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paragraph 5 of the annex to Human Rights Council  
resolution 16/21**

**Republic of Korea**

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

#### International human rights treaties<sup>2</sup>

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1978) ICESCR (1990) ICCPR (1990) CEDAW (1984) CAT (1995) CRC (1991) OP-CRC-AC (2004) OP-CRC-SC (2004)	CRPD (2008)	ICCPR-OP 2 ICRMW OP-CAT CPED
<i>Reservations, declarations and/or understandings</i>	ICCPR (Reservation art. 22)  CEDAW (Reservation art. 16 (1) (g))  CRC (Reservation arts. 9 (3), 21 (a) and 40 (2) (b) (v))  OP-CRC-SC (art. 3 (1) (a) (ii))	CRC (Withdrawal of reservation to art. 9 (3))  CRPD (Reservation made to art. 25 (e))	
<i>Complaint procedures, inquiry and urgent action<sup>3</sup></i>	ICERD art. 14 (1997)  ICCPR art. 41 (1990)  ICCPR-OP 1 art. 1 (1990)  OP-CEDAW arts. 1 and 8 (2006)  CAT arts. 20, 21 and 22 (2007)		OP-ICESCR arts. 1, 10 and 11  OP-CRC-IC arts. 5, 12 and 13  OP-CRPD arts. 1 and 6  CPED arts. 30, 31, 32 and 33  ICRMW arts. 76 and 77

**Other main relevant international instruments**

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide		Palermo Protocol <sup>7</sup>
	Rome Statute of the International Criminal Court		Protocol III additional to the Geneva Conventions <sup>8</sup>
	Conventions on refugees and stateless persons <sup>4</sup>		ILO fundamental conventions <sup>9</sup>
	Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>5</sup>		ILO Convention No. 169 <sup>10</sup>
			ILO Convention No. 189 <sup>11</sup>
	ILO fundamental conventions <sup>6</sup>		UNESCO Convention against Discrimination in Education

1. The Republic of Korea was encouraged to consider signing and ratifying OP-ICESCR,<sup>12</sup> and consider ratifying ICRMW,<sup>13</sup> CPED,<sup>14</sup> ILO Conventions Nos. 87 and 98,<sup>15</sup> the Palermo Protocol<sup>16</sup> and the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.<sup>17</sup>

2. The Committee on the Rights of the Child (CRC) recommended the withdrawal of reservations to articles 21, paragraph (a) and 40, paragraph 2 (b) (v).<sup>18</sup> Committee on the Elimination of Discrimination against Women (CEDAW), while acknowledging consultations on the withdrawal of the reservation to article 16 (1) (g), expressed concern at the lack of a clear time frame to end those consultations and in consequence the withdrawal of the reservation.<sup>19</sup>

**B. Constitutional and legislative framework**

3. The Committee on Economic, Social and Cultural Rights (CESCR) remained concerned that ICESCR has not yet been fully incorporated into domestic law; that the scope of the Constitution was narrower than the Covenant; that the Constitution only applied to citizens; and that Covenant rights have seldom been invoked before, or directly enforced by, domestic courts, tribunals or administrative authorities.<sup>20</sup> The Republic of Korea replied that the Constitution applied not only to citizens, but also to foreigners and that the Constitutional Court concluded that “even the freedoms and rights not enumerated in the Constitution shall be guaranteed if they are needed for human dignity as provided in article 10.”<sup>21</sup>

**C. Institutional and human rights infrastructure and policy measures****Status of national human rights institutions<sup>22</sup>**

<i>National human rights institution<sup>23</sup></i>	<i>Status during previous cycle</i>	<i>Status during present cycle</i>
National Human Rights Commission of Korea (NHRCK)	A (2004)	A (2008)

4. CRC,<sup>24</sup> CESCR<sup>25</sup> and CEDAW expressed concern that NHRCK had been downsized by 21 per cent in March 2009 and that recent developments had put its independence at

risk.<sup>26</sup> In 2011, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression also encouraged the Government to fully implement the recommendations issued by NHRCK and to ensure the complete functional autonomy of NHRCK from the Government, a broad and transparent appointment process, and more autonomy to appoint its own staff.<sup>27</sup>

5. CESCR welcomed, inter alia, the establishment of the national action plan for the protection and promotion of human rights 2007-2011 and of the National Human Rights Policy Council as a consultative body in charge of its implementation.<sup>28</sup>

## II. Cooperation with human rights mechanisms

### A. Cooperation with treaty bodies<sup>29</sup>

#### 1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	August 2007	2012	--	Fifteenth to sixteenth report: pending consideration
CESCR	May 2001	--	November 2009	Fourth report due 2014
HR Committee	October 2006	--	--	Fourth report overdue since 2010
CEDAW	August 2007	--	July 2011	Eighth report due 2015
CAT	May 2006	--	--	Third to fifth report due August 2012
CRC	January 2003	--	October 2011	Fifth to sixth reports due 2017. Initial OP-CRC-SC and OP-CRC-AC reports reviewed 2008.
CRPD	--	2011	--	Initial report: pending consideration

