 32% in the 10-19 age group could not get medical service because of social-economic reasons.

4. Social Security and Child-Care Services and Facilities (arts. 26 & 18, para. 3)

127. The State has the duty to promote social security and social welfare, as provided in the Constitution. There is no direct economic support given to children; it is given through their family. As a form of public assistance, the children of the family below poverty line and in residential care, are protected under Livelihood Protection recipient householders. They are provided monthly livelihood aids to maintain a minimum standard of living, medical aid and educational expenses which cover the tuition of middle school and vocational high school. At the end of 1993, the number of children covered by the Livelihood Protection was 518,000, which constituted 25.9% of all beneficiaries(2,001,000) and 3.7% of the entire children population. In order to promote the economic security and self-reliance of female-headed households, the State and municipalities provide livelihood aid, vocational training and child-maintenance aid, and lends them housing and enterprising fund if they want assistance.

128. With rapid economic growth, modernization and urbanization, the size of households has decreased, and the rate of women's, especially mothers', employment tends to be increasing. It was estimated that about 47.3% of the female population were employed in 1992. About

5,718 thousands mothers were employed, which constituted 46.7% of all married women. Day-care or day-nursery service in Korea is provided under the Infant and Preschool Child Care Act of 1991. With this legislation, the term "day-nursery" is replaced by "day-care" which has a more educational connotation. Day-nursery service is governed by the Ministry of Health and Social Affairs, and the low-income family gets financial support for the children registered in day-nursery program from the government. The program of day-care centers for working mothers had an enrollment of 153,270 children, 15.3% of all children needing day-care service, in 5,490 units in December 1993.

<Table 9> Number of Day-Nursery Centers and Enrolled Children, by Types of Center
(units: center, person)

Type of centers	1990	1991	1992	1993
National & Public	360	503	720	837
Private	39	1,217	1,808	2,419
Work	20	19	28	29
House	1,500	1,931	1,957	2,105
Total	1,919	3,670	4,513	5,490
No. children	48,000	89,441	123,297	153,270

129. Since 1990, the State has promoted the day-nursery service as a primary project in the area of social welfare to meet the increasing need of these services, assisting self-reliance of dual-career households and upbringing children with sound body and mind. As a consequence, the number of day-nursery centers has increased from 1,919 at the end of 1990 to 5,490 at the end of 1993, which shows an average 95% increase every year, and the number of children cared for in such facilities from 48,000 to 153,270 children, with an average annual increase of 106%, in the same period. The State's budget for day-nursery services also

increased from 1,910 million won in 1990 to 9,850 million won in 1993 and 11,880 million won in 1994, which shows an average annual increase of 75.4%.

130. There is no specialized day-nursery service for the disabled children. Since most parents are not favorable for their children to be integrated with disabled children, they cannot have an opportunity of participating in organized pre-school activities. The State plans to construct six day-nurseries for the disabled children only, by the end of 1996.

131. The State is carrying out research on the projected need of day-nursery services for its exact estimation. In further support for the development in the day-nursery sector, about 118 billion won (in U.S. \$148 million) will be allocated for the establishment of 731 day-nursery centers by 1997, which will care for all the children of working mothers. In addition, various kinds of day-nursery program are being developed and operated to provide a high quality of service in accordance with each child's developmental stage.

5. Standard of Living (art. 27, paras. 1-3)

132. Korea has provided selective welfare programs for only the underprivileged, based on the principle that the family is primarily responsible for each member's welfare and that the social security system is secondary to the family. Emphasis has been put on strengthening the welfare function of family and preventing the occurrence of needy children.

133. There is a sponsorship program as a measure to lift the standard of living of children in adverse circumstances, besides public assistance. The sponsorship program is to supplement public assistance, which is not enough for attaining a proper standard of living. It is provided to children in residential care, of child-headed households and female-headed

households. The sponsors send them a certain amount of money on a monthly basis, and, at times, visit them. Since 1981 the Korea Children's Foundation, one of the specialized non-governmental child welfare agencies, has been placed in charge of the sponsorship program to promote voluntary participation from the non-governmental sector.

134. The child-headed household project was started in 1985 to prevent children in need from institutionalization and to support them to live in their community. They are children and young persons under the age of 20 whose parents are not able to provide proper care economically and emotionally, because of death, divorce, physical or mental disability and disease. As a result, those children have to be responsible for their families' livelihoods. They are provided with livelihood aid, medical aid, educational assistance and appropriate support for clothing, food and transportation. In 1993, there were 7,322 child-headed households with 14,293 members. In 1992, 98.6% of the child-headed household and 86% of children of such households had sponsors; each child receives about 25,000 won in average monthly from his/her sponsor.

