



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/KOR/CO/3/Add.1
29 February 2008

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Republic of Korea*

Addendum

**Comments by the Government of the Republic of Korea on the
Concluding Observations of the Human Rights Committee**

[26 February 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Republic of Korea

Introduction

1. As a State Party to the International Covenant on Civil and Political Rights, the Republic of Korea hereby submits information on the follow-up to the recommendations in Paragraphs 12, 13 and 18 of the Concluding Observations adopted by the UN Human Rights Committee at its 2,422nd Meeting on November 2, 2006 following its examination of the Republic of Korea's Third Periodic Report (CCPR/C/KOR/2005/3), in accordance with Paragraph 23 thereof.
2. This report focuses on measures taken by the Government of the Republic of Korea ("Government") from November 2, 2006 to December 2007 to implement the said recommendations as well as improvements made in this process.

Regarding Paragraph 12 of the Concluding Observations

3. Article 11 of the Constitution of the Republic of Korea declares that nobody shall be subject to discrimination in any aspect of life. This principle applies equally to migrant workers.
4. The Government submitted an anti-discrimination bill, as stated in Paragraphs 46 and 365 of the Third Periodic Report, before the National Assembly on December 12, 2007. It serves as a concrete means to uphold Article 11 of the Constitution as a basic act that prohibits discrimination and provides for remedies therefore.
5. Article 10 of the Basic Act on Treatment of Foreigners Residing in Korea, enacted on May 17, 2007 and enforced on July 18, 2007, sets forth the obligations of the central and local governments concerning education, public relations, and other measures in order to prevent discrimination against and protect the human rights of foreigners and their children in Korea. In addition, the Act provides for the establishment of the Foreigner Policy Committee under the Prime Minister for deliberation and coordination of policies on foreigners. The Act also empowers the Minister of Justice to establish and execute a five-year basic plan on policies for foreigners. In sum, the Act provides a framework whereby related government agencies can more closely cooperate in the execution of policies on foreigners including those prohibiting discrimination and abuse of migrant workers and the provision of relief for victims.
6. With respect to the National Action Plan set out in Paragraph 48 of the Third Periodic Report, the Government formulated the comprehensive five-year (2007-2011) plan in consultation with the National Human Rights Policy Council on May 4, 2007 and reported on this to the State Council on May 22, 2007. The National Action Plan is currently being implemented by the Government. Formulation of the National Action Plan involved thirty ministries and institutions, which have taken charge of implementing 197 tasks under the four-chapter National Action Plan including civil and political rights; economic, social and cultural rights; human rights of vulnerable social classes and minorities; and human rights education and cooperation in upholding human rights. The faithful implementation of the Basic Act on Treatment of Foreigners Residing in Korea referred to in Paragraph 5 hereof, along with linguistic and counseling assistance for migrant workers, is one of the major items relating to migrant workers in the National Action Plan.