#### 2. Responses to specific follow-up requests by treaty bodies

##### *Concluding observations*

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2008	Discrimination against foreigners Racially motivated offences Foreign female spouses	2008

*Views*

<i>Treaty body</i>	<i>Number of views</i>	<i>Status</i>
HR Committee	2 <sup>30</sup>	Dialogue ongoing

6. In 2011, CRC urged the Republic of Korea to address its previous recommendations which had not yet been implemented, including establishing a subcommittee on children's rights inside the NHRCK; comprehensively prohibiting corporal punishment; and reviewing its education policy regarding the high levels of stress to which it subjected children.<sup>31</sup>

**B. Cooperation with special procedures<sup>32</sup>**

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes
<i>Visits undertaken</i>	Freedom of expression (1995) Migrants (2006) Human Rights in DPRK (2005, 2008)	Freedom of expression (May 2010) Human Rights in DPRK (2010)
<i>Visits agreed to in principle</i>	--	--
<i>Visits requested</i>	--	Health (2012)
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, six communications were sent. The Government replied to all of these communications.	
<i>Follow-up reports and missions</i>	--	

**C. Cooperation with the Office of the High Commissioner for Human Rights**

7. The Republic of Korea contributed financially to OHCHR annually.<sup>33</sup>

**III. Implementation of international human rights obligations****A. Equality and non-discrimination**

8. CEDAW regretted the slow progress in the adoption of the Anti-Discrimination Bill which had been on hold since May 2008<sup>34</sup> with CESCR and CRC regretting that the legislative definition of discrimination does not contain an express prohibition of discrimination based on sexual orientation and nationality.<sup>35</sup> The Government in its replies to CERD in 2008 indicated that it was redoubling its efforts to introduce the Anti-Discrimination Act.<sup>36</sup> CEDAW called for urgent steps to be taken towards the adoption of a comprehensive Anti-Discrimination Act, in line with the Convention and article 2 (4) of the NHRC Act.<sup>37</sup>

9. CEDAW was concerned that gender-impact assessments are used post facto rather than as a priori tool.<sup>38</sup> CEDAW recommended strengthening the capacity of the Ministry of Gender Equality and Family to use gender-impact assessments in formulating and implementing legislation and policy measures.<sup>39</sup>

10. CESCR remained concerned that, in spite of the amendments made to the Civil Law, in particular the abolition of the *Hoju* system, discrimination against women was still present in many fields of life. It reiterated its concern over the persisting wage gap between men and women, the low percentage of women in high-ranking positions in political and public life,<sup>40</sup> and occupational sex segregation, as well as the low rate of labour market participation of women.<sup>41</sup> CEDAW expressed concern that the persistence of segregation in fields of study and the labour market was the result of persistent patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and in society.<sup>42</sup> CEDAW encouraged the promotion of co-responsibility in the domestic sphere and urged the strengthening of efforts to improve the provision and affordability of childcare facilities for children, in particular those in female-headed households.<sup>43</sup>

11. CEDAW recommended the incorporation of a rule of equal distribution of marital property upon divorce in the legislation of the Republic of Korea; that legislative measures be taken to eliminate consideration of “fault” in the determination of the division of assets in divorce cases;<sup>44</sup> and that, as a matter of priority, a comprehensive review be undertaken of legislation with a view to ensuring de jure and de facto equality between men and women in all fields of life.<sup>45</sup>

12. CRC was concerned at the multiple forms of discrimination that continued to persist, including those against children from multicultural or migrant backgrounds or who came from the Democratic People’s Republic of Korea; refugee children; children with disabilities; and single mothers, particularly those who are adolescent, including with regard to their preclusion from State support measures.<sup>46</sup>

13. CRC was concerned that current legislation and practice are inadequate in providing for universal birth registration. Birth registrations can be undertaken by adoptive parents or persons holding public authority, resulting in the occurrence of de facto adoptions in the absence of proper judicial oversight, including in situations concerning single adolescent mothers.<sup>47</sup> CRC was concerned that the lack of measures to prevent birth registration of children by third parties could result in these children being subject to sale.<sup>48</sup>

14. UNHCR also pointed out that no safeguard against statelessness exists for children born in the country whose parents were both foreigners and unable to confer their nationality upon their children.<sup>49</sup> CEDAW recommended that the State revise its legislation with a view to removing all discriminatory provisions relating to the requirements for acquiring nationality.<sup>50</sup> CESCR recommended that foreign women married to Korean nationals be allowed to acquire residency status or naturalization without being dependent on their husbands.<sup>51</sup>

## **B. Right to life, liberty and security of the person**

15. In 2010, the Republic of Korea abstained from the vote on General Assembly resolution 65/206 on a moratorium on the death penalty.<sup>52</sup>

