**Comments on the Draft Revision of**

**General Comment No.10 (2007) on Children’s Rights in Juvenile Justice**

**Republic of Korea**

Submitted by:

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Terminology

Paragraph 6

The main terms used in the international normative framework of juvenile justice:

Juvenile justice: Refers to legislation, norms and standards, procedures, mechanisms and provisions, institutions and bodies specifically applicable to children considered as offenders. This revised general comment does not refer to children as ‘juveniles’. The Committee acknowledges and encourages the trend towards using terms such as ‘youth justice’ and ‘child justice’, which are positive developments as they aim to reinforce the dignity and worth of children in conflict with the law;

***Comments:***

We welcome the Committee’s encouragement of the use of such terms as ‘child justice’ and ‘youth justice’ over ‘juvenile justice’. As the term ‘child’ encompasses children, teenagers, minors and infants in compliance with the Convention of the Rights of the ***Child***, we propose that the revised GC use the term ‘Child Justice’.

Non-discrimination (Art. 2)

Paragraph 8

States parties have to take all necessary measures to ensure that all children in conflict with the law are treated equally. Particular attention must be paid to de facto discrimination and disparities, which may be the result of a lack of a consistent policy and involve vulnerable groups of children, such as street children, children belonging to racial, ethnic, religious or linguistic minorities, indigenous children, girl or LGBTI+ children, children with disabilities and children who are repeatedly in conflict with the law (recidivists). In this regard, training of all professionals involved in the administration of juvenile justice is important (see paragraph 123 below), as well as the establishment of rules, regulations or protocols which enhance equal treatment of child offenders and provide redress, remedies and compensation.

***Comments:***

A significant issue of child justice is discrimination on the grounds of sexual orientation and gender identity. Most organizations involved in child justice are classified by physical sex so that needs of LGBTI+ children in conflict with the law remain insufficient and improperly maintained in child justice. According to a study, among the LGBTI+ child respondents, 45.7% had attempted suicide and 53.3% had experienced self-harm. [[1]](#footnote-2) This reality is contrary to the aims of juvenile delinquency prevention. In addition, LGBT + children are exposed to discrimination and violence by juvenile justice professionals. Therefore, we suggest that the Committee include LGBTI+ children among vulnerable groups.

Restorative Justice: The core elements of a comprehensive policy

***Comments:***

Restorative justice is a concept concentrating on cooperative efforts, such as group discussions about the harmful event, among the offender, victim and local community with the aim of assisting in the victim’s recovery and in the rehabilitation of the offender. The revised GC refers to “restorative” in several sections: Best interest of the child (para.12), Interventions without resorting to judicial proceedings (para.25), Children recruited and used by non-State armed groups, terrorists or violent extremist groups (para.112) and Customary justice (para.115). Such scattered reference to restorative justice may undermine its importance. To enhance understanding of restorative justice in a wider international child rights context and to emphasize its significance, we recommend the designation of subsection on “Restorative Justice”.

Specific issues

***Comments:***

The Committee reminds the children recruited and used by non-State armed groups, terrorist of violent extremist groups and Customary Justice as Specific issues. In addition to this, we propose the inclusion of the following issues for children in need of special protection in the child justice system:

* **Girls and pregnant girls**: Girls in the child justice system occupy a relatively worse position than boys and suffer greater stigmatization. This discrimination is further evident in the lack of consideration for the physical, social and emotional development of girls. The Republic of Korea’s legislative prohibition of abortion, except in narrowly defined situations, does not adequately take into account the best interests of pregnant girls. If pregnant children are detained in the child justice system, they lack any choice regarding abortion. This issue is exacerbated by the absence of any regulation or guidelines specific to pregnant adolescents within the child justice system. Such shortcomings hinder the rehabilitation of girls.
* C**hildren deprived of a family environment**: The Korean child justice notification system aims to provide educational treatment for the adjustment child offender’s environment and their protection treatment. Any guardian, school principal; social welfare organization, including child welfare facility, or probation office (including a probation office branch) who finds that a child has committed a crime or may be prone to commit criminal acts (in view of their character or environment) must notify the juvenile court. This system has been found to disproportionately apply to children without parents living in social welfare facilities. According to a study by the National Human Rights Commission of Korea, of the 20 children interviewed, 14 were without a parent or relative guardian. The primary reason for child justice intervention in the cases of children deprived of a family environment were notices from directors of child welfare facilities.

The organization of juvenile justice

Among Paragraphs 116 – 121

***Comments:***

Despite the clear obligation of the State Party to ensure the rights of the child, the Government of the Republic of Korea continues to promote juvenile reformatory initiatives operated by non-governmental entities. While such cooperation in child justice is an important element, the State Party remains the primary duty-bearer. The juvenile court could protective detention of a children, the management standards and monitoring procedures of the care and custody to a child welfare institution under the Child Welfare Act are also absent. We urge the Committee to emphasize the basic role of the government as guarantor of children’s rights.

Awareness-raising and training

Among Paragraphs 122 – 123

***Comments:***

As child justice gives consideration to children’s evolving capacities and entails cooperation among relevant professionals for the best interests of the child,a multidisciplinary approach is particularly important in the education and training of child justice workers. Therefore, we ask that the importance of multidisciplinary content development and education be emphasized.

1. Key Results of the South Korean LGBTI Community Social Needs Assessment Survey, Chingusai, p. 34-35. [↑](#footnote-ref-2)