<Table 10> The Trend of Child-Headed Households, 1985-1993

(units: household, person)

Year	No. households	No. household children, by school attendance					
		Total	Pre-school	Primary	Middle	High	Others
1985	6,696	13,778	142	3,593	4,009	2,998	3,036
1986	6,537	13,633	195	3,552	3,970	2,782	3,164
1987	6,901	14,416	350	3,735	4,200	2,578	3,553
1988	6,510	13,960	385	3,777	4,049	2,121	3,628
1989	6,029	13,233	450	3,749	3,814	1,632	3,588
1990	4,901	11,125	410	3,356	3,133	1,135	3,091
1991	6,902	13,985	121	3,650	4,093	3,194	2,927
1992	7,089	14,081	136	3,521	4,404	3,374	2,646
1993	7,322	14,293	119	3,331	4,710	3,622	2,511

G. Education, Leisure and Cultural Activities

1. Education, Including Vocational Training and Student Guidance (art. 28)

135. Under the Constitution all citizens have the right to receive an equal education corresponding to their abilities, and all citizens who have children to support are responsible at least for their elementary education and other education as prescribed by law.

136. Schooling is compulsory for all children. Under the Education Act every citizen has a right to receive elementary school education of six years and middle school education of three years as compulsory schooling. Compulsory schooling starts in March when a child reaches the age of seven. Normally a child finishes his/her compulsory schooling of nine years at the age of sixteen. The central government and local autonomous bodies have the responsibility to devise necessary measures for securing educational facilities.

137. The Korea's educational system is, generally, composed of elementary school of six years, middle school of three years, high school of three years and college education of two or four years or more. In April 1993 11,460,000 students were enrolled in 19,790 educational institutions, which was a quarter of the whole population. There are 410,000 teachers and professors employed in the formal educational institutions. Of these students, 5,253,138 were female constituting 45.8% of the whole students. These schools are supervised and evaluated by the Ministry of Education, 15 municipal offices of Education and their 179 local branches. The number of students per class, one of the representative educational indicators, has decreased to 38 students in elementary school, 48 in middle school, 47 in high school as of April 1993.

<Table 11> Number of Schools, Classes & Students by School Level, 1993

	School	Class	Student	No. students/class
Kindergarten	9,484	18,841	288,020	15
Elementary school	6,057	111,870	4,336,833	38
Middle school	2,590	49,639	2,410,116	48
High school	1,757	43,381	2,069,218	47

138. Foreign children residing in Korea are also able to receive the same education as Korean children. In November 1990, there were 58 educational institutions with 6,260 foreign children aged up to 19.

(a) Types of school

(i) Elementary school

139. Since 1950 compulsory education in the level of elementary school has been enforced free of charge. However, when a child of school age is unable to receive education on account of any deformity, disability, weakness, underdevelopment, or other unavoidable reasons, the child may be excused from or permitted to defer attendance, which is to prevent adverse side-effects from standardized operation of compulsory education. The purpose of the primary school is to provide the basic elementary and general education necessary for national life.

140. When a child of overseas Koreans or foreigners residing in Korea wants to enter or be transferred to a school in Korea for the first time, he/she can have the same education as Korean children receive by submitting to the headmaster of the school a residential certificate issued by the chief of the Immigration Bureau.

(ii) Middle school

141. Children graduating from elementary school have a right to receive middle school education of three years. The compulsory education for middle school has been gradually enforced in accordance with financial status of the State from island areas in 1985 to county-level areas in 1992. In April 1993, 99.9% of elementary school graduates moved over to middle schools. Of these, 17.3% are educated free of charge. The proportion of students educated free of charge in middle school is expected to reach 25.1% by 1994. The purpose of middle school is to provide general education on the foundation of elementary school education. The curriculum also includes understanding pending issues around the world, such as disease, poverty, drought and starvation, overpopulation, pollution, and destroyed environment.

(iii) Upper secondary school

142. After compulsory schooling there is optional education with a choice between a vocational training, which is classified as the technical, commercial and agricultural high school, and pre-university education, which is provided in the general high school. In April 1993, 99.1% of middle school graduates receive further education in high school. The distribution ratio of vocational and general high school is 35:65. The purpose of high school education is to give advanced general education and professional education on the foundation of the middle school education. Particularly, the importance of international understanding and cooperation stemmed from increased interdependent relationship in the international society is emphasized.

(iv) Higher education institute

143. Korea guarantees a relatively broad range of educational opportunity. There are 297 higher education institutes including junior-college of two years, and college and university of four years, where

1,995,047 students, which represent 56.5% of the 18-21 age group, are enrolled. The educational opportunity is predicted to grow with the policy to increase specialized man-power in the sector of manufacturing industry.

144. Students can enjoy the benefit of study loans with low interest rates because the government covers the half of the interests.

(v) Kindergarten

145. The kindergarten functions to promote children's healthy growth by providing them with appropriate educational environment. As of April 1993, 47.3% of the children go to kindergarten. It is planned to reach 60% by 1998 through increasing the number of kindergarten.

(vi) Special school

146. Special education for the disabled children is provided under the Special Education Act. Special education is offered in various forms, which is free from kindergarten up to high school, and compulsory for elementary and middle school education. The education is provided in the special school branches adjunct to the residential care facility for the disabled, special schools, and special classes within general schools, or by dispatched teachers of special education, etc., in due consideration of the area's circumstances, the distribution of disabled children and the degree of disability. The national budget for special education is 75 billion won (in U.S. \$ 93.8 million) in 1992 and 83.2 billion won (in U.S. \$ 104 million) in 1993, which constitutes 0.85% of the entire education budget.

