

# **Concluding Observations on the Initial Report of the Republic of China/Taiwan on the implementation of the UN Convention on the Rights of the Child (Draft)**

## **I. Introduction**

1. In June 2014, the Legislative Yuan of the Republic of China (Taiwan) passed the Implementation Act of the Convention on the Rights of the Child (“Implementation Act”). The Act came into force on 20 November 2014 and provides the framework for domestic harmonization of the CRC. On 22 April 2016 Taiwan’s Legislative Yuan passed a Bill to support the adoption of the CRC paving the way for the President to sign the Instrument of Accession to the CRC in May 2016.
2. The Executive Yuan, according to the Implementation Act, published the initial State report in November 2016 and its English version was made available in March 2017. In order to review its initial State report, the government of Taiwan invited five independent international children’s rights experts to form an International Review Committee (‘Review Committee’). They were Jaap Doek (Chairperson) (The Netherlands), Judith Karp (Israel), Nigel Cantwell (United Kingdom/Switzerland); Laura Lundy (Northern Ireland) and John Tobin (Australia).
3. The Review Committee examined the initial report of Taiwan which was submitted to the Review Committee in March 2017. The Review Committee received reports from civil society organizations including children’s organizations and groups of children. The Review Committee submitted a List of Issues to Taiwan in June 2017 and received detailed written replies in September 2017. The Review Committee also received a number of additional reports from civil society in response to the List of Issues and the State’s replies to the List of Issues.

4. As part of the review on 20 November 2017 the Review Committee held private meetings with children and members from civil society. On 21 and 22 November 2017, the Review Committee engaged in a public dialogue with the Government delegation. The Review Committee adopted the present Concluding Observations and presented them on 24 November 2017.
5. The Review Committee acknowledges the serious and sincere efforts of the Government of Taiwan to implement the CRC. The Review Committee greatly appreciates the constructive dialogue with the government during the review, which was attended by representatives from all relevant Ministries and government bodies. The active participation of civil society and in particular children was also essential to the review process.
6. The Review Committee expresses its appreciation to the Ministry of Health and Welfare, and particularly its CRC team, for providing the Review Committee with substantive and logistical support.

## **II. Recognition of International Human Rights Treaties**

7. The Review Committee welcomes the decision of Taiwan to adopt not only the CRC but also the following international human rights treaties:
  - (a) International Covenant on Economic, Social and Cultural Rights;
  - (b) International Covenant on Civil and Political Rights;
  - (c) Convention on the Elimination of All Forms of Discrimination against Women; and
  - (d) Convention on the Rights of Persons with Disabilities.

## **III. Main areas of concern and recommendations**

### **A. General measures of implementation (arts. 4, 42 and 44 (6))**

## **Legislation**

8. The Review Committee notes with appreciation that the CRC was accepted without reservations and that a special Act was adopted for the implementation of the CRC. The Review Committee recommends that the Government undertake a process of child rights impact assessment as it continues to review its domestic laws with a view to harmonizing them with the provisions of the CRC.
9. The Review Committee recommends that the Implementation Act should be amended to provide a clear statement that the provisions of the CRC prevail in the case of a conflict with domestic legal provisions.
10. The Review Committee encourages the Government to adopt the Optional Protocols to the CRC on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography.

## **Comprehensive national plan of action**

11. The Review Committee recommends that the Government develop and implement a national and comprehensive plan of action for the implementation of the CRC, with the involvement of regional and local authorities, civil society organisations, relevant professionals, children and parents.

## **Coordination**

12. The Review Committee welcomes the establishment of the Promotional Team for Children and Youth Welfare and Rights tasked with coordination and promotion of policies regarding the rights and welfare of children and youth and of the Executive Yuan's promotional group for Child and Youth Welfare and Rights. The Review Committee recommends that the Government ensure that these groups have sufficient power to execute their tasks and are provided with adequate human and financial resources.
13. The Review Committee recommends that a children's committee be

established in the Legislative Yuan. This committee should consult with children, relevant professional bodies and civil society in the development of proposals for legislation.

### **Independent monitoring**

14. The Review Committee notes with concern that Taiwan has not yet established an independent National Human Rights Institution ('NHRI').
15. The Review Committee recommends the establishment without delay of either an NHRI with a dedicated division for the monitoring of the rights of the child or a children's ombudsman's office or children's rights commissioner, in accordance with the recommendations made by the CRC Committee in its General Comment No 2 (2002). This body should comply with the Paris Principles and, in particular, be able to receive, investigate and address complaints, relating to the public and private sector, by children in a child-sensitive manner, ensuring the privacy and protection of complainants.

