

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

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RESPONSE

1. What is the degree of protection that the Korean authorities provide? That is, the police and the judiciary. Basically, how well developed and responsive are Korea's authorities?

While general information was found on the composition and operations of the police and judiciary in Korea, including statistics relating to arrest and criminal prosecution, little was found on the degree of protection offered by the South Korean authorities, or the effectiveness of the police, judiciary and the criminal justice system. One source was found which measures the "Rule of Law" as part of an overall governance indicator for South Korea. The Worldwide Governance Indicators (WGI) research project, covering 212 countries and territories, measures six dimensions of governance from 1996 to 2007: Voice and Accountability, Political Stability and Absence of Violence/Terrorism, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. The "Rule of Law" measures "the extent to which agents have confidence in and abide by the rules of society, in particular the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence". The results of this research project are made available on the World Bank website. The "Rule of Law" results for South Korea are presented below in terms of the Percentile Rank (0-100) and Governance Score (-2.5 to + 2.5), which represent respectively:

- The rank of the country among all countries in the world. 0 corresponds to lowest rank and 100 correspond to highest rank.

- Estimate of governance measured on a scale from approximately -2.5 to +2.5. Higher value corresponds to better governance.

The results below indicate that for “Rule of Law”, South Korea was ranked in the 75-90th percentile in 2007, 2005, and 2002; and the 50th-75th Percentile in 1996, 1998, 2000, and 2003-2004:

Governance Indicator	Sources	Year	Percentile Rank (0-100)	Governance Score (-2.5 to +2.5)	Standard Error
<u>Rule of Law</u>	16	2007	74.8	+0.82	0.13
	16	2006	69.0	+0.69	0.13
	14	2005	75.2	+0.78	0.13
	14	2004	71.0	+0.70	0.13
	14	2003	68.1	+0.65	0.14
	14	2002	75.2	+0.79	0.14
	12	2000	71.4	+0.74	0.13
	11	1998	71.0	+0.71	0.16
	9	1996	71.0	+0.70	0.19

(Source: ‘Governance Matters 2008: Worldwide Governance Indicators, 1996-2007: South Korea’ 2008, World Bank website http://info.worldbank.org/governance/wgi/sc_chart.asp# – Accessed 23 February 2009 – Attachment 1).

For the definition of “Rule of Law” used and representative sources for this concept, see Attachment 2 (‘Governance Matters 2008: Rule of Law: Worldwide Governance Indicators’ 2008, World Bank website <http://info.worldbank.org/governance/wgi/pdf/rl.pdf> – Accessed 23 February 2009 – Attachment 2).

As a comparison to the above figures for South Korea, those for Australia are provided in Attachment 3. Australia ranks consistently in the highest percentile range 90-100 and above +1.75 in Governance Score for the years 1996-2007 (‘Governance Matters 2008: Worldwide Governance Indicators, 1996-2007: Australia’ 2008, World Bank website http://info.worldbank.org/governance/wgi/sc_chart.asp – Accessed 23 February 2009 – Attachment 3).

The remaining information presented below is on the size, composition and general workings of the police and judiciary in South Korea. Some statistical information is also provided.

Police:

The Federal Research Division of the US Library of Congress provides the following details on the National Korean Police Force in its May 2005 'Country Profile: South Korea':

The National Korean Police Force is composed of the Headquarters of the National Police Agency, the Central Police Organization, 14 provincial police agencies, 231 police stations, 2,930 branch offices, and other affiliated institutes, including the National Police College, Police Comprehensive Academy, Central Police Training School, Driver's Licensing Agency, and National Police Hospital. In 2003 the National Police Force had 92,165 employees. The police commissioner serves under the Ministry of Government Administration and Home Affairs ('Country Profile: South Korea' 2005, US Library of Congress – Federal Research Division website, May, p.20 http://lcweb2.loc.gov/frd/cs/profiles/South_Korea.pdf – Accessed 23 February 2009 – Attachment 4).

Information on the Korean National Police Agency (KNPA) is also available on the Agency's website <http://www.police.go.kr/eng/index.jsp>. The website indicates that it is KNPA policy to "Expose crimes that are directly linked to and violate the lives of people" ('Policies' (undated), Korean National Police Agency website <http://www.police.go.kr/eng/index.jsp> – Accessed 20 February 2009 – Attachment 5).