147. The Ministry of Education estimates that 244,000 children need special education, which include 46,000 children with severe disability and 198,000 children with relatively slight disability. Children with severe disability are educated in special schools, and children with slight disability in the special classes within general schools. There are 12

special schools for the visually impaired, 20 schools for the hearing impaired, 57 schools for the mentally retarded, 11 schools for the physically disabled and 3 schools for the emotionally disturbed. A total of 106 special schools provided special education to 20,985 children with severe disability in April 1993. Also, there are 3,321 classes with 28,210 children having relatively slight disability. However, these cover only 20.2% of the disabled children needing special education (45.7% of the children with severe disability, and 14.3% of the children with relatively slight disability), and the rest 79.8% of the disabled children cannot receive proper education and training.

<Table 12> Status of Special Education, 1993

Classification	Types of disability	No. schools	No. classes	No. students
Special school	Visual disability	12	154	1,359
	Hearing/Speech disability	20	396	4,007
	Mental retardation	57	1,117	12,598
	Physical disability	14	242	2,568
	Emotional disturbance	3	45	453

	Total	106	1,954	20,958
Special class	General school	2,638	3,321	28,210

148. The State plans to construct 33 special schools and 3,350 special classes in the period of 1993-2001. In order to achieve high quality of education, the school inspector on special education is allocated, and the administration unit for special education in central and local government will be strengthened. The National Institute for Special Education was established for the purpose of studying efficient teaching methods, developing proper teaching materials and training teachers for special education.

(vii) Private school

149. Private schools constitute 31.9% of all schools, and students enrolled in private schools 32.8% of all students. The proportion of private schools in higher education is fairly high; 74.4% of all students are enrolled in private schools, which form 73.9% of all schools. The government grants subsidies for financial deficiencies to the private institutes.

<Table 13> Status of Private Schools, 1993

Classification	Total schools	Private schools(%)	Total students	Students in private schools(%)
Kindergarten	8,515	4,001(47.0)	469,380	356,048(75.9)
Elementary school	6,057	76(1.3)	4,336,252	67,392(1.6)
Middle school	2,590	700(27.0)	2,410,874	616,287(25.6)
High school	1,757	893(50.8)	2,069,210	1,281,383(61.9)
Junior college	128	120(93.7)	456,227	434,765(95.3)
College/University	138	102(73.9)	1,109,622	825,532(74.4)
Others	605	424(70.0)	611,675	176,085(28.8)
Total	19,790	6,316(31.9)	11,463,240	3,757,492(32.8)

(viii) Vocational guidance and training

150. Vocational guidance and training is provided in high schools. Besides vocational high schools, general high schools also provide vocational guidance and training to the students who want to have a job after graduating from the high school. Their curricula and teaching methods for vocational training are organized and carried out according to those of the vocational high schools.

151. Vocational training aims to fulfill the manpower-demand of a rapidly changing industrial society. It was introduced with the

legislation of the Vocational Training Act in 1976. There are about 200,000 children and young adults who cannot continue study at a higher level on account of various reasons. Most of them do not have appropriate skills and knowledge needed for proper jobs. Any person aged 14 years or more may receive vocational training, if he/she wants to. The expense for vocational training is charged, in principle, on the person or agency that provides vocational training. After completing the vocational training, they are offered a job through the Area's Employment Agency.

(ix) Other education institutes

152. For children and young adults who cannot continue their advanced study because of financial difficulty or having a job, there are the radio and correspondence middle schools and high schools, and night and special classes which are attached to industrial bodies for middle or high school education of their working juveniles.

153. A person who has passed the qualification examination or who completed a certain course of non-formal education institutes is entitled to the same qualification as the person who has finished the formal education.

154. Juvenile delinquents who lost educational opportunities due to their delinquency may also have an opportunity to continue their study. The school curriculum reformatory provides regular primary, middle, and high school curricula, and gives the same qualification to the students as the regular schools.

(b) Education budget

155. It has been traditionally considered that education investment is the base for national development and prosperity. Securing education

budget has taken a high priority. Education budget is used mostly for compulsory education, financial assistance of private schools, vocational guidance and training, and teachers' re-training. The education budget has been increased every year, and this tendency seems to be continuing.

<Table 14> Size of Education Budget

(units: billion won, %)

	GNP (A)	Gov. budget (B)	Min. of Education budget(C)	Local education budget(D)	Expenses for compulsory education(E)	Ratio(%)		
						C/A	C/B	E/C
1985	78,088	12,532	2,492	2,124	1,557	3.2	19.9	62.5
1990	171,488	27,464	5,595	4,837	2,642	3.3	20.4	47.2
1993	256,685	41,936	9,880	8,684	4,301	3.7	23.6	43.5

156. The Enforcement Ordinance of the Education Act prescribes the duty of parents or guardians to encourage the regular attendance at school. The headmaster may send out a warning to his/her parents, guardian or employer when the student is absent for more than 7 days in a row, or the child's compulsory education is hindered by his/her employer. When the warning is not effective, the headmaster reports it to the chief of the province, and the chief gives the second warning to the child's parent or guardian. If such endeavor fails, the superintendent of the educational office imposes a fine.