### **Complaints procedures**

16. The Review Committee notes with appreciation the information provided on the opportunities for children to make complaints in the settings of education, social welfare, health and juvenile justice.
17. The Review Committee recommends that all children receive information about the opportunities and procedures for making complaints. The Government should ensure that the procedures are child-friendly, the child is provided with adequate support (including where appropriate by parents or competent NGOs), the privacy of the child is protected and that there are no negative repercussions for children who make complaints. The complaint procedure must be subject to independent review.

### **Resource allocation**

18. The Review Committee commends the Government for introducing its first

Child Budget. It recommends that, in line with the Committee on the Rights of the Child's General Comment No. 19 on Public Budgeting (2016), the Government ensures transparent and participatory budgeting through public dialogue, including with children, and establishes mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution and use of resources, including at the level of local authorities.

### **Data collection**

19. The Review Committee appreciates the provision of statistical information regarding the implementation of the rights of the child in areas such as family environment and alternative care, health and welfare, education and special protective measures.
20. In the light of General Comment No. 5 on general measures of implementation, the Review Committee recommends that the Government further improves its system of data collection and considers establishing a central data collection unit. The information collected should cover all areas of the Convention and be disaggregated, where relevant and appropriate, by gender, age, disability, urban/rural, indigenous and ethnic backgrounds, nationality and sexual orientation.

### **Awareness raising and training**

21. The Review Committee notes the training on children's rights provided at the central level by various ministries and at the local level. However, the Review Committee is concerned at the lack of information on the quality and effectiveness of training and that the focus appears to be mainly on civil servants.
22. The Review Committee recommends that the Government ensure training in children's rights for all professionals working with children such as teachers, social workers, medical professionals, professionals working in institutional and foster care and in the field of special protective measures

for children, police, judges and prosecutors and others working in the field of juvenile justice. In all training, special attention should be given to the general principles of the CRC, the right to non-discrimination, the best interests of the child as a primary consideration, the right to life, survival and development and the right to be heard and the principle of evolving capacities. All training should be monitored and evaluated on an ongoing basis. Parents should also receive information about children's rights through schools, local government, welfare and health services and through the media.

### **Cooperation with civil society and the business sector**

23. The Review Committee commends the positive relationships and open dialogue between the government and civil society organisations. It encourages this cooperation as a means of furthering the realisation of children's rights in Taiwan.
24. With reference to the CRC Committee's General Comment No. 16 (2013) on State obligations regarding the impact of business on children's rights, the Review Committee recommends that the Government establish and implement regulations to ensure that the business sector complies with the rights of the child, particularly in the area of children's employment and working conditions, media (including social media and the internet) and protection of the environment.

### **B. The definition of the child**

25. The Review Committee notes that the age of majority in Taiwan is 20. The Review Committee's mandate is restricted to persons under the age of 18. However, it wishes to highlight the fact that the implementation of the CRC in Taiwan may generate some inconsistencies and confusion on the applicability of rights to youth 18 or 19 years old.

26. The Review Committee notes with appreciation that the Government has committed to enacting legislation which will harmonize the current minimum ages for marriage, setting them for both boys and girls at 18 in accordance with the recommendations of international treaty bodies.

### **C. General Principles**

#### **Non-discrimination (art. 2)**

27. The Review Committee notes with appreciation the information provided on various legal provisions for the prevention and protection against discrimination of especially vulnerable children such as indigenous children, LGBTI children, children with disabilities and stateless children. However, the Review Committee is concerned at the lack of information on the effectiveness of the policies and programmes to ensure the implementation of these provisions and addressing resistance to the implementation of the Gender Equity Education Act.

28. The Review Committee recommends that the State continues, in on-going consultation with children, professionals working with children and civil society, to promote and support awareness raising campaigns on the right of non-discrimination of especially vulnerable children and to take the necessary measures to ensure the full implementation of the various legal provisions prohibiting discrimination of children.

#### **The best interest of the child as a primary consideration (art. 3, para.1).**

29. The Review Committee notes that legislation related to the protection of children and the Civil Code requires that decisions by courts or other authorities should be based on the best interests of the child. The Review Committee recommends that the Government ensure that this right is:

- (a) interpreted consistently with the Committee's General Comment No 14 on the best interests of the child; and

(b) integrated and applied consistently in all legislative, administrative and judicial proceedings and decisions and in all policies, programmes and projects that are relevant to and have an impact on children, including immigration and juvenile justice laws and regulations.

