

List of Issues re the 2nd Report of Taiwan on the implementation of the CRC

13 July 2022

This is the list of issues on which clarifying information is requested in relation to the content of the Second Report. Issues raised are therefore not necessarily indicative of special concern in relation to other issues covered in the Report

Chapter I: General Measures of Implementation

Para. 7 and 4. Please provide information on the progress made in amending Implementation Act of the CRC so that it enables precedence over conflicting domestic law. Please explain in more detail the position regarding ratification of the Optional Protocols to the CRC on the Children Involved in Armed Conflicts and on the Sale of Children, Child Prostitution and Child Pornography, specifying in particular if any elements of either Protocol would cause problems for full implementation in Taiwan.

Para. 17. Please give further information on the National Plan of Action for children 2021-2025 regarding its development, endorsement, comprehensiveness, vision, goals, targets, budget, implementation mechanism and regular evaluation.

Para. 18. Please provide additional information on the nature and outreach of the Child Rights Group as the child coordination mechanism, especially regarding its institutional capacities and regular function.

Para. 21. Please provide information on plans to rebalance budget allocations to children, to provide more resources for social protection, child friendly justice, the child's access to good quality counseling services and child protection from violence and harmful practices.

Para. 24 and 25. Please specify role of international organizations and other countries in international cooperation and explain how do children in ROC benefit from exchange of knowledge and information.

Para. 26. Please provide information on the effectiveness of the National Human Rights Commission in overall promotion of the rights of the child and in addressing cases of violation of the rights of the child, in light of the basic requirements for a visible, child friendly, accessible, and well budgeted child rights

Para. 33 and 34. Please provide additional information on plans to extend training and education on the rights of the child to all professionals dealing with children, including social work, teachers, medical profession, informal education as well as to parents, caretakers, young children and youth.

Please provide information on the mechanism for regular monitoring of the implementation of the Convention of the Rights of the child. Please provide an update on the impact assessment that started in 2021.

Please provide information on children's access to justice, including to criminal, civil and administrative proceedings, in view of equal and affordable access and availability of effective, child-sensitive procedures for children and their representatives, which includes provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance.

Please elaborate on 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 and how do children realize their right to a remedy.

Chapter II: Definition of the child.

No specific issues

Chapter III: General Principles

Para. 53. Please provide further details as to how the promotion of gender equality is monitored in schools and not left to the discretion of schools and teachers.

Para. 56. Please provide further details as to how the obligations in the Education Act for Indigenous Peoples 2019 are monitored and enforced.

Para. 68. Please clarify how the causes of child deaths (including suicides) are recorded, whether and how they are investigated and provide an explanation for the very high infant mortality rates in some counties.

Para. 69 (b). Please provide further information as to what measures are being taken to reduce the danger to child pedestrians/ cyclists from traffic related injury. How are drop-off zones/ pedestrian areas determined and enforced?

Para. 73. and 80. Please provide further details as to how the participation in local government and in the curriculum review is working? Please include details about how children are selected to participate and what steps are taken to ensure that the groups are as representative as possible. Please provide examples of how participation is monitored and what impact, if any, children had on policy and practice.

Chapter IV: Civil rights and freedoms

Para. 45. In the media classification there are two categories, Parental guidance – 12 and Parental guidance- 15, which mean that programs with this label are not suitable for viewing by children respectively under the age of 12 and under the age of 15. What does “parental guidance” mean in this context?

Para. 47. Children age 16 or older can become a member of a political party. Does this include that they will have voting rights in the context of the political party and that they can become a candidate for the political party in local and national elections?

Para. 95. Mobile broadband penetration is stated to have reached 126.1% which indicates that there are more subscribers than the population of Taiwan. But this does necessarily mean that all children have access to the internet? Please clarify the percentage of children who have access to the internet; whether the quality of that internet connection is effective for purposes such as online learning and if there are gaps in internet access and quality, which cohorts of children and more likely to experience such gaps.

Para. 97. Please clarify whether any measures have been taken to assess the effectiveness of the filtering systems adopted on the Taiwan Academic Network to regulate content not suitable for children and youth, and whether there is a central governmental body with responsibility for protecting children from harmful content and practices such as cyber bullying, grooming and violations of privacy on the internet and other forms of media.

Para. 101. With regards to children's organizations, please clarify whether children can establish their own organizations or become members of a civil society organization.