157. Koreans have a high expectation toward education and are, sometimes, over-enthusiastic about educating their children. As a result, Korea has a quite low rate of drop-outs. A student who wants to leave the school must submit to the school a letter of withdrawal accompanied with parents' or guardian's joint signature. Also, the rate of attendance in high school is reflected on the screening test for college entrance so as to prevent voluntary absence not caused by illness or accidents.

158. Internationalization of education is one of the goals of education policy in Korea. International cooperation in education sector is maintained at different levels. A curriculum of educational internationalization has been drawn up, as discussed in paras. 141-142 in this paper, and a number of schools have direct international contacts and joint programs with overseas schools.

2. Aims of Education (art. 29)

159. The purpose of education in Korea is, as the Education Act prescribes, to achieve the integration of character and to build up the abilities for an independent life and the qualifications of citizenship and thus contribute to the development of a democratic society and realize the idea of co-prosperity based on the idea of "*Hongik Inkan*"- the greatest service for the benefit of mankind.

160. To achieve the purpose of national education as described in para. 159, the following education guidelines have been set up.

- 1) Nourishment of the knowledge and habits necessary for the sound growth and maintenance of the body, and the cultivation of an indomitable spirit;
- 2) Cultivation of a patriotic spirit for the country and nation in order to preserve and develop the nation's independence and to advance the cause of world peace;
- 3) Inheritance and enrichment of the national culture and thus contribution to the development of the cultures of the world;
- 4) Fostering the truth-seeking spirit and the ability to think scientifically for creative activities and a rational life;
- 5) Encouragement of peaceful association with the community with a spirit of faithfulness, cooperation, respect, love of freedom and a high regard for responsibility;
- 6) Development of an aesthetic sense in order to appreciate and create sublime fine arts, enjoy the beauty of nature, and to utilize leisure

time effectively for an enjoyable life; and

- 7) Encouragement of thriftiness and faithfulness to one's work in order to become an able producer and a wise consumer for a sound economic life.

3. Leisure, Recreation and Cultural Activities (art. 31)

161. Although the family provides its child with an adequate environment, a child cannot live without contacts with the community. For this reason the community has a task to develop various programs and activities required for children's sound development and to build a safe environment for playing. Play is as important as study for children. Children build up creativity through play; they get self-confidence by testing and proving their ability. Children grow up and become mature through interaction with others. The Child Welfare Act prescribes the State's and municipalities' responsibility to construct children's facilities, such as children's park, play-ground, children's hall, theater, museum, exhibition hall, etc. for children to use whenever they want. The Children's Charter also prescribes that children should be given adequate space and facilities for happy and wholesome play and recreation. Since children are said to grow up while playing, it is the responsibility of the grown-ups to provide children with adequate facilities and comfortable surroundings in which children can play without any disturbance or any danger.

162. However, it is difficult to say that Korean children fully enjoy their right to play. The Ministry of Culture and Sports governs and carries out various cultural activities to build a healthy youth culture against the examination-oriented education and vulgar popular culture. The State plans to construct 1,394 children's facilities for the period of 1992-1996.

163. All standards and way of life for adults have been applied to

children without any adjustment, because children have traditionally been considered and treated as mini-adults or immature adults. Children have lived in a society possessing an adult-oriented structure. Even though recognition of the child as a subject of rights began to prevail, the investment for children is not significant yet in all areas including culture.

H. Special Protection Measures

1. Children in Conflict with the Law

(a) The administration of juvenile justice (art. 40)

164. Judicial procedure in Korea is governed by the Code of Judicial Procedure. Where young persons are concerned, rules are also contained in the Juvenile Act. Since juvenile delinquents are in process of growing up, they have a high possibility to be rehabilitated. For this reason, education, rather than punishment, is more emphasized. The Juvenile Act prescribes that young law offenders are treated with different procedure from the major ones. Measures for proper guidance other than penal procedure are provided for the young offenders.

165. Concerning paragraph 2 (a), reference can be made to the Constitution, under which no citizen may be prosecuted for an act which does not constitute a crime under the law effective at the time it was committed. According to the provision, retroactive application of punishment is strictly prohibited. The principle to the effect that retroactive application of punishment is prohibited, which is set forth in the Constitution, is provided for in detail in the Criminal Code. When a law is changed after the commission of a crime, such act thereby no longer constituting a crime (under the new law), or the punishment therefore (under the new law) being less severe than under the previous law, the new law shall apply. When a law is changed after the sentence for a crime committed under the law has become final, such act thereby no longer constituting a crime, the execution of the punishment shall be remitted. According to the provision, the defendant shall be guaranteed to receive benefit from the amendment of law.

166. As regard paragraph 2 (b) (i), the principle of presumption of innocence is stipulated in the Constitution, which provides that the

criminal defendant is presumed innocent until a determination of guilt has been confirmed. The Code of Criminal Procedure also provides that the accused shall be presumed to be innocent until he/she is finally adjudged to be guilty. The Rules of Criminal Procedure presents that documents or any other articles which may cause the court to create presupposition on the case, shall not be attached to the indictment. Presumption of the criminal defendant to be innocent is the firm basic principle of criminal procedure.