**The rights to life, survival and development (art.6)**

30. The Review Committee notes that the State acknowledges the high rate of suicides and attempted suicides among children and encourages it to carefully monitor the factors that are impacting on this and to extend its existing efforts to reduce the unacceptably high levels of child suicide.

**The right of the child to be heard (art. 12).**

31. The Review Committee welcomes the steps that have been taken to include children as members of school and local government committees and commends in particular the inclusion of children in the review of the National Curriculum guidelines. However, the Review Committee expresses its concern that sociocultural attitudes continue to restrict children from freely and safely expressing their views in schools and the wider community.

32. The Review Committee draws the Government's attention to the CRC Committee's General Comment No. 12 on the right of the child to be heard and recommends that it take measures to strengthen the implementation of this right in accordance with article 12 of the Convention. It recommends that the Government:

- (a) undertake research to identify the issues that are most important to children and how their views might be best heard on those issues in all settings;
- (b) undertake training programmes and awareness-raising activities with parents, teachers, social workers, judges and others working with

children to promote the meaningful and empowered participation of all children within the family, schools and community;

(c) strengthen the participation of children at the national level by establishing a mechanism that will allow for the views of children to be heard in the legislative and policy making process;

(d) take measures to ensure the effective implementation of legislation recognizing the right of the child to be heard in relevant administrative and legal proceedings, including by ensuring that children are informed of their right to be heard and supported to exercise it meaningfully.

#### **D. Civil rights and freedoms**

##### **The right to acquire a nationality (art. 7, para.1)**

33. The Review Committee welcomes the efforts of the government to enable more stateless children who are not adopted to acquire the nationality of the Republic of China/Taiwan. The Review Committee has noted in particular reports of problems associated with the entitlements and status of children born to migrant mothers and unknown fathers when the mother returns to her home country without the child. The Review Committee recommends the Government to take all appropriate measures to ensure that these children are not left stateless or deprived of any services and benefits to which other children in Taiwan are entitled.

##### **The right to freedom of expression (art. 13)**

34. The Review Committee is concerned at reports that exercise of the right to freedom of expression may be restricted in practice, particularly in schools, due to negative attitudes on the part of adults and the children's fear of punishment. It recommends that the Government ensure that children can

enjoy their right to freedom of expression in all settings and promote and support e.g. the production and distribution of student newspapers or bulletins or other publications in and outside schools.

**The right to freedom of association and to freedom of peaceful assembly (art.15)**

35. The Review Committee notes with concern that children and young people below the age of 20 cannot establish their own association and can only become a member of an existing association if they have the permission of their parents or guardians. This position is not consistent with the child's right to freedom of association and fails to respect the evolving capacities of the child.

36. The Review Committee recommends that the Government take the necessary legislative and other measures to ensure that children, in accordance with their age, maturity and evolving capacities, can fully enjoy, without any discrimination, their right to freedom of association and to freedom of peaceful assembly, including the right to peaceful protest.

**The right to privacy (art. 16)**

37. The Review Committee notes with concern reports that teachers have carried out searches of students' personal belongings for reasons other than those stipulated by law and have released children's confidential information. The Review Committee recommends that the Government take all necessary measures to protect children from such unlawful and arbitrary interference with their right to privacy. Teachers should be informed of the relevant regulations and subject to disciplinary proceedings when violations occur.

**The right not to be subjected to torture or other cruel, inhuman and degrading treatment (art. 37 (a))**

38. The Review Committee also expresses concern about the use of solitary

confinement and restraints in correctional and other residential facilities. It recommends that the Government ensure that the regulations governing the use of solitary confinement and the conditions under which it is carried out are in conformity with article 37 of the Convention and the UN Rules on the Protection of Juveniles Deprived of Liberty ('Havana Rules') (para 67) and to take all reasonable measures to guarantee respect for those regulations. Furthermore, it recommends that the Government review the regulations governing use of restraints to ensure that they correspond to standards set out in the Havana Rules (paras 63 & 64).

**E. Family environment and alternative care (arts. 5, 9 – 11, 18, para 1 and 2. 20, 21, 25 and 27 b, para 6)**

**Family support**

39. While welcoming the various measures in place to support parents in their childrearing responsibilities, financially and otherwise, the Review Committee notes reports that single-parent households (including following a divorce) and some low-income, high-risk households may not be able to access adequate support. The Review Committee urges the Government to take all feasible measures to widen access to appropriate and necessary support to include all such households.

**Illicit transfer and non-return (art. 11)**

40. The Review Committee notes the information that reporting of illicit transfer of a child is not mandatory and that the number of reports may reflect only part of the number of children who are victims of illicit transfer. Furthermore, the legislative provisions seem insufficient for preventing such transfers.