The KNPA website also provides current statistics on crimes committed and corresponding arrests for each of five major crimes, including murder and assault. These show that in 2007, 1062 people were arrested in relation to the murder of 1,104 people; and that 270,428 people were arrested in relation to assault against 294,403 people:

Status for occurrence and arrest of 5 major crimes (Unit: no. of people)

Category		2000	2001	2002	2003	2004	2005	2006	2007
Total	Occurred	520,763	532,243	475,369	497,066	455,840	487,847	489,575	521,142
	Arrested	385,087	396,885	400,359	399,119	363,437	354,089	354,131	385,704
Murder	Occurred	941	1,051	957	998	1,084	1,061	1,074	1,104
	Arrested	955	1,076	994	1,038	1,041	1,023	1,055	1,062
Burglary	Occurred	5,461	5,692	5,906	7,292	5,834	5,172	4,832	4,430
	Arrested	4,524	4,670	5,957	7,165	4,941	4,021	4,071	3,731
Rape	Occurred	6,855	6,751	6,119	6,531	6,959	7,323	8,759	8,732
	Arrested	6,139	6,021	5,522	5,899	6,322	6,443	7,937	7,795
Theft	Occurred	173,876	180,704	175,457	187,352	155,393	188,960	192,808	212,473
	Arrested	68,564	78,777	125,593	114,920	80,570	80,785	82,491	102,688
Assault	Occurred	333,630	338,045	283,930	294,893	286,570	285,331	282,102	294,403
	Arrested	304,905	306,341	262,293	270,097	270,563	261,817	258,577	270,428

(Source: 'Criminal Affairs: Status for occurrence and arrest of 5 major crimes: 2000-2007' (undated), Korean National Police Agency website <http://www.police.go.kr/eng/index.jsp> – Accessed 20 February 2009 – Attachment 6).

According to several news articles, South Korea is considered a relatively safe country with a relatively low crime rate ('Court further detains man suspected of kidnapping, murdering' 2009, *Yonhap English News*, 26 January – Attachment 7; So-eui, R. 2004, "'South Korea's worst serial killer" admits 15 murders in year', *The Independent*, 19 July – Attachment 8).

A study conducted in the late 1990s by Professor and Senior Prosecutor Kim Young-Chul titled 'The Effective System of Criminal Investigation and Prosecution in Korea', stated that the crime rate for murder, the extent of the crime problem, and the arrest rate in South Korea compared well with other countries such as America, England, Germany, France and Japan. Table 2 on page 91 of this report indicates that the arrest rate ranged between 71.7% to 95.7% for the years between 1966 and 1998 (Young-Chul, K. 2001, 'The Effective System of Criminal Investigation and Prosecution in Korea', United Nations Asia and Far East Institute (UNAFEI) website, pp.77-78, p.91 www.unafei.or.jp/english/pdf/PDF_rms/no60/ch04.pdf – Accessed 23 February 2009 – Attachment 9).

Judiciary:

The Federal Research Division of the US Library of Congress provides the following details on the Judiciary in South Korea, in its May 2005 'Country Profile: South Korea':

Judicial Branch: The judicial branch is composed of the Supreme Court, appellate courts, local courts, and the Constitutional Court. It is an independent branch and is increasingly willing to exercise that independence: in 2004 the Supreme Court handed down a controversial ruling quashing President Roh's plan to relocate the national capital from Seoul to a new city in South Ch'ungch'4ng Province.

...Judicial and Legal System: The South Korean legal system contains elements of Anglo-American law, continental European civil law, and Chinese classical thought. The president appoints the chief justice and most justices of the Constitutional Court. Although judges do not receive lifetime appointments, they cannot be fired for political reasons. Judges preside over local courts and also render verdicts, as there is no trial by jury. Both defendants and prosecutors can appeal first to the district appellate court and then to the Supreme Court. Constitutional challenges are made to the Constitutional Court. Constitutional provisions that call for the presumption of innocence, protection against self-incrimination, freedom from double jeopardy, the right to speedy trial, and the right of appeal generally are observed ('Country Profile: South Korea' 2005, US Library of Congress – Federal Research Division website, May, pp.15-16 http://lcweb2.loc.gov/frd/cs/profiles/South_Korea.pdf – Accessed 23 February 2009 – Attachment 4).

