

GLOBAL **NEXTGEN** INDEX

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End Child Detention Scorecard

REPUBLIC OF KOREA

Published August 2018 using information compiled between November 2017 – January 2018, based on the most up-to-date reports and analysis available.



 **END** IMMIGRATION
DETENTION
OF CHILDREN

FINAL SCORE

25

According to the most accessible statistics, the Republic of Korea detained 228 children between January 2015 and December 2017. Further, 47 of these children were under the age of 14, and the longest period of detention was 141 days.

	Republic of Korea	Possible
Treaties	16	20
National laws	0	10
Processing	2	26
Placement	2	12
Rights	6	20
Oversight	2	12
Sub Total	28	100
Points off	-6	-15
Bonus points	+3	+15

Treaties 16/20

The Republic of Korea has ratified four of the six Conventions and Protocols that assist in the protection of children in the context of migration.

Recommendation: The Government of Korea is encouraged to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

National laws 0/10

There is no law in the Republic of Korea to prevent the immigration detention of children.

Recommendation: The Government of Korea is encouraged to implement a law, in alignment with international standards and obligations, that prohibits the detention of all children and their families.

Processing 2/26

The Republic of Korea lacks the systems to effectively screen and process migrant children in the community, rather than in immigration detention.

Recommendation: The Government of Korea is encouraged to urgently develop and implement child-sensitive screening procedures, best interest determinations, documentation, guardianship, legal advice and translation in order to uphold the rights of children. Translation services must be provided to support the entire process of children in the context of migration.

Placement 2/12

Overall, there is no social support designed or available for people who are not citizens of Korea. Housing support is not systematic, and the housing used is the same as provided for Korean citizens. There are no provisions for the specific needs of migrant children, such as translation.

Recommendation: The Government of Korea is encouraged to urgently develop placement options for unaccompanied children and children migrating with their families. Placement in the community without conditions – or with liberty – is the preferred option in the majority of cases. Open accommodation and reception centres are examples of such placement options, and they should always be underpinned by minimum human rights standards.

Rights 6/20

No housing is provided for migrant children and their families, nor is social assistance extended to families by the State. Some visas enable migrants to seek employment which assists in providing for families. Migrant children have some access to education but there are challenges to accessing services. The Decree of Immigration Control Act Art. 92-2 does enable firewalls, which ensures immigration control can only be undertaken by immigration officials.

Recommendation: The Government of Korea is commended for its progress towards upholding the rights of migrant children to access indiscriminate access to education, some access to work rights, and also the promotion of firewalls in the provision of services. However, the government is encouraged to urgently support housing, social assistance and health care for migrant children and their families.

Oversight 2/12

Detention is ordered under the direction of the immigration office, without necessary approval from the judiciary body. The courts are able to intervene in the issuance of detention orders, but it must be challenged through direct litigation. The Republic of Korea has not ratified OPCAT, and the only monitoring of detention centres is conducted by the Human Rights Commission with the permission of the government. Immigration detention statistics are only available via a formal information request.

Recommendation: The Government of Korea is encouraged to improve its score by providing disaggregated data about immigration detention populations. Additionally, the government is strongly encouraged to urgently allocate sufficient resources to monitor places of immigration detention, and to provide oversight of judicial processes.

Points off -6/-15


Information requests have shown that 228 children were detained in the Republic of Korea between January 2015 and December 2017. This includes cases where children were detained more than one month, the longest period of detention being 141 days. There is no time limit on the length of immigration detention according to the Immigration Control Act. This means that children can be detained indefinitely. Further, 47 of these children were under the age of 14.

Recommendation: The Government of Korea is strongly encouraged to abolish the detention of all children, in law and in practice. The government needs to take significant and immediate action to reduce numbers of children detained for extended periods of time. The government is also encouraged to improve its reporting to ensure that they are meeting their international obligations and that decisions are being made in the best interest of children.

Bonus points +3/+15

According to Article 6(1) of the Constitutional Law, the Republic of Korea has a monist legal system, however in practice it is a dualist system. Therefore, despite of ratifying the UN CRC in 2012, little of the international obligations have been integrated into domestic law. Public campaigning on the issue of ending child detention has raised awareness and some political will is building to ensure that the rights of children are upheld.

Recommendation: In order to comply with international obligations, the Government of Korea needs to urgently uphold the rights of children to family unity, as well as incorporate the UN CRC into national law.



This scorecard has been assessed by the South Korea NextGen Index Committee:

- Advocates for Public Interest Law

For further information regarding how this score was measured visit <http://next-gen-index.org/>

If you have any questions, please contact the Global Campaign:
media@endchilddetention.org

Additional Resources & Information

National Laws

- [Republic of Korea Immigration Control Act, 1963](#)
 - Temporary Release from Detention: Article 65
- [ROK Enforcement Decree of Immigration Control Act](#)
 - Firewall Provisions: Article 92-2
- [Constitution of the Republic of Korea](#)
 - Legal Effect of Treaties: Article 6(1)

Reports, News Articles & Documentary Films

- [The Korea Herald: Seoul Police Seek to Reassure Undocumented Residents](#)
- Advocates for Public Interest Law: [Alternative Report to the United Nations Human Rights Committee, Republic of Korea 2015](#)
- Save The Children Korea: [Republic of Korea's Birth Registration of Migrant Children - Current Status and Problems](#)
- Advocates for Public Interest Law and World Vision: [Story of Suzie](#)
- Advocates for Public Interest Law and World Vision: [Irreversible Effects of Immigration Detention on Children \(full version\)](#)
Advocates for Public Interest Law and World Vision: [Irreversible Effects of Immigration Detention on Children \(short version\)](#)