**Additional Alternative Report**

**on the List of Issues in relation to the Combined 5th and 6th Periodic Report of the Republic of Korea**

**Republic of Korea**

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**Question 1.**

(a) Comprehensive Anti-Discrimination Legislation

1. There is no comprehensive anti-discrimination law before the current 20th National Assembly in the Republic of Korea. The only relevant bill proposed in the 20th National Assembly is not the comprehensive anti-discrimination law, as it merely prohibits discrimination against the level of education, age in employment. The government proposed to enact a framework Act that comprehensively regulates various types of discrimination as one of its policy tasks through ‘the Second National Action Plan for the Promotion and Protection of Human Rights (2012~2016)’ and ‘the Third National Action Plan for the Promotion and Protection of Human Rights (2018~2022)’, but to date, no legislation has been enacted. The measures taken by the government to adopt comprehensive anti-discrimination laws clearly specifying all forms of discrimination – including nationality, race, and sexual orientation – are inadequate and insufficient.

**Question 2.**

National Human Rights Commission of Korea (NHRCK)

1. NHRCK’s Committee on Child Rights does not function properly to monitor human rights of all children and to remedy human rights violation. The Committee does not operate any child-friendly petition mechanism taking into account age, language, and disabilities of children. There is the Child Rights Division within NHRCK, but it is the Rights of Persons with Disabilities Division, not the Child Rights Division who is responsible for discrimination against children with disabilities. Similarly, it is the Investigation on Civil and Political Rights Division who is responsible for issuing recommendations and expressing opinions for the improvement of legislation, institutions/systems, policies and practices related migrant children’s rights. As a result, NHRCK does not operate comprehensively as an independent human rights institution based on the best interests of child.

Collection and Analysis of Data Related to the Conventions

1. The government established the National Center for the Rights of the Child (NCRC) to have a role in conducting child-related surveys and collecting data, but in fact the scope of its works is mainly concentrated on the operation of child protection system. It covers only a part of the Convention not the whole, thus it is hard to say that the new Center will work as an integrated/comprehensive information management center for all children in all ages living in the Republic of Korea.

**Question 4.**

(a) child suicide

1. According to *the 2018 Comprehensive Survey on Conditions of Children,* conducted by the Ministry of Health and Welfare every five years, the score for child life satisfaction was 6.6 point, still the lowest among the OECD countries. According to the report from the National Youth Policy Institute, 33.8% of the adolescents answered that they ‘sometimes’ and ‘often’ wanted to die. Such rates have been on the rise since 2015.

(c) Baby Boxes

1. There is no official safeguard procedure for abandoned children in baby boxes. The “safeguards” for abandoned children works only as a follow-up by the notification of the private organization operating baby boxes. Furthermore, while Article 272 of the Criminal Act prohibits “abandoning babies”, in most cases such activities are not criminally prosecuted. In May 2019, the government announced the birth notification system designed to mandate all healthcare providers to notify births of children to a national institution. The government also announced its plans to introduce a protected (anonymous) birth system, however no further details have been provided.

(e) Measures for Victims of Toxic Humidifier Disinfectants

1. The Act on Consumer Chemical Products and Biocides Safety was enacted in January 2019, however there has been no plan from the government to adopt a proper risk management system for examining the effects of chemical substances on the childhood. Children are likely to be easily affected by chemical substances due to physical vulnerability, and adolescents may be particularly vulnerable with raging hormones. Nevertheless there is no system to prevent the risk on children with products manufactured based on adults’ body.

**Question 5.**

(a) Sexual Orientation

1. There is no legal basis for juvenile protection facilities to have adequate technical, financial and human resources to ensure the protection for and non-discrimination against LGBT+ children deprived of liberty. According to the 2019 Guidance of Youth Program published by the Ministry of Gender Equality and Family, shelters for men must be separated from shelters for women. There are no further measures to explore the availability of shelters for youth with different sexual orientation or gender identity.

**Question 6.**

Birth Registration

1. Some courts have held that the amended Act on the Registration, etc. of Family Relationships can be applied if and only if the single-father does not know any personal information of biological mother (name, resident registration number, place of registration) of the child. In this case, birth registration by single-fathers is still impossible.
2. While the government announced its plan to introduce the ‘birth notification system’ as part of *the Policies for Children toward building an Inclusive Society*, no further implementation plans followed the announcement. Even when the birth notification system is introduced, it is highly likely that migrant children including refugee children will be excluded from the system. There is an amendment bill on the Registration, etc. of Family Relations introduced by the National Assembly, however the Ministry of Justice made its position clear that it is firmly against the bill because – according to the Ministry – allowance of the birth registration of children without Korean nationalities will dislocate the Korean legal system. With its continuous opposition, the bill will be automatically disposed with the start of the new National Assembly in 2020.