Para. 106. Please clarify the circumstances under which a health examination of a student can be undertaken in a school including the process for determining consent and the circumstances when it could ever be considered appropriate to examine a student's genitals.

Para. 107. Please clarify whether the regulations concerning privacy for children and youth in placement institutions confirm with the relevant international standards such as the United Nations Rules for the Protection of Juveniles Deprived of their Liberty or the UN Guidelines for the Alternative Care of Children.

Chapter V : Protection of children from violence

Para. 110. Please provide more information on legal definitions of the abuse and neglect, as well as information on the contents of the trainings on prevention and treatment of victims of abuse and neglect.

Also, please provide more information on research and analysis (other than statistical data) that point to the root causes of abuse and neglect and solutions to incidents of abuse and neglect within families of young children, children with disabilities, and children of minority groups.

Please explain effects of the Strengthening Social Safety Network Program, highlighting areas of progress as well as factors and difficulties that hamper its realization.

Para. 129-133. Please explain discrepancies in information on reporting and addressing violence in schools, state care, penitentiary, correctional and other state institutions.

Please provide information on any research that analysis ratio between violence occurrence and reported cases.

Please provide information on analysis of barriers that prevent children and others to report violence in any setting.

Para. 118-120. Please provide information on the further measures taken to make the content of the Child and Youth Sexual Exploitation Prevention Act known to children, parents and relevant professionals.

Furthermore, please provide information on the measures taken to provide relevant professionals with training to understand the Act and on how it should be implemented.

Para. 126 (Attachment 5-23). Please provide your views on the increase of cases of sexual abuse of children in schools and in placement institutions despite the activities taken by Taiwan in the recent years.

In addition, please elaborate on the information that the numbers might even be higher since victims tend to endure sexual violence “silently” and schools and institutions often “refuse or resist investigations.”

Para. 137. As Taiwan faces increase of sexual violence that occurs online, including high incidents of cyber bullying, please provide information on legal protection and assistance to victims in such cases, in particular victims of online grooming.

Para. 140. As an indication that a child has been exposed to violence represents an important opportunity for protection, justice and recovery, please provide information on efforts to protect children victims and witnesses of crime by enabling their safe and confidential participation in the proceedings.

Please provide information on how protection of child victims and witnesses of crime is understood as shared responsibility of many different actors including medical and psychological support.

Finally, could you please explain your plans to integrate child protection, medical interventions, therapeutic interventions and criminal investigation and the investigative child interview, enabling multidisciplinary approach in a child friendly and participatory environment, inclusion, professionalism, and interagency collaboration.

Para. 121-125. Could you please provide more information on legal and administrative measures to provide recovery and social reintegration of children victims of violence, in particular sexual exploitation, child pornography and child prostitution, as well as the victims of trafficking for sexual exploitation?

Please provide additional information on availability of helplines for children, their accessibility, effectiveness and evaluation of their overall place in assisting children victims of violence.

Chapter VI: Family environment and alternative care

Para. 92. Please specify the categories of information lawfully required and held by the Child and Juvenile Adoption Information Centre and the conditions under which such information can be accessed, including by the child or adult adoptees concerned. Please clarify if this database covers both domestic and intercountry adoptions as well as, currently or potentially, donor-conceived children and those born through surrogacy arrangements if these children's data are not being held in an analogous entity. Please also describe any guidance and/or support available for adoptees and others seeking to establish their origins through the Centre.

Alternative care

Para. 152 + 165. Please clarify if the decision-making mechanism to avoid unnecessary placements (gatekeeping) applies only to cases where parents/guardians/other interested parties are the prospective commissioners or may also apply to certain other cases initiated by, e.g., social services or residential care providers.

Para. 159. Understanding that the 2019 Act has, *inter alia*, established an order in which placement options are to be considered – from kinship, through foster care to residential care – please indicate if decision-makers are provided with clear criteria when asked to assess which option to propose. Please also clarify the nature and role of “group home services” which appear to be the final option to be considered if foster care and ordinary residential care are eliminated (§ 162).

Para.160. Bearing in mind § 17 of this Second Report, please clarify if the alternative care policies finalized in 2021 are considered to constitute a fully-fledged part of a National Plan of Action (2021-2025) on this question and if they include a strategy for the progressive de-institutionalization of alternative care provision, as recommended in our Concluding Observation # 45 (2017).

