

## **List of Issues in relation to the Initial Report of the Republic of China (Taiwan) on the Implementation of the Convention on the Rights of the Child.**

### **Chapter 1: General Measures of Implementation**

- 1.1. Please provide clarification of the legal status of the CRC and the first two optional protocols. In particular, please explain whether it takes precedence over conflicting domestic law.
- 1.2. Please provide information on progress or challenges with regard to establishing an independent, child-friendly monitoring mechanism, such as an ombudsperson for children.
- 1.3. Please give further detail as to how effective cooperation across ministerial departments is ensured.
- 1.4. Please specify the procedures available for receiving complaints from children in relation to education, social care, juvenile justice and health and explain how these are independent, confidential, accessible and child-friendly.
- 1.5. Please provide information on the percentage of the budget allocation for children in terms of the total national budget and the gross national product. Please also provide information on the geographic allocation of those resources.
- 1.6. Please provide information on the measures taken to ensure that children are informed of their rights under the CRC.

### **Chapter 2: Definition of the child.**

- 2.1. Please clarify the practical meaning of the definition of a "child" (under age of 12) as against "youth" (par. 24). Except for juvenile delinquency purposes the age 12 does not seem to be a factor in any of the various minimum ages described in the chapter.
- 2.2. Please specify the reasons for setting 20 as the age of attainment of majority. Please provide information on discussions, if any, to set age 18 as the age of majority for all purposes, according to the spirit of section 1 of the CRC and in order to eliminate the unfavorable circumstances of persons between ages 18-20?
- 2.3. Please indicate what has been done to follow up on the recommendations of the international review committees of 2013 and of 2017 (par. 76) on the implementation of the International Human Rights Covenants regarding the need to raise the minimum age of marriage for girls to 18 (par. 28).
- 2.4. Please clarify what are the limited legal capacities granted to children between the ages 7-20 (par. 29).

### **Chapter 3: General Principles**

- 3.1. Please provide a breakdown of the information in the appendix for chapter 3 disaggregated by age, gender, ethnic origin, socioeconomic background and geographical areas.
- 3.2. Please provide further details on measures adopted to prohibit de facto discrimination against indigenous children, children who are lesbian, gay, bisexual or transgendered, children with disabilities and children who are stateless.
- 3.3. Please specify the measures taken to ensure that public bodies consult with children in the formation of local and national laws and policies.
- 3.4. Please provide information as to whether there are plans to establish municipal children's councils and/or a children's parliament.
- 3.5. Please clarify whether and how training on the CRC for adults addresses Article 12 of the CRC and the requirement to give children's views due weight.

### **Chapter 4: Civil Rights and Freedoms.**

- 4.1. Please indicate the reasons for which a stateless child, or a child whose nationality cannot be definitively established, would be denied RoC (Taiwan) nationality.
- 4.2. With reference to § 95 of the Initial Report, please specify the rights to which the child would not be entitled if he or she is not "deemed to be legitimate".
- 4.3. Please specify if the competent authorities of RoC(Taiwan) have been faced with claims regarding the arbitrary deprivation or denial of a child's identity, or of elements of identity, and if such has been the case, what were the outcome(s) of those claim(s).
- 4.4. Please provide further detail as to how children's rights to freedom of speech and privacy in school is supported and enforced.
- 4.5. Please explain why those under the age of 20 are not permitted to organise an assembly or parade or establish a civic organisation.
- 4.6. In relation to, notably, §§ 132 and 136, please specify whether or not permitted disciplinary and behaviour management measures in institutions include solitary confinement and restrictions on contacts with family members and, if so, under what conditions these are permitted.
- 4.7. Please indicate whether there are regulations governing the use of force and restraints as behaviour management measures and, if so, what conditions are set for recourse to such measures.

## Chapter 5: Family environment and alternative care

5.1. Please indicate if there is, or is planned to be, a national strategy for deinstitutionalising the alternative care system in RoC (Taiwan).