The website of the Supreme Court of Korea provides the following further general information on judicial independence and the operation of the courts:

Judicial Independence

The article 103 stipulates that judges should follow the Constitution, law and regulation and conscience to declare judicial independence. It is one of the most symbolic parts of a nation that faithfully respects the rule of law and is the request for the separation of three branches. It enables the judicial branch to serve as a bastion that protects the basic right of citizens.

Status

The Courts are provided with the power to judge all legal disputes unless otherwise provided by the Constitution. The exceptions are found where the Constitution vests the power to judge some constitutional issues in the Constitutional Court and vests the power to examine the qualifications and/or to take disciplinary measures against lawmakers in the National Assembly. The courts shall also exercise the power to administer and supervise extra-judicial matters such as immovable and movable property registration, corporation registration, family registration, deposit, and the duties of marshal.

Overview of the Korean Courts

There are six types of courts in Korea, which are the Supreme Court, High Court, District Court, Patent Court, Family Court, and Administrative Court. The Korean judicial system is based on the three instance trial system, which is composed of district courts, the high courts and the Supreme Court. Other courts exercise specialized functions with the Patent Court positioned on the same level as the high courts and the family court and the administrative court positioned on the same level as the district courts.

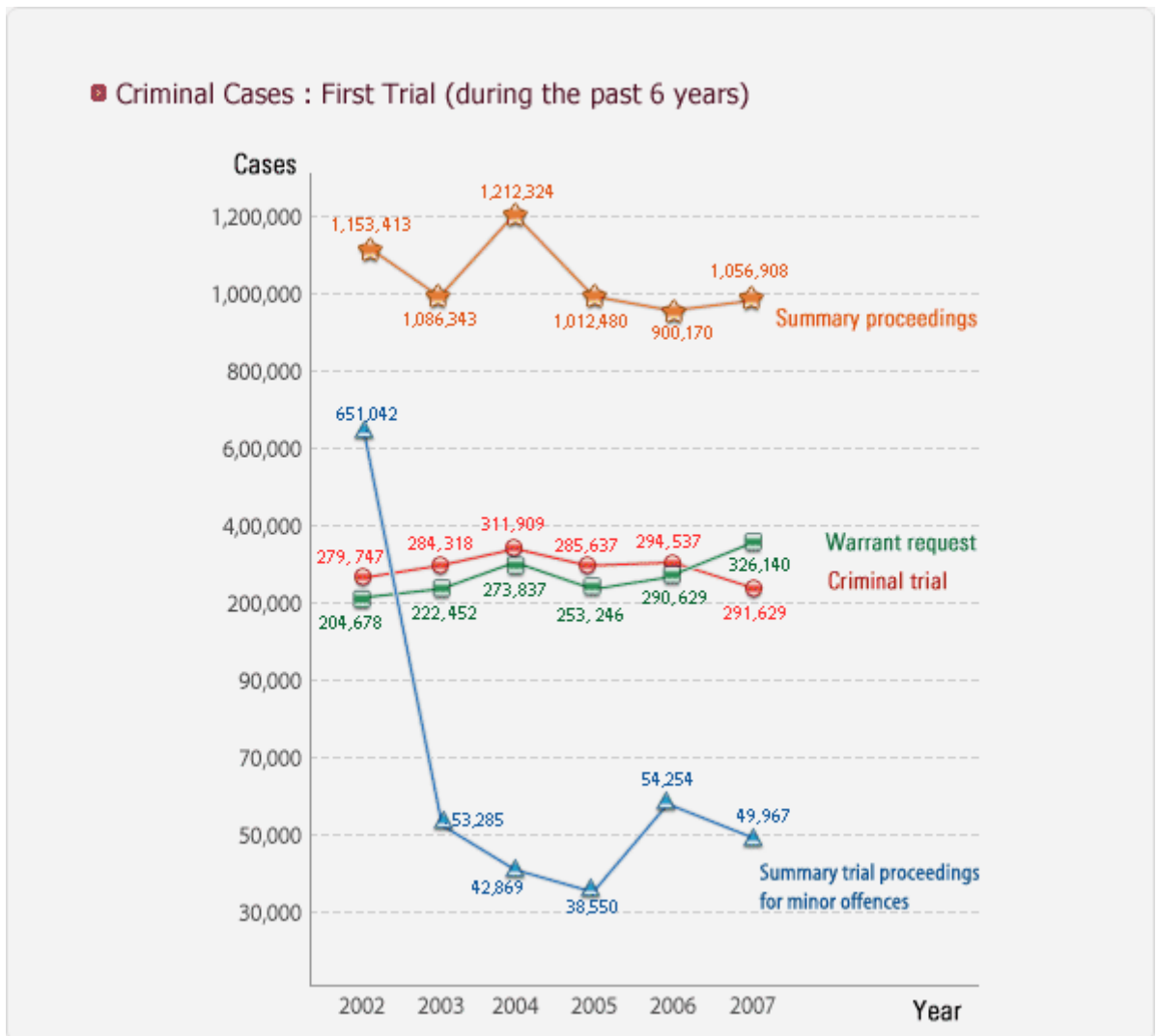
A district court and the family court may establish branch courts, municipal courts and Registration Offices or any one or more of the three institutions if additional support is necessary to carry out their tasks. A branch court of both the district court and the family court may be established within the same court complex.