Para. 163. Please indicate the proportion of State and non-State residential facilities inspected that have received an “A” grade and the number of such facilities whose closure has been ordered after failing to respond adequately to guidance measures for those assessed as “C” or “D” grades.

Para. 166. Please clarify if any extension(s) of a court-ordered placement beyond the initial 1 year maximum must also be approved by a court.

Adoption

Para. 174. Please specify if the Civil Code sets out the grounds – other than the best interests of the child in general – that can justify the termination of an adoption, and in that case, in particular, if such grounds include “better conditions being available with the original family” and “requests by the biological father that a child’s original surname be restored”. Please also specify which persons are competent to submit an application to terminate an adoption.

Illicit transfer

Para. 179. Please give an estimate of the proportion of total cases of illicit transfer of children abroad that would be covered by the Memorandum of Understanding with the USA.

Children with mothers in prison

Para. 180-182. In addition to the information already given here in relation to the detention of pregnant women and facilities for children accompanying their mothers in detention, please indicate if there are any sentencing guidelines or other official texts that encourage or allow for alternatives to a custodial sentence for women with young children.

Chapter VII: Disability, basic health and welfare

Para. 184. Beyond the measures listed in paras 212 and 213, please clarify whether any additional measures have been taken to address any gaps in the

availability, accessibility, acceptability and quality of physical and mental health care services for children in rural areas relative to urban areas.

Para. 186. COVID-19: Beyond the payment of an additional stipend to some families, please specify whether any additional special measures were adopted to mitigate the impact of COVID-19 on children and their families in terms of prevention; treatment and measures to address any ongoing physical *and* mental health consequences.

Para. 205. Please clarify whether the increase in the training of medical specialists is sufficient to meet the specialist health needs of children and youth particularly among Indigenous children and children in off shore areas.

Para. 216. Please clarify whether in efforts to combat childhood obesity (a) children have been involved in the development and evaluation of these policies, and (b) any measures have been adopted to regulate the conduct of food producers by for, example, mandating certain packaging information such as health star ratings or imposing restrictions on advertising.

Para. 217. Please clarify whether any special measures are taken to enable the participation of children with disabilities in sporting *activities within school* and *outside school* and whether any data is collected on the number of children (those with and without a disability) involved in sporting *activities outside of school* and whether this data is disaggregated according to age, gender, location and socioeconomic status.

Para. 219. Please clarify whether the increase in mental care services for children and young people satisfies the demand for these services and whether any disaggregated data is collected on the number of children suffering from mental health conditions.

Para. 221-222. Please clarify whether any longitudinal disaggregated data is available on the rate of children and young people smoking traditional cigarettes and electronic cigarettes and whether the sale and distribution of both these types of products to children is illegal.

Para. 223. Please clarify the nature of the measures used in ‘multiple media’ to reduce alcohol consumption among young people and whether they have been involved in efforts to develop policies to reduce the rate of drinking among young people.

Para. 226-228. Please clarify how, in efforts to improve the understanding of sexual and reproductive health, children and young people including children who identify as LGBTIQ+ have been involved in both the development *and* evaluation of these policies and guidelines.

Para. 229. Please clarify whether children and young people have access to contraception and termination services in the event of an unwanted pregnancy.

Para. 230-231. Please clarify whether the efforts to provide treatment for children with drug addiction within juvenile correctional institutions, are sufficient to meet the demand for such services.

Chapter VIII: Education, leisure and cultural activities

Please provide further details of the supports given to students with disabilities and children in remote areas to ensure that they had continued access to education, including access to online education during school closures related to the pandemic. What is the plan for possible future lockdowns?

Please provide details on policy/ measures taken to ensure that students are not subjected to bullying from teachers and coaches.

Please provide further details on the numbers of children with disabilities in mainstream schooling, the outcomes and attainment for these children and the numbers and outcomes of any complaints made by parents/ guardians.

Para. 291-293. How are normal daily routines defined? How might a student complain? Have there been any complaints by students and, if so, what were the outcomes?

Chapter IX: Special protective measures

Emergency situations

Para.301. Please indicate if the absence of a Refugee Act is the result of a decision that existing legislation is adequate to respond to the situation of refugees arriving in Taiwan or if other reasons explain that absence.

Para. 305. In relation to the question of street-connected children (street children), please provide any available data or reasonable estimates concerning the number of children living on the streets without parental protection, and please specify their status in terms of the law (e.g. offenders, persons in need of protection, etc.)