41. The Review Committee recommends that Taiwan adopt The Hague

Convention on Civil Aspects of International Child Abduction (1980) as a binding document for dealing with cases of illicit transfer and (non) return of children.

**Children deprived of family environment and alternative care (art. 9, para.1 and 20)**

42. The Review Committee is concerned about the use of residential care and the way it is organised. It notes that measures have been taken by the Government to reduce the placement in residential care facilities of children who are or have to be separated from their parents/family. It also notes that the number of children in residential care is not falling significantly while the number of non-State residential care providers continues to grow. The Review Committee is concerned that quality assurance may not be effectively carried out under the present system of authorisation, inspection and audits. The Review Committee understands that resources currently made available to private facilities may not enable the latter to recruit and retain qualified staff in adequate numbers. The Review Committee is concerned that overcapacity may create an incentive to place children in residential care facilities instead of family based care. The Review Committee recommends that the Government examine the reasons for this overcapacity and ensure the efficient allocation of resources to ensure the most appropriate placement of children in need of alternative care consistent with the UN Guidelines for the Alternative Care of Children.

43. The Review Committee welcomes the Government's target of increasing the proportion of children in formal kinship care. The Review Committee suggests that the Government examine the extent to which an ongoing increase in kinship care can be facilitated by alleviating certain onerous requirements regarding eligibility and access to subsidies for potential kinship carers .

44. The Review Committee also welcomes the Government's policy to promote foster care, including in relation to caring for children with special needs and the increased training and support for foster carers that this implies. The Review Committee recommends that the Government continue and strengthen this policy.
45. The Review Committee recommends that, in line with the UN Guidelines for the Alternative Care of Children, the Government draws up a comprehensive and costed strategy to deinstitutionalise the alternative care system by, among other things, supporting and strengthening families in order to prevent the need for placements, and promoting and facilitating the use of family-based alternative care, in particular kinship-care, for these children.
46. Furthermore, the Review Committee recommends that the Government take the necessary legislative measures to ensure that all placements of children in alternative care are based on a decision of the family court, that the term of such placement is set by law and that extending the duration of the placement should be a decision of the court and meet criteria set by law. A particular concern of the Review Committee is that parents can arrange the placement of their children without any involvement of the court in assessing whether the placement is necessary and in the best interests of the child.
47. The Review Committee notes that children who are maltreated and face imminent and serious risk can be put in protective placement for up to 72 hours, and that this placement can be extended repeatedly for 3 months by a decision of the court. The Review Committee is concerned that only after a stay of 2 years in an emergency institution are the authorities required to make a long-term treatment plan if the child cannot return to her/his family.
48. The Review Committee recommends the Government establish an effective

system of regular review of all placements of children in alternative care in accordance with article 25 CRC and the UN Guidelines for the Alternative Care for Children. Special attention should be given to the review of placements in emergency centres and institutions by assessing, at least every year, whether the placement is still necessary in the best interests of the child and/or whether the child can be placed in a family-based form of alternative care. The Government should also take the necessary measures to prevent the frequent moving of children from one alternative care setting to another.

49. Finally, in line with the UN Guidelines on Alternative Care for Children, the Review Committee emphasises the importance of having in place an effective and suitable policy and programme for children leaving the alternative care system, preparing them (and, where applicable, their families) for the leaving care process and providing all necessary after-care support for an appropriate period.

#### **Domestic and intercountry adoption (art. 21)**

50. The Review Committee notes that the annual number of domestic adoptions is lower than that of the adoption of Taiwanese children abroad, but notes with concern the high rate of terminations of intrafamilial and step-parent adoptions. The Review Committee recommends that the causes of these terminations be analysed, that remedial action be taken so as to reduce their rate, and that all necessary efforts be made to ensure appropriate care for any child involved. While the Review Committee recognises that domestic adopters may often be unwilling to take responsibility for children with special needs (including those with disabilities and older children) and that intercountry adoption may therefore be seen as the only solution for the latter, it urges the Government to raise awareness and promote the adoption of these children domestically.

51. The Review Committee is concerned about the level and effectiveness of the

Government's oversight of the intercountry adoption procedure, including the authorisation and monitoring of private adoption agencies. It recommends that Taiwan adopt The Hague Convention on Protection of Children and Cooperation in Intercountry Adoption (1993) as a binding document for dealing with cases of intercountry adoption from and into Taiwan.