7. To provide counseling and relief to migrant workers concerning hardships they experience in domestic workplaces, the Government operates, via the Ministry of Labor, a general counseling center, regional labor administrations, job centers, and labor relations commissions, etc. It also operates Migrant Workers' Centers which is entrusted to civilians. A second civilian center was opened on December 15, 2006 and a third on July 25, 2007. They proactively provide counseling for migrant workers regarding human rights violations against them at workplaces or difficulties in their daily lives in Korea to facilitate their adaptation to a new environment, and also provide medical support and educational assistance.
8. The Ministry of Labor's general counseling center offers comprehensive counseling services regarding overdue wage, industrial accidents, and discrimination in labor relations. From January to November 2007, it provided counseling for 1,493 migrant workers through interpreters.
9. The regional labor authorities serve as special judicial police. They receive, investigate, and handle complaints against illegal acts including overdue wage, industrial accidents, and discrimination in labor relations. From January to December 2007, they received 1,261 complaints on such matters as overdue wage involving migrant workers and sent 350 of these reports to prosecutors' offices for criminal prosecution.
10. The Government implemented a KRW 6.9 billion budget for Migrant Workers' Centers entrusted to civilians in 2007. The three centers provided counseling in 50,558 cases concerning overdue wage, industrial accidents, discrimination and so forth; conducted 5,142 free medical examinations and treatments; and offered educational support in 15,432 cases (Korean language and culture, and computer education, etc.) from January to November 2007, irrespective of the sojourn status of migrant workers.
11. Independent of these efforts on the part of the Government, migrant workers who have suffered discrimination may file complaints with the National Human Rights Commission of Korea pursuant to Article 30 of the National Human Rights Commission Act. During the period from January to November 2007, the National Human Rights Commission received thirteen complaints from migrant workers concerning discrimination in labor relations. Of these, five were dismissed because they did not meet the requirements for deliberation, and three were not acknowledged as cases of discrimination. The remaining five complaints were under investigation as of December 2007.
12. The confiscation and retention of official identification papers, regarding which the Human Rights Committee expressed concern in Paragraph 12 of the Concluding Observations, had already been prohibited under Article 33.2 of the Immigration Control Act by an amendment thereto on December 5, 2002. Article 94 of the Act imposes on any violator imprisonment with or without labor of not more than three years or a fine of not more than KRW 20 million.
13. It is strongly viewed that "ensuring equal access to social services and educational facilities" for migrant workers as recommended by the Human Rights Committee in Paragraph 12 of the Concluding Observations falls under the purview of Articles 9 and 13 of the International Covenant on Economic, Social and Cultural Rights and not the International Covenant on Civil and Political Rights. However, we respond to this matter as follows, respecting the recommendation by the Human Rights Committee. The Government guarantees migrant workers' equal access to social services and educational facilities including the four major insurance schemes (i.e. national pension, industrial accident compensation insurance,

employment insurance, and health insurance) in accordance with Article 22 (prohibition of discrimination) of the Act on Employment of Foreign Workers stated in Paragraphs 33, 34, and 53 of the Third Periodic Report. Illegal residents are entitled to industrial accident compensation insurance only, not the national pension, employment insurance, or health insurance. In light of this situation, the Government has consistently borne, in part or in whole, the cost of hospitalization and operations of illegal migrant workers and their children since 2005 as part of its efforts to redress the lack of health insurance coverage for them. During the period from January to September 2007 alone, the Government spent KRW 4.7 billion on 3,003 migrant workers or their children not entitled to health insurance.

14. In Paragraph 12 of the Concluding Observations, the Human Rights Committee makes reference to migrant workers' rights to "form trade unions." However, the Republic of Korea has reservation on Article 22 of the International Covenant on Civil and Political Rights, which pertains to the freedom of assembly. Therefore, it should be noted that the Republic of Korea has no legal obligation to fully comply with Article 22 of the International Covenant on Civil and Political Rights. We nevertheless respond to this matter as follows, respecting the recommendation by the Human Rights Committee, as in Paragraph 13 hereof. The Government guarantees the same rights to form and join trade unions for legally employed migrant workers as for Korean workers. For instance, migrant workers from Indonesia are active members of the Samwoo Precision chapter of the Korean Metal Workers' Union.

Regarding Paragraph 13 of the Concluding Observations

15. As mentioned in Paragraph 207 of the Third Periodic Report, Article 2 of the National Human Rights Commission Act and Article 2 of its Enforcement Decree include prisons, juvenile prisons, detention centers, probation facilities, forensic psychiatry institutes, juvenile reformatories, juvenile protection education institution, police station detention facilities, military prisons, protective custody facilities for foreigners, welfare facilities for children, the disabled, and the elderly, mental health facilities, etc. in the scope of detention and protective facilities. People who suffer human rights abuses or discriminatory acts in connection with the performance of duties by these detention and protective facilities may file complaints with the National Human Rights Commission, an independent investigative body. Even in the absence of any complaints from victims, the commissioners, staff, and experts from the National Human Rights Commission are authorized to visit and investigate detention and protective facilities as set forth in Paragraphs 167, 168, and 206 of the Third Periodic Report. The table below sets out complaints involving detention and protective facilities that were received and handled by the National Human Rights Commission from January to November 2007.