5.2. Please specify the number, capacity (beds available) and occupancy (children actually in care) of residential child care facilities (“institutions”) that are run directly by the State or local governments, and the number, capacity and occupancy of those that are run by non-State care providers.

5.3. Please provide information on the procedure for authorising and monitoring non-State residential care providers, including the basic requirements demanded and the precise criteria employed both for granting initial authorisation and for inspection and monitoring to ensure compliance with a view to continued or renewed authorisation.

5.4. Please provide information on the sources of funding for non-State residential care provision, including any State subsidies and the basis on which these are calculated, as well as any funding from abroad.

5.5. Please indicate if there is any legislative or policy provision whereby mothers of young children (or expecting mothers) convicted of an offence potentially punishable by a period of deprivation of liberty may or should receive a non-custodial sentence wherever possible, enabling them to continue to care for their child(ren).

5.6. Please provide more detailed information on the adoption procedure, notably as regards the criteria for licensing an adoption agency, any required efforts to enable the original parents to retain responsibility for their child(ren) and any safeguards in place to ensure that parents who opt for the adoption of their child(ren) truly give their free and informed consent to that measure.

5.7. In light of the fact that the competent court “may order” (§ 164) supplementary reports, including on the basic aptitude and suitability of the prospective adopters, please explain why such aptitude and suitability would not have already been systematically established – by the licensed adoption agency and/or authorised professionals – prior to the court hearing at which the adoptive relationship is in principle to be approved.

5.8. Please clarify the extent to which the formal adoption of children in RoC(Taiwan) is, or is not, a function of the religious persuasion of those involved (adopters and adoptees). Please provide as much information as possible on the number/proportion of adoptees by ethnic group, including in particular children of indigenous communities, with respect to domestic adoptions on the one hand, and intercountry adoptions on the other.

5.9. Please indicate the steps that have to be taken to ensure application of the “subsidiarity principle” in relation to the adoption of RoC(Taiwan) children abroad (i.e. efforts made to secure an appropriate placement in RoC(Taiwan) before intercountry adoption is envisaged).

5.10. Please provide data on *in-coming* intercountry adoptions to RoC(Taiwan) for 2013-2016 (numbers, gender, age, countries of origin). Please explain how the adoption of children from

abroad is arranged and organised, including any roles played by licensed RoC adoption agencies, by any other non-State actors and by competent State authorities.

5.11. Please provide information on the activities and results of the task force on preventing serious cases of child or youth abuse ( report para. 182)

## **Chapter 6: Basic health and welfare.**

6.1. In relation to the extensive measures adopted to address the health and welfare needs of children, is it possible to provide an indication of the resources allocated to these measures by the Government as a proportion of its annual budget over the past 5-10 years?

6.2. In relation to preventive health services and health education (para 189) please explain why these are only free for children aged 7 and under.

6.3. In relation to data concerning the health of children (attachment 6-1: 6-19) please indicate whether there is any further disaggregation according to attributes such as gender; geographical location (urban/rural) and indigenous/non-indigenous.

6.4. In relation to measures to address the health of children please indicate the extent to which these measures are developed in consultation with children, for example, in relation to issues such as youth suicide (para 191) and the sexual health of children (para 227). Please also indicate the extent to which they are developed in consultation with medical professionals and research bodies and whether such measures are subject to monitoring and evaluation to assess their effectiveness.

6.5. In relation to the appointment of professionals to provide health care services to children, for example, school counsellors (para 191) and paediatricians (para 217) please indicate whether they receive any training on children's rights.

6.6. In relation to the provision of assistance to children with a disability (paras 195-203), please clarify the basis on which their needs are classified and indicate whether there is a procedure which enables review of a child's classification and entitlements.

6.7. In relation to the provision of health services (paras 204-230) please clarify the meaning of universal health insurance and whether it means free access to all health care services for all children and if not, what are the limitations on access to free services and how are these limitations determined.

6.8. In relation to the obligation under the National Health Insurance Act to protect a child's right to medical care (para 204) please clarify what measures have been taken to provide such protection and whether children have a right to defend their right before the courts.