Children’s rights in the school

1. The rate of children with experiences of inspection of private lives and disclosure of private information has been steadily declined, however still about 50% of children answered that they have experiences of inspection of their appearance and outfits. According to the survey, 20.5% of children have experiences of disclosure of disciplinary matters, and 20.2% with disclosure of exam grades. Meanwhile, only 4 out of 17 provincial governments have enacted the Ordinance of Student Rights. Recently, Gyeongnam Provincial Council failed to enact the Ordinance of Student Rights which was introduced in September 2018. According to the council, loosened regulations on mobile phone possession and hair styles would make it difficult for teachers to keep students under control, and non-discrimination regulations based on sexual orientation would promote promiscuity. Also, those who are against the Ordinance claimed that promotion of student rights will adversely affect teachers’ rights. Child participation and student rights are very narrowly recognized in the Republic of Korea.
2. The Ministry of Education announced its plan for allowing students to make proposals to the school operating committees in *2019 Annual Plan of Activities*. The plan of the Ministry of Education, however only allows the opportunity to make proposals. It does not guarantee child participation with the right to vote at the committees.

Civil and Political Rights of Children

1. As of August 2019, there has not been any progress in discussion on lowering the voting age from 19 to 18. The current Public Official Election Act and the Political Parties Act prohibit participation in election campaigns and party affiliation of people under 19 years of age. Such provisions lead to the violation of freedom of political expression and right to participation of children. Children are prohibited from participation in online political campaign, even resulting police investigation of adolescents violating the above laws.

**Question 8.**

(c) Dissolution of Adoption

1. Under the Act on Special Cases Concerning Adoption, when someone request the Family Court to dissolve the adoption, the Family Court shall notify it to the adoption agencies and relevant child welfare facilities requested protection. When the judgement on a claim for dissolution of adoption is confirmed or when the judgement becomes effective, the Family Court shall notify such decisions to the local government having jurisdiction over the area in which the Family Court is located. It is supposed to be a regulation to protect children without guardians such as birth parents, however such notices are given to the competent municipality of the place of registration, not the actual place of residence of the children. As a result, there have been concerns that it does not give a meaningful protection to children whose adoption is dissolved.

(f) children of imprisoned Parents

1. Although there has been an amendment of relevant law, it is still up to the discretion of the heads of facilities on the decision whether or not to allow imprisoned parents in facilities to meet their children without the wall blocking direct contact between inmates and their children. Under Article 79 of the Enforcement Decree of the Administration and Treatment of Correctional Institution Inmates Act, the relevant warden shall designate and operate wards for rearing infants in a correctional institution. But there is only 1 (Cheongju Female correctional institution) where specific rearing room is always available, among 53 correctional institutions in the Republic of Korea.

**Question 9.**

(a) Access to Social Protection and Healthcare of Migrant Children

1. Migrant children without Korean nationalities are excluded from the National Basic Living Security System, the comprehensive social security system in the Republic of Korea, with the exception of recognized refugees. Also, the livelihood assistance for the migrant children living in child welfare facilities is financed from the local government budget instead of the state government budget, and not by the law, but by the guideline. Furthermore, assistance for healthcare or education is still not available for children without Korean nationalities.
2. The Joining of National Health Insurance (NHI) has become mandatory for documented migrants since July 2019. Migrants who do not enroll the NHI or fail to pay the insurance premium will not be allowed to extend their stay. Moreover, self-employed insured migrants (as opposed to the employee insured under the National Health Insurance Act) are imposed a higher a higher premium compared to Korean insurers. As a result, there is a growing concern that migrant children from low-income or unemployed families may lose their immigration status as a result of failure to payment. If the minor is a migrant child without Korean nationality, the clause who can be exempt from the obligation to pay the insurance premium is not applicable, thus he or she is required to pay more than the monthly minimum premium, which makes migrant children without parents more vulnerable to healthcare inequality.