**F. Violence against children (art. 19, 24, para. 3, 28 para. 2, 34, 37 (a) and 39).**

52. The Review Committee welcomes the various actions taken by the Government to address violence against children, in particular related to corporal punishment and bullying, and the programmes providing service to high-risk children and youth and to disadvantaged children aged 6 or under.

53. The Review Committee recommends the Government continue and strengthen these and other activities and develop and implement, taking into account the guidance and recommendations of the CRC Committee in its General Comment No 13 (2011), a multi-year comprehensive national plan of actions for the prevention of and the protection of children against all forms of violence. Provide for its implementation the necessary human and financial resources not only for national but also for local and NGO activities contributing to ending all forms of violence against children by 2030, a goal of the Sustainable Development Goals (target 16.2.).

54. The Review Committee welcomes the Guidelines for Prevention of Bullying on Campus, however it is concerned at the lack of concrete information about their implementation and the ineffective reporting by victims or others and follow up mechanisms. The Review Committee recommends that the Government:

- (a) review its monitoring and reporting processes in consultation with children to ensure they are effective;
- (b) enhance the understanding and awareness of both teachers and students of the negative impact of bullying on the child victim and the school community;
- (c) reinforce teachers' ability to create safe classrooms and encourage victims and witnesses to report incidents of bullying; and
- (d) provide effective counselling and restorative practices for children who are victims, perpetrators and other children who may be affected by bullying.

55. In relation to cyberbullying the Review Committee recommends that the Government urge platform operators to develop and strengthen appropriate services and mechanisms for handling prevention and cyberbullying complaints.

56. The Review Committee welcomes the information that corporal punishment has been prohibited by law in schools and institutions. However corporal punishment in the family setting has not been prohibited and the use of corporal punishment in schools continues.

57. The Review Committee recommends that the Government:

- (a) adopt an explicit prohibition on corporal punishment in the home consistent with the CRC Committee's General Comment No 8;
- (b) conduct awareness raising and educational campaigns on the negative impact of corporal punishment and other forms of degrading and humiliating treatment and provide information on alternative methods for promoting positive behaviour;

(c) take all appropriate measures to ensure that all people working in public and private schools and institutions refrain from the use of corporal punishment; and

(d) educate all professionals working with or for children on the importance of reporting all suspected incidents of violence against children to the appropriate authorities.

**G. Disability, basic health and welfare (arts. 6, 18, para.3, 23, 24, 26, 27, paras. 1- 3 and 33).**

**The rights of children with a disability (art.23)**

58. The Review Committee urges the Government to implement the recommendations of the Review Committee for the Convention on the Rights of Persons with a Disability. It further recommends that the Government ensure the collection of accurate disaggregated data on children with a disability and take appropriate measures to ensure that such children:

(a) can access appropriate schooling in rural areas;

(b) transition into meaningful employment after the completion of their schooling;

(c) enjoy access to meaningful play, leisure and recreation opportunities by, for example, the development of all abilities playgrounds; and

(d) receive appropriate support services for themselves and their families.

59. The Review Committee is concerned at the high number of children with disabilities living in residential facilities. It welcomes the fact that the Government has adopted a 5 year strategy to increase the number of children with disabilities living in community based settings.

**The right to health (art 24)**

60. The Review Committee is concerned that all children must obtain the

consent of their parents in order to receive medical treatment irrespective of their capacity. This position is inconsistent with the view of the Committee on the Rights of the Child which has explained that a child of sufficient understanding is capable of providing consent to medical treatment including in circumstances where her/his parents are unwilling to provide consent.

61. The Review Committee recommends that the Government amend the relevant laws to ensure that the consent required for medical treatment of a child is consistent with the CRC especially articles 5 and 12. It also recommends that the Government consider the implementation of the recommendation of the CRC Committee in its General Comment No 12 (para 102) that states adopt legislation which provides for a fixed age at which the right to consent transfers to the child.
62. The Review Committee welcomes efforts by the Government to provide specialist mental health services for children including the provision of community mental health clinics, specialist mental health professionals and hotlines for children. However, the Committee is concerned about the incidence of children experiencing problems with their mental health especially the high suicide rate and the effectiveness of the services provided.
63. The Review Committee recommends that the Government:
  - (a) continue to collect data on children with mental health conditions and youth suicide which, where possible and appropriate, is disaggregated according to the nature of the condition, age, gender, rural/urban, indigenous, and sexual orientation;
  - (b) monitor and evaluate the effectiveness of the services provided to children including data on the referral rate and outcomes of children who access helplines;

(c) ensure mental health services, including preventative services, are available, accessible, acceptable and of appropriate quality consistent with General Comment No 15 on the Right to Health of the CRC Committee; and

(d) actively seek the views of children consistent with article 12 of the CRC to assist with the development, implementation and monitoring of mental health services for children.