6.9. In relation to the provision of services under the Genetic Health Act (para 205) please indicate what measures are available to require the authorities to comply with their obligations if they fail to do so.

6.10. In relation to the regulation of contraceptive devices and drugs and induced abortion (para 205) please clarify the status of abortion within RoC (Taiwan) and the extent to which contraceptive devices and drugs and induced abortion are available both in law and practice to adolescent children.

6.11. In relation to the provision of health services within schools under the School Health Act (para 215) please explain what measures have been taken to resource schools effectively to allow them to deliver the relevant services and what measures have been taken to assess the extent to which schools are providing such services.

6.12. In relation to the provision and subsidization of medical services to children in marginalised or vulnerable households – low income, indigenous, remote and rural (para 216) – please indicate what measures have been taken to assess the extent to which services available, accessible, acceptable and of appropriate quality for such children.

6.13. In relation to the law regulating foods not suitable for consumption by children (para 221), the law regarding breast feeding in public (para 222) and the Tobacco Hazards Prevention Act please indicate what measures are available to enforce the standards in these laws.

6.14. In relation to sexual health education (para 227) please indicate whether there are national guidelines on the form, content and delivery of such education and if so please provide these guidelines. Please also indicate whether such education is focussed on heterosexual relationships or extends to and recognises the legitimacy of diversity in sexual orientation.

6.15. In relation to children's dietary habits and nutrition, please indicate whether there are any programs or initiatives to ensure children receive their recommended daily dose of vitamins and minerals and address issues associated with obesity.

6.16. In relation to transgender children who wish to access gender reassignment treatment please indicate the availability of such treatment and the process for receiving such treatment.

6.17. In relation to the health of indigenous children, please clarify the status of the draft Indigenous Peoples' Health Law 2011 and indicate what other targeted measures are being adopted to address the health needs of indigenous children.

6.18. In relation to children's use of social media and the internet, please indicate whether any measures are being taken to assess and address the health effects of such usage.

6.19. In relation to youth suicide (para 191 and attachment 6.1) please clarify whether there is any data available on the causes of suicide and whether there is any disaggregated data on the identify of victims (for example gender; urban/rural; indigenous; sexual orientation)

6.20. In relation to assistance provided to low income families (para 231 – 234 & 238 – 239), if possible, please provide details of the benefits received relative to other indicators within RoC (Taiwan) such as the average wage or poverty line.

## **Chapter 7: Education, leisure and cultural activities.**

7.1. Please indicate policies, plan of actions and measures of implementation regarding inequitable distribution of educational resources for children living in rural and remote areas and in indigenous tribal areas, with the view of closing the gap in quality and quantity of educational resources in primary and secondary education and in after school programs.

7.2. Please provide updated information on measures taken to close the gap between public and private high school tuition.

7.3. Please provide statistical data disaggregated by age, gender, ethnic origin, socio-economic background and geographical areas of

- (a) Subsidies granted to students of public and private senior high schools;
- (b) children working for their high school tuition not benefitting from government subsidies;
- (c) Children living in dormitories away from home as a result of government plans of relocation and policies of merger and shutting down small schools;
- (d) Children in public non- profit preschools and in private preschools.

7.4. Please provide information on the progress of plans to increase the number of public non-profit preschools in order to enhance equal opportunity of enrolment of children into public preschools and ease the economic problem of parent of children of preschool age.

7.5. Please provide information on measures taken to introduce effective democratic education in schools, including:

- (a) Introducing the CRC as part of the curricula in all school levels;
- (b) Advancing civil and citizenship learning through student's experiences ( freedom of speech, privacy, right to demonstrate, associate etc.)
- (c) Making teacher's training programs on the CRC compulsory

7.6. Please specify the ways of collaboration between the Ministry of Education and the Council of Indigenous Peoples and the Hakka Affairs Council. Please indicate if the competent authorities consider establishing within the Ministry of Education a special department of indigenous education in order to develop comprehensive policies and plans of action for minority culture literacy both in mainstream education and for indigenous children in urban and tribal area.