Complaints Against Detention and Protective Facilities Received and Handled by the National Human Rights Commission

	Received	Handled	Conciliated	Recommendation Issued	Charges Made	Punishment Recommended	Legal Relief Requested	Settled	Rejected	Transferred to Authorities	Dismissed	Investigation Suspended
Detention Facilities	1,852	1,692	0	25	0	9	1	5	1,146	59	447	0
Military Detention Facilities	2	4	0	0	0	0	0	0	4	0	0	0
Protective Facilities	505	326	1	22	9	0	0	1	156	16	118	3
Total	2,359	2,022	1	47	9	9	1	6	1,306	75	565	3

16. The Ministry of Justice deals with human rights issues. Its Human Rights Bureau, launched in 2006, quickly and effectively conducts investigations and provides remedial services regarding human rights abuses in organizations under its authority, including prisons and protective custody facilities for foreigners. The Center for the Countering of Human Rights Violations newly established within the Human Rights Bureau, received a total of 466 complaints related to investigations by the prosecution and detention facilities during the period from January to November 2007. It accepted and remedied 41 of them. Three of these pertained to violent or harsh acts by officials at detention facilities. The officials were reassigned and put through human rights education, and the victims were granted medical treatment and compensation. The Human Rights Bureau also conducted a survey inspection of 47 detention and protective facilities under the Ministry of Justice from January to November 2007. Based on its findings, the Human Rights Bureau suggested ways to improve disciplinary procedures and utilize alternative wards.

Complaints Received and Handled by the Human Rights Bureau of the Ministry of Justice

Total	Concluded					Under Investigation			
	Subtotal	Rejected	Transferred	Dismissed	Accepted · Relieved	Subtotal	Case Review	Direct Investigation	Request for Investigation
466	454	120	243	50	41	12	1	7	4

Survey Inspection by the Human Rights Bureau of the Ministry of Justice

Total (154)	Correctional Facilities			Prosecutor's Office Detention Houses (62)	Protective Custody Facilities for Foreigners (23)	Protective Facilities		
	Subtotal (58)	Prisons · Detention Centers (47)	Alternative wards (11)			Subtotal (11)	Juvenile Reformatories (10)	Forensic Psychiatry Institutes (1)
47	15	15	-	9	22	1	1	-

17. The police have been investigating, through the National Police Agency's human rights protection center and the investigation division of each metropolitan and provincial police agency, human rights abuses perpetrated in police station detention facilities. In thirteen cases in 2007, police officers were booked on criminal charges for such offenses as minor violence. In seven of these cases, the indictments were suspended. In the remaining six cases, the police officers were prosecuted without physical detention. Regarding police administration, the National Police Agency's human rights committee, and 16 metropolitan and provincial police agencies' human rights committees have served as "ombudsman-style civilian human rights protection monitors" since April 2005, stated in Paragraph 118 of the Third Periodic Report. Those monitoring groups involve 204 persons including lawyers, professors, and personnel from human rights NGOs. They monitor implementation of human rights policies at police stations and recommend institutional improvements. Human rights committees at metropolitan and provincial police agencies carried out 569 human rights protection activities in 2007 including 76 regular meetings, 137 visits to police station detention facilities, 90 visits to investigative authorities, 40 on-site activities, and the issuance of 35 recommendations on institutional improvements.
18. To prevent human rights abuses at mental health facilities, a metropolitan mayor/provincial governor or a city mayor/county chief/district chief ("heads of local governments") must provide guidance and supervision regarding management of mental health facilities within the relevant jurisdiction on a semi-annual basis at least and file a report thereof with the Minister of Health and Welfare in accordance with Article 39 of the Mental Health Act and Article 21 of its Enforcement Rule. Based on its findings from guidance and supervision of mental institutes in the first half of 2007, heads of local governments took such actions as the suspension of operations and the issuance of warnings against 45 institutes for breaches of the Mental Health Act. In addition, heads of local governments, in conjunction with the Ministry of Health and Welfare, conducted special guidance and supervision of 39 mental health institutes during the period from August to December 2007.