167. The rule of paragraph 2 (b) (ii), system of notice of reason for arrest, corresponds to Article 12, Paragraph 5 of the Constitution, which provides that no one may be arrested or detained without being given notice about the reason and the right to be assisted by a counsel. The reason for, time and place of arrest or detention must be informed without delay to the family of a person arrested or detained, as designated by law. The Code of Criminal Procedure provides that the accused shall not be placed under detention before the court has informed him/her of the gist of facts constituting the offense, of the reason for detention and of the fact that he/she may select defense counsel, and before the court has given him/her the opportunity to defend himself/herself. When the accused is detained, he/she shall be informed of the facts concerning the public prosecution against him/her and of the facts that he/she may select his/her defense counsel.

168. With respect to the defendant's right to receive defense free of charge, the Constitution provides that when a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as provided by law. According to the system of assignment of counsel by the State, the Code of Criminal Procedure provides that where the accused is a minor, seventy years of age or over, deaf or mute, suspected of mental unsoundness or unable to select a counsel because of any other reason, if there is no counsel, the court shall appoint a counsel ex officio.

169. Under the Juvenile Act the juvenile concerned or his/her guardian may, with the approval of judges of the Juvenile Department, appoint an assistant.

170. Concerning the general requirement of a fair and prompt trial in paragraph 2 (b) (iii), reference can be made to the Constitution which provides that all citizens shall be equal before the law. Moreover, the Constitution guarantees the right of fair public trial by independent court, the right to be tried in conformity with the law by judges qualified under the Constitution and the law, and the right to a speedy trial. A criminal defendant has the right to a public trial without delay in the absence of justifiable reasons to the contrary.

171. As regards paragraph 2 (b) (iv), the Constitution provides that no citizen shall be tortured or to be compelled to testify against himself/herself in criminal cases. In case a confession is determined to have been made against a defendant's will by means of torture, violence, intimidation, unduly prolonged arrest, deceit, etc., such a confession shall not be admitted as evidence toward a conviction nor shall punishment be meted out on the basis of such a confession. Statement by forcible demand against a defendant's will is prohibited and involuntary confession by means of torture, violence, intimidation etc. is not admitted, as well. In a criminal case, the judge does not admit confession of an accused which is suspected to have been made involuntarily or confession against him without corroborating evidence, as evidence of guilt. The Code of Criminal Procedure provides for the accused's right to refuse to answer inquiries and that the suspect shall be notified in advance that he/she may refuse to answer questions as well.

172. A public prosecutor, the accused or his/her defense counsel may raise objections regarding the examination of evidence. The Code of Criminal Procedure provides that the public prosecutor, the accused, or his/her defense counsel can apply for necessary examination of evidence

without distinction and the presiding judge shall ask the accused for his/her opinion about the examination of articles of evidence and shall inform him/her that he/she can apply for necessary examination of evidence for the protection of his/her rights. In addition, the Code of Criminal Procedure admits that the accused or his/her defense counsel may be present at the examination of a witness.

173. Provided, when the presiding judge recognizes that a witness or an expert witness cannot make a sufficient statement in the presence of the accused, he/she may order the persons to withdraw from the court (however, his/her defense counselor may be present at the examination to a witness). Even in such case, the accused may make inquiry relative to the necessary matters examined into and in case the testimony of a witness contains an unexpected and serious statement which is disadvantageous to the accused, the court shall give notice of the contents of such statement to the accused. Accordingly, the accused's cross-examination right is sufficiently secured.

174. The stipulation of the Convention in paragraph 2 (b) (v), concerning the right to reassessment of decisions whereby a child can be deemed to have committed a criminal offence, is partly provided for through the faculty of appeal in all criminal proceedings. Judicial power is vested in courts composed of judges. The courts consist of the Supreme Court, which is the highest court of the State, and other courts at specified levels. The Code of Criminal Procedure provides in detail for the accused's appeals including appeal, re-appeal and immediate appeal, and re-opening of procedure and extraordinary appeal. Therefore, in case the finding of the court of first instance is not satisfactory, appeal may be lodged by the accused. Further, in case there has been a violation of the Constitution and law, an appeal may be lodged against a judgment to the Supreme Court. If after a judgment of guilty is pronounced and the judgment becomes final, clear evidence has been newly discovered which indicates "not guilty", a request for re-opening of proceedings may be made.

175. Children's right to an interpreter under paragraph 2 (b) (vi) is guaranteed in the Code of Criminal Procedure. In case a person not versed in Korean language or with a hearing or visual impairment is required to make a statement, an interpreter is provided. Letters, signs or marks not in Korean language are also translated. Expenses required for the interpreter, such as, daily allowance, traveling and accommodation expenses, are borne by the government.

176. The rule of paragraph 2 (b) (vii), whereby a child is to be assured of respect for his/her private life at all stages of procedure, is stipulated in the Juvenile Act providing that trial shall not be made public. However, when deemed appropriate, the judge may permit certain persons to attend the trial. Facts or photographs which may identify the juvenile in the above protection or criminal cases, by means of his/her name, age, occupation, appearance and other things, shall not be published in newspapers or other publications nor shall they be broadcasted. In case of violation of the provision, editors, publishers, authors and broadcaster may be punished with penal servitude or imprisonment or a fine.