64. The Review Committee welcomes the range of initiatives adopted by the Government to address the issue of childhood obesity. However, it recommends that:

(a) the Government evaluate and monitor the effectiveness of such initiatives; and

(b) exercise caution when weighing children in schools to ensure that this process is undertaken in a way that protects a child's right to privacy and does not subject a child to humiliation.

65. The Review Committee notes that since 2011 the Government has adopted a progressive program to deliver education on sexual and reproductive health to children. It also notes that significant concerns are held by various groups with respect to the effectiveness and appropriateness of this program; that the incidence of sexually transmitted diseases remains high and is increasing for some diseases and that there are still a significant number of teenage pregnancies.

66. The Review Committee recommends that the Government review the current program to evaluate whether any amendments are required to improve its effectiveness and ensure its appropriateness. This review should consult all interested parties including children and adolescents, parent groups, health professionals and educators.

67. The Review Committee further recommends that the review assess whether the current sexual and reproductive health program is:

- (a) consistent with the recommendations of the Committee on Economic Social and Cultural Rights regarding adolescents in its General Comment 22 on Sexual and Reproductive Health and the recommendations of the CRC Committee in its General Comments on Adolescent Health and Development (GC 4) and the Rights of Adolescents (GC 20);
- (b) age appropriate and evidence based;
- (c) designed to protect the right to sexual and reproductive health of all children including children who identify as LGBTI and children with a disability;
- (d) accommodates the views of children in the design, delivery and evaluation of the program consistent with article 12 of the CRC;
- (e) includes information on respectful relationships and measures to empower children before they engage in sexual activity;
- (f) provides appropriate information and support services to a girl who becomes pregnant; and
- (g) educates parents to understand a child's right to sexual and reproductive health.

68. The Review Committee heard concerns from children with respect to the quality of the environment and the potential for this to harm their health. The Review Committee recommends that the Government take measures to monitor the impact of the environment on children's health and to develop systems or processes that enable children to express their concerns to the Government regarding the environment or other matters relevant to children's health and for these concerns to be taken seriously.

## **H. Education, leisure and cultural activities (art. 28 – 31)**

### **The right to education (art 28-29)**

#### **Closing the Gap**

69. The Review Committee welcomes the fact that the 12 years of compulsory education is free of tuition fees. Nevertheless, the Review Committee is concerned with the growing need of students at private vocational and senior high schools to apply for loans to pay tuition and other learning costs and living expenses.
70. The Review Committee recommends that the Ministry of Education ('MOE') have an overall review of the tuition rate of private vocational and senior high schools and establish a review system in this regard to protect economically disadvantaged students from being charged excessively by private schools. The Review Committee further recommends that the Government introduce appropriate programs to assist students who experience difficulties in the repayment of their debt.

#### **Preschools**

71. The Review Committee is concerned at the shortage of public and non-profit preschools and the high economic burden of parents enrolling their children to private preschools. The Committee is also concerned by the need of local authorities for additional human and financial resources to enable them to comply with Article 7 of the Early Childhood Education and Care Act.
72. The Review Committee welcomes the "Maximizing the Public Education and Care Services Project (2017-2020) to assist local governments to form more public preschools to serving more parents with good children education and care with fair costs.
73. The Review Committee encourages the Government to evaluate the effectiveness of the implementation of the project with regard to the increase

in the number of public preschools and the proportional increase in the number of trained preschool teachers and revise their wages to stop the high turnover rate that hinders the development of children's attachment. The Review Committee recommends that the Government aim to achieve free tuition for public preschools and affordable tuition for private preschools.

### **Budget Allocation for Education in Remote and Rural Areas**

74. The Review Committee acknowledges that the Government is committed to allocating additional resources to the education of children in remote and rural areas. However, the Committee remains concerned that the allocation of these resources may not always be sufficient to ensure a quality education for children in these areas. The Committee recommends that the Government continue to provide additional resources for rural and remote education and adopt measures to monitor the extent to which children enjoy their right to education consistent with articles 28 and 29 of the CRC.

### **Children's Rights and Civic Education**

75. The Review Committee recommends that human rights and in particular the rights of the child be made a mandatory part of the curriculum in all forms and levels of education including the National Curriculum. The Review Committee further recommends that accessible materials should be produced for all ages and abilities of children and that knowledge and training in children's rights should be a prerequisite for teachers. The Review Committee further recommends that the MOE support activities concerning children's empowerment in civic and citizenship education.

