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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Beijing Children's Legal Aid and Research Center, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2019]

* Issued as received, in the language(s) of submission only.

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The development of legal protection for children in China

Article 4 of the UN Convention on the Rights of the Child (UNCRC) states, “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.” Since China formally ratified the UNCRC in 1992, Chinese government has deeply committed to enhance child legal protection by improving legislations, strengthening the enforcement, and protecting judicial fairness. Specifically, in recent years, a lot of progress has been made in child legal protection.

I. Improvement of China's child protection legislation

1. Amend the criminal law to strengthen the protection of child victims in sexual abuse cases

In 2015, the National People’s Congress Standing Committee adopted the “Amendment IX of Criminal Law” in which the crime of “soliciting underage prostitution” was abolished, and such criminal acts would be considered as the crime of rape and severely punished. This change reflects the respect and protection for young girls and eliminates the possibility of “victim stigmatization”. In addition, Amendment IX also changed the crime of “acting indecently against or insulting a woman by force” to the crime of “compulsory indecent”, breaking the gender restrictions and expanding the protection scope. Therefore, objects of the crime include not only females, but also males.

2. In the criminal procedure law, the “Special Procedure for Juvenile Criminal Cases” was set up to provide special protection for minors.

The revised Law allows juvenile criminal suspects to receive legal aid and extends the designated defense to the pre-trial stage. In addition, the arrest implementations are strictly restricted in the case of juvenile suspects and defendants, and the juvenile criminal cases would be processed separated and follow the non-public hearing principle. It also stipulates the conditional non-prosecution system for juvenile criminal cases, the social investigation system, the juvenile criminal record sealing system and the “appropriate adult system”. The change embodies the special protection for child rights. The change also corresponds the international development of the criminal lawsuit system in juvenile cases, and is significant to the development of child protection in China.

3. Improve the guardianship system for minors and further strengthen the main responsibility of the government

In 2017, National People's Congress passed the General Principles of Civil Law. The law improves the guardianship system for minors and builds a guardianship system that is based on family, supplemented by the society and ensured by the state. According to the law, in the absence of legally qualified guardian, the guardian should be the civil affairs department or neighborhood committee and villagers’ committee that are competent. In addition, in law suits of revoking the guardianship, if the individual concerned and the organizations other than the civil affairs department fail to apply for revoking the guardianship, the civil affairs department shall apply to the court. This provision reflects the government’s main responsibility in the guardianship system for minors.

4. Strengthen the prevention and protection of minors from domestic violence

The Anti-Domestic Violence Act 2016, has created a number of prevention and protection rules in the field of domestic violence on children. It proposes special protection for minors who are victims of domestic violence, prohibits violent parenting, advocates a modern family education. This is significant for changing parents’ traditional educational concepts. In addition, the law has created a number of systems, such as mandatory reporting, emergency placement, warning orders, and personal safety protection orders.

5. Strengthen the crackdown on certain crimes against minors

First, in the case of abuse, certain circumstances of private prosecution cases, where when the victim is unable to file an accusation or fails to file an accusation due to coercion or intimidation, could turn into public prosecution cases. It changes the traditional restrictions on private prosecution and effectively investigates the criminal responsibility of the abused subject. It sets up a state and judicial active protection system for victims who cannot or unable to file a private prosecution.

Second, criminal responsibility for all acts of buying abducted children is investigated. To effectively attack the buyer's market and to eradicate the breeding soil of abduction, It not only has a deterrent effect on buyers, but also increases the risk of committing the crime for sellers, reducing the incidence of abducting women and children in the beginning.

II. The progress of China's child protection in judicial and law enforcement

1. Strengthen the establishment of specialized agencies for child protection, and implement the duties of children's legal protection

Procuratorates established specialized procuratorial agencies

In recent years, the procuratorial work related to minors has been continuously strengthened, which has benefited to some extent from the establishment of specialized procuratorial agencies for minors. In December 2015, the Supreme People's Procuratorate established the Office of Minor Procuratorial Work, and then procuratorates at all levels gradually established Offices of Minor Procuratorial Work at their own levels. This means that the procuratorate branch's four-level organizing structure of minor procuratorial agencies has basically been established. At the beginning of 2019, the Supreme People's Procuratorate established the Ninth Procuratorial Department during a reform of internal organs, which is especially responsible for the minor procuratorial work. The establishment of specialized agencies is conducive to the centralized use of special procedures and special means given by law. It is also conducive to strengthening communication and coordination with social organizations, mobilizing all aspects of society and jointly working on the judicial protection of minors.

The reform of juvenile courts has further deepened

In October 1984, the Changning District People's Court of Shanghai took the lead in setting up a juvenile court. In the past thirty-four years, along with the reform and opening-up, China's juvenile courts have, based on judicial experience, embarked on a road of juvenile trials with local features, attributes of the times, and Chinese characteristics. It has accumulated many theoretical research results and institutional innovations that can be copied, learned, promoted, and disseminated.

The Ministry of Civil Affairs established the Department of Child Welfare

At the beginning of 2019, the Ministry of Civil Affairs also established the Department of Child Welfare, which is responsible for formulating policies and standards on child welfare, protection of orphaned and abandoned children, child adoption, and child rescue; improving the care service system for rural left-behind children and the protection system for children in hardship; and guiding the management of child welfare, adoption registration and rescue agencies. The establishment of the Department of Child Welfare is conducive to coordinating resources and strengths from all sides, further improving the working mechanism of government responsibility, departmental cooperation, and division of labor; it is conducive to systematically promoting child welfare-related policies and systematically studying child welfare systems suitable for China's national conditions. It is of great significance to the effective safeguarding of the legitimate rights and interests of China's orphaned and abandoned children, children in hardship, and left-behind children, and to the implementation of the principle of maximizing children's interests.

Professional Committees of Child Protection at all levels of lawyers' associations

In 2003, the Professional Committee of Child Protection of All China Lawyers Association was established. Then lawyers' associations of more than twenty provinces and cities have set up Professional Committees of Children Protection, responsible for organizing legal professionals within their own administrative area to participate in the minor protection work. The professional committees have done a lot of work in advocating the formation of volunteer networks, training personnel, participating in amending processes of relevant legislations, and cooperating in the study of juvenile law. Up to now, with the Professional Committees of Child Protection at all levels as a platform, a network of more than 8,000 practicing lawyers for the coordination of minor protection volunteer lawyers has been established. This network has played an important role in facilitating the legal profession's participation in the protection of minors, and in the improvement of the quality of child protection.

2. Strengthen law enforcement in child abduction and other crimes against Children

Since 2009, the Ministry of Public Security has organized a special campaign of "crackdown of abduction" and has pushed it forward up till now. The campaign implements "zero tolerance" policy and takes the initiative to attack, through which many achievements have been made. The measures taken include: First, strengthened the process of filing and registering the case, adjusted the provisions on filing the abduction cases, and stipulated that all cases of missing and abducted children should be immediately placed on file and investigated in order to grasp the golden time of saving the children; Second, with high-tech techniques, established a DNA information database of national abduction cases;; Third, create an emergency release platform for children's missing information.

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