177. For Korea's part, the stipulation in paragraph 3 (a) on a minimum age for criminal liability is met through the provision of the Penal Code. An act of a criminal minor, who has not attained 14 years of age, is not subject to criminal punishment. Juveniles above the age of 12 but less than 14 years old who have committed acts which are contrary to criminal laws and decrees are tried as protection cases by the Juvenile Department.

178. As regards paragraph 3 (b), the Juvenile Act provides measures for proper guidance other than penal procedures. Those who are under the standard or short-term probation may be disposed to a public service or counselling at the same time. Also, reprieve of prosecution is provided through the protective guidance under Juvenile Guidance Instructors of the Prosecutor's Office who are appointed at the each level

of Chief of District Public Prosecutor's Offices. Concerning a juvenile delinquency, there is a systemized provision to postpone exercising the penal punishments or probation programs.

179. As regards appropriate treatment of a juvenile suspect, under the Juvenile Act investigation is made on not only misdeed of the juvenile concerned but also the environment the juvenile belongs to. The Juvenile Department, in its investigation or trial, conducts in-depth investigation of the juvenile by taking into account the diagnosis of psychiatrists, psychologists, social workers, educators and other experts, as well as results and opinions by the Juvenile Classification Office. In addition, the Juvenile Act provides that trial of juvenile criminal cases shall be conducted in a spirit of kindness and gentleness toward the juvenile, and particular emphasis is placed on evaluation of the juvenile's physical and mental condition, character, career, family conditions and other circumstances.

180. For education of juvenile delinquents, juvenile reformatories are managed with separate functions of school curriculum, vocational training, and special training. Juvenile delinquents are accommodated by their age, educational level, aptitude, prospect, degrees of difficulty in correction, etc. and, thus, are effectively prevented from malignant influences. At the school curriculum reformatories, pursuant to the Education Act, regular primary, middle, high school curricula are taught, and entrance and transfer to schools are encouraged. At the vocational training reformatories, pursuant to the Rudimentary Vocational Training Educational Act, public vocational training is provided; 700 inmates annually attain technical licenses in 17 different fields including automobile maintenance. Specific felonious criminals such as gang members are accommodated at the special reformatory, where special education such as physical training are offered. In order to encourage democratic and cooperative attitudes, special activities are provided 10 hours weekly through selected possible areas such as arts and letters,

physical education, labor service and rearing of animals and plants.

181. Those who are provisionally discharged are under intensive supervised probation and given guidance for jobs, forming of relationships, and entering schools, and thus are actively supported for social adaptation and integration. Also, there are efforts to prevent misadaptation for the discharged, by providing ex post facto instruction.

(b) Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial setting (art. 37 (b), (c) and (d))

182. As regards article 37, paragraph (b), reference is made in the Constitution guaranteeing all citizens' personal liberty. No person is arrested, detained, seized, searched, interrogated except as provided by law, and be subject to punishment, preventive restriction except by law and due process of law. Warrants issued by a judge upon the request of a prosecutor in accordance with the due process of law shall be presented in case of arrest, detention. Therefore, the principle of due process and of presentation of warrants is adopted to guarantee personal liberty.

183. The Code of Criminal Procedure has various provisions strictly restricting requirement and procedures for arrest pursuant to the foregoing provisions and principles of the Constitution. The court may detain the accused when there is reasonable grounds to suspect that he has committed a crime and he falls under any of the following: (i) when he has no fixed dwelling; (ii) when there is reasonable ground to suspect that he may destroy evidence and (iii) when he escapes or there is reasonable ground enough to suspect that he may escape. In such cases, a warrant of arrest shall contain the name and address of the accused, the name of the crime, essential facts concerning the public action, the place to bring the accused or prison where he is to be detained, the date of issue, effective period of the writ and a statement

that the warrant shall not be executed after the lapse of such period whence it shall be returned to the court of issuance, and after issuing the warrant signed and sealed by the presiding judge. Such warrants shall be shown to the accused.

184. In case of an arrest of a suspect for detention by a prosecutor or judicial police officials, in principle, the prosecutor or judicial police officials may arrest the suspect with a warrant of detention issued by the competent court judge upon request of the prosecutor. A public prosecutor or judicial police official may arrest the suspects without a warrant, i) if in case there are good reasons to suspect that the person has committed crimes punishable with death penalty, penal servitude or imprisonment for life or three years or more, ii) if there is reasonable grounds to suspect that he may destroy evidence or may escape or has escaped, iii) if it is not possible to obtain a warrant of arrest from a judge of the competent district court due to urgent need, or iv) in case of flagrant offenders. However, even in such cases, if the public prosecutor or judicial police official fail to obtain a warrant of arrest within 48 hours or 72 hours from the time of the arrest from a judge of a District Court, the suspect shall be released immediately. According to the above provisions, the exceptional cases shall be subject to ex post facto sufficient judicial control.