### **Student Representation in School Affairs**

76. The Review Committee acknowledges the High School Education Act provides for the creation of self-governing students organizations, but it is concerned that the Act is not effectively implemented. The Review

Committee recommends that the MOE monitors the establishment of self-governing student organizations in all schools, including private schools, without the intervention of school personnel in their elections or functions. The Review Committee further recommends that self-governing organization should be effectively represented in all school committees dealing with school affairs and student's educational interests.

### **Reform of the curricula guidelines**

77. The Review Committee is concerned about the stress caused to students as a result of the pressure for high academic attainment where a strong emphasis is placed on examinations and the curriculum lacks flexibility and leaves students with limited scope to pursue their own educational interests. The Review Committee welcomes the ongoing review by the MOE of the curricula with a view to making it more flexible, attractive to students' interests and easing the stress on students. The Review Committee encourages the MOE to continue this review process with the effective participation of students.

### **Dropout Students**

78. The Review Committee is concerned that not all services for students who dropout of school are integrated. The Review Committee recommends that the Government integrate these services and ensure the sufficient allocation of resources to support such students.

### **Disciplinary Measures**

79. The Review Committee notes that schools can draw their own guidelines for the discipline of students and is concerned that this could expose children to arbitrary and unlawful disciplinary measures such as collective punishment. The Review Committee recommends that the Government provide a directive to schools which outlines those disciplinary measures which are

compatible with children's rights.

80. The Review Committee is concerned at the employment of military training officers in schools and recommends that this practice is phased out as expeditiously as possible.

### **Corporal Punishment**

81. The Review Committee is concerned that the ban on corporal punishment in schools is not adequately monitored and enforced. It recommends that all necessary measures are taken by the MOE to ensure the effective implementation of the ban and that teachers who use this measure are appropriately sanctioned.

### **Mechanism of Appeals**

82. The Review Committee is concerned with the effectiveness of the existing appeal procedures for students' complaints and recommends that the Government should set up an independent mechanism which provides a confidential and safe reporting process to address individual appeals on wrongful administrative decisions or measures taken by all schools, including reform, correctional, and transition schools. Students should be entitled to be heard in such hearings and receive independent representation including NGOs.

### **The Child's Right to Rest, Play, Leisure (Art. 31).**

83. The Review Committee is deeply concerned about the very long hours that children spend at school or in educational activities outside school. It notes that the Government has reformed the state examination system in the hope that this may reduce the pressure on children in relation to academic attainment.
84. The Review Committee recommends that the Government reviews and

regulates the structure of the school day in order to ensure that schools provide children with adequate and regular periods of free time. Furthermore, it recommends that the Government undertakes measures to educate parents and teachers about the harmful effects of a lack of adequate sleep and access to play and leisure on children's learning and development and physical and mental health.

85. The Review Committee commends the efforts by government to increase children's access to play space in urban environments through the provision of safe playgrounds. It stresses that the Government should ensure that all children, including children with disabilities, have access to play and that children should be able to enjoy that right in the natural environment. With reference to General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, the Review Committee recommends that the government, including local authorities, implement measures to guarantee the right of the child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child, including by adopting and implementing play and leisure policies with sufficient and sustainable resources. The Review Committee recommends that Government fully involve children in planning, designing and monitoring the implementation of play policies and activities relevant to play and leisure, at the community, local and national levels

86. The Review Committee notes the existing efforts to ensure that all children can learn about diverse cultures, including indigenous cultures and languages. It encourages the Government to review and extend these activities in consultation with children, their families and minority communities.

**I. Special protection measures ( arts. 22, 30, 32, 33, 34, 35, 36, 37 (b)- (d) and 38 – 40).**

**Indigenous Children (Art. 30).**

87. The Review Committee welcomes the numerous measures taken by the Government to protect the rights of indigenous children and the important role played by the National Council on Indigenous Persons.

88. The Review Committee recommends that the Government continue to implement, monitor and evaluate the effectiveness of special measures to protect the rights of indigenous children in collaboration with indigenous communities including children from such communities. The Review Committee further recommends that the Government pay special attention to:

- (a) measures to reduce the infant mortality rate among indigenous children
- (b) the ability of indigenous children to receive instruction in their indigenous language by appropriately qualified teachers;
- (c) the assistance provided to indigenous children when they move from rural to urban areas to undertake education;
- (d) measures to support the development of pre-schools by tribal co-operatives including the allocation of adequate resources and the involvement of indigenous community members in the development, staffing and operation of such pre-schools;
- (e) supporting customary alternative care arrangements in indigenous communities; and
- (f) the provision of culturally appropriate parenting education and support services.