Children belonging to minorities or indigenous groups

Para. 312: please provide information about the number of workshops on indigenous culture and cultural diversity provided by local governments and the number of children participating in these workshops for the years 2019 - 2021. Who is the competent authority and what entails her/his supervision?

Economic exploitation/child labor

Attachment 9-6 provides statistics on children below the age of 15 who are allowed by local competent authorities to work. Please provide information about the conditions set by the local authorities or by the central government allowing children under age 6, age 6 – 11 and 12 – 14 to work.

Para. 322: Can children (or their parents) use the 1955 Hotline 24 and the 1999 hotline for complaints about problems in their working conditions? If so how many complaints were filed by children (their parents) to these hotlines in the years 2019 – 2021.

Drug abuse

Please provide more information about measures undertaken to prevent drug abuse by children who are not attending school.

The use of drugs is not dealt with by the juvenile courts, but children and youth engaged in the production, selling and trafficking of illegal drugs can be indicted. According to Attachment 9-13 in 2016 167 juveniles were indicted and in 2020 249. Please provide information on how many of these indicted juveniles were sentenced by the juvenile court and what were sanctions/measures taken.

Prevention of sexual exploitation and sexual abuse

Please provide information on the legal grounds for the extension of the placement of a child victim of sexual exploitation.

If the child is a victim of sexual abuse in the family, is it then possible to remove the alleged perpetrator from the family home instead of placing the child outside of the family home?

Para. 119. Who has the authority to ask the platform provider to remove inappropriate images of children which appear online? What measures can be taken if the provider refuses to remove the images?

Sale, trafficking and abduction.

Attachment 9-17. Provides statistics on sexually exploited children identified as being trafficked. Please explain why more than 90% of these trafficked children are Taiwan nationals and what kind of trafficking they were subject to.

Juvenile justice

Please clarify the position of children 12 or 13 years old in the juvenile justice system. Children below the age of 12 who committed an offense are not dealt with in the context of criminal law but under child protection. The minimum age of criminal responsibility (MACR) is 14 years of age.

Para. 344 states: Only when the juvenile is at the age of 14 when committing a crime the case may be addressed in criminal procedure. However Attachment 9-23 on child and juvenile criminal delinquents subject to

placement and guidance imposed by district courts contains statistics on children 12 and 13 years old (and on 14 – 17 years old).

Para 340 under (a). Children below age 12 who show deviant behavior do receive inter alia counseling, but at the same time district courts transferred 118 children below the age of 12 to social affairs units in accordance with juvenile justice act. Please explain why district courts are dealing with children below the age of 12 and what the transfer to social affairs unit means for the child.

Legal aid

Attachment 9-19 provides data on the number of juvenile protection and criminal cases approved for aid by the legal aid foundation. Please provide information about the criteria used by the foundation in approving legal aid. Are they the same for both categories of cases? Is the foundation a State agency? If legal aid for a juvenile offender is not approved, does that mean that he/she will not have legal aid during the criminal law procedure?

Diversion/restorative justice

Para. 340 deals exclusively with children 7 – 12 years of age, please provide information about the diversion practice regarding children and youth 12 – 18 years of age e.g on who decides to divert the child away from the traditional juvenile justice proceedings and what kind of diversion measures are available and who/what agency is in charge of implementing them.

Para. 354 on restorative justice: the consent of the victim is required to transfer the juvenile to an institution for reform counseling. What happens if that consent is not given? Please provide more information about the practice of restorative justice.

Deprivation of liberty

Attachment 9-24. Please explain why children are transferred by juvenile courts to placement institutions for placement, what does it mean and how long can this placement last?

Attachment 9-28 provides information inter alia on average detention time of youth who left the juvenile detention houses. Please explain what it means that in 2020 23 children below the age 12 left the juvenile detention houses (See also attachment 5 -32 with different statistics)

The juvenile courts has to keep close contact with the juvenile detention center in order to continuously asses the necessity of the detention. Please provide information about inter alia the frequency and nature of the contacts with the center and the child and about the way the judge assesses the necessity of continuing the detention.

Para. 362 The court can terminate the placement and is that at any time? Are there specific grounds in the law for this termination?

With reference to attachment 5-33, please provide information about the purpose and nature of religious instruction and individual counseling of children in correctional institutions.