185. A criminal case involving a juvenile requires special treatment through different procedures from those of an ordinary criminal case unless there exists any special cause. Concerning separate treatment of a juvenile delinquent and security of contact with family, the Juvenile Act provides that in the event a criminal case involving a juvenile is related to other ordinary case, the trial of the juvenile case shall be conducted separately from the other case if such treatment does not obstruct the trial proceeding.

186. Under the Penal Administration Act, the convicted person who are

under 20 years of age is accommodated in juvenile reformatories and the convicted person who is 20 or more in age is accommodated in prisons. When chiefs of prisons or juvenile reformatories find some particular circumstances, the provisions may not be applied only within a period not exceeding six months. Even if adult and juvenile delinquents are accommodated to the same prison, they are held separately within the same prison.

187. Under the Juvenile Reformatory Act, male and female, and persons under 16 in age and persons aged 16 or more are separately accommodated so as to block the influence of wrongdoing. New entering juvenile delinquent is housed separately from general juvenile delinquent. After 10-day investigation for classification, the Juvenile Delinquent Treatment Deliberation Committee determines duration of treatment and education course in detail, on the basis of the result of investigation and the screening results.

188. There are 11 juvenile reformatories throughout the country, which are operated classified by their function as follows: four juvenile reformatories for school text education, three for occupational education, one for females, two for major and habitual juvenile delinquents and two for a combined purpose of text and occupational education. Based on the juvenile delinquent's sex, age, entry experience, existence of confederate, characteristics of crime, duration of treatment and education course, the juvenile delinquent is accommodated to a separate facility or separately accommodated within the same facility.

189. For contact with family, interview is permitted at the fixed time and place unless such interview causes the disruption of protection and reformatory education of the juvenile under protection and custody. With respect to correspondence, there is no restriction on the frequency and address. However, after censorship of letter, if it is found that the contents of the letter may cause disruption of reformatory education,

exchange of correspondence may be restricted to harmonize education and privacy of the juvenile. If it is specially necessary for reformatory education, such as events calling for congratulation or condolence of the lineal family of the juvenile under protection, the juvenile is allowed out. The provision enables the juvenile to improve relations with the family and adjust to the society.

190. As regards the provision of paragraph (d) on the right to legal and other assistance, reference can be made to the Constitution providing that all persons who are arrested or detained shall have the right to request the court to review the legality of the arrest or detention. The Code of Criminal Procedure provides that a suspect who is confined pursuant to a warrant of confinement may submit a petition to an appropriate court to examine the legality of the confinement with respect to all crimes. Also, where the accused is a minor, the court may appoint a counsel ex officio. Accordingly, the provision stipulates special protection of juveniles whose capability of legal relief is relatively weak.

191. Juvenile delinquency decreased after 1990. In 1992, juvenile delinquency composed 6.4% of the total crimes. Most juvenile cases are dropped or dismissed; about 27.5% of the cases were prosecuted in the same year. The rate of suspended prosecution on youths is 25% points higher than that for all crimes.

<Table 15> Proportion of Juvenile Delinquency

(units: number, %)

Classification	1988	1989	1990	1991	1992
Total crimes	1,144,702	1,337,587	1,402,417	1,540,914	1,542,035
Juvenile delinquency	104,052	108,015	105,567	102,537	99,301
Ratio	9.1	8.1	7.5	6.7	6.4
Rate of prosecution	39.4	39.3	36.9	39.3	27.5

(c) The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

192. The Constitution prohibits any acts involving torture and suchlike. Death penalty is provided for in the Criminal Code and the Special Law. Under the Juvenile Act, the minimum age to be subject to death penalty is 18 years of age, and in case of sentencing of death penalty and penal servitude for unlimited period for a child of less than 18 years of age, penal servitude for 15 years is sentenced in place of death penalty.

(d) Physical and psychological recovery and social reintegration (art. 39)

193. When a youth is released to his/her parents or guardians from the rehabilitation center or juvenile reformatory, after-care services are provided. These are designed to promote reintegration of the youth in the community and productive activities so that the person can be self-supportive without being involved with another delinquency. Such activity is performed by the rehabilitation committee at the central and provincial level under the Ministry of Justice. There are 12 local centers and 52 branches established in prisons and juvenile reformatories. In addition, the Society for the Support of Rehabilitation is organized, most of whose members are business men of small- or medium-sized companies. Its service is focused on vocational guidance including offering jobs, medical care, vocational training, financial assistance, paying transportation fee and lending enterprising fund.

2. Children in Situation of Exploitation, Including Physical and Psychological Recovery and Social Reintegration (art. 39)(a) Economic exploitation, including child labour (art. 32)

194. The Labor Standard Act contains a number of provisions concerned with young workers. The Act specified that no child below 13 years old

shall be employed in any work except for those who have obtained an employment authorization certificate from the Minister of Labor. His/her employment shall cause no impediment to compulsory education. A child under 18 years shall not be authorized to engage in any work detrimental to morality or harmful to maintenance of health.

195. The working hours of those not less than 13 years old but less than 18 years old shall not exceed 7 hours per day and 42 hours per week. However, the working hours may be extended within the limits of one hour a day and 6 hours a week as maximum by a mutual agreement. A person under 18 year is banned to work at night, between 22:00 hours and 06:00 hours, or on any off-day, unless otherwise agreed to by the employee and authorized by the Minister of Labor.