**Question 10.**

Reformation of the Education System

(c) Access to Education for Migrant Children

1. While all children with Korean nationality are included in the eligibility list for school admission under the National Resident Registration system, and given admission notices therefrom, such universal notices are not provided to migrant children. Also, as undocumented migrant children born in the territory of the Republic of Korea have no pathways to register their births, admission notices to such children, and mechanism to screen non-enrolled students are non-existent. The Framework Act on Education stipulates that only nationals are beneficiaries of mandatory education. As the entrance to high schools are under each school’s discretion, thereby leading to some cases where migrant children are denied entrance
2. to high schools they have applied. Moreover, undocumented migrant children are subject to deportation after they graduate high schools, and are denied access to higher education. This leads to de facto limitations to access to education, including severe detriment to their development and learning motivation.

**Question 12.**

Children detained together with adults

1. Regardless of the Administration and Treatment of Correctional Institution Inmates Act, the majority of prisons and detention centers appoint a couple of adult prisoners as servants to be confined with children under Article 30(1) of the Guidelines on the Safe Guard and the Control of Prisoners. As of 30 June 2019, there is only one correctional institution for juvenile, namely Gimcheon Correctional Institution for Juvenile in the Republic of Korea. According to the statistics, only 65 (15.6%) out of 416 juvenile prisoners were staying at Gimcheon Institution. In fact, it is not even appropriate to call Gimcheon Institution a Correctional Institution for Juvenile because as of May 2019, 450 prisoners were turned out to be adults. The principle of separate detention of children and adults is not well guaranteed in the Republic of Korea.

**Question 13.**

Detaining Migrant Children

1. The current Immigration Act does not have any provisions regarding detention of migrant children, and thus they are subject to detention. The provision that it does not detain migrant children under 14 years of age in principle is provided under the internal regulations of the Ministry of Justice, not by law. If migrant parents are detained, the government does not consider alternatives to detention, but detain their children with parents. The proposed amendment to the Immigration Act brought before the National Assembly in 2017 in currently being deliberated in the Legislation and Judiciary Committee within the National Assembly. It was proposed by the legislature, not by the government, which has not made any efforts to prohibit or limit immigration detention of migrant children.
2. There is an asylum-seeking family with four children under 10 years of age who has been staying at the transit zone of the Incheon Airport for more than 200 days. The family made refugee application, however the Immigration Office refused to refer the case to further refugee status determination procedure. The family filed an administration suit against the decision of the Immigration Office, thus they have no choice but to be stranded in the airport transit zone for an uncertain duration until their court case is over. The Ministry of Justice in its decisions has not taken into account the best interest of children, and is neglecting the asylum-seeking children in de facto detention at the airport.

**Question 14.**

Implementation Status of the Concluding Observations under the Optional Protocol on the Involvement of Children in Armed Conflict

1. Children at the age from 15 to 17 are able to enter into the Airforce Aviation Science Highschool. Under Article 5 of the Establishment the Airforce Aviation Science Highschool Act, the students at the school are given the position of Sergeant major cadet from the date of the admission. Teachers at this school are also soldiers with secondary teaching certificates. Students of this school become the subject to the Military Criminal Act, and are excluded from the application of provisions regarding protective detention under the Juvenile Act.
2. Regardless of their ages and accompanying parents, all defector children from the Democratic People’s Republic of Korea are upon their arrival, detained in a particular center. As there is no limitation of detention, there is possibility of indefinite detention of children. There is no information about the center open to the public, therefore no one knows or can monitor the operation of the center regarding best interests, education and childcare of children inside the center.

**Question 15.**

Implementation Status of the Concluding Observations under the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

1. The amended Act on the Protection of Children and Youth against Sex Offenses imposes the responsibility when children of 16 years old or older have been used for sexual crimes. In cases when children are under 16 years old, it is not applicable if the children cannot prove themselves that there were at the “urgently destitute condition”. In addition, the Ministry of Justice has stated that even if when children under the age of 16 are considered victims of prostitution, it is not appropriate to provide them with protection and the support procedures for victims of sexual violence in prostitutes. Thus the Ministry states that the children should be considered as the victim under the Act on the Prevention of Commercial Sex Acts and Protection, Etc. of Victims, not the Act on the Protection of Children and Youth against Sex Offenses. The support facilities for victims of prostitution under the current law however, is not established to secure the expertise considering the distinct characteristics and interests of children. The Committee’s recent recommendations to punish all forms of prostitution offenses against children, and to take the necessary steps to comply with the OPSC to protect children has still unfulfilled.