16. CESCR expressed great concern about the frequent prosecution of workers including with regard to labour management relations and the excessive use of force demonstrated against striking workers, mainly on the grounds of article 314 of the Penal Code regarding “obstruction of business”.<sup>53</sup>

17. CRC reiterated its previous recommendation to implement the recommendation by the NHRC that relevant legislation and regulations be amended to expressly prohibit corporal punishment, *inter alia*, in the home and institutions.<sup>54</sup> CRC recommended the strengthening and widening of the legal obligation to report child abuse and neglect, including with regard to bullying at schools, by providing adequate mechanisms for such reporting<sup>55</sup> and encouraged the State to cooperate with and seek technical assistance from the Special Representative of the Secretary-General on violence against children, relevant agencies and NGO partners.<sup>56</sup>

18. CEDAW, while noting measures taken, observed that the low rate of reported cases did not correspond with the actual number of cases of domestic violence occurring in the State. It was concerned about the Criminal Code provision requiring adult victims of sexual violence to file a complaint in order to have their cases prosecuted and about the consequent low number of victims who present charges and low number of prosecutions and convictions. It also expressed its concern about the limited number of women police officers available to deal with cases of sexual and domestic violence. It reiterated its regret that marital rape is not criminalized in legislation but only in case law.<sup>57</sup>

19. Despite measures established to protect children from exploitation, CRC expressed concern about, *inter alia*, the increasing number of working children, insufficient legal provisions regulating irregular labour practices and the increasing numbers of children being employed as entertainers and sex objects.<sup>58</sup> CRC recommended that the Republic of Korea take appropriate measures to prevent sexual violence against children and make more efforts to effectively prosecute the sexual exploitation of children.<sup>59</sup>

20. Notwithstanding the fact that legislation penalizes all forms of trafficking, CESCR<sup>60</sup> and CRC were concerned that a large number of women and children continue to be trafficked from, through and within the country for the purposes of sexual exploitation and forced labour; and about the low rate of prosecution and conviction of traffickers.<sup>61</sup> CEDAW urged the Republic of Korea to: take measures to enhance its current initial screening procedure of entertainment companies which recruit foreign women, and establish an effective *in situ* monitoring mechanism for establishments where women under an E-6 visa work permit, to ensure that they are not being subjected to exploitation of prostitution; take measures to ensure effective implementation of the Marriage Brokerage Control Act, in order to protect foreign women against exploitation and abuse; and review its prostitution policy and relevant legislation, with a view to decriminalizing women's involvement in prostitution.<sup>62</sup>

21. CRC reiterated its recommendations that the Republic of Korea, *inter alia*, ensure that all legislation is fully harmonized with the provisions of the OP-CRC-AC; and that all military codes, manuals and other military directives are in accordance with the provisions and the spirit thereof.<sup>63</sup>

### **C. Administration of justice and the rule of law**

22. CRC was concerned at the continued increase in the rate of delinquency and high rate of juvenile crime. Rather than addressing the root causes for children in such situations, the Government primarily focuses on increasing punitive measures.<sup>64</sup> CRC called upon the Republic of Korea to: provide adequate measures to effectively counter juvenile crime as well as the high recurrence rate; and bring the system of juvenile justice fully in line with the Convention.<sup>65</sup>

23. CRC also urged the State to further develop child-friendly procedural rules and ensure that child victims are treated with greater respect for their privacy and dignity; and

ensure that all child victims and/or witnesses of crimes are provided with the protection required by the Convention.<sup>66</sup>

#### **D. Right to privacy, marriage and family life**

24. CRC urged the Republic of Korea to undertake a further review of its system for inter-country adoptions with a view to reforming legislation in order to bring it into full conformity with the Convention and specifically to: define a clear mandate, with adequate resources for the Korea Central Adoption Resources agency; ensure that the child's views are given due weight, and that the best interests of the child are the paramount consideration; make the consent of single adolescent mothers mandatory; implement measures to ensure that all adoptions, including inter-country adoptions, are subject to authorization by a clearly mandated central authority with adequate capacity to provide judicial oversight and regulation.<sup>67</sup>

25. The Special Rapporteur on the Democratic People's Republic of Korea noted with regret that talks between the Red Cross societies, which took the lead in facilitating family visits of separated Korean families, have been stalled since November 2010, in the wake of the artillery firing on Yeonpyeong Island.<sup>68</sup> A recent survey of more than 66,600 surviving separated family members showed that 43.8 per cent of them were aged 80 years or over, 37.3 per cent were in their seventies and 13.6 per cent were in their sixties.<sup>69</sup> In the interest of separated families, the Special Rapporteur urged the resumption of the family reunion process and called for a more robust mechanism of family reunions in the months and years ahead.<sup>70</sup> The Special Rapporteur recognized the paramount importance of resuming inter-Korean dialogue in order to create an atmosphere conducive to the resolution of a number of outstanding issues, such as the reunion of separated families and the repatriation of abducted Koreans.<sup>71</sup>