196. In order to prevent economic exploitation of children, their employment contract and minimum wage are protected. No parents or guardians have authority to make an employment contract on behalf of a minor employee. When it may be deemed as disadvantageous to a minor employee, the parents, the guardian or the Minister of Labor may terminate the employment contract. Minimum wage is also guaranteed for a minor employee after 6 months of his/her employment.

197. In order to protect employed children's rights, chapter 12 of the Labor Standard Act prescribes punitive provisions about each violation. There are 45 local labor offices to guide and supervise all enterprises or places of enterprises employing permanent work force of 5 or more employees.

198. In April 1992, 32,952 children aged under 18 were economically active, which covered 0.6% of the entire workforce. Of them, the number of young workers under 13 were 118, 27 boys and 91 girls, and that of young labor between 14 and 17 were 32,834, 3,846 boys and 28,988 girls. Most of the young workers were employed in the

manufacturing industry.

(b) Drug abuse (art. 33)

199. In order to protect children from the illegal use, production, and trade of drugs, the government punishes persons who sell psychotropic medicines to children under 14 years of age by penal servitude of not more than ten years or fine not exceeding 10 million won. Persons who manufacture, import or sell opium, morphine or its derivatives or who possess them for the purpose of sale, are punished by penal servitude for not more than ten years.

200. The Hemp Control Act prohibits the import, export, manufacture, sale and purchase or brokerage, smoking or intake of hemp and any acts to provide with places, facilities, funds or means of transport for dealing in hemp. With respect to habitual violators, the maximum punishment may be a death sentence, otherwise by penal servitude for life or for not less than 10 years.

201. Treatment and rehabilitation of drug dependents are accomplished through 17 national or public hospitals and 5 private hospitals which are authorized as specialized hospital for drug abusers. They are treated with no charge. For the specialized and efficient treatment of drug dependents, the National Drug Rehabilitation Center having 200 beds is being constructed. While the drug dependents are decreasing, harmful chemical addiction, such as bond or protan gas, is causing a new problem. According to the survey on drug addiction of the youth including chemical material, 45,000-88,000 adolescent addicts are estimated to need treatment or intervention. As this problem is fairly new, however, the government's policy for prevention and treatment is not yet established. The chemical addicts may be treated in a psychiatric ward. Since chemical material addiction is, however, not covered in the national health insurance, the use of the treatment facility

is not as easy as drug abuse.

(c) Sexual exploitation and sexual abuse (art. 34)

202. In order to protect children from sexual exploitation and abuse, the Criminal Code provides that a person who induces a minor female to engage sexual intercourse and takes any monetary gain, shall be punished by penal servitude for not more than three years or by a fine not exceeding 600,000 won. Under the Child Welfare Act a person who forces a child to commit or mediates an obscene act, or who induces the child to engage in an obscene act, shall be punished by penal servitude for not more than 10 years or by fine not exceeding 5 million won.

203. The Prostitution Prohibition Act forbids prostitution, inducement or coercion of prostitution, exhortation to be a partner in prostitution, or the provision of a place for such acts. Violators are punished by penal servitude for not more than three years. Illegal sexual exploitation acts on children are punished severely under this act.

204. The Act Concerning Restriction on Immoral Business provides that a person who provokes prostitution or obscene acts or who brokers or provides such acts shall be punished by penal servitude for not more than three years or by a fine not exceeding 20 million won.

205. The manufacture of pornographic materials is prohibited under the Criminal Code. A person who, for the purpose of distribution of obscene pictures, etc., manufactures, possesses, imports or exports obscene goods, is punished by penal servitude for not more than one year or by a fine not exceeding 400,000 won.

(d) Other forms of exploitation (art. 36)

206. Of the Korean rules and measures for preventing the exploitation

of children, special reference can be made to the Child Welfare Act. Article 18 of the Act forbids various kinds of exploitation as follows: (i) act to place a disabled and deformed child open to public inspection; (ii) act to have a child go about begging or to ask for alms taking advantage of the child; (iii) act to have a child under 14 years of age do acrobatics with the object of public recreation or entertainment; and (iv) act to have a child under 14 years of age be engaged in a bar or other entertainment business. The person who violates this provision is punished by imprisonment for not more than 10 years or fine not exceeding 5 million won.

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Appendix

Convention on the Rights of the Child

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Convention on the Rights of the Child

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedom set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children

need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall

conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or

her parents.

2. States Parties shall ensure the implementation of their rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or

death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer

and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others; or
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the

child in the exercise of his or her right in manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedom of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and

material of social and cultural benefit to the child and in accordance with the spirit of article 29:

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belong to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative,

administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described hereof, and as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, *inter alia*, foster placement, *Kafalah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognized and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law

and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measure to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and

assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and

vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with present Convention.

3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

1. In those States in which ethnic, religious or linguistic

minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen

years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

- (i) To be presumed innocent until proven guilty according to law;
- (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State Party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened

by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the

Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned:

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider

appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests of indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States

Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

政策研究資料 94-02

兒童權利的增進을 위한 法的·制度的·行政的 措置

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