There is also other special court as the martial court. The difference between martial court and non-martial court is that military officers who are not qualified as judges hear cases in martial court, whereas in non-martial court only judges may adjudicate cases. However, including military trials, the Supreme Court has final appellate jurisdiction over all cases ('The Judiciary: Introduction' 2008, The Supreme Court of Korea website <http://eng.scourt.go.kr/eng/judiciary/introduction.jsp> – Accessed 23 February 2009 – Attachment 10).

The website of the Supreme Court of Korea also gives the following statistical information on criminal cases from 2002 to 2007:

Year	2002	2003	2004	2005	2006	2007
Summary proceedings	1,153,413	1,086,343	1,212,324	1,012,480	900,170	1,056,908
Summary trial proceedings for minor offences	651,042	53,285	42,869	38,550	54,254	49,967
Criminal trial	279,747	284,318	311,909	285,637	294,537	326,140
Warrant request	204,678	222,452	273,837	253,246	290,226	291,629

(Source: 'Statistics: Litigation – Criminal Cases: 2002-2007' (undated), Supreme Court of Korea website http://eng.scourt.go.kr/eng/resources/statistics_litigation_criminal.jsp# – Accessed 20 February 2009 – Attachment 11).



(Source: 'Statistics: Litigation – Criminal Cases: 2002-2007' (undated), Supreme Court of Korea website http://eng.scourt.go.kr/eng/resources/statistics_litigation_criminal.jsp# – Accessed 20 February 2009 – Attachment 11).

List of Sources Consulted

Internet Sources:

Government Information & Reports

Library of Congress – Federal Research Division website <http://lcweb2.loc.gov/>

United Nations (UN)

United Nations Asia and Far East Institute (UNAFEI) website www.unafei.or.jp/english/

Topic Specific Links

World Bank website <http://info.worldbank.org/>

Korean National Police Agency website <http://www.police.go.kr/>

The Supreme Court of Korea website <http://eng.scourt.go.kr/eng/>

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. 'Governance Matters 2008: Worldwide Governance Indicators, 1996-2007: South Korea' 2008, World Bank website http://info.worldbank.org/governance/wgi/sc_chart.asp# – Accessed 23 February 2009.
2. 'Governance Matters 2008: 'Rule of Law: Worldwide Governance Indicators' 2008, World Bank website <http://info.worldbank.org/governance/wgi/pdf/rl.pdf> – Accessed 23 February 2009.
3. 'Governance Matters 2008: Worldwide Governance Indicators, 1996-2007: Australia' 2008, World Bank website http://info.worldbank.org/governance/wgi/sc_chart.asp – Accessed 23 February 2009.
4. 'Country Profile: South Korea' 2005, US Library of Congress – Federal Research Division website, May http://lcweb2.loc.gov/frd/cs/profiles/South_Korea.pdf – Accessed 23 February 2009.
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7. 'Court further detains man suspected of kidnapping, murdering' 2009, *Yonhap English News*, 26 January. (FACTIVA)
8. So-eui, R. 2004, "'South Korea's worst serial killer" admits 15 murders in year', *The Independent*, 19 July. (FACTIVA)
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10. 'The Judiciary: Introduction' 2008, The Supreme Court of Korea website <http://eng.scourt.go.kr/eng/judiciary/introduction.jsp> – Accessed 23 February 2009.
11. 'Statistics: Litigation – Criminal Cases: 2002-2007' (undated), Supreme Court of Korea website http://eng.scourt.go.kr/eng/resources/statistics_litigation_criminal.jsp# – Accessed 20 February 2009.