Results of Nationwide Guidance and Supervision of Mental Health Institutes in the First Half of 2007

	Number of Breaching (noted) Institutes	Major Violations (Number of cases)					
		Total	Diagnosis and Hospitalization	Patients Human Rights	Safety Control	Facility Standards	others
Total	45	49	5	6	1	20	17
	Number of Breaching (noted) Institutes	Measures Taken (Number of cases)					
		Total	Permit Revocation (Closure)	Suspension of Operations	Warning	Charges	Remedial Measures, etc.
Total	45	46	0	3	30	4	9

19. In Paragraph 13 of the Concluding Observations, the Human Rights Committee expressed concern about, and urged the discontinuance of, the use of such restraining devices as manacles, chains, and face masks as well as the "stacking" of 30-day periods of isolation without any apparent time limit. With regard to this issue, there have been clear institutional improvements. On December 21, 2007, the Act on Execution of Penalties and Treatment of Prisoners, which reformed the Criminal Administration Act, was promulgated. The new Act will go into force on December 22, 2008. The Act replaced the term, 'restraining devices' with 'protective devices.' It explicitly provides that protective devices should not be used as a means of punishment, prohibiting any abuse of such devices. In addition, the Act excludes chains from the scope of protective devices and changes 'face masks' to 'head protection devices.' The Act also stipulates that 'detention in isolation (solitary confinement)', which could be imposed for a period of not more than two months under the Criminal Administration Act, may be imposed for not more than thirty days. In other words, the Act explicitly limits the imposition of solitary confinement to thirty days, as already stipulated in Article 4 of the Ministry of Justice's Regulations on Discipline and Punishment of Prisoners, which have been in effect since June 2004.
20. A partial amendment to the Mental Health Act was submitted to the National Assembly in January 2007 in order to promote the human rights of the mentally ill within mental health facilities. The bill is currently under deliberation by the legislative body. The bill requires that every voluntarily hospitalized patient of a mental hospital be asked at least once a year if he(or she) want to leave the facility. It also provides for the prohibition, and punishments, of any violent or harsh acts against people with mental diseases who remain hospitalized or accommodated in mental health facilities or use such facilities. It furthermore prohibits abuse of occupational therapies for hospitalized patients.

21. In an attempt to prevent torture or cruel acts that might occur at detention and protective facilities, the Government has stepped up human rights education for appropriate government employees and civilian personnel, in addition to investigations, inspections, and legal and institutional improvements as explained earlier.
22. In 2007, the Government provided human rights education on a number of subjects as follows: nine themes including 'human rights sensitivity training' and 'correction and human rights' for 2,500 correctional officers at correctional facilities; four issues including 'human rights sensitivity training' and 'foreigners and human rights' for 509 immigration control officers at protective custody facilities for foreigners; and two subjects including 'juvenile protection and human rights' for 158 protection officers at juvenile protective facilities.
23. Managers and workers of mental health facilities are required to have mandatory human rights training organized by the Central Mental Health Technology Support Center is provided once a year, in addition to human rights training hosted by local governments on a quarterly basis. In 2007, the Ministry of Health and Welfare conducted on six occasions human rights training for such managers and workers as well as local government employees responsible for mental health.

Regarding Paragraph 18 of the Concluding Observations

24. Two bills on abolishment of the National Security Act and one bill on partial amendment of the National Security Act are pending in the National Assembly, but there was relatively little discussion on these in 2007.
25. The Government is well aware of the concerns of the Human Rights Committee with respect to Article 7 of the National Security Act. Apart from the fact that the National Assembly has failed to reach a conclusion on abolishment or amendment of the Act, the Government is exerting its best efforts to minimize the possibilities for arbitrary interpretation or abuse of Article 7 of the National Security Act, as indicated in Paragraphs 294 and 296 of the Third Periodic Report. As a result of such endeavors, the number of persons booked or detained on charges of violation of said Act as well as the rate of such detentions has been steadily declining.

Bookings, etc. on Charges of Violation of the National Security Act (as of November 30, 2007)

Year	2002	2003	2004	2005	2006	2007
Number of Persons Booked	231	165	114	64	62	56
Number of Persons Detained	(131)	(84)	(38)	(18)	(22)	(16)
Rate of Detention	56.7%	50.9%	33.3%	28.1%	35.5%	28.6%