7.7. Please clarify why the curriculum for teaching indigenous languages was changed in 2014 from compulsory to elective.

7.8. Please indicate the results of the examination taken by the Ministry of Education on the conformity of disciplinary measures to the accepted human rights standards in all educational institutions.

7.9. Please indicate measures taken to counteract corporal punishment and inappropriate disciplinary measures in schools and correctional and reform institutions, including systematic monitoring, an independent and safe mechanism of complaints and appeals as well as effective law enforcement measures in cases of misconduct of teachers and staff.

7.10. Please provide statistical data on legal and disciplinary measures taken in the last three years against teachers and staff applying corporal punishment or inappropriate disciplinary measures on students.

7.11. Please provide information on measures taken to counteract bullying, including cyber bullying, in schools and in other educational institutions and the evaluation of effectiveness of such measures.

7.12. Please provide statistical data on children, affected by bullying, seeking help through the various hotlines provided for this purpose, disaggregated by age, gender, ethnic group, geographical area, type of hotline, type of school and help afforded.

7.13. Please provide update information on measures taken to follow up on the recommendations of the International Review Committee of January 2017 (sec. 50) regarding school sex education curricula.

7.14. Please indicate measures taken to enhance gender equality education, to provide accessible and adequate information and counselling to LGBT children and youth and to prevent discrimination against them in schools and other educational institutions.

7.15. Please provide more detailed information, including statistical data, about the two kinds of transition schools: number, capacity, geographic location, the composition and availability of staff. Please explain the reasons for the relatively low number of students in these institutions. (par. 340 and att. 8-20-8-23).

## **Chapter 8: Special protection measures**

8.1. In relation to children and armed conflict (para 291) please clarify the age of voluntary recruitment into the armed forces, provide information on the specific requirements to allow this form of recruitment and please clarify the status of children in military schools.

8.2 In relation to the minimum age of criminal responsibility (MACR) the report informed us that the Juvenile delinquency act is applicable to all children 7 years of age and below age 18 . A distinction is made between the group age 7 and younger than 12 and the group 12 and younger than 18 (footnote 15, p. 74). The question in this regard: is the “doli incapax” concept applicable to the group 7 < 12 years of age? And if so how is that concept applied in practice?

What is the role of the prosecutor, respectively the judge in this kind of cases? In this regard: in Attachment 8-2 a separate category “Child Criminal Offenders” is mentioned. Are these offenders belonging to the group 7<12 years of age? Finally is the government considering to increase the MACR to at least the age of 12 in accordance with the recommendation of the CRC Committee?

8.3. In relation to Status Offences please provide information about the activities of children and juveniles which are considered to be Status Offences? In Attachment 8-2 figures are given on Status Offenders ( e.g. for 2015 a total of 4,076 of which 751 were not forwarded to the court). Please provide information on how many of these offenders were below age 12 and on the sentences/protective measures taken regarding these children. Is the government considering to remove Status Offences from the criminal code ?

8.4. In relation to the role of the police please provide more information on how the police is dealing with children and juveniles who allegedly have committed an offence, e.g. on how interrogations are conducted and whether a parent can be present during the interrogation. In addition: is the child provided with legal aid or other assistance before and during the interrogation?

8.5. In relation to pre-trial detention please provide more information on the use of this form of detention. For instance: are the grounds for pre-trial detention of children different from those applicable to adults? If so in what way? Can pre-trial detention be used for children between age 7 and 12? For how long can the child be kept in detention by the police before the judge is involved in a possible continuation of the pre-trial detention? Can pre-trial detention be extended and for how long? Please provide disaggregated ( e.g. by age) statistics on the use of pre-trial detention and the average duration of this form of detention.

8.6. In relation to diversion please provide information on whether diversion is an integral part of the juvenile justice system and if so how it is organized. In that regard: attachment 8-2 has a category cases not forwarded to the court indicating that cases are diverted. There are two categories of cases distinguished: cases which should not be forwarded to the court and minor offences. Re the first category: who decides not to forward the case to the court and for what reasons? Re the second category: what is meant by “Sent to be Disciplined”.