### **Child Labour (Art 32).**

89. The Review Committee notes with concern reports that children, including younger children, are working in conditions that often involve long hours and/or may be harmful to their health and development. The Review Committee recommends that the Government:

(a) collect data on the number of children working in exploitative conditions, which is disaggregated according to the nature of the work, age, gender and whether the child comes from an indigenous, rural or urban background; and

(b) take appropriate measures to protect the rights of such children.

### **Drug Abuse (art. 33)**

90. The Review Committee welcomes the various measures taken to prevent drug abuse, such as the establishment of local Abuse Prevention Centres and the project “say-no-to-drugs” and the designation of medical treatment institutions for the treatment of children addicted to drugs. However, the Committee is concerned at the lack of information on the effectiveness of these measures.

91. The Committee recommends that the Government regularly conduct evaluations of the implementation of these measures and their effectiveness with the involvement of child and adolescent drug users, in order to adjust or strengthen these measures where necessary. In addition, the Review Committee recommends that the Government treat the use of drugs as a health problem and not as a crime.

### **Sexual exploitation and sexual abuse (art. 34)**

92. The Review Committee welcomes the adoption in 2015 of the Child and Youth Sexual Exploitation Prevention Act which entered into force on 1 January 2017 and the related plans for the prevention of sextrade involving children and for the reinforcement of sex crimes investigations. However,

the Review Committee is concerned that an emergency placement of a child victim of sexual exploitation or sexual abuse can be extended for a long period of time while it is not clear what the grounds for the extension are. Furthermore, the Review Committee is concerned that the protection of a child victim of sexual abuse as a witness in a judicial (criminal) proceedings against the alleged perpetrator, is not always in full compliance with international human rights standards and recommendations.

93. The Review Committee recommends that the Government specify by law the grounds for the extension of an emergency placement of a child victim of sexual exploitation or sexual abuse and review and amend, where necessary, the existing provisions on the protection of child victims as witnesses in judicial proceedings in order to comply with the rules set in article 8 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the recommendations in Resolution 2005/20 of the UN Economic and Social Council on Justice in Matters involving Child Victims and Witnesses of Crime.

#### **Conditions of detention (art 37)**

94. The Review Committee is concerned by reports of the mistreatment of children while deprived of their liberty and recommends that the Government take effective measures to ensure:

- (a) full compliance with article 37 of the Convention and the UN Rules on the Protection of Juveniles Deprived of their Liberty;
- (b) educate all staff working with children deprived of their liberty about the rights of such children; and
- (c) fully investigate all allegations of mistreatment of children deprived of their liberty.

#### **Juvenile justice (art. 40)**

95. The Review Committee notes with appreciation the measures taken by the

Government to prevent juvenile delinquency and the establishment, based on the Juvenile Delinquency Act, of a well structured juvenile justice system. However, the Review Committee is concerned with:

- (a) the use a different age limits and categories in the Juvenile Delinquency Act which lead to the appearance of children age 7 – 12 in the juvenile (criminal) justice statistics and the lack of clarity regarding children age 12 and 13 due to the fact that the minimum age of criminal responsibility (MACR) is set at 14;
- (b) criminalizing problematic behaviour of children by including them in the Criminal Law as status offences; and
- (c) the de facto lack of legal or other assistance to children and juveniles in conflict with the penal law throughout the juvenile justice proceedings due to the fact that legal assistance has to be paid for in most instances.

96. In light of the CRC Committee's General Comment No 10 on Children's rights in juvenile justice the Review Committee recommends that the Government, bring its juvenile justice system fully into line with the CRC and other relevant standards. In particular, the Review Committee recommends that the Government:

- (a) deal with children below the age of 14 who have been alleged to, accused of or recognized as having infringed the penal, under the Protection of Children and Youths Welfare and Rights Act and not under the Juvenile Delinquency Act and undertake the necessary legislative measures to that effect;
- (b) abolish status offences and provide children with problematic behaviour with the necessary support and protection in the context of the Protection of Children and Youth Welfare and Rights Act;

(c) ensure the provision of qualified and independent legal aid to children in conflict with the penal law from the beginning, and throughout the Legal proceedings;

(d) require by law that pre-trial detention is reviewed regularly by the court/Judge, preferably every two weeks, in order to ensure that pre-trial detention does not last any longer than is strictly necessary.

97. The Review Committee notes that no restorative justice mechanism is in place within the juvenile justice system and there are limited diversionary measures. The Review Committee recommends that the Government explore the possibility of introducing restorative justice measures and promote genuine diversionary measures which occur before court proceedings.