#### **E. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

26. CRC was concerned that, in practice, private schools managed by religious institutions continued to restrict the freedom of religion of their students, including those who may not have enrolled in such schools voluntarily.<sup>72</sup>

27. The HR Committee in its views on two communications, including one from 100 authors, stated that the right to conscientious objection to military service is inherent to the right to freedom of thought, conscience and religion entitling any individual to an exemption from compulsory military service if this could not be reconciled with that individual's religion or beliefs. The HR Committee reminded the Republic of Korea that it was under an obligation to provide the authors with an effective remedy, including expunging their criminal records and providing them with adequate compensation; and avoid similar violations of ICCPR in the future, which included the adoption of legislative measures guaranteeing the right to conscientious objection.<sup>73</sup>

28. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression expressed his concern that since 2008 and the candlelight demonstrations against foreign beef imports, there had been increased restrictions on individuals' right to freedom of opinion and expression.<sup>74</sup> Primarily due to an increasing number of prosecutions and harassment of individuals who expressed views which were not in agreement with the position of the Government.<sup>75</sup> The Special Rapporteur on freedom of opinion and expression recommended that the Government ensure the right of all individuals to freedom of assembly and peaceful demonstrations, as a collective exercise of



the right to freedom of expression, by refraining from any de facto practices of prior approval in violation of article 21 of the Constitution; and that allegations of excessive use of force by law enforcement officials be effectively investigated and that the persons responsible be held accountable.<sup>76</sup> The Government should remove defamation as a criminal offence from the Criminal Act, given the existing prohibition of defamation in the Civil Act. He also encouraged the Government to promote a culture of tolerance regarding criticism, particularly of public officials and bodies and other influential figures, which is essential for democracy.<sup>77</sup>

29. The Special Rapporteur was also concerned that there were insufficient safeguards to ensure that the Korea Communications Standards Committee (KCSC) did not, *inter alia*, delete information critical of the Government on the grounds that it violated the Network Act. In accordance with the 2010 decision by NHRCK, the Special Rapporteur recommended that the current functions of the KCSC be transferred to an independent body.<sup>78</sup>

30. Expressing concern at the Constitutional Court's decision on 23 October 2010 that the banning of 23 "seditious" books within military units and barracks was constitutional, the Special Rapporteur encouraged the Government to repeal the prohibition, particularly in light of the fact that there are no clear criteria to determine what types of books are seditious.<sup>79</sup>

31. The Special Rapporteur, while commending media pluralism, urged the Government to promote and protect media diversity and pluralism by preventing cross-ownership of printing and broadcasting sectors, as well as the formation of conglomerates.<sup>80</sup>

32. The Special Rapporteur recommended that the Government abolish article 7 of the National Security Act, as it is vague, inhibits legitimate discussions on matters of public interest and has a long history of seriously infringing human rights, in particular, the right to freedom of opinion and expression.<sup>81</sup>

33. While the Special Rapporteur recognized the influential role of public school teachers in shaping the views and opinions of their students, he recommended that the Government guarantee their right to freedom of expression, to which they are entitled as individuals, particularly when it is exercised outside of their official duties and on matters of public interest, such as educational policies.<sup>82</sup>

## **F. Right to work and to just and favourable conditions of work**

34. CESCR recommended the promotion of greater employment of women and young persons.<sup>83</sup>

35. CESCR reiterated its concern that trade union rights were not adequately guaranteed.<sup>84</sup> CESCR recommended that the legislation on civil service be amended with a view to lifting the restrictions imposed on the right of civil servants to join a trade union and to strike in conformity with the comments made by the ILO Committee of Experts.<sup>85</sup>

36. CESCR recommended that: all appropriate measures be taken to ensure that the minimum wage be effectively enforced; workers and their families be provided with an adequate standard of living; and the applicability of minimum wage legislation be extended.<sup>86</sup>

37. CESCR was concerned that 34.9 per cent of the total workforce was made up of non-regular workers, that 44.1 per cent of women workers were non-regular, and that most workers in the Special Economic Zones were non-regular. It was also concerned that the monthly income of a non-regular worker was about half that of a regular worker; that the working conditions and social insurance of non-regular and dispatched workers were

inadequate; and that safeguards to protect non-regular workers from unfair dismissal were not effective.<sup>87</sup>

38. CEDAW expressed concern about the disadvantages faced by women in the employment sector.<sup>88</sup> CESCR strongly recommended the adoption and implementation of legislation that criminalizes sexual harassment in the workplace, and the setting up of mechanisms to monitor such implementation.<sup>89</sup>

39. CESCR was concerned about the large number of industrial accidents and the insufficient number of labour inspectors; and at allegations that labour inspections focus on the immigration status of workers rather than on occupational safety and working conditions.<sup>90</sup>

40. CESCR was concerned that migrant workers were subject to exploitation, discrimination and unpaid wages. It noted that migrant workers often have little choice but to accept jobs with unfavourable work conditions just to retain a regular work status. It recommended further review of the employment permit system; and the upholding of the High Court's decision to grant legal status to the Migrants' Trade Union.<sup>91</sup>

## **G. Right to social security and to an adequate standard of living**

41. CRC noted with deep concern that, in the context of the country's advanced state of economic development, current financial resource allocations for the implementation of the social sectors as a proportion of available resources remained low.<sup>92</sup> CESCR was concerned that 8.2 per cent of the total population, and in particular some disadvantaged and marginalized individuals and groups, were excluded from the national basic livelihood security system. Noting the information provided by the Republic of Korea that the national basic livelihood security system was under review in relation to the "duty to support" standard or wealth standard and universal access to the system, CESCR urged the State party to conclude the review expeditiously and guarantee access to the system for persons that have not completed a minimum period of stable living, including the homeless and those living in shelters.<sup>93</sup> CESCR recommended that the State party allocate sufficient funds for the full implementation of its poverty eradication strategy.<sup>94</sup>

42. CESCR reiterated its concern regarding the large number of older persons who only benefit partially from the national pension system; this concern was enhanced by the country having one of the highest levels of self-employment in the world and the doubling of its population aged over 60 in only 22 years. CESCR recommended that alternative or complementary policies to the national pension system be envisaged.<sup>95</sup>

43. CESCR urged the adoption of a strategy to address the problem of homelessness, after examining its extent and causes and ensuring an adequate standard of living for the homeless.<sup>96</sup>

44. CESCR recommended that forced eviction be used only as a measure of last resort and that no development or urban renewal project be carried out without prior notification and access to temporary housing for those affected so as to avoid recourse to violence, such as that seen in the Yongsan incident.<sup>97</sup> Special procedures mandate holders' communications also referred to alleged violent forced evictions resulting from the Yongsan urban redevelopment project.<sup>98</sup>

## **H. Right to health**

45. CESCR was concerned that, despite the medical benefit programme, disadvantaged and marginalized individuals did not have adequate access to medical services in privately

run hospitals, which constitute 90 per cent of all hospitals. It was also concerned that the national health insurance scheme only covered around 65 per cent of total medical expenses.<sup>99</sup> CRC reiterated its recommendation for the Republic of Korea to increase to a significant level the funding allocated to health and establish a system of public care facilities so that low-income families may have access to health systems at no cost.<sup>100</sup>

46. CEDAW was particularly concerned about the increasing suicide rates among women, which was the second cause of death among women in the Republic of Korea.<sup>101</sup> CRC remained concerned that the overall state of child mental health had deteriorated and that the rate of depression and suicide among children had increased, especially among girls.<sup>102</sup> CRC urged Republic of Korea to, inter alia, undertake research on suicide risk factors among children;<sup>103</sup> undertake measures for the development of a child mental health-care policy, based on a thorough study of root causes of depression and suicide; and invest in services, with a view to ensuring the effective prevention of suicidal behaviour, especially among girls. CRC encouraged avoidance of the institutionalization of children in such situations.<sup>104</sup>

47. CRC was concerned that the legislative prohibition on abortion, which provided for very narrowly defined exceptions, did not adequately take into account the best interests of pregnant adolescents and could give rise to situations which exacerbated the difficulties faced by them, including exposing them to the risks of unsafe illegal abortions and/or forced discontinuation of their studies and/or forced release of their children for adoption.<sup>105</sup>

48. CESCR was concerned that companies commercializing bottled water were using groundwater resources that local communities needed for farming and drinking and at the failure to disclose the existence of carcinogenic substances in bottled drinking water. CESCR recommended effective implementation of adopted World Health Organization standards on drinking water quality.<sup>106</sup>

## **I. Right to education**

49. Despite efforts made, CRC was concerned at the highly competitive conditions prevalent in the education system. It was also concerned at the widespread enrolment of children in additional private tutoring which resulted in, inter alia, children being subject to serious and disproportionate stress, and the negative impact thereof on their health. Furthermore, it noted with concern the exacerbation of pre-existing socio-economic asymmetries arising from the financial cost of private tutoring and the fact that it hindered the adequate fulfilment of the rights of the child to leisure and cultural activities.<sup>107</sup>

50. CESCR recommended that the Republic of Korea implement the decision by the Constitutional Court on the limitation of the operating hours of privately run cramming schools.<sup>108</sup> The Republic of Korea had recognized that excessive expenditure on private education imposed great burdens on the household economy and had been the major cause of decline in quality of life for the middle class; CESCR therefore recommended the strengthening of the public education system and the provision of financial support to low income families to cover the associated costs of education.<sup>109</sup>

51. Concern was expressed by CRC at the increasing severity and frequency of bullying, particularly against children of foreign origin, and the use of mobile telephones and the internet in carrying out such bullying.<sup>110</sup>

52. CRC reiterated its previous recommendations and called upon the Republic of Korea to amend legislation, guidelines issued by the Ministry of Education and school regulations to facilitate children's active participation in decision-making processes and in political activities both within and outside schools and ensure that all children fully enjoy their right to freedom of association and expression.<sup>111</sup>

## **J. Persons with disabilities**

53. While welcoming measures taken, CRC was concerned that government assistance for children with disabilities was only provided to low-income households and did not cover physical therapy and vocational training. It was concerned about the difficulties children with disabilities, particularly females, faced in receiving education and that the majority received their education in special schools or classes segregated from children without disabilities.<sup>112</sup> It urged more effective implementation of the Act for the Special Education of Persons with Disabilities.<sup>113</sup>

54. In 2012, the ILO Committee of Experts on Application of Conventions and Recommendations requested information on the number and nature of cases regarding discrimination based on disability submitted to the NCHR and courts, as most complaints to NHRCK from 2008-2010 reportedly related to recruitment, hiring and dismissal.<sup>114</sup>

## **K. Migrants, refugees and asylum-seekers**

55. UNHCR observed that the adoption of a new Refugee Act, which will enter into force on 1 July 2013, was a significant step in the development of the country's asylum system.<sup>115</sup>

56. Referring to obstacles in the access to asylum, UNHCR recommended that the Government ensure unhindered access to the territory and to the asylum system, in particular at ports of entry and immigration detention centres.<sup>116</sup> Highlighting remaining gaps in the refugee status determination procedures, UNHCR recommended that the Government continue the ongoing efforts in improving the quality and procedural fairness of the asylum determination process, particularly by providing adequate human and financial resources, ensuring quality interpretation and recording of interviews.<sup>117</sup>

57. CRC in 2011 urged Republic of Korea to refrain from the detention of children in a refugee, asylum-seeking or unaccompanied situation.<sup>118</sup> CRC in 2008 also recommended that the Republic of Korea introduce a mechanism to allow for systematic identification at the earliest possible stage of refugee and asylum-seeking children entering the country who may have been recruited or used in hostilities abroad.<sup>119</sup>

58. UNHCR also noted that, pursuant to a presidential decree of December 2010, free primary and secondary education (up to middle school) had been made available for all children, irrespective of the legal status of the parents. This included refugees, asylum-seekers, and humanitarian status holders.<sup>120</sup> According to UNHCR, the decision to grant enrolment lay with the school principal and there were no clear criteria on admission requirements, which could lead to an arbitrary and discriminatory decision. UNHCR recommended that the Government ensure effective access to education for all children.<sup>121</sup>

59. According to UNHCR, in 2010 and 2011 three recognized refugees were the first to succeed in becoming naturalized.<sup>122</sup> Referring to the various government-established assistance and training programmes for "multicultural families", UNHCR observed that the Support for Multicultural Families Act defined a multicultural family as one where at least one parent has acquired Korean nationality by birth. UNHCR recommended that the Government promote the local integration of refugees, asylum-seekers, and humanitarian status holders by extending multicultural programmes to them.<sup>123</sup>

60. Noting that the Government did not provide any livelihood support during the asylum process,<sup>124</sup> UNHCR indicated that many asylum-seekers and humanitarian status holders were forced to work in the informal sector. This exposes them to the risk of being exploited, arrested by immigration officials for working illegally, or subjected to large fines. Additionally, when they do find work, the irregular employment situation exposes

them to the risk of discrimination at the workplace, specifically in terms of wages and workers' compensation.<sup>125</sup>

## L. Right to development and environmental issues

61. CRC encouraged the Republic of Korea to meet and, if possible, surpass the internationally agreed target of 0.7 per cent of GNP for international assistance by 2015.<sup>126</sup>

62. CRC noted that there was no comprehensive legislative framework regulating the prevention and mitigation of adverse human rights impacts of companies' activities, either in Republic of Korea territory or abroad. It noted with concern the importation of products from countries which were under investigation by the ILO for reportedly using forced child labour, thus becoming complicit with a serious breach to child rights.<sup>127</sup> CRC recommended, inter alia, that the Republic of Korea take measures to ensure that its companies cooperate with foreign Governments carrying out processes of free, prior and informed consent where projects affect indigenous peoples or impact assessments on human/child rights; and ensure that prior to the negotiation and conclusion of free trade agreements, human rights assessments including child rights are conducted and measures adopted to prevent violations.<sup>128</sup>

### Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on the Republic of Korea from the previous cycle (A/HRC/WG.6/2/KOR/2).

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>3</sup> A table in the previous UPR compilation contained the following information under Recognition of specific competences of treaty bodies: Individual complaints: ICERD, art. 14; CAT, art. 22; ICRMW,

- art. 77; and CED, art. 31; Inquiry procedure: OP-CEDAW, arts. 8 and 9; CAT, art. 20; OP-CRPD, arts. 6 and 7; Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76, and CED, art. 32.
- <sup>4</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- <sup>5</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).
- <sup>6</sup> International Labour Organization Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- <sup>7</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- <sup>8</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).
- <sup>9</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively.
- <sup>10</sup> ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.
- <sup>11</sup> ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.
- <sup>12</sup> E/C.12/KOR/CO/3, para. 36.
- <sup>13</sup> CRC/C/KOR/CO/3-4, paras. 69 and 84, CEDAW/C/KOR/CO/7, para. 45 and E/C.12/KOR/CO/3, para. 38.
- <sup>14</sup> CRC/C/KOR/CO/3-4, para. 84 and CEDAW/C/KOR/CO/7, para. 45.
- <sup>15</sup> E/C.12/KOR/CO/3, para. 20.
- <sup>16</sup> CRC/C/KOR/CO/3-4, para. 75 and CEDAW/C/KOR/CO/7, para. 23 (g).
- <sup>17</sup> Ibid., para. 50 (e).
- <sup>18</sup> Ibid., para. 9.
- <sup>19</sup> CEDAW/C/KOR/CO/7, para. 10.
- <sup>20</sup> E/C.12/KOR/CO/3, para. 6.
- <sup>21</sup> E/C.12/KOR/CO/3/Add.1, 3 February 2010, para. 3.
- <sup>22</sup> According to article 5 of the rules of procedure for the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with each of the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (not in compliance with the Paris Principles).
- <sup>23</sup> For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/20/10, annex.
- <sup>24</sup> CRC/C/KOR/CO/3-4, para. 16.
- <sup>25</sup> E/C.12/KOR/CO/3, para. 8.
- <sup>26</sup> CEDAW/C/KOR/CO/7, para. 40.
- <sup>27</sup> A/HCR/17/27/Add.2, para. 102.
- <sup>28</sup> E/C.12/KOR/CO/3, para. 4 (a).

<sup>29</sup> The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities.

<sup>30</sup> CCPR/C/98/D/1593-1603/2007, CCPR/C/101/D/1642-1741/2007.

<sup>31</sup> CRC/C/KOR/CO/3-4, para. 7.

<sup>32</sup> Abbreviations used follow those contained in the communications report of special procedures (A/HRC/18/51 and Corr.1).

<sup>33</sup> OHCHR Annual Report 2009, p. 209; OHCHR Annual Report 2010, p. 284.

<sup>34</sup> CEDAW/C/KOR/CO/7, para. 14.

<sup>35</sup> E/C.12/KOR/CO/3, para. 9 and CRC/C/KOR/CO/3-4, para. 28.

<sup>36</sup> CERD/C/KOR/CO/14/Add.1, para. 10.

<sup>37</sup> CEDAW/C/KOR/CO/7, para. 15.

<sup>38</sup> Ibid., para. 16.

<sup>39</sup> Ibid., para. 17 (b).

<sup>40</sup> See also CEDAW/C/KOR/CO/7, paras. 24 and 25.

<sup>41</sup> E/C.12/KOR/CO/3, para. 13.

<sup>42</sup> CEDAW/C/KOR/CO/7, para. 28.

<sup>43</sup> Ibid., para. 33.

<sup>44</sup> Ibid., para. 39.

<sup>45</sup> E/C.12/KOR/CO/3, para. 11.

<sup>46</sup> CRC/C/KOR/CO/3-4, para. 28. See also UNHCR submission to the UPR, annex, p. 1.

<sup>47</sup> Ibid., para. 36.

<sup>48</sup> Ibid., para. 76.

<sup>49</sup> UNHCR submission to the UPR, p. 6. See also CRC/C/KOR/CO/3-4, para. 36.

<sup>50</sup> CEDAW/C/KOR/CO/7, para. 27.

<sup>51</sup> E/C.12/KOR/CO/3, para. 12.

<sup>52</sup> A/65/PV.71, pp. 18-19.

<sup>53</sup> E/C.12/KOR/CO/3, para. 20.

<sup>54</sup> Ibid., para. 43.

<sup>55</sup> Ibid., para. 45.

<sup>56</sup> Ibid., para. 46.

<sup>57</sup> CEDAW/C/KOR/CO/7, para. 20. See also E/C.12/KOR/CO/3, para. 24 and UNHCR submission to the UPR, annex, p. 4.

<sup>58</sup> CRC/C/KOR/CO/3-4, para. 70.

<sup>59</sup> CRC/C/OPSC/KOR/CO/1, para. 31. See also CRC/C/KOR/CO/3-4, para. 73.

<sup>60</sup> E/C.12/KOR/CO/3, para. 25.

<sup>61</sup> CRC/C/KOR/CO/3-4, para. 74.

<sup>62</sup> CEDAW/C/KOR/CO/7, para. 23. See also, UNHCR submission to the UPR, annex, p. 4.

<sup>63</sup> CRC/C/KOR/CO/3-4, para. 79.

<sup>64</sup> Ibid., para. 80.

<sup>65</sup> Ibid., para. 81.

<sup>66</sup> Ibid., para. 83.

<sup>67</sup> Ibid., para. 50.

<sup>68</sup> A/HRC/19/65, para. 16.

<sup>69</sup> Ibid., para. 19.

<sup>70</sup> Ibid., para. 20.

<sup>71</sup> Ibid., para. 55.

<sup>72</sup> CRC/C/KOR/CO/3-4, para. 38.

<sup>73</sup> CCPR/C/101/D/1642-1741/2007, paras. 7.3 and 9. See also CCPR/C/98/D/1593-1603/2007, para. 9.

<sup>74</sup> A/HRC/17/27/Add.2, Summary and paras. 18-19.

<sup>75</sup> Ibid., para. 19.

- <sup>76</sup> Ibid., para. 96.  
<sup>77</sup> Ibid., para. 89.  
<sup>78</sup> Ibid., para. 93.  
<sup>79</sup> Ibid., para. 99.  
<sup>80</sup> Ibid., para. 101.  
<sup>81</sup> Ibid., para. 97.  
<sup>82</sup> Ibid., para. 100.  
<sup>83</sup> E/C.12/KOR/CO/3, para. 14.  
<sup>84</sup> Ibid., para. 20.  
<sup>85</sup> Ibid., para. 19.  
<sup>86</sup> Ibid., para. 16.  
<sup>87</sup> Ibid., para. 15.  
<sup>88</sup> CEDAW/C/KOR/CO/7, para. 30.  
<sup>89</sup> E/C.12/KOR/CO/3, para. 17.  
<sup>90</sup> Ibid., para. 18.  
<sup>91</sup> Ibid., para. 21.  
<sup>92</sup> CRC/C/KOR/CO/3-4, para. 18.  
<sup>93</sup> E/C.12/KOR/CO/3, para. 22.  
<sup>94</sup> Ibid., para. 26.  
<sup>95</sup> Ibid., para. 23.  
<sup>96</sup> Ibid., para. 27.  
<sup>97</sup> Ibid., para. 29.  
<sup>98</sup> A/HRC/14/23/Add.1, para. 1914-1915 and 1922; and A/HRC/17/27/Add.1, paras. 1865 and 1870.  
<sup>99</sup> E/C.12/KOR/CO/3, para. 30.  
<sup>100</sup> CRC/C/KOR/CO/3-4, paras. 54.  
<sup>101</sup> CEDAW/C/KOR/CO/7, para. 34.  
<sup>102</sup> CRC/C/KOR/CO/3-4, para. 55.  
<sup>103</sup> Ibid., para. 31.  
<sup>104</sup> Ibid., para. 56.  
<sup>105</sup> Ibid., para. 10. See also CEDAW, paras. 34 and 35 and E/C.12/KOR/CO/3, para. 31.  
<sup>106</sup> E/C.12/KOR/CO/3, para. 32.  
<sup>107</sup> CRC/C/KOR/CO/3-4, para. 62.  
<sup>108</sup> E/C.12/KOR/CO/3, para. 34.  
<sup>109</sup> Ibid., para. 33.  
<sup>110</sup> CRC/C/KOR/CO/3-4, para. 62.  
<sup>111</sup> Ibid., para. 41.  
<sup>112</sup> Ibid., para. 51.  
<sup>113</sup> Ibid., para. 52.  
<sup>114</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Direct Request concerning ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2011, Geneva, doc. No. (ILOLEX) 062008TCD111, third paragraph.  
<sup>115</sup> UNHCR submission to the UPR, p. 2.  
<sup>116</sup> Ibid., p. 3.  
<sup>117</sup> Ibid., p. 4.  
<sup>118</sup> CRC/C/KOR/CO/3-4, para. 66. See also E/C.12/KOR/CO/3, para. 10 and UNHCR submission to the UPR, annex p. 5.  
<sup>119</sup> CRC/C/OPAC/KOR/CO/1, para. 17 (a).  
<sup>120</sup> UNHCR submission to the UPR, p. 2.  
<sup>121</sup> Ibid., p. 5.  
<sup>122</sup> Ibid., p. 6.  
<sup>123</sup> Ibid., p. 7.  
<sup>124</sup> Ibid., p. 4.  
<sup>125</sup> Ibid., p. 5.  
<sup>126</sup> CRC/C/KOR/CO/3-4, para. 25. See also, E/C.12/KOR/CO/3, para. 7.  
<sup>127</sup> Ibid., para. 26.  
<sup>128</sup> Ibid., para. 27.