8.7. Regarding deprivation of liberty: apparently the Judge can place a child in a welfare or educational institution or in a reformatory ( correctional) school. Please provide further disaggregated data ( age and sex) on the use of these placements and the average duration of these placements. After completion of the placement it is possible ( art. 55-2 Juvenile Delinquency Act) for the juvenile court to extend the placement for 2 years (maximum). Please provide information on the use of this possibility ( frequency; age;sex) and the reasons for this extension and whether this extension is at a request ( by whom) and or an ex officio decision of the juvenile court. Furthermore: in 2015 the Control Yuan issued a report on disciplinary misconduct in two correctional schools in the period 2012 – 2014. Please provide information on the measures taken as a follow-up to this report.<sup>5</sup>



8.8. Re legal aid: in para. 298 under f. that a child may apply for legal aid if certain conditions are met. Please provide information on the number of children who applied for legal aid and how many applications were granted. Furthermore, if a child does not meet the conditions mentioned can he or she obtain legal aid and how?

8.9. Please clarify what is the minimum age at which children can be employed (compare information in para 36 and 316).

8.10. Regarding child labour please provide information on the employment of children under the age of 15 which should be approved by local authorities. How many approvals have been given for work by children under 15 and regarding what type of work?

8.11. Regarding drug abuse please provide information on the measures taken to prevent drug abuse by children ( others than law enforcement actions) and the role of the Narcotics Hazards Control Centers (para 326) in that regard, more specifically: how many of these Centers exist, who are the partners in the preventive networks that these Centers develop, is education on drug abuse hazards and the rule of law (mandatory) part of the school curricula ( primary and secondary)? Is the campaign "say-no-to drugs" ongoing and what is the impact of this campaign?

8.12. Regarding sexual exploitation please provide more information on measures taken to prevent sexual exploitation of children. In addition please provide more information on the emergency placement of child victims and the possibility to put the child victim under protective placement for a maximum of 2 years. For instance when or why is a child in need of emergency placement and what are the reasons for keeping the child in protective placement? What is the difference between Continuous Placement and Extended Placement ( Attachment 8 – 19); in which kind of facilities are these children placed and for how long ( average) ? Can the child or her/his parent file a request to the court for termination of this placement?

8.13. The Child and Youth Sexual Exploitation Prevention Act took effect on January 1 2017. Please provide information on the measures taken to make the content of this Act known to children, parents and relevant professionals; furthermore on the measures taken to provide relevant professionals with training to understand the new Act and on how it should be implemented.

8.14. Re the protection of a child victim in legal (criminal) proceedings ( see para 341): are interviews with child victims audio- and video taped and can these tapes be used in court as admissible evidence? If child victims are a witness during a court procedure how is her/his privacy protected and what is done to avoid that the child has to face the ( alleged) perpetrator.

8.15. Finally could you explain why in 2015 out of the out of the 1,146 persons (alleged) perpetrators of sexual exploitation) involved in concluded investigations only 318 were convicted ( see attachment 8-18).

8.16. Regarding sale and trafficking please provide information about measures taken, specifically oriented on children and their parents, on the prevention of sale or trafficking of a child.

8.17. In relation to education for indigenous children (para 356) if possible, please elaborate on the extent to which the various plans have been implemented and subject to evaluation regarding their effectiveness.

8.18. In relation to education for indigenous children (para 356) please indicate whether it is possible to provide any more details of the ‘opportunities’ for these children to ‘learn their respective ethnic languages, histories and cultures and enjoy curriculum related to ethnic education. Please provide details of a child’s right to challenge the authorities/a school where they believe they have not received such opportunities or such an education.

8.19. In relation to the right of indigenous children to learn in their own language, please indicate what measures are being taken to ensure there are appropriately trained teachers to provide such education across the education system (including pre- school